

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SURFACE RIGHTS WITHIN A PORTION OF 6<sup>TH</sup> AVENUE RIGHT-OF-WAY ADJOINING 3612 AND 3614 6<sup>TH</sup> AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT - DOOR SWING TO 36 ON 6<sup>TH</sup>, L.L.C. FOR \$34.00**

**WHEREAS**, 36 on 6<sup>th</sup>, L.L.C., the owner of 3612 and 3614 6<sup>th</sup> Avenue, has requested that the City of Des Moines, Iowa (“City”) vacate surface rights within a portion of 6<sup>th</sup> Avenue right-of-way adjoining 3612 and 3614 6<sup>th</sup> 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**, 36 on 6<sup>th</sup>, L.L.C. has offered to the City the purchase price of \$34.00 for the purchase of a Permanent Easement for Building Encroachment – Door Swing (“Easement”) over, through and across a portion of 6<sup>th</sup> Avenue right-of-way adjoining 3612 and 3614 6<sup>th</sup> Avenue (hereinafter “Easement Area”) to allow for construction, repair, operation and maintenance of a building door entrance stoop and door swing area, into and upon said right-of-way, 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 January 27, 2025 by Roll Call No. 25-0114, 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 Building Encroachment – Door Swing be set for hearing on February 10, 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 vacate the street right-of-way and convey the Easement was given 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 vacation of surface rights within a portion of 6<sup>th</sup> Avenue right-of-way adjoining 3612 and 3614 6<sup>th</sup> 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 surface rights within a portion of 6<sup>th</sup> Avenue right-

of-way adjoining 3612 and 3614 6<sup>th</sup> Avenue, legally described as follows, and said vacation is hereby approved:

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), 107.71 FEET ALONG THE EAST LINE OF SAID LOT 1; THENCE NORTH 89°54'55" EAST, 0.41 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°54'55" EAST, 3.25 FEET; THENCE NORTH 00°05'05" WEST, 4.50 FEET; THENCE SOUTH 89°54'55" WEST, 3.25 FEET; THENCE SOUTH 00°05'05" EAST, 4.50 FEET TO THE POINT OF BEGINNING. CONTAINING 15 SQUARE FEET.

- 3. The proposed conveyance of the Permanent Easement for Building Encroachment – Door Swing in such vacated street right-of-way, as legally described below, to 36 on 6<sup>th</sup>, L.L.C. for \$34.00, subject to any and all easements, restrictions and covenants of record is hereby approved:

PART OF VACATED 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), 107.71 FEET ALONG THE EAST LINE OF SAID LOT 1; THENCE NORTH 89°54'55" EAST, 0.41 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°54'55" EAST, 3.25 FEET; THENCE NORTH 00°05'05" WEST, 4.50 FEET; THENCE SOUTH 89°54'55" WEST, 3.25 FEET; THENCE SOUTH 00°05'05" EAST, 4.50 FEET TO THE POINT OF BEGINNING. CONTAINING 15 SQUARE FEET.

- 4. The Mayor is authorized and directed to sign the Offer to Purchase, the Permanent Easement for Building Encroachment – Door Swing, 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.

- 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 Building Encroachment – Door Swing, 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.



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250204

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**Date** February 10, 2025

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7. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Building Encroachment – Door Swing, 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 Building Encroachment – Door Swing 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 Westergaard to adopt. Second by Gatto.

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			

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