



Roll Call Number

19-1485

Agenda Item Number

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Date September 23, 2019

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF EAST 4TH STREET AND EAST GRAND AVENUE RIGHT-OF-WAY ADJOINING 418 EAST GRAND AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY PROPERTY AND A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO DES MOINES NELSON DEVELOPMENT 1, LLC FOR \$12,630.00

WHEREAS, on September 5, 2019, the City Plan and Zoning Commission voted to approve a request from Nelson Development 1, LLC to vacate subsurface rights and air rights within East Grand Avenue right-of-way and East 4th Street right-of-way adjoining 418 East Grand Avenue, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to the condition that any development of the adjoining property that incorporates the vacated right-of-way shall comply with all site plan requirements; and

WHEREAS, Nelson Development 1, LLC, an Iowa limited liability company, has negotiated a development agreement with the City of Des Moines for the purchase of 418 East Grand Avenue, and has further offered to the City the purchase price of \$12,630.00 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 (hereinafter "Easements") within said portion of East Grand Avenue right-of-way and East 4th Street right-of-way adjoining 418 East Grand Avenue, Des Moines, Iowa, hereinafter more fully described, to allow for the permanent encroachment of building footings and balcony encroachments into the vacated right-of-way for the adjoining development of a 5-story multi-use building, which price reflects the fair market value of the Easements as determined by the City's Real Estate Division; and

WHEREAS, the closing on said Easements is contingent upon Nelson Development 1, LLC first closing on said development agreement for the purchase of 418 East Grand Ave; and

WHEREAS, there is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of vacation of said right-of-way and the conveyance of the Easements 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 portions of East Grand Avenue right-of-way and East 4th Street right-of-way located south of and west of and adjoining 418 East Grand Avenue, and legally described as follows, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to the condition that any development of the adjoining property that incorporates the vacated right-of-way shall comply with all site plan requirements:



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Subsurface Area

A PART OF THE EAST 4TH STREET AND EAST GRAND AVENUE RIGHTS-OF-WAY LYING ADJACENT TO PARCEL 2018-107 AS RECORDED IN BOOK 17050, PAGE 789 OF THE POLK COUNTY RECORDER'S OFFICE, AND ALL IN EAST FORT DES MOINES, AN OFFICIAL PLAT, CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST OF CORNER OF SAID PARCEL 2018-107; THENCE NORTH 74°49'57" EAST ALONG THE SOUTH LINE OF SAID PARCEL 2018-107, A DISTANCE OF 141.33 FEET; THENCE SOUTH 15°12'42" EAST, 4.00 FEET; THENCE SOUTH 74°49'57" WEST, 144.33 FEET; THENCE NORTH 15°17'24" WEST, 173.91 FEET; THENCE NORTH 74°47'18" EAST, 3.00 FEET TO THE WEST LINE OF SAID PARCEL 2018-107; THENCE SOUTH 15°17'24" EAST ALONG SAID WEST LINE, 169.92 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.03 ACRES (1,087 S.F.);

AND

Air Space Area

A PART OF THE EAST 4TH STREET AND EAST GRAND AVENUE RIGHTS-OF-WAY LYING ADJACENT TO PARCEL 2018-107 AS RECORDED IN BOOK 17050, PAGE 789 OF THE POLK COUNTY RECORDER'S OFFICE, AND ALL IN EAST FORT DES MOINES, AN OFFICIAL PLAT, CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

AREA "A"

BEGINNING AT THE SOUTHWEST OF CORNER OF SAID PARCEL 2018-107; THENCE NORTH 74°49'57" EAST ALONG THE SOUTH LINE OF SAID PARCEL 2018-107, A DISTANCE OF 138.01 FEET; THENCE SOUTH 15°10'03" EAST, 3.00 FEET; THENCE SOUTH 74°49'57" WEST, 141.00 FEET; THENCE NORTH 15°17'24" WEST, 53.00 FEET; THENCE NORTH 74°42'36" EAST, 3.00 FEET TO THE WEST LINE OF SAID PARCEL 2018-107; THENCE SOUTH 15°17'24" EAST ALONG SAID WEST LINE, 50.01 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (573 S.F.) LYING BETWEEN ELEVATIONS 41.70 AND 42.70 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 25.70 FEET AT BUILDING SOUTHWEST ENTRANCE DOOR).

AREA "B"

COMMENCING AT THE SOUTHWEST OF CORNER OF SAID PARCEL 2018-107; THENCE NORTH 15°17'24" WEST ALONG THE WEST LINE OF SAID PARCEL 2018-107, A DISTANCE OF 85.17 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 74°42'36" WEST, 3.00 FEET; THENCE NORTH 15°17'24" WEST, 28.33 FEET; THENCE NORTH 74°42'36" EAST, 3.00 FEET; THENCE SOUTH 15°17'24" EAST, 28.33 FEET TO THE POINT OF BEGINNING AND CONTAINING 85 SQUARE FEET LYING BETWEEN ELEVATIONS 42.00 AND 43.00 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 26.00 FEET AT WEST ENTRANCE DOOR).



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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 and a Permanent Easement for Air Space Above City-Owned Property 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: Nelson Development 1, LLC
Consideration: \$12,630.00
Legal Description:

Subsurface Area

A PART OF THE VACATED EAST 4TH STREET AND VACATED EAST GRAND AVENUE RIGHTS-OF-WAY LYING ADJACENT TO PARCEL 2018-107 AS RECORDED IN BOOK 17050, PAGE 789 OF THE POLK COUNTY RECORDER'S OFFICE, AND ALL IN EAST FORT DES MOINES, AN OFFICIAL PLAT, CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST OF CORNER OF SAID PARCEL 2018-107; THENCE NORTH 74°49'57" EAST ALONG THE SOUTH LINE OF SAID PARCEL 2018-107, A DISTANCE OF 141.33 FEET; THENCE SOUTH 15°12'42" EAST, 4.00 FEET; THENCE SOUTH 74°49'57" WEST, 144.33 FEET; THENCE NORTH 15°17'24" WEST, 173.91 FEET; THENCE NORTH 74°47'18" EAST, 3.00 FEET TO THE WEST LINE OF SAID PARCEL 2018-107; THENCE SOUTH 15°17'24" EAST ALONG SAID WEST LINE, 169.92 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.03 ACRES (1,087 S.F.);

AND

Air Space Area

A PART OF THE VACATED EAST 4TH STREET AND VACATED EAST GRAND AVENUE RIGHTS-OF-WAY LYING ADJACENT TO PARCEL 2018-107 AS RECORDED IN BOOK 17050, PAGE 789 OF THE POLK COUNTY RECORDER'S OFFICE, AND ALL IN EAST FORT DES MOINES, AN OFFICIAL PLAT, CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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AREA "B"

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- 3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such Easements is to be considered shall be on October 14, 2019, 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 Gatto to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

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