



Roll Call Number

18-1024

Agenda Item Number

59A

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Date June 11, 2018

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF 5<sup>TH</sup> AVENUE RIGHT-OF-WAY AND ALLEY RIGHT-OF-WAY AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT THEREIN TO 5<sup>TH</sup> AND WALNUT PARKING LLC FOR \$7,590.00**

**WHEREAS**, 5<sup>th</sup> and Walnut Parking LLC is the owner of the real property locally known as 422 Walnut Street, Des Moines, Iowa, which property is being developed with a new 11-story mixed-use parking structure; and

**WHEREAS**, 5<sup>th</sup> and Walnut Parking LLC has requested the vacation of subsurface rights in portions of 5<sup>th</sup> Avenue right-of-way and alley right-of-way adjoining 422 Walnut Street, hereinafter more fully described (“City Right-of-Way”), and has further requested that the City of Des Moines, Iowa (“City”) convey unto 5<sup>th</sup> and Walnut Parking LLC a Permanent Easement for Subsurface Building Encroachment on City-Owned Property (“Easement”), in the vacated City Right-of-Way, hereinafter more fully described, in order to allow for subsurface building footing encroachments into the City Right-of-Way; and

**WHEREAS**, 5<sup>th</sup> and Walnut Parking LLC has offered to the City the purchase price of \$7,590.00 for the purchase of said Easement, which price reflects the fair market value of the City Right-of-Way as determined by the City’s Real Estate Division; and

**WHEREAS**, the City will not be inconvenienced by the proposed vacation and conveyance of said Easement.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating subsurface rights in portions of 5<sup>th</sup> Avenue right-of-way and alley right-of-way, both adjoining 422 Walnut Street, more specifically described as follows:

SUBSURFACE EASEMENT DESCRIPTION:

AREA "A"

ALL OF THE SUBSURFACE SPACE FOR THAT PART OF THE EXISTING 5TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF BLOCK 21, FORT DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE ARTICULARLY DESCRIBED AS FOLLOWS:

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COMMENCING AT THE NORTHWEST CORNER OF SAID BLOCK 21; THENCE SOUTH 15°25'01" EAST ALONG THE WEST LINE OF SAID BLOCK 21, A DISTANCE OF 98.93 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15° 25' 01" EAST, 206.85 FEET; THENCE SOUTH 74° 34' 59" WEST, 2.50 FEET; THENCE NORTH 15° 25' 01" WEST, 206.85 FEET; THENCE NORTH 74° 34' 59" EAST, 2.50 FEET TO THE POINT OF BEGINNING AND CONTAINING APPROXIMATELY 517 S.F.

AREA "B"

ALL OF THE SUBSURFACE SPACE FOR THAT PART OF THE EXISTING ALLEY RIGHT-OF-WAY LYING ADJACENT TO AND EAST OF LOT 5, BLOCK 21 AND ADJACENT TO AND EAST OF THE EAST-WEST VACATED ALLEY RIGHT-OF-WAY NORTH OF SAID LOT 5 OF SAID BLOCK 21, FORT DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 6 OF SAID BLOCK 21; THENCE NORTH 15°23'28" WEST ALONG THE EAST LINE OF LOTS 6 AND 5 OF SAID BLOCK 21, A DISTANCE OF 129.03 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°23' 28" WEST ALONG SAID EAST LINE AND ALONG THE NORTHERLY EXTENSION OF SAID EAST LINE BEING THE EASTERLY LINE OF SAID VACATED ALLEY RIGHT-OF-WAY NORTH OF SAID LOT 5, A DISTANCE OF 10.00 FEET; THENCE NORTH 74°34' 59" EAST, 2.50 FEET; THENCE SOUTH 15°23' 28" EAST, 10.00 FEET; THENCE SOUTH 74°34' 59" WEST, 2.50 FEET TO THE POINT OF BEGINNING AND CONTAINING APPROXIMATELY 25 S.F.

2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the above described right-of-way, the City of Des Moines further proposes to convey a Permanent Easement for Subsurface Building Encroachment on City-Owned Property, legally described as follows, to 5<sup>th</sup> and Walnut Parking LLC, in consideration of \$7,590.00, subject to the requirements of the Offer to Purchase and the requirements of the City Plan and Zoning Commission:

SUBSURFACE EASEMENT DESCRIPTION:

AREA "A"

ALL OF THE VACATED SUBSURFACE SPACE FOR THAT PART OF THE EXISTING 5TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF BLOCK 21, FORT DES MOINES, AN OFFICIAL PLAT NOW



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INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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AREA "B"

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COMMENCING AT THE SOUTHEAST CORNER OF LOT 6 OF SAID BLOCK 21; THENCE NORTH 15°23'28" WEST ALONG THE EAST LINE OF LOTS 6 AND 5 OF SAID BLOCK 21, A DISTANCE OF 129.03 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°23' 28" WEST ALONG SAID EAST LINE AND ALONG THE NORTHERLY EXTENSION OF SAID EAST LINE BEING THE EASTERLY LINE OF SAID VACATED ALLEY RIGHT-OF-WAY NORTH OF SAID LOT 5, A DISTANCE OF 10.00 FEET; THENCE NORTH 74°34' 59" EAST, 2.50 FEET; THENCE SOUTH 15°23' 28" EAST, 10.00 FEET; THENCE SOUTH 74°34' 59" WEST, 2.50 FEET TO THE POINT OF BEGINNING AND CONTAINING APPROXIMATELY 25 S.F.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easement interest is to be considered shall be on June 25, 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 proposals 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.

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Moved by Boesen to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland  
 Lisa A. Wieland, Assistant City Attorney

\*Council Member Mandelbaum abstains from voting based on an appearance of a conflict of interest.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
* MANDELBAUM				
WESTERGAARD	✓			
TOTAL	6			
PROPOSITION CARRIED				

**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.

T. M. Franklin Mayor

Diane Fauh City Clerk