

**HOLD HEARING FOR VACATION OF AIR RIGHTS WITHIN PORTIONS OF INGERSOLL AVENUE RIGHT-OF-WAY ADJOINING 3404 INGERSOLL AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO GOLDFINCH COMMERCIAL, LLC AND GOLDFINCH APARTMENTS, LP FOR \$1,100**

**WHEREAS**, Goldfinch Commercial, LLC, an Iowa limited liability company, and Goldfinch Apartments, LP, an Iowa limited partnership, the owners of 3404 Ingersoll Avenue, have requested that the City of Des Moines, Iowa (“City”) vacate air rights in portions of Ingersoll Avenue right-of-way adjoining 3404 Ingersoll 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**, Goldfinch Commercial, LLC and Goldfinch Apartments, LP, have offered to the City the purchase price of \$1,100.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property (“Easement”) over, through and across portions of Ingersoll Avenue right-of-way adjoining 3404 Ingersoll Avenue, (hereinafter “Easement Area”) for the purpose of constructing, operating, maintaining and repairing balconies for the building being constructed on the property, 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 Ingersoll Avenue 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 March 9, 2026 by Roll Call No. 26-0299, 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 March 23, 2026, at 5:00 p.m., in the City Council Chamber, T.M. Franklin Cownie City Administration Building, 1200 Locust Street, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to vacate the Ingersoll Avenue 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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**Date** March 23, 2026

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 Ingersoll Avenue right-of-way adjoining 3404 Ingersoll 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 in portions of Ingersoll Avenue right-of-way adjoining 3404 Ingersoll Avenue, legally described as follows, and said vacation is hereby approved:

AN 8.00 FOOT WIDE VACATION OF PART OF INGERSOLL AVENUE PUBLIC RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO LOTS 14 & 15 OF STRATFORD, AN OFFICIAL PLAT RECORDED IN BOOK 'E', PAGE 322 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA WITH A CENTERLINE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID LOT 14; THENCE S89°23'19"E, 35.00 FEET ALONG THE NORTH LINE OF SAID LOT 14, SAID NORTH LINE ALSO BEING THE SOUTH RIGHT-OF-WAY LINE OF INGERSOLL AVENUE AS IT PRESENTLY ESTABLISHED, TO THE POINT OF BEGINNING; THENCE N00°36'41"E, 3.00 FEET TO THE POINT OF TERMINUS,

AND

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID LOT 14; THENCE S89°23'19"E, 65.00 FEET ALONG THE NORTH LINE OF SAID LOT 14, SAID NORTH LINE ALSO BEING THE SOUTH RIGHT-OF-WAY LINE OF INGERSOLL AVENUE AS IT PRESENTLY ESTABLISHED, TO THE POINT OF BEGINNING; THENCE N00°36'41"E, 3.00 FEET TO THE POINT OF TERMINUS,

AND

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID LOT 14; THENCE S89°23'19"E, 95.00 FEET ALONG THE NORTH LINE OF SAID LOT 14, SAID NORTH LINE ALSO BEING THE SOUTH RIGHT-OF-WAY LINE OF INGERSOLL AVENUE AS IT PRESENTLY ESTABLISHED, TO THE POINT OF BEGINNING; THENCE N00°36'41"E, 3.00 FEET TO THE POINT OF TERMINUS,

AND

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID LOT 14; THENCE S89°23'19"E, 125.00 FEET ALONG THE NORTH LINE OF SAID LOT 14, SAID NORTH LINE ALSO BEING THE SOUTH RIGHT-OF-WAY LINE OF INGERSOLL AVENUE AS IT PRESENTLY ESTABLISHED, TO THE POINT OF BEGINNING; THENCE N00°36'41"E, 3.00 FEET TO THE POINT OF TERMINUS,

AND

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COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID LOT 14; THENCE S89°23'19"E, 155.00 FEET ALONG THE NORTH LINE OF SAID LOTS 14 & 15, SAID NORTH LINE ALSO BEING THE SOUTH RIGHT-OF-WAY LINE OF INGERSOLL AVENUE AS IT PRESENTLY ESTABLISHED, TO THE POINT OF BEGINNING; THENCE N00°36'41"E, 3.00 FEET TO THE POINT OF TERMINUS,

AND

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID LOT 14; THENCE S89°23'19"E, 185.00 FEET ALONG THE NORTH LINE OF SAID LOTS 14 & 15, SAID NORTH LINE ALSO BEING THE SOUTH RIGHT-OF-WAY LINE OF INGERSOLL AVENUE AS IT PRESENTLY ESTABLISHED, TO THE POINT OF BEGINNING; THENCE N00°36'41"E, 3.00 FEET TO THE POINT OF TERMINUS

THE PUBLIC RIGHT-OF-WAY VACATION IS CONSTRAINED BETWEEN THE CITY OF DES MOINES VERTICAL DATUM ELEVATION OF 156.0 FEET, DEFINED AS THE BOTTOM OF THE LOWEST BALCONY STRUCTURAL MEMBER, AND 171.0 FEET, DEFINED AS THE TOP OF THE SECOND-FLOOR BALCONY SAFETY RAILING. THE EXISTING BUILDINGS 35TH STREET PEDESTRIAN ENTRANCE FINISHED FLOOR ELEVATION IS ASSUMED AS 139.17 FEET FOR THE PURPOSE OF THIS DESCRIPTION. THE VACATION AREA IS 144 SQUARE FEET

3. The proposed conveyance of the Permanent Easement for Air Space Above City-Owned Property such vacated street right-of-way, as legally described below, to Goldfinch Commercial, LLC and Goldfinch Apartments, LP for \$1,100.00 subject to any and all easements, restrictions and covenants of record, is hereby approved:

AN 8.00 FOOT WIDE AIR RIGHTS EASEMENT LYING DIRECTLY ADJACENT TO LOTS 14 & 15 OF STRATFORD, AN OFFICIAL PLAT RECORDED IN BOOK 'E', PAGE 322 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA WITH A CENTERLINE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID LOT 14; THENCE S89°23'19"E, 35.00 FEET ALONG THE NORTH LINE OF SAID LOT 14, SAID NORTH LINE ALSO BEING THE SOUTH RIGHT-OF-WAY LINE OF INGERSOLL AVENUE AS IT PRESENTLY ESTABLISHED, TO THE POINT OF BEGINNING; THENCE N00°36'41"E, 3.00 FEET TO THE POINT OF TERMINUS,

AND

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID LOT 14; THENCE S89°23'19"E, 65.00 FEET ALONG THE NORTH LINE OF SAID LOT 14, SAID NORTH LINE ALSO BEING THE SOUTH RIGHT-OF-WAY LINE OF INGERSOLL AVENUE AS IT PRESENTLY ESTABLISHED, TO THE POINT OF BEGINNING; THENCE N00°36'41"E, 3.00 FEET TO THE POINT OF TERMINUS,

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AND

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID LOT 14; THENCE S89°23'19"E, 155.00 FEET ALONG THE NORTH LINE OF SAID LOTS 14 & 15, SAID NORTH LINE ALSO BEING THE SOUTH RIGHT-OF-WAY LINE OF INGERSOLL AVENUE AS IT PRESENTLY ESTABLISHED, TO THE POINT OF BEGINNING; THENCE N00°36'41"E, 3.00 FEET TO THE POINT OF TERMINUS,

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THE AIR RIGHTS EASEMENT IS CONSTRAINED BETWEEN THE CITY OF DES MOINES VERTICAL DATUM ELEVATION OF 156.0 FEET, DEFINED AS THE BOTTOM OF THE LOWEST BALCONY STRUCTURAL MEMBER, AND 171.0 FEET, DEFINED AS THE TOP OF THE SECOND-FLOOR BALCONY SAFETY RAILING. THE EXISTING BUILDINGS 35TH STREET PEDESTRIAN ENTRANCE FINISHED FLOOR ELEVATION IS ASSUMED AS 139.17 FEET FOR THE PURPOSE OF THIS DESCRIPTION.

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 Mandelbaum to adopt. Second by Dutto

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	

**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.

Connie Breen Mayor

Laura Baumgartner  
Laura Baumgartner, City Clerk