



Roll Call Number

18-1066

Agenda Item Number

19B

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Date June 25, 2018

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A SUBSURFACE PORTION OF EAST 2ND STREET RIGHT-OF-WAY ADJOINING 111 EAST GRAND AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT FOR A FATS, OILS AND GREASE (FOG) DISCHARGE INTERCEPTOR TO 111 EAST GRAND, LLC FOR \$5,640.00

WHEREAS, on June 7, 2018, the City of Des Moines Plan and Zoning Commission, voted to recommend approval of request from 111 East Grand, LLC, represented by Tim Rypma (officer) for vacation of the subsurface rights in a 12-foot by 40-foot segment of East 2nd Street right-of-way adjoining 111 East Grand Avenue, Des Moines, Iowa (hereinafter "City Property") to allow for placement of an underground fats, oils and grease (FOG) discharge interceptor to serve the building currently under construction on the adjoining property, subject to the following:

- Termination by the City at any time the easement area should be needed for municipal facilities or improvements.
- Upon termination of the easement by the City, the developer/owner shall remove the FOG Interceptor and related appurtenances at developer/owner's expense.
- The building shall be plumbed at this time and at the developer/owner's expense, to allow for future relocation of the FOG interceptor to a location outside the City's Right-of-Way.
- Prior to the City granting the easement within the City's Right-of-Way, the developer/owner shall secure the alternative location for the FOG interceptor; and

WHEREAS, 111 East Grand, LLC, owner of 111 East Grand Avenue, has offered to the City the purchase price of \$5,640.00 for the purchase of a Permanent Easement for Subsurface Building Encroachment on City-owned Property (hereinafter "Easement") in said City Property, hereinafter more fully described, to allow for placement of the FOG interceptors into the City Property, which price reflects the fair market value of the Easement as determined by the City's Real Estate Division; and

WHEREAS, at this time, there is no public need or benefit for the subsurface rights proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of the Permanent Easement for Subsurface Building Encroachment on City-owned Property 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 the subsurface rights in a portion of East 2nd Street right-of-way adjoining 111 East Grand Avenue, legally described as follows:

SUBSURFACE RIGHTS IN THE EAST 2ND STREET PUBLIC RIGHT OF WAY LYING EAST OF AND DIRECTLY ADJACENT TO PARCEL 2016-20, BLOCK 3, EAST FORT DES MOINES, AN OFFICIAL PLAT OF SURVEY RECORDED IN BOOK 15934, PAGE 39, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:



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COMMENCING AT A POINT BEING THE NORTHEAST CORNER PARCEL 2016-20, OF BLOCK 3, EAST FORT DES MOINES; THENCE S15°21'53"E, 13.33 FEET TO A POINT ON THE EAST LINE OF SAID PARCEL 2016-20; THENCE N74°50'43"E, 8.50 FEET TO THE POINT OF BEGINNING; THENCE N74°50'43"E, 12.00 FEET TO A POINT; THENCE S15°09'17"E, 40.00 FEET TO A POINT; THENCE S74°50'43"W, 20.35 FEET TO A POINT; THENCE N15°09'17"W, 10.00 FEET TO A POINT; THENCE N74°50'43", 8.39 FEET TO A POINT; THENCE N15°09'17"W, 30.00 FEET TO THE POINT OF BEGINNING. ALL CONTAINING 564 SQUARE FEET MORE OR LESS.

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Subsurface Building Encroachment on City-owned Property in such vacated subsurface rights within street right-of-way, as legally described below, to 111 East Grand, LLC for \$5,640.00, subject to reservation of easements therein, and further subject to the City's right to terminate the Easement in the event that the Easement Area is needed for municipal facilities or other public improvements:

SUBSURFACE RIGHTS EASEMENT IN THE VACATED EAST 2ND STREET PUBLIC RIGHT OF WAY LYING EAST OF AND DIRECTLY ADJACENT TO PARCEL 2016-20, BLOCK 3, EAST FORT DES MOINES, AN OFFICIAL PLAT OF SURVEY RECORDED IN BOOK 15934, PAGE 39, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT A POINT BEING THE NORTHEAST CORNER PARCEL 2016-20, OF BLOCK 3, EAST FORT DES MOINES; THENCE S15°21'53"E, 13.33 FEET TO A POINT ON THE EAST LINE OF SAID PARCEL 2016-20; THENCE N74°50'43"E, 8.50 FEET TO THE POINT OF BEGINNING; THENCE N74°50'43"E, 12.00 FEET TO A POINT; THENCE S15°09'17"E, 40.00 FEET TO A POINT; THENCE S74°50'43"W, 20.35 FEET TO A POINT; THENCE N15°09'17"W, 10.00 FEET TO A POINT; THENCE N74°50'43", 8.39 FEET TO A POINT; THENCE N15°09'17"W, 30.00 FEET TO THE POINT OF BEGINNING. ALL CONTAINING 564 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 July 9, 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.



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Moved by Coleman to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

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

APPROVED
T. M. Franklin
Mayor

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.

Diane Rauh
City Clerk