



25-0933

51

Date June 30, 2025

Page 1

HOLD HEARING FOR VACATION OF AIR RIGHTS WITHIN A PORTION OF EAST 6TH STREET RIGHT-OF-WAY ADJOINING 603 EAST 6TH STREET, AND TO CORRECT THE VACATION OF AIR, SUBSURFACE, AND SURFACE RIGHTS WITHIN PORTIONS OF DES MOINES STREET AND EAST 6TH STREET RIGHT-OF-WAY ADJOINING 603 EAST 6TH STREET, AND CONVEYANCE OF A CORRECTED PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO HOA ASTON LLC

WHEREAS, HOA Aston LLC, the owner of 603 East 6th Street, requested that the City of Des Moines, Iowa (“City”) vacate air, subsurface, and surface rights in portions of Des Moines Street and East 6th Street right-of-way adjoining 603 East 6th Street, 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, on October 7, 2024, by Roll Call No. 24-1378, the City Council approved the conveyance of a Permanent Easement for Air Space Above City-Owned Property, a Permanent Easement for Subsurface Building Encroachment on City-Owned Property, and Permanent Easement for Surface Building Encroachment on City-Owned Property over, through and across portions of Des Moines Street and East 6th Street right-of-way adjoining 603 East 6th Street to HOA Aston LLC for the purchase price of \$30,324.00; and

WHEREAS, on October 7, 2024, by Roll Call No. 24-1380, the City Council of the City of Des Moines voted to pass Ordinance No. 16,388 vacating air, subsurface, and surface rights in portions of Des Moines Street and East 6th Street right-of-way adjoining 603 East 6th Street as part of a HOA Aston LLC building project; subject to the reservation of easements for any existing utilities until such time that they are abandoned; and

WHEREAS, subsequent to passing Ordinance No. 16,388, HOA Aston LLC requested to change the location of the air rights located in the East 6th Street right-of-way, leading to the need to repeal said ordinance, pass a new ordinance to vacate the properly described right-of-way, and conveyance of a Corrected Permanent Easement for Air Space Above City-Owned Property; 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 the conveyance of the Corrected Permanent Easement for Air Space Above City-Owned Property in such vacated right-of-way; and

WHEREAS, on June 9, 2025, by Roll Call No. 25-0823, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed corrected vacation of the street right-of-way and conveyance of a Corrected Permanent Easement for Air Space About City-Owned Property be set down for hearing on June 30, 2025 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 repeal Ordinance No. 16,388 and to adopt an ordinance permanently vacating portions of Des Moines Street and East 6th Street right-of-way adjoining 603 East 6th Street and convey the Corrected Permanent Easement for Air Space Above City-Owned Property 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 repeal of Ordinance No. 16,388 and the vacation of the 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 right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of air, subsurface, surface rights within portions of Des Moines Street and East 6th Street right-of-way adjoining 603 East 6th Street, legally described as follows, and said vacation is hereby approved:

AIR RIGHTS

AERIAL EXHIBIT 'A'

A PART OF THE DES MOINES STREET RIGHT-OF-WAY AND A PART OF THE E 6TH STREET RIGHT-OF-WAY, BOTH ADJOINING THE SOUTH HALF OF THE WEST 333.50 FEET OF BLOCK A, RIVER HILLS PLAT THREE, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE NORTH 74°43'00" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 23.00 FEET; THENCE SOUTH 15°17'00" EAST, 3.00 FEET; THENCE SOUTH 74°43'00" WEST, 24.02 FEET; THENCE NORTH 14°56'16" WEST, 20.61 FEET; THENCE NORTH 75°03'44" EAST, 1.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF E 6TH STREET; THENCE SOUTH 14°56'16" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 17.61 FEET TO THE POINT OF BEGINNING AND CONTAINING 90 SQUARE FEET.

APPROXIMATE GROUND ELEVATION IS 54-55 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 74 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 144 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

AERIAL EXHIBIT 'B'

A PART OF THE DES MOINES STREET RIGHT-OF-WAY ADJOINING THE SOUTH HALF OF THE WEST 333.50 FEET OF BLOCK A, RIVER HILLS PLAT THREE, AN OFFICIAL PLAT IN



Roll Call Number

25-0933

Agenda Item Number

51

Date June 30, 2025

Page 3

THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 74°43'00" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 26.43 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°17'00" EAST, 3.00 FEET; THENCE SOUTH 74°43'00" WEST, 23.00 FEET; THENCE NORTH 15°17'00" WEST, 3.00 FEET TO SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 74°43'00" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 23.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 69 SQUARE FEET.

APPROXIMATE GROUND ELEVATION IS 61-62 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 74 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 144 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

AERIAL EXHIBIT 'C'

A PART OF THE DES MOINES STREET RIGHT-OF-WAY ADJOINING THE SOUTH HALF OF THE WEST 333.50 FEET OF BLOCK A, RIVER HILLS PLAT THREE, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 74°43'00" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 81.66 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°17'00" EAST, 2.00 FEET; THENCE SOUTH 74°43'00" WEST, 20.91 FEET; THENCE NORTH 15°17'00" WEST, 2.00 FEET TO SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 74°43'00" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 20.91 FEET TO THE POINT OF BEGINNING AND CONTAINING 42 SQUARE FEET.

APPROXIMATE GROUND ELEVATION IS 60-61 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 74 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 144 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

AERIAL EXHIBIT 'D'

A PART OF THE E 6TH STREET RIGHT-OF-WAY ADJOINING THE SOUTH HALF OF THE WEST 333.50 FEET OF BLOCK A, RIVER HILLS PLAT THREE, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 14°56'16" EAST ALONG THE EAST RIGHT-OF-WAY LINE OF E 6TH STREET, 23.36 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 14°56'16" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 98.93 FEET; THENCE SOUTH 75°03'44" WEST, 1.00 FEET; THENCE NORTH 14°56'16" WEST, 98.93 FEET; THENCE NORTH 75°03'44" EAST, 1.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 99 SQUARE FEET.



Roll Call Number

25-0933

Agenda Item Number

51

Date June 30, 2025

Page 4

APPROXIMATE GROUND ELEVATION IS 56-59 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 74 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 144 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

SUBSURFACE RIGHTS

SUBSURFACE EXHIBIT 'A'

A PART OF THE DES MOINES STREET RIGHT-OF-WAY AND A PART OF THE E 6TH STREET RIGHT-OF-WAY, BOTH ADJOINING THE SOUTH HALF OF THE WEST 333.50 FEET OF BLOCK A, RIVER HILLS PLAT THREE, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 74°43'00" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 21.35 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°28'55" EAST, 7.00 FEET; THENCE SOUTH 74°43'00" WEST, 315.00 FEET; THENCE NORTH 14°56'16" WEST, 146.00 FEET; THENCE NORTH 75°03'44" EAST, 3.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF E 6TH STREET; THENCE SOUTH 14°56'16" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 138.98 FEET; THENCE NORTH 74°43'00" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 311.93 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.06 ACRES (2,622 SQUARE FEET).

SURFACE RIGHTS

SURFACE EXHIBIT 'A'

A PART OF THE DES MOINES STREET RIGHT-OF-WAY ADJOINING THE SOUTH HALF OF THE WEST 333.50 FEET OF BLOCK A, RIVER HILLS PLAT THREE, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE NORTH 74°43'00" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 0.89 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°43'00" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 5.00 FEET; THENCE SOUTH 15°17'00" EAST, 3.00 FEET; THENCE SOUTH 74°43'00" WEST, 5.00 FEET; THENCE NORTH 15°17'00" WEST, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 15 SQUARE FEET.

SURFACE EXHIBIT 'B'

A PART OF THE DES MOINES STREET RIGHT-OF-WAY ADJOINING THE SOUTH HALF OF THE WEST 333.50 FEET OF BLOCK A, RIVER HILLS PLAT THREE, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 74°43'00" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 27.87 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°17'00"

**Roll Call Number**250933**Agenda Item Number**51**Date** June 30, 2025

Page 5

EAST, 3.00 FEET; THENCE SOUTH 74°43'00" WEST, 5.00 FEET; THENCE NORTH 15°17'00" WEST, 3.00 FEET TO SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 74°43'00" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 15 SQUARE FEET.

SURFACE EXHIBIT 'C'

A PART OF THE DES MOINES STREET RIGHT-OF-WAY ADJOINING THE SOUTH HALF OF THE WEST 333.50 FEET OF BLOCK A, RIVER HILLS PLAT THREE, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 74°43'00" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 112.65 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°17'00" EAST, 3.50 FEET; THENCE SOUTH 74°43'00" WEST, 126.90 FEET; THENCE NORTH 15°17'00" WEST, 3.50 FEET TO SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 74°43'00" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 126.90 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (444 SQUARE FEET).

3. The proposed conveyance of the Corrected Permanent Easement for Air Space Above City-Owned Property in such vacated street right-of-way, as legally described below, to HOA Aston LLC, subject to any and all easements, restrictions and covenants of record, is hereby approved:

AERIAL EXHIBIT 'A'

A PART OF THE VACATED DES MOINES STREET RIGHT-OF-WAY AND A PART OF THE VACATED E 6TH STREET RIGHT-OF-WAY, BOTH ADJOINING THE SOUTH HALF OF THE WEST 333.50 FEET OF BLOCK A, RIVER HILLS PLAT THREE, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE NORTH 74°43'00" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 23.00 FEET; THENCE SOUTH 15°17'00" EAST, 3.00 FEET; THENCE SOUTH 74°43'00" WEST, 24.02 FEET; THENCE NORTH 14°56'16" WEST, 20.61 FEET; THENCE NORTH 75°03'44" EAST, 1.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF E 6TH STREET; THENCE SOUTH 14°56'16" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 17.61 FEET TO THE POINT OF BEGINNING AND CONTAINING 90 SQUARE FEET.

APPROXIMATE GROUND ELEVATION IS 54-55 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 74 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 144 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

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**Roll Call Number**25-0933**Agenda Item Number**51**Date** June 30, 2025

Page 6

PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 14°56'16" EAST ALONG THE EAST RIGHT-OF-WAY LINE OF E 6TH STREET, 23.36 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 14°56'16" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 98.93 FEET; THENCE SOUTH 75°03'44" WEST, 1.00 FEET; THENCE NORTH 14°56'16" WEST, 98.93 FEET; THENCE NORTH 75°03'44" EAST, 1.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 99 SQUARE FEET.



Roll Call Number

Agenda Item Number

250933

51

Date June 30, 2025

Page 7

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4. The Mayor is authorized and directed to sign the Corrected Permanent Easement for Air Space Above City-Owned Property, as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. The City Clerk is authorized and directed to forward the original of the Corrected Permanent Easement for Air Space Above 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 Corrected Permanent Easement for Air Space Above 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 Corrected Permanent Easement for Air Space Above City-Owned Property a copy of the other documents to the grantee.

8. There will be no proceeds associated with this transaction.

Moved by Mandelbaum to adopt. Second by Gatto.

APPROVED AS TO FORM:

/s/ Grant Hyland

Grant Hyland, Assistant City Attorney

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			
MOTION CARRIED		APPROVED		
<u>Connie Boesen</u>		Mayor		