



Roll Call Number

24-0043

Agenda Item Number

18

Date January 8, 2024

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SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AIR AND SURFACE RIGHTS IN A PORTION OF 6TH AVENUE RIGHT-OF-WAY ADJOINING 3614 6TH AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY AND A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO 36 ON 6TH, L.L.C. FOR \$1,120.00

WHEREAS, on August 7, 2023, by Roll Call No. 23-1078, 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 36 On 6th, LLC to vacate 26 square feet of surface right-of-way and 542 square feet of air right-of-way in the vicinity of adjoining properties at 3614 6th Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and

WHEREAS, 36 On 6th, LLC, the owner of 3614 6th Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$1,120.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Easement for Building Encroachment (“Easements”) over through and across portions of 6th Avenue right-of-way adjoining 3614 6th Avenue (hereinafter “Easement Area”), to allow for the continued encroachment of an existing building stoop and canopy within the 6th Avenue right-of-way; 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 street right-of-way and the conveyance of the Easements in said vacated right-of-way.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating air and surface rights-of-way within 6th Avenue right-of-way adjoining 3614 6th Avenue, legally described as follows:

AIR RIGHTS

PART OF 6TH AVENUE RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOT 1 IN BLOCK 2 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:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1 IN BLOCK 2 OF OAK PARK; THENCE SOUTH 00°(DEGREES) 05’(MINUTES) 05”(SECONDS) EAST (BEARING ASSUMED FOR THE PURPOSE OF THIS DESCRIPTION ONLY), 45.52 FEET ALONG THE EAST LINE OF SAID LOT 1 TO THE POINT OF BEGINNING; THENCE NORTH 89°54’55” EAST, 8.63 FEET;



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THENCE SOUTH 00°05'05" EAST, 62.85 FEET; THENCE SOUTH 89°54'55" WEST, 8.63 FEET TO THE EAST LINE OF SAID LOT 1; THENCE NORTH 00°05'05" WEST, 62.85 FEET ALONG THE EAST LINE OF SAID LOT 1 TO THE POINT OF BEGINNING.

LYING BETWEEN ELEVATIONS 126.50 AND 133.50 FEET, CITY OF DES MOINES DATUM (REFERENCE GROUND LEVEL ELEVATION OF 117.57 FEET, CITY OF DES MOINES DATUM, AT THE SOUTHEAST CORNER OF ABOVE-DESCRIBED LOCATION), HORIZONTALLY CONTAINING 542 SQUARE FEET.

SURFACE RIGHTS

PART OF 6TH AVENUE RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOT 1 IN BLOCK 2 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:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1 IN BLOCK 2 OF OAK PARK; THENCE SOUTH 00°(DEGREES) 05'(MINUTES) 05"(SECONDS) EAST (BEARING ASSUMED FOR THE PURPOSE OF THIS DESCRIPTION ONLY), 45.52 FEET ALONG THE EAST LINE OF SAID LOT 1 TO THE POINT OF BEGINNING; THENCE NORTH 89°54'55" EAST, 0.41 FEET; THENCE SOUTH 00°05'05" EAST, 62.41 FEET; THENCE SOUTH 89°54'55" WEST, 0.41 FEET TO THE EAST LINE OF SAID LOT 1; THENCE NORTH 00°05'05" WEST, 62.41 FEET ALONG THE EAST LINE OF SAID LOT 1 TO THE POINT OF BEGINNING.

CONTAINING 26 SQUARE FEET.

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 and a Permanent Easement for Building Encroachment in such vacated right-of-way, as legally described below, to 36 On 6th, LLC for \$1,120.00 subject to any and all easements, restrictions and covenants of record.
3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on January 22, 2024, said meeting to be held 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. Persons interested in the proposal will be given the opportunity to express their views at that hearing.
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 Gatto 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 BOESEN, VOSS, COLEMAN, WESTERGAARD, MANDELBAUM, GATTO, and TOTAL.

MOTION CARRIED

APPROVED

Connie Boesen 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