



**Roll Call Number**

26-0262

**Agenda Item Number**

42

**Date** February 23, 2026

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**HOLD HEARING FOR VACATION OF AIR RIGHTS WITHIN PORTIONS OF EAST 16<sup>TH</sup> STREET AND EAST GRAND AVENUE RIGHT-OF-WAY ADJOINING 1600 EAST GRAND AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO FRANCISCO J. PLESENT LIVING TRUST AND MARIA ARACELI PENA FOR \$100**

**WHEREAS**, Francisco J. Plesent Living Trust, Contract Seller, and Maria Araceli Pena, Contract Buyer, owners of 1600 East Grand Avenue, Des Moines, Iowa, have requested that the City of Des Moines, Iowa (“City”) vacate air rights in portions of East 16th Street and East Grand Avenue right-of-way adjoining 1600 East Grand 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**, Francisco J. Plesent Living Trust and Maria Araceli Pena, have offered to the City the purchase price of \$100.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property (“Easement”) over, through and across portions of East 16th Street and East Grand Avenue right-of-way adjoining 1600 East Grand Avenue, (hereinafter “Easement Area”) for the purpose of constructing, operating, maintaining and repairing two bay windows which price reflects the fair market value of the Easement 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 the conveyance of the Easement in such vacated right-of-way; and

**WHEREAS**, on February 9, 2026, by Roll Call No. 26-0182, 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 23, 2026, at 5:00 p.m., in the City Council Chambers, T.M. Franklin Cownie City Administration Building, 1200 Locust Street, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to vacate the street right-of-way and convey the Easement 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:

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1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of air rights in portions of East 16th Street and East Grand Avenue right-of-way adjoining 1600 East Grand Avenue, 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 rights within portions of East 16th Street and East Grand Avenue right-of-way adjoining 1600 East Grand Avenue, legally described as follows, and said vacation is hereby approved:

VACATION EXHIBIT "A":

A PART OF THE E 16TH STREET RIGHT-OF-WAY, ADJOINING THE WEST PROPERTY LINE OF LOT 1, BLOCK 58, STEWART'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY IOWA, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH 125.0 FEET OF SAID LOT 1; THENCE SOUTH 14°53'24" EAST, 34.67 FEET ALONG THE WEST PROPERTY LINE, TO THE POINT OF BEGINNING; THENCE SOUTH 25°06'36" WEST, 2.59 FEET; THENCE SOUTH 14°53'24" EAST, 4.69 FEET; THENCE SOUTH 54°53'24" EAST, 2.59 FEET; NORTH 14°53' 24" WEST, 8.67 FEET TO THE BEGINNING, AFTERWARDS AND CONTAINING 11.13 SQUARE FEET.

APPROXIMATE ELEVATION ABOVE GROUND TO THE BOTTOM OF THE BAY WINDOW IS 14.22' FEET WITH THE TOP OF THE BUMP OUT ARE APPROXIMATELY 12.44' ABOVE THAT. ELEVATIONS ARE NOTED FROM GRADE.

VACATION EXHIBIT "B:

A PART OF THE E GRAND AVENUE RIGHT-OF-WAY, ADJOINING THE SOUTH PROPERTY LINE OF LOT 1, BLOCK 58, STEWART'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY IOWA, 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 LOT 1; THENCE NORTH 75°06'36" EAST, 11.33 FEET, ALONG THE SOUTH PROPERTY LINE, TO THE POINT OF BEGINNING; THENCE SOUTH 69°53'24" EAST, 2.62 FEET; THENCE NORTH 75°06'36" EAST, 5.05 FEET; THENCE NORTH 40°06'36" EAST, 2.62 FEET; SOUTH 75°06' 36" WEST, 9.33 FEET, TO THE BEGINNING, AFTERWARDS AND CONTAINING 10.79 SQUARE FEET.

APPROXIMATE ELEVATION ABOVE GROUND TO THE BOTTOM OF THE BAY WINDOW IS 14.38' FEET WITH THE TOP OF THE BUMP OUT ARE APPROXIMATELY 12.44' ABOVE THAT. ELEVATIONS ARE NOTED FROM GRADE.

3. The proposed conveyance of the Permanent Easement for Air Space Above City-Owned Property in such vacated street right-of-way, as legally described below, to Francisco J. Plesent Living Trust,



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(Contract Seller) and Maria Araceli Pena (Contract Buyer) for \$100.00, subject to any and all easements, restrictions and covenants of record, is hereby approved:

EASEMENT AREA "A":

A PART OF THE VACATED E 16TH STREET RIGHT-OF-WAY, ADJOINING THE WEST PROPERTY LINE OF LOT 1, BLOCK 58, STEWART'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY IOWA, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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EASEMENT AREA "B":

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4. The Mayor is authorized and directed to sign the Offer to Purchase and the 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 Manager is authorized to sign any minor and non-substantial amendments to the purchase agreement and is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.



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6. 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, 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.

7. The Real Estate Division Manager is authorized and directed to forward the original of the 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.

8. 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 a copy of the other documents to the grantee.

9. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Gatto to adopt. Second by Voss.

APPROVED AS TO FORM:

/s/ Grant Hyland  
Grant Hyland, Assistant City Attorney

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