

★ Roll Call Number
25-0296

Agenda Item Number
48

Date February 24, 2025

RESOLUTION TO DISMISS HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AIR SPACE WITHIN A PORTION OF 41ST STREET RIGHT-OF-WAY ADJOINING 4109 UNIVERSITY AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO UPTOWN PARTNERS CORP. FOR \$2,041.00

WHEREAS, Uptown Partners Corp., the owner of 4109 University Avenue, Des Moines, Iowa, requested that the City of Des Moines, Iowa (“City”) vacate air rights in a portion of 41st Street right-of-way adjoining 4109 University Avenue, which request was not presented to the City’s Plan and Zoning Commission for review and has instead been determined by the City Traffic Engineer to have no significant impact upon the public use of the right-of-way, in accordance with Municipal Code 102-286(b); and

WHEREAS, Uptown Partners Corp., Timothy J. Urban, President, had offered to the City the purchase price of \$2,041.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property (“Easement”) over, through and across a portion of 41st Street right-of-way adjoining 4109 University Avenue (hereinafter “Easement Area”) for the purpose of constructing, operating, maintaining and repairing the balconies and building encroachment for the Uptown Commons apartment building being constructed on the property, which price reflects the fair market value of the Easement as determined by the City’s Real Estate; and

WHEREAS, on February 10, 2025, by Roll Call No. 25-0183, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the street right-of-way and the conveyance of a Permanent Easement for Air Space Above City-Owned Property be set for hearing on February 24, 2025 at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, Uptown Partners Corp., has now rescinded their offer to purchase the Permanent Easement for Air Space Above City-Owned Property.

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

1. Upon due consideration of the decision by the buyer, Uptown Partners Corp., to rescind their offer to purchase the air rights in a portion of 41st Street right-of-way adjoining 4109 University Avenue, Des Moines, Iowa, described as follows:

A 5.00 FOOT WIDE PORTION OF THE 41ST STREET RIGHT OF WAY EAST OF AND ADJACENT TO LOT 1, REPLAT OF E 1/3 OF ERNHURST, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE S00°06'57"E ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 38.84 FEET TO THE POINT OF BEGINNING; THENCE N89°53'03"E, A

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DISTANCE OF 5.00 FEET; THENCE S00°06'57"E, A DISTANCE OF 106.00 FEET; THENCE S89°53'03"W, A DISTANCE OF 5.00 FEET TO THE EAST LINE OF SAID LOT 1; THENCE N00°06'57"W ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 106.00 FEET TO THE POINT OF BEGINNING.

EASEMENT TO BE BETWEEN ELEVATION 198.0 FEET AND 212.5 FEET (CITY OF DES MOINES VERTICAL DATUM);

this hearing is hereby dismissed.

Moved by Mandelbaum to adopt. Second by Voss

APPROVED AS TO FORM:

/s/ Chas M. Cahill
Chas M. Cahill, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include BOESEN, SIMONSON, VOSS, COLEMAN, WESTERGAARD, MANDELBAUM, GATTO, and TOTAL (7 yeas). Includes signature of 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.
Signature of Laura Baumgartner, City Clerk