



Roll Call Number

19-1652

Agenda Item Number

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Date October 14, 2019

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A 4-FOOT BY 4-FOOT SEGMENT OF EAST-WEST ALLEY RIGHT-OF-WAY LOCATED SOUTH OF AND ADJOINING 319 7TH STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY THEREIN TO DES MOINES GRIFFIN BUILDING, LLC FOR \$350.00

WHEREAS, on August 5, 2019, by Roll Call No. 19-1206 the City Council of the City of Des Moines voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from Des Moines Griffin Building, LLC to vacate a 4-foot by 4-foot segment of air rights within the east-west alley adjoining 319 7th Street; and

WHEREAS, Des Moines Griffin Building, LLC, an Iowa limited liability company, owner of 319 7th Street, Des Moines, Iowa, has offered to the City the purchase price of \$350.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property (hereinafter "Easement") within a portion of alley right-of-way located south of and adjoining 319 7th Street, Des Moines, Iowa, hereinafter more fully described, to allow for the permanent encroachment of air ducts into the vacated right-of-way, 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 portion of the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said alley right-of-way and conveyance of the Easement within said City Property; and

WHEREAS, on September 23, 2019, by Roll Call No. 19-1484, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Permanent Easement for Air Space Above City-Owned Property be set for hearing on October 14, 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 air space in a 4-foot by 4-foot segment of the east-west alley right-of-way located south of and adjoining 319 7th Street, Des Moines, Iowa, and convey a Permanent Easement for Air Space Above City-Owned Property in such vacated right-of-way, 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 of air space in a 4-foot by 4-foot segment of the east-west alley right-of-way

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located south of and adjoining 319 7th Street, Des Moines, Iowa and conveyance of a Permanent Easement for Air Space Above City-Owned Property in such vacated right-of-way, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the portion of the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said portion of alley right-of-way, legally described as follows, and said vacation is hereby approved:

That part of the Alley right-of-way lying South of and adjoining the West Half of Lot 2 in Block 12 in FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of said Lot 2; thence North 74°(degrees) 30'(minutes) 00"(seconds) East (assumed for this description only), 62.10 feet along the South line of said Lot 2 to the Point of Beginning; thence continuing North 74°30'00" East, 4.00 feet along the South line of said Lot 2; thence South 15°30'00" East, 4.00 feet; thence South 74°30'00" West, 4.00 feet; thence North 15°30'00" West, 4.00 feet to the point of beginning.

Lying between elevations 47.50 feet and 65.00 feet, City of Des Moines Vertical Datum (reference ground level elevation of 36.63 feet, City of Des Moines Vertical Datum). Horizontally containing 16.00 square feet

3. The proposed conveyance of a Permanent Easement for Air Space Above City-Owned Property in such vacated alley right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, is hereby approved:

Grantee: Des Moines Griffin Building, LLC
Consideration: \$350.00
Legal Description:

That part of the vacated Alley right-of-way lying South of and adjoining the West Half of Lot 2 in Block 12 in FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of said Lot 2; thence North 74°(degrees) 30'(minutes) 00"(seconds) East (assumed for this description only), 62.10 feet along the South line of said Lot 2 to the Point of Beginning; thence continuing North 74°30'00" East, 4.00 feet along the South line of said Lot 2; thence South 15°30'00" East, 4.00 feet; thence South 74°30'00" West, 4.00 feet; thence North 15°30'00" West, 4.00 feet to the point of beginning.

Lying between elevations 47.50 feet and 65.00 feet, City of Des Moines Vertical Datum (reference ground level elevation of 36.63 feet, City of Des Moines Vertical Datum). Horizontally containing 16.00 square feet.

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4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Air Space Above City-Owned Property 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 Permanent Easement for Air Space Above City-Owned Property, 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 Permanent Easement for Air Space Above City-Owned Property, 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 Permanent Easement for Building Encroachment and a copy of the other documents to the grantees.

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

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

MOTION CARRIED APPROVED

T.M. Frank Mayor

CERTIFICATE

I, LAURA BAUMGARTNER, Acting 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.

Laura Baumgartner Acting City Clerk