



Roll Call Number

20-0664

Agenda Item Number

41

Date April 20, 2020

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HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF ALLEY AND 7TH STREET RIGHT-OF-WAY ADJOINING 655 WALNUT STREET, AND 7TH STREET RIGHT-OF-WAY ADJOINING 319 7TH STREET, 701 WALNUT STREET AND 700 LOCUST STREET; AND CONVEYANCE OF CERTAIN EASEMENT INTERESTS TO EMPLOYERS MUTUAL CASUALTY COMPANY FOR \$5,571.00

WHEREAS, on March 9, 2020, by Roll Call No. 20-0419, the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from Employers Mutual Casualty Company, owner of property at 655 and 701 Walnut Street, to vacate the following portions of street and alley rights-of-way, subject to the reservation of any necessary easements to allow public access to the alley entrances from 7th Street; subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at applicant’s expense; and further subject to the provision that any construction on the proposed vacations shall be in accordance with all administrative comments as part of the Site Plan review:

- (1) A segment of air rights within the east/west alley and 7th Street adjoining 655 Walnut Street to allow for encroachment of the private portion of the 2nd Story Skywalk Bridge over the street;
- (2) Two segments of surface and subsurface rights in the eastern portion of 7th Street adjacent to 655 Walnut Street and 319 7th Street to allow for support elements of the Skywalk Bridge; and
- (3) Two segments of surface and subsurface rights on the western portion of 7th Street adjacent to 701 Walnut Street and 700 Locust Street; and

WHEREAS, Employers Mutual Casualty Company, owner of property at 655 and 701 Walnut Street, has offered to the City of Des Moines (“City”) the purchase price of \$5,571.00 for the purchase of a Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment, and a Permanent Easement for Subsurface Building Encroachment in portions of the vacated alley and 7th Street right-of-way adjoining 655 Walnut Street, 319 7th Street, 701 Walnut Street and 700 Locust Street, Des Moines, Iowa (hereinafter “Property”), for the purpose of installing, operating, maintaining, or repairing a skywalk bridge connection between buildings at 655 Walnut Street and 700 Locust Street, which price reflects the 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 vacated and conveyed, subject to: 1) the reservation of any necessary easements to allow public access to the alley entrances from 7th Street; 2) the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at applicant’s expense; and 3) the provision that any construction on the proposed vacations shall be in accordance with a site plan approved by the City, and the City will not be inconvenienced by the vacation and sale of easements within said Property; and

WHEREAS, on March 23, 2020, by Roll Call No. 20-0518, 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



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set for hearing on April 6, 2020, 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 (1) a segment of air rights within the east/west alley and 7th Street adjoining 655 Walnut Street; (2) two segments of surface and subsurface rights in the eastern portion of 7th Street adjacent to 655 Walnut Street and 319 7th Street; and (3) two segments of surface and subsurface rights on the western portion of 7th Street adjacent to 701 Walnut Street and 700 Locust Street, Des Moines, Iowa, subject to: 1) the reservation of any necessary easements to allow public access to the alley entrances from 7th Street; 2) the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at applicant's expense; and 3) the provision that any construction on the proposed vacations shall be in accordance with all administrative comments as part of the Site Plan review, 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 (1) a segment of air rights within the east/west alley and 7th Street adjoining 655 Walnut Street; (2) two segments of surface and subsurface rights in the eastern portion of 7th Street adjacent to 655 Walnut Street and 319 7th Street; and (3) two segments of surface and subsurface rights on the western portion of 7th Street adjacent to 701 Walnut Street and 700 Locust Street, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the street and alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said street and alley right-of-way, legally described as follows, and said vacation is hereby approved:

SURFACE ENCROACHMENT:

A PART OF THE 7TH STREET RIGHT-OF-WAY LYING EAST OF BLOCK 1, FORT DES MOINES AND WEST OF BLOCK 12, ORIGINAL TOWN OF FORT DES MOINES, OFFICIAL PLATS NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

AREA "A"

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE NORTH 78°04'33" EAST, 1.21 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°15'14" EAST, 1.07 FEET; THENCE SOUTH 15°44'46" EAST, 2.04 FEET; THENCE



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SOUTH 74°15'14" WEST, 1.07 FEET; THENCE NORTH 15°44'46" WEST, 2.04 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.2 SQUARE FEET.

AREA "B"

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE NORTH 12°44'17" WEST, 22.99 FEET TO THE POINT OF BEGINNING; THENCE NORTH 15°44'46" WEST, 2.04 FEET; THENCE NORTH 74°15'14" EAST, 1.07 FEET; THENCE SOUTH 15°44'46" EAST, 2.04 FEET; THENCE SOUTH 74°15'14" WEST, 1.07 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.2 SQUARE FEET.

AREA "C"

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE NORTH 59°44'19" EAST, 65.75 FEET TO THE POINT OF BEGINNING; THENCE NORTH 15°44'46" WEST, 1.17 FEET; THENCE NORTH 74°15'14" EAST, 1.21 FEET; THENCE SOUTH 15°44'46" EAST, 1.17 FEET; THENCE SOUTH 74°15'14" WEST, 1.21 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.4 SQUARE FEET.

AREA "D"

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE SOUTH 86°43'45" EAST, 67.33 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°15'14" EAST, 1.21 FEET; THENCE SOUTH 15°44'46" EAST, 1.17 FEET; THENCE SOUTH 74°15'14" WEST, 1.21 FEET; THENCE NORTH 15°44'46" WEST, 1.17 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.4 SQUARE FEET.

AIR SPACE ENCROACHMENT:

A PART OF THE 7TH STREET AND EAST-WEST ALLEY RIGHT-OF-WAY LYING ADJACENT TO LOT 3 IN BLOCK 12 OF THE ORIGINAL TOWN OF FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN BLOCK 1, FORT DES MOINES, AN OFFICIAL PLAT; THENCE NORTH 85°51'40" EAST, 67.29 FEET TO THE WEST LINE OF SAID LOT 3 IN BLOCK 12 OF THE ORIGINAL TOWN OF FORT DES MOINES AND THE POINT OF BEGINNING; THENCE NORTH 60°38'46" WEST, 14.27 FEET; THENCE NORTH 29°21'14" EAST, 20.22 FEET; THENCE SOUTH 60°38'46" EAST, 15.30 FEET TO THE NORTH LINE OF SAID LOT 3; THENCE SOUTH 74°15'04" WEST ALONG SAID NORTH LINE, 14.96 FEET TO THE NORTHWEST CORNER OF SAID LOT 3; THENCE SOUTH 15°21'59" EAST ALONG THE WEST LINE OF SAID LOT 3, A DISTANCE OF 13.54 FEET TO THE POINT OF BEGINNING AND CONTAINING 198 SQUARE FEET, LYING BETWEEN ELEVATIONS 53.59 AND 76.68 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 36.26 FEET AT SIDEWALK BELOW).



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SUBSURFACE ENCROACHMENT:

A PART OF THE 7TH STREET RIGHT-OF-WAY LYING EAST OF BLOCK 1, FORT DES MOINES AND WEST OF BLOCK 12, ORIGINAL TOWN OF FORT DES MOINES, OFFICIAL PLATS NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

AREA "A"

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE NORTH 04°43'30" WEST, 3.89 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°15'14" EAST, 2.00 FEET; THENCE SOUTH 15°44'46" EAST, 8.00 FEET; THENCE SOUTH 74°15'14" WEST, 2.00 FEET; THENCE NORTH 15°44'46" WEST, 8.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 16 SQUARE FEET.

AREA "B"

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE NORTH 13°36'59" WEST, 20.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 15°44'46" WEST, 8.00 FEET; THENCE NORTH 74°15'14" EAST, 2.00 FEET; THENCE SOUTH 15°44'46" EAST, 8.00 FEET; THENCE SOUTH 74°15'14" WEST, 2.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 16 SQUARE FEET.

AREA "C"

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE NORTH 62°36'10" EAST, 64.59 FEET TO THE POINT OF BEGINNING; THENCE NORTH 15°44'46" WEST, 8.00 FEET; THENCE NORTH 74°15'14" EAST, 2.00 FEET; THENCE SOUTH 15°44'46" EAST, 8.00 FEET; THENCE SOUTH 74°15'14" WEST, 2.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 16 SQUARE FEET.

AREA "D"

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE SOUTH 89°25'35" EAST, 65.91 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°15'14" EAST, 2.00 FEET; THENCE SOUTH 15°44'46" EAST, 8.00 FEET; THENCE SOUTH 74°15'14" WEST, 2.00 FEET; THENCE NORTH 15°44'46" WEST, 8.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 16 SQUARE FEET.

3. The proposed sale of such vacated alley right-of-way, and a Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment, and a Permanent Easement for Subsurface Building Encroachment, as legally described and to the grantees and for the consideration identified below, subject to: 1) the reservation of any necessary easements to allow public access to the alley entrances from 7th Street; 2) the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at applicant's expense; and 3) the provision that any construction on the proposed vacations shall be in accordance with a site plan approved by the City, is hereby approved:



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Grantee: Employers Mutual Casualty Company

Consideration: \$5,571.00

Legal Description:

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AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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4. The Mayor is authorized and directed to sign the Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment, and a Permanent Easement for Subsurface Building Encroachment for the conveyances 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, a Permanent Easement for Building Encroachment, and a Permanent Easement for Subsurface Building Encroachment, 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, a Permanent Easement for Building Encroachment, and a Permanent Easement for Subsurface Building Encroachment, 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 Air Space Above City-owned Property, a Permanent Easement for Building Encroachment, and a Permanent Easement for Subsurface Building Encroachment, 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.



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Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

pcw

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

MOTION CARRIED

APPROVED

J. M. Franklin Cownie

CERTIFICATE

I, P. KAY CMELIK, 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.

P. Kay Cmelik

City Clerk