



Roll Call Number

22-1170

Agenda Item Number

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Date July 18, 2022

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF EAST WALNUT STREET RIGHT-OF-WAY ADJOINING 317 EAST 6TH STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY AND A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO HOA EVMF, LLC FOR \$1,872.00

WHEREAS, on May 9, 2022, by Roll Call No. 22-0688, 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 HOA Hotels, LLC, n/k/a HOA EVMF, LLC, owner of property at 317 East 6th Street, to vacate portions of East Walnut Street right-of-way adjoining 317 East 6th Street, Des Moines, Iowa, (hereinafter “Property”) subject to the reservation of any easements for all existing utilities until such time that they are abandoned or relocated; and

WHEREAS, HOA EVMF, LLC has offered to the City of Des Moines (“City”) the purchase price of \$1,872.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Easement for Subsurface Building Encroachment on City-owned Property in portions of East Walnut Street right-of-way adjoining 317 East 6th Street, Des Moines, Iowa, to allow for the construction, repair, renovation, and maintenance of balcony projections, building footings and subsurface encroachments from a proposed multi-story apartment building into the vacated right-of-way, which price reflects \$672.00 for the Permanent Easement for Air Space and \$1,200.00 for the Permanent Easement for Subsurface Building Encroachment, which price reflects the fair market value of the easements as determined by the City’s Real Estate Division; 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 Air Space Above City-Owned Property and a Permanent Easement for Subsurface Building Encroachment on City-owned Property therein; and

WHEREAS, on June 27, 2022, by Roll Call No. 22-0993, 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 and Permanent Easement for Subsurface Building Encroachment on City-owned Property be set for hearing on July 18, 2022, 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 Air Space Above City-Owned Property and a Permanent Easement for Subsurface Building Encroachment on City-owned Property in such vacated right-of-way was given to all interested 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.

Date July 18, 2022

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 portions of East Walnut Street right-of-way adjoining 317 East 6th Street, Des Moines, Iowa, legally described as follows, and said vacation is hereby approved:

THAT PART OF E WALNUT STREET PUBLIC RIGHT OF WAY BEING SOUTH OF AND ADJOINING LOT 2, SARAH J. GRIFFITH'S SUBDIVISION, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, SAID SARAH J. GRIFFITH'S SUBDIVISION; THENCE NORTH 74°57'02" EAST ALONG THE SOUTH LINE OF SAID LOT 1 AND LOT 2 OF SAID SARAH J. GRIFFITH SUBDIVISION, 24.90 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°57'02" EAST ALONG SAID SOUTH LINE OF LOT 2, A DISTANCE OF 14.79 FEET; THENCE SOUTH 15°02'58" EAST, 3.24 FEET; THENCE SOUTH 74°57'02" WEST, 14.79 FEET; THENCE NORTH 15°02'58" WEST, 3.24 FEET TO THE POINT OF BEGINNING AND CONTAINING 48 SQUARE FEET LYING BETWEEN ELEVATIONS 41.20 AND 104.53 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 30.25 FEET BEING THE FINISH FLOOR ELEVATION OF THE EAST PEDESTRIAN ENTRANCE FROM THE PROPOSED BUILDING TO E WALNUT STREET;

AND

THE NORTH 1.00 FOOT OF E WALNUT STREET PUBLIC RIGHT OF WAY BEING SOUTH OF AND ADJOINING LOTS 1 THROUGH 7, SARAH J. GRIFFITH'S SUBDIVISION, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING 150 SQUARE FEET;

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

3. The proposed conveyance of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Easement for Subsurface Building Encroachment on City-owned Property, as legally described below, to HOA EVMF, LLC for \$1,820.00 is hereby approved:

THAT PART OF VACATED E WALNUT STREET PUBLIC RIGHT OF WAY BEING SOUTH OF AND ADJOINING LOT 2, SARAH J. GRIFFITH'S SUBDIVISION, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS:

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COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, SAID SARAH J. GRIFFITH'S SUBDIVISION; THENCE NORTH 74°57'02" EAST ALONG THE SOUTH LINE OF SAID LOT 1 AND LOT 2 OF SAID SARAH J. GRIFFITH SUBDIVISION, 24.90 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°57'02" EAST ALONG SAID SOUTH LINE OF LOT 2, A DISTANCE OF 14.79 FEET; THENCE SOUTH 15°02'58" EAST, 3.24 FEET; THENCE SOUTH 74°57'02" WEST, 14.79 FEET; THENCE NORTH 15°02'58" WEST, 3.24 FEET TO THE POINT OF BEGINNING AND CONTAINING 48 SQUARE FEET LYING BETWEEN ELEVATIONS 41.20 AND 104.53 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 30.25 FEET BEING THE FINISH FLOOR ELEVATION OF THE EAST PEDESTRIAN ENTRANCE FROM THE PROPOSED BUILDING TO E WALNUT STREET;

AND,

THE NORTH 1.00 FOOT OF VACATED E WALNUT STREET PUBLIC RIGHT OF WAY BEING SOUTH OF AND ADJOINING LOTS 1 THROUGH 7, SARAH J. GRIFFITH'S SUBDIVISION, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING 150 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offer to Purchase, Permanent Easement for Air Space Above City-Owned Property and Permanent Easement for Subsurface Building Encroachment on 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 and Permanent Easement for Subsurface Building Encroachment on 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 and Permanent Easement for Subsurface Building Encroachment on 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 Air Space Above City-Owned Property and Permanent Easement for Subsurface Building Encroachment on City-owned Property 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. Second by Voss

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and TOTAL (7 YEAS).

Handwritten signature of J. M. Franklin Cownie, 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.

Handwritten signature of Laura Baumgartner, Acting City Clerk