

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF WATSON POWELL JR. WAY RIGHT-OF-WAY ADJOINING 524 4TH STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT AND A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO THE STATE OF IOWA FOR THE USE AND BENEFIT OF THE DEPARTMENT FOR THE BLIND

WHEREAS, on June 14, 2021, by Roll Call No. 21-0849, 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 the State of Iowa to vacate a 6.5-foot by 43.0-foot segment of surface rights and an 11.0-foot by 9.75-foot segment of subsurface rights in Watson Powell Jr. Way right-of-way in the vicinity of 524 4th Street, Des Moines, Iowa to allow for an existing basement encroachment and repairs to an existing accessible ramp and stairs in the building occupied by the Iowa Department of the Blind offices; and

WHEREAS, the State of Iowa has requested the City of Des Moines convey a Permanent Easement for Subsurface Building Encroachment and a Permanent Easement for Building Encroachment in portions of the Watson Powell Jr. Way right-of-way adjoining 524 4th Street, Des Moines, Iowa (hereinafter "Property"), for the benefit and use of the Iowa Department for the Blind, and for no consideration in accordance with Iowa Code §364.7(3) for the public purpose of allowing an existing basement encroachment and repairs to an existing accessible ramp and stairs in the adjoining building; and

WHEREAS, there is no known current or future public need for the street right-of-way proposed to be vacated and the City will not be inconvenienced by the vacation of said Property and conveyance of a Permanent Easement for Subsurface Building Encroachment and a Permanent Easement for Building Encroachment therein; and

WHEREAS, on August 9, 2021, by Roll Call No. 21-1215, 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 Subsurface Building Encroachment and a Permanent Easement for Building Encroachment be set for hearing on August 23, 2021, 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 the street right-of-way and convey a Permanent Easement for Subsurface Building Encroachment and a Permanent Easement for Building Encroachment in such vacated right-of-way was given 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.

Date August 23, 2021

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 street right-of-way as described herein, are hereby overruled and the hearing is closed.
2. 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 the vacation of a 6.5-foot by 43.0-foot segment of surface rights and an 11.0-foot by 9.75-foot segment of subsurface rights in right-of-way adjoining 524 4th Street, Des Moines, Iowa, legally described as follows, and said vacation is hereby approved:

Surface Vacation:

A rectangular shaped portion of the Watson Powell Jr. Way Right of Way north of and adjacent to Lot 13, The New Y.M.C.A. Plat, an Official Plat, Des Moines, Polk County, Iowa, more particularly described as follows: Commencing at the northeast corner of said Lot 13; thence N89°33'20"W along the south Right of Way line of said Watson Powell Jr. Way, a distance of 55.24 feet to the point of beginning; thence continuing N89°33'20"W along said Right of Way line, a distance of 43.00 feet; thence N00°26'40"E, a distance of 6.50 feet; thence S89°33'20"E, a distance of 43.00 feet; thence S00°26'40"W, a distance of 6.50 feet to the point of beginning.

Easement contains 280 square feet.

Subsurface Vacation:

A rectangular shaped portion of the Watson Powell Jr. Way Right of Way north of and adjacent to Lot 13, The New Y.M.C.A. Plat, an Official Plat, Des Moines, Polk County, Iowa, more particularly described as follows: Commencing at the northeast corner of said Lot 13; thence N89°33'20"W along the south Right of Way line of said Watson Powell Jr. Way, a distance of 59.00 feet to the point of beginning; thence continuing N89°33'20"W along said Right of Way line, a distance of 9.75 feet; thence N00°26'49"E, a distance of 11.00 feet; thence S89°33'20"E, a distance of 9.75 feet; thence S00°26'49"W, a distance of 11.00 feet to the point of beginning. Easement contains 107 square feet.

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

3. The proposed conveyance of a Permanent Easement for Subsurface Building Encroachment and a Permanent Easement for Building Encroachment, as legally described below, to the State of Iowa for the benefit and use of the Iowa Department for the Blind, for no consideration in accordance with Iowa Code §364.7(3) is hereby approved:

Surface Easement:

A rectangular shaped easement in a portion of vacated Watson Powell Jr. Way Right of Way north of and adjacent to Lot 13, The New Y.M.C.A. Plat, an Official Plat, Des Moines, Polk County, Iowa, more particularly described as follows: Commencing at the northeast corner of said Lot 13; thence N89°33'20"W along the south Right of Way line of said Watson Powell Jr. Way, a distance of 55.24 feet to the point of beginning; thence continuing N89°33'20"W along said Right of Way line, a distance of 43.00 feet; thence N00°26'40"E, a distance of 6.50 feet;

thence S89°33'20"E, a distance of 43.00 feet; thence S00°26'40"W, a distance of 6.50 feet to the point of beginning.

Easement contains 280 square feet.

Subsurface Easement:

A rectangular shaped easement in a portion of vacated Watson Powell Jr. Way Right of Way north of and adjacent to Lot 13, The New Y.M.C.A. Plat, an Official Plat, Des Moines, Polk County, Iowa, more particularly described as follows: Commencing at the northeast corner of said Lot 13; thence N89°33'20"W along the south Right of Way line of said Watson Powell Jr. Way, a distance of 59.00 feet to the point of beginning; thence continuing N89°33'20"W along said Right of Way line, a distance of 9.75 feet; thence N00°26'49"E, a distance of 11.00 feet; thence S89°33'20"E, a distance of 9.75 feet; thence S00°26'49"W, a distance of 11.00 feet to the point of beginning. Easement contains 107 square feet.

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

4. The Mayor is authorized and directed to sign the Permanent Easement for Subsurface Building Encroachment and Permanent Easement for Building Encroachment for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Clerk is authorized and directed to forward the original of the Permanent Easement for Subsurface Building Encroachment and Permanent Easement for 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 Subsurface Building Encroachment and Permanent Easement for 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 Subsurface Building Encroachment and Permanent Easement for 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.



Roll Call Number

21-1350

Agenda Item Number

35

Date August 23, 2021

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

DM

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

MOTION CARRIED

APPROVED

J. M. Franklin Cownie
Mayor

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