



Roll Call Number

21-1411

Agenda Item Number

19

Date September 13, 2021

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF 6TH AVENUE RIGHT-OF-WAY ADJOINING 3524 6TH AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO 3524 6TH AVENUE, LLC FOR \$800

WHEREAS, on June 28, 2021, by Roll Call No. 21-0967, 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 3524 6th Avenue, LLC to vacate a 5.50-foot by 50.61-foot segment of air rights at the west side of 6th Avenue adjoining property located at 3524 6th Avenue to allow continued encroachment of existing 2nd and 3rd floor bay window projections with the renovation of the building; and

WHEREAS, 3524 6th Avenue, LLC, owner of 3524 6th Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$800.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property over, through and above a 5.50-foot by 50.61-foot segment of 6th Avenue right-of-way located east of and adjoining 3524 6th Avenue, Des Moines, Iowa (hereinafter “Property”); and

WHEREAS, the City has no known current or anticipated public need for the Property proposed to be vacated, and the City will not be inconvenienced by the vacation of said Property and conveyance of a Permanent Easement for Air Space Above City-Owned Property therein.

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 a 5.50-foot by 50.61-foot segment of air rights in 6th Avenue right-of-way located east of and adjoining 3524 6th Avenue, Des Moines, Iowa, legally described as follows:

Part of 6th Avenue right-of-way lying East of and adjoining Lot 1 in Block 3 of Oak Park, 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:

Beginning at the Northeast corner of said Lot 1; thence North 89°(degrees) 54’(minutes) 32”(seconds) East, 5.50 feet along an extension of the North line of said Lot 1; thence South 00°03’34” West, 50.61 feet along a line that is parallel to and 5.50 feet easterly of the East line of said Lot 1; thence North 89°56’26” West, 5.50 feet to the East line of said Lot 1; thence North 00°03’34” East, 50.60 feet along the East line of said Lot 1 to the point of beginning.

Lying between elevations 900.5 feet and 927.0 feet, North American Vertical Datum of 1988 (reference ground level elevation of 888.87 feet, NAVD 88, at the Northeast corner of said Lot 1). Horizontally containing 278 square feet.



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2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Air Space Above City-Owned Property, as legally described below, to 3524 6th Avenue, LLC, for \$800.00:

Part of Vacated 6th Avenue right-of-way lying East of and adjoining Lot 1 in Block 3 of Oak Park, 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:

Beginning at the Northeast corner of said Lot 1; thence North 89°(degrees) 54'(minutes) 32"(seconds) East, 5.50 feet along an extension of the North line of said Lot 1; thence South 00°03'34" West, 50.61 feet along a line that is parallel to and 5.50 feet easterly of the East line of said Lot 1; thence North 89°56'26" West, 5.50 feet to the East line of said Lot 1; thence North 00°03'34" East, 50.60 feet along the East line of said Lot 1 to the point of beginning.

Lying between elevations 900.5 feet and 927.0 feet, North American Vertical Datum of 1988 (reference ground level elevation of 888.87 feet, NAVD 88, at the Northeast corner of said Lot 1). Horizontally containing 278 square feet.

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easement is to be considered shall be on October 4, 2021, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing. In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. September 30, 2021 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

Please check the posted agenda in advance of the October 4, 2021 meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

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.



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Moved by Boesen to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

PK

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD				✓
TOTAL	6			1

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