



Roll Call Number

25-0774

Agenda Item Number

48

Date May 19, 2025

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HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AIR RIGHTS WITHIN A PORTION OF INGERSOLL AVENUE RIGHT-OF-WAY ADJOINING 3711 INGERSOLL AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO INGERSOLL THEATER, LLC FOR \$3,200.00

WHEREAS, Ingersoll Theater, LLC, the owner of 3711 Ingersoll Avenue, Des Moines, Iowa, has requested that the City of Des Moines, Iowa ("City") vacate air rights in a portion of Ingersoll Avenue right-of-way adjoining 3711 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, Ingersoll Theater, LLC has offered to the City the purchase price of \$3,200.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property ("Easement") over, through and across a portion of Ingersoll Avenue right-of-way adjoining 3711 Ingersoll Avenue (hereinafter "Easement Area") for the purpose of constructing, operating, maintaining and repairing a marquee sign, 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 May 5, 2025, by Roll Call No. 25-0653, 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 May 19, 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 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 vacation of air rights in a portion of Ingersoll Avenue right-of-way adjoining 3711 Ingersoll Avenue, as described herein, are hereby overruled and the hearing is closed.



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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 a portion of Ingersoll Avenue right-of-way adjoining 3711 Ingersoll Avenue, Des Moines, Iowa, legally described as follows, and said vacation is hereby approved:

A PART OF INGERSOLL AVENUE RIGHT-OF-WAY IN DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL '2021-251', AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 19190, PAGE 899 IN SAID CITY OF DES MOINES; THENCE SOUTH 89°02'50" EAST ALONG THE SOUTHERLY LINE OF SAID PARCEL '2021-251', A DISTANCE OF 6.91 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°02'50" EAST ALONG SAID SOUTHERLY LINE, 39.29 FEET; THENCE SOUTH 00°57'10" WEST, 2.42 FEET; THENCE SOUTH 58°57'12" WEST, 18.74 FEET; THENCE SOUTH 00°57'10" WEST, 2.89 FEET; THENCE NORTH 89°02'50" WEST, 7.71 FEET; THENCE NORTH 00°57'10" EAST, 2.87 FEET; THENCE NORTH 57°47'37" WEST, 18.34 FEET; THENCE NORTH 00°57'10" EAST, 2.85 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (354 SQUARE FEET). GROUND ELEVATION = 147.02 FEET. BOTTOM OF SIGN ELEVATION = 155.70 FEET. TOP OF SIGN ELEVATION 163.92 FEET.

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 Ingersoll Theater, LLC for \$3,200.00, subject to any and all easements, restrictions and covenants of record, is hereby approved:

A PART OF VACATED INGERSOLL AVENUE RIGHT-OF-WAY IN DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL '2021-251', AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 19190, PAGE 899 IN SAID CITY OF DES MOINES; THENCE SOUTH 89°02'50" EAST ALONG THE SOUTHERLY LINE OF SAID PARCEL '2021-251', A DISTANCE OF 6.91 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°02'50" EAST ALONG SAID SOUTHERLY LINE, 39.29 FEET; THENCE SOUTH 00°57'10" WEST, 2.42 FEET; THENCE SOUTH 58°57'12" WEST, 18.74 FEET; THENCE SOUTH 00°57'10" WEST, 2.89 FEET; THENCE NORTH 89°02'50" WEST, 7.71 FEET; THENCE NORTH 00°57'10" EAST, 2.87 FEET; THENCE NORTH 57°47'37" WEST, 18.34 FEET; THENCE NORTH 00°57'10" EAST, 2.85 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (354 SQUARE FEET). GROUND ELEVATION = 147.02 FEET. BOTTOM OF SIGN ELEVATION = 155.70 FEET. TOP OF SIGN ELEVATION 163.92 FEET.



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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.
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.

APPROVED AS TO FORM:

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.

MOTION CARRIED

APPROVED

Connie Brown

Mayor

Kaura Baumgartner

Laura Baumgartner, City Clerk