



Roll Call Number

23-0162

Agenda Item Number

37

Page 1

Date May 8, 2023

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF ALLEY
RIGHT-OF-WAY IN THE VICINITY OF 1601 HIGH STREET AND CONVEYANCE OF A
PERMANENT EASEMENT FOR BUILDING ENCROACHMENT – DOOR SWING TO
HOYT, LLC FOR \$2,045.00**

WHEREAS, February 6, 2023, by Roll Call No. 23-0153, 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 Hoyt, LLC to vacate alley right-of-way in the vicinity of 1601 High Street, bounded by 16th Street to the east, 17th Street to the west, High Street to the south, and Woodland Avenue to the north to allow for trash enclosure gates to swing into the existing alleyway, subject to the following conditions:

1. Reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. The requested vacation area shall be leased, not conveyed to the applicant.
3. Any future door swing easement shall note that enclosure doors are to remain closed except during trash pick-up; and

WHEREAS, Hoyt, LLC, owner of 1601 High Street, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$2,045.00 for the purchase of a Permanent Easement for Building Encroachment – Door Swing through and across the above grade segment of alley right-of-way located north of 1601 High Street, Des Moines, Iowa; bounded by 16th Street to the east, 17th Street to the west, High Street to the south, and Woodland Avenue to the north (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 Building Encroachment – Door Swing therein; and

WHEREAS, on April 24, 2023, by Roll Call No. 23-0584, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the alley right-of-way and conveyance of the Permanent Easement for Building Encroachment – Door Swing be set for hearing on May 8, 2023, 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 alley right-of-way and convey the Permanent Easement for Building Encroachment – Door Swing 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 the above grade segment of alley right-of-way located north of 1601 High Street, Des Moines, Iowa; bounded by 16th Street to the east, 17th Street to the west, High Street to the south, and Woodland Avenue to the north, and conveyance of a Permanent Easement for Building Encroachment – Door Swing, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the above grade segment of alley right-of-way located north of 1601 High Street, Des Moines, Iowa; bounded by 16th Street to the east, 17th Street to the west, High Street to the south, and Woodland Avenue to the north, legally described as follows, and said vacation is hereby approved:

A PART OF EAST/WEST ALLEY RIGHT OF WAY IN BLOCK A IN THE SUBDIVISION OF LOT 6 OF THE PURSLEY ESTATE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED:

COMMENCING AT THE NORTHEAST CORNER OF LOT 5 IN SAID BLOCK A; THENCE N89°34'47"W, 119.06 FEET ALONG THE NORTH LINE OF LOTS 5 AND 6 IN SAID BLOCK A, TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE NORTH LINE OF LOTS 6 AND 7 IN SAID BLOCK A, N89°34'47"W 15.66 FEET; THENCE N00°24'56"E, 6.00 FEET; THENCE S89°34'47"E, 15.67 FEET; THENCE S00°25'19"W, 6.00 FEET TO THE POINT OF BEGINNING. THE DESCRIBED AREA CONTAINS 95 SF MORE OR LESS.

3. The proposed sale of a Permanent Easement for Building Encroachment – Door Swing, as legally described below to Community Foundation of Greater Des Moines for \$600.00, subject to any and all easements, restrictions and covenants of record, and said conveyance is hereby approved:

A PART OF EAST/WEST VACATED ALLEY RIGHT OF WAY IN BLOCK A IN THE SUBDIVISION OF LOT 6 OF THE PURSLEY ESTATE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED:

COMMENCING AT THE NORTHEAST CORNER OF LOT 5 IN SAID BLOCK A; THENCE N89°34'47"W, 119.06 FEET ALONG THE NORTH LINE OF LOTS 5 AND 6 IN SAID BLOCK A, TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE NORTH LINE OF LOTS 6 AND 7 IN SAID BLOCK A, N89°34'47"W 15.66 FEET; THENCE N00°24'56"E, 6.00 FEET; THENCE S89°34'47"E, 15.67 FEET; THENCE S00°25'19"W, 6.00 FEET TO THE POINT OF BEGINNING. THE DESCRIBED AREA CONTAINS 95 SF MORE OR LESS.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Encroachment – Door Swing for Building Encroachment for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.



Roll Call Number

23-01602

Agenda Item Number

37

Date May 8, 2023

- 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 Building Encroachment – Door Swing, 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 Building Encroachment – Door Swing, 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 – Door Swing 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.

Moved by Mandelbaum to adopt. Second by Boesen

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER				✓
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			1
MOTION CARRIED		APPROVED		
<u>J. M. Frank</u> Mayor				

CERTIFICATE

I, LAURA BAUMGARTNER, 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

Laura Baumgartner, City Clerk