



Roll Call Number

19-1260

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**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF 8<sup>TH</sup> STREET RIGHT-OF-WAY LOCATED EAST OF AND ADJOINING ENOS AVENUE AND CONVEYANCE TO DES MOINES AREA COMMUNITY COLLEGE FOR \$11,250.00**

**WHEREAS**, on March 11, 2019 the Plan and Zoning Commission voted to recommend approval of a request from Des Moines Area Community College to vacate a 50-foot wide by 60-foot wide segment of 8<sup>th</sup> Street right-of-way located west of and adjoining 1144 7<sup>th</sup> Street, Des Moines, Iowa, to allow for assemblage and redevelopment with a student life center, subject to the following conditions:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the applicant's expense;
- (2) Provision of an access easement from the eastern terminus of Enos Avenue to either University Avenue or to 7<sup>th</sup> Street; and
- (3) Any development that incorporates the subject 8<sup>th</sup> Street right-of-way shall comply with all site plan requirements; and

**WHEREAS**, Des Moines Area Community College (DMACC), owner of 1144 7<sup>th</sup> Street, has offered to the City of Des Moines ("City") the purchase price of \$11,250.00 for the purchase of the portion of vacated 8<sup>th</sup> Street right-of-way located west of and adjoining 1144 7<sup>th</sup> Street, Des Moines, Iowa (hereinafter "Property"), to allow for assemblage with its adjoining property for redevelopment with a student life center as part of the DMACC Urban Campus, subject to the following conditions:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the DMACC's expense;
- (2) Conveyance by DMACC to City of a Permanent Easement for Vehicular Ingress and Egress from vacated 8<sup>th</sup> Street north to University Avenue;
- (3) Any development that incorporates the subject 8<sup>th</sup> Street right-of-way shall comply with all site plan requirements; and
- (4) A no-build restriction, which restriction will be included in the Quit Claim Deed from the City to DMACC, which prohibits DMACC from erecting any structure, building or other improvement over or within the Property. This restriction shall not preclude the construction of a sidewalk or parking area and associated sidewalk and parking area improvements, so long as such improvements are both above ground and do not interfere in any way with the utilities on the Property. This no build restriction shall be lifted at any time after all of the following occur:
  - (a) Relocation of all utilities by Buyer off the Property at Buyer's sole expense;
  - (b) Payment to City by Buyer of \$11,250.00, said amount being the difference between the full Fair Market Value of the Property and the restricted Fair Market Value paid by Buyer through this offer; and
  - (c) Written release of said no-build restriction by the City;



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which price reflects the restricted fair market value of the Property as determined by the City's Real Estate Division; and

WHEREAS, the City has no known current or anticipated public need for the Property proposed to be sold, subject to reservation of easements therein, and the City will not be inconvenienced by the vacation and sale of said Property; and

WHEREAS, on July 15, 2019, by Roll Call No. 19-1099, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Property be set for hearing on August 5, 2019, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate and convey a 50-foot wide by 60-foot wide segment of 8th Street right-of-way located west of and adjoining 1144 7th Street, was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the 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.

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 the proposed vacation and conveyance of a 50-foot wide by 60-foot wide segment of 8th Street right-of-way located west of and adjoining 1144 7th Street, as described herein, are hereby overruled and the hearing is closed.
2. 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 of said right-of-way, legally described as follows, and said vacation is hereby approved:

THAT PART OF LOTS 8 AND 9 OF THE OFFICIAL PLAT OF THE NORTHEAST FRACTIONAL QUARTER (NE FRL 1/4) OF THE NORTHWEST FRACTIONAL QUARTER (NW FRL 1/4) OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND THE VACATED WEST 25 FEET OF 8TH STREET, WEST OF AND ADJACENT TO SAID LOTS 8 AND 9, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 4; THENCE N.89°53'43"W., 678.02 FEET, ALONG THE NORTH LINE OF SAID SECTION 4, TO THE WEST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°05'11"E., 386.55 FEET, ALONG THE WEST LINE OF VACATED 8TH STREET, TO THE POINT OF BEGINNING; THENCE S.89°53'43"E., 50.00 FEET, TO THE EAST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°03'37"E., 60.00 FEET, ALONG SAID EAST LINE OF 8TH STREET; THENCE N.89°53'43"W., 50.00 FEET, TO THE WEST LINE OF SAID

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8TH STREET; THENCE N.00°03'37"E., 60.00 FEET, ALONG SAID WEST LINE OF 8TH STREET, TO THE POINT OF BEGINNING. CONTAINING 3000.00 SQUARE FEET MORE OR LESS, AND SUBJECT TO ALL EASEMENTS OF RECORD.

3. The proposed sale of such vacated right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to the following conditions, is hereby approved:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the DMACC's expense;
- (2) Conveyance by DMACC to City of a Permanent Easement for Vehicular Ingress and Egress from vacated 8<sup>th</sup> Street north to University Avenue;
- (3) Any development that incorporates the subject 8<sup>th</sup> Street right-of-way shall comply with all site plan requirements; and
- (4) A no-build restriction, which restriction will be included in the Quit Claim Deed from the City to DMACC, which prohibits DMACC from erecting any structure, building or other improvement over or within the Property. This restriction shall not preclude the construction of a sidewalk or parking area and associated sidewalk and parking area improvements, so long as such improvements are both above ground and do not interfere in any way with the utilities on the Property. This no build restriction shall be lifted at any time after all of the following occur:
  - (a) Relocation of all utilities by Buyer off the Property at Buyer's sole expense;
  - (b) Payment to City by Buyer of \$11,250.00, said amount being the difference between the full Fair Market Value of the Property and the restricted Fair Market Value paid by Buyer through this offer; and
  - (c) Written release of said no-build restriction by the City.

Grantee: Des Moines Area Community College

Consideration: \$11,250.00

Legal Description: THAT PART OF LOTS 8 AND 9 OF THE OFFICIAL PLAT OF THE NORTHEAST FRACTIONAL QUARTER (NE FRL 1/4) OF THE NORTHWEST FRACTIONAL QUARTER (NW FRL 1/4) OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND THE VACATED WEST 25 FEET OF 8TH STREET, WEST OF AND ADJACENT TO SAID LOTS 8 AND 9, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 4; THENCE N.89°53'43"W., 678.02 FEET, ALONG THE NORTH LINE OF SAID SECTION 4, TO THE WEST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°05'11"E., 386.55 FEET, ALONG THE WEST LINE OF VACATED 8TH STREET, TO THE POINT OF BEGINNING; THENCE S.89°53'43"E., 50.00 FEET, TO THE EAST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°03'37"E., 60.00 FEET, ALONG SAID EAST LINE OF VACATED 8TH STREET; THENCE N.89°53'43"W., 50.00 FEET, TO THE WEST LINE OF SAID VACATED 8TH STREET; THENCE N.00°03'37"E., 60.00 FEET, ALONG SAID WEST LINE OF VACATED 8TH STREET, TO THE POINT OF BEGINNING. CONTAINING 3000.00 SQUARE FEET MORE OR LESS, AND SUBJECT TO ALL EASEMENTS OF RECORD.

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4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. 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 Quit Claim Deed, 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 Quit Claim Deed, together with a certified copy of this resolution and of the affidavit of publication of the 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 Quit Claim Deed and a copy of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org - EG064090.

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

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

*pen*

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

J. M. Frankhu Cownie 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