

★ Roll Call Number

18-01610

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Date April 9, 2018

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF GRAND AVENUE RIGHT-OF-WAY ADJOINING 665 GRAND AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY AND A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO MIESBLOCK COMMERCIAL, LLC FOR \$6,870.00

WHEREAS, on February 5, 2018, by Roll Call No. 18-0193, the City Council of the City of Des Moines, Iowa, received and filed a communication from the City Plan and Zoning Commission recommending approval of a request from Miesblock Commercial, LLC for the vacation of subsurface rights and air rights in a portion of Grand Avenue right-of-way adjoining 665 Grand Avenue (hereinafter "City Right-of-Way") to allow for permanent encroachment of subsurface building foundations, an entrance canopy and building sunscreens into the City Right-of-Way, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated, and further subject to the requirement that any proposed structure be constructed in compliance with a City-approved site plan.

WHEREAS, Miesblock Commercial, LLC, owner of the adjoining property at 665 Grand Avenue, has offered to the City the purchase price of \$6,870.00 for the purchase of a Permanent Easement For Subsurface Building Encroachment on City-owned Property and a Permanent Easement for Air Space Above City-Owned Property in said City Right-of-Way, hereinafter more fully described, to allow for encroachment into the City Right-of-Way of subsurface building foundations, an entrance canopy and building sunscreens, which price reflects the fair market value of the Permanent Easement For Subsurface Building Encroachment on City-owned Property and Permanent Easement for Air Space Above City-Owned Property as determined by the City's Real Estate Division; and

WHEREAS, said fair market value above reflects a credit of \$3,920.00 being granted to Miesblock Commercial, LLC for the release of a previously conveyed permanent easement for air space above City-owned property in 2016 that is no longer required, due to building design changes and which Miesblock Commercial, LLC has agreed to release; and

WHEREAS, there is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation and conveyance of the Permanent Easement for Subsurface Building Encroachment on City-owned Property and the Permanent Easement for Air Space Above City-Owned Property within said City Right-of-Way; and

WHEREAS, on March 19, 2018, by Roll Call No. 18-0457, it was duly resolved by the City Council of the City of Des Moines, Iowa, that said proposed vacation and conveyance be set down for hearing on April 9, 2018, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of the proposal to vacate said City Right-of-Way and convey a Permanent Easement For Subsurface Building Encroachment on City-owned Property and a Permanent Easement for Air Space Above City-Owned Property was given as provided by law, setting forth the time and place for hearing on said proposal; and



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WHEREAS, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council of the City of Des Moines, Iowa.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed vacation and conveyance of the Permanent Easement For Subsurface Building Encroachment on City-owned Property and the Permanent Easement for Air Space Above City-Owned Property, as described below, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City Right-of-Way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of portions of Grand Avenue right-of-way adjoining 665 Grand Avenue, more specifically described as follows, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated and further subject to the requirement that any proposed structure be constructed in compliance with a City-approved site plan:

A PART OF LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1, BLOCK E; THENCE NORTH 15°D21'23" WEST ALONG THE EASTERLY LINE OF SAID LOT 1, A DISTANCE OF 7.00 FEET TO THE NORTH LINE OF THE SOUTH 7.00 FEET OF SAID LOT 1; THENCE SOUTH 74°d12'27" WEST ALONG SAID NORTH LINE, 34.47 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°D47'33" EAST, 6.25 FEET; THENCE SOUTH 74°d12'27" WEST, 21.00 FEET; THENCE NORTH 15°d47'33" WEST, 6.25 FEET TO SAID NORTH LINE; THENCE NORTH 74°d12'27" EAST ALONG SAID NORTH LINE, 21.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 131 S.F. WHICH IS BELOW A PLANE ELEVATION OF 50.30 FEET CITY DATUM AND WHICH IS ABOVE A PLAN ELEVATION OF 48.30 FEET CITY DATUM, CURRENT GROUND ELEVATION 41.30 FEET;

AND

A PART OF LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1, BLOCK E; THENCE NORTH 15°D21'23" WEST ALONG THE EASTERLY LINE OF SAID LOT 1, A DISTANCE OF 7.00 FEET TO THE NORTH LINE OF THE SOUTH 7.00 FEET OF SAID LOT 1; THENCE SOUTH 74°d12'27" WEST ALONG SAID NORTH LINE, 0.56 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°D47'33" EAST, 3.00 FEET; THENCE SOUTH 74°d12'27" WEST, 65.50 FEET; THENCE NORTH 15°d47'33" WEST, 3.00 FEET TO SAID NORTH LINE; THENCE NORTH 74°d12'27" EAST ALONG SAID NORTH LINE, 65.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 197 S.F.



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WHICH IS BELOW A PLANE ELEVATION OF 87.50 FEET CITY DATUM AND WHICH IS ABOVE A PLAN ELEVATION OF 55.00 FEET CITY DATUM, CURRENT GROUND ELEVATION 41.30 FEET;

AND

A PART OF LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

- 3. That the conveyance of a Permanent Easement For Subsurface Building Encroachment on City-owned Property and a Permanent Easement for Air Space Above City-Owned Property within said vacated Grand Avenue right-of-way, more particularly described as follows, to Miesblock Commercial, LLC, for \$6,870.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, is hereby approved.

AIR SPACE EASEMENT DESCRIPTIONS:

BUILDING CANOPY EASEMENT DESCRIPTION:

A PART OF LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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SUN SHADE EASEMENT DESCRIPTION:



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A PART OF LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD

AND

SUBSURFACE EASEMENT DESCRIPTION:

A PART OF LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

4. The Mayor is authorized and directed to sign the Offer to Purchase, Permanent Easement for Subsurface Building Encroachment on City-owned Property, and Permanent Easement for Air Space Above City-Owned Property for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating said City Right-of-Way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Permanent Easement for Subsurface Building Encroachment on City-owned Property and the Permanent Easement for Air Space Above City-Owned Property, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Subsurface Building Encroachment on City-owned Property and the Permanent Easement for



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Air Space Above City-Owned Property, together with a certified copy of this resolution and of the affidavit of publication of notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Subsurface Building Encroachment on City-owned Property and the Permanent Easement for Air Space Above City-Owned Property and copies of the other documents to the grantee.

8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

(Council Communication No. 18-176)

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

[Signature]

Lisa A. Wieland, Assistant City Attorney

RSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

[Signature] Mayor

[Signature] City Clerk