



Roll Call Number

18-0763

Agenda Item Number

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Date May 7, 2018

**SET HEARING FOR VACATION OF A PORTION OF EAST 5<sup>TH</sup> STREET RIGHT-OF-WAY LOCATED EAST OF AND ADJOINING 440 EAST GRAND AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO RE3, LLC FOR \$3,960.00**

**WHEREAS**, on April 19, 2018, the City of Des Moines Plan and Zoning Commission, voted to recommend approval of a request from RE3, LLC, owner of the property at 440 East Grand Avenue, to vacate a 5.5-foot by 60.0-foot segment of the west side of East 5th Street right-of-way located east of and adjoining 440 East Grand Avenue, Des Moines, Iowa (hereinafter "City Property"); and

**WHEREAS**, RE3, LLC, owner of 440 East Grand Avenue, has offered to the City the purchase price of \$3,960.00 for the purchase of a Permanent Easement for Building Encroachment (hereinafter "Easement") in said City Property, hereinafter more fully described, to allow for encroachment into the City Property of door swings, footings and an ADA ramp; which price reflects the fair market value of the Easement as determined by the City's Real Estate Division; and

**WHEREAS**, there is no public need or benefit for the Easement proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of the Easement within said City Property.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that:

1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a 5.5-foot by 60.0-foot segment of the west side of East 5th Street right-of-way located east of and adjoining 440 East Grand Avenue, legally described as follows:

THE EAST 5TH STREET PUBLIC RIGHT OF WAY LYING DIRECTLY ADJACENT TO LOT 8, BLOCK 10, EAST FORT DES MOINES, AN OFFICIAL PLAT RECORDED IN BOOK 'A', PAGE 136, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:

COMMENCING AS A POINT OF REFERENCE AT THE NORTHEAST CORNER OF SAID LOT 8; THENCE S15°17'47"E, 32.00 FEET TO THE POINT OF BEGINNING; THENCE S15°17'47"E, 60.00 FEET ALONG THE EAST LINE OF SAID LOT TO A POINT; THENCE N74°42'13"E, 5.50 FEET TO A POINT; THENCE N15°17'47"W, 60.00 FEET TO A POINT; THENCE S74°42'13"W, 5.50 FEET TO THE POINT OF BEGINNING AND ALL CONTAINING 330 SQUARE FEET MORE OR LESS.

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Building Encroachment in such vacated street right-of-way, as legally described and to the grantee and for the consideration identified below, subject to reservation of easements therein:

Grantee: RE3, LLC  
Consideration: \$3,960.00



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Legal Description:

ENCROACHMENT EASEMENT IN THE VACATED EAST 5TH STREET PUBLIC RIGHT OF WAY LYING DIRECTLY ADJACENT TO LOT 8, BLOCK 10, EAST FORT DES MOINES, AN OFFICIAL PLAT RECORDED IN BOOK 'A', PAGE 136, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:

COMMENCING AS A POINT OF REFERENCE AT THE NORTHEAST CORNER OF SAID LOT 8; THENCE S15°17'47"E, 32.00 FEET TO THE POINT OF BEGINNING; THENCE S15°17'47"E, 60.00 FEET ALONG THE EAST LINE OF SAID LOT TO A POINT; THENCE N74°42'13"E, 5.50 FEET TO A POINT; THENCE N15°17'47"W, 60.00 FEET TO A POINT; THENCE S74°42'13"W, 5.50 FEET TO THE POINT OF BEGINNING AND ALL CONTAINING 330 SQUARE FEET MORE OR LESS.

- 3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such permanent easement for building encroachment is to be considered shall be on May 21, 2018, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.
4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.
5. Non-project related land sale proceeds are used to support general operating budget expenses: Org - EG064090.

Moved by Gray to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and TOTAL.

Mayor signature: T. M. Franklin

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.
City Clerk signature: Diane Rauh