

HOLD HEARING TO CORRECT THE VACATION OF AIR RIGHTS WITHIN PORTIONS OF EAST 16TH STREET AND EAST GRAND AVENUE RIGHT-OF-WAY ADJOINING 1600 EAST GRAND AVENUE AND CONVEYANCE OF A CORRECTED PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO FRANCISCO J. PLESENT LIVING TRUST AND MARIA ARACELI PENA

WHEREAS, Francisco J. Plesent Living Trust, Contract Seller, and Maria Araceli Pena, Contract Buyer, owners of 1600 East Grand Avenue, Des Moines, Iowa, 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, on February 23, 2026, by Roll Call No. 26-0262, the City Council approved the conveyance of a Permanent Easement for Air Space Above City-Owned Property, over, through and across portions of East 16th Street and East Grand Avenue right-of-way adjoining 1600 East Grand Avenue to Francisco J. Plesent Living Trust and Maria Araceli Pena for the purchase price of \$100.00; and

WHEREAS, on February 23, 2026, by Roll Call No. 26-0264, the City Council of the City of Des Moines voted to pass Ordinance No. 16,540 vacating air rights in portions of East 16th Street and East Grand Avenue right-of-way adjoining 1600 East Grand Avenue,; subject to the reservation of easements for any existing utilities until such time that they are abandoned; and

WHEREAS, subsequent to passing Ordinance No. 16,540, an error was found in the legal description for the air rights located in the East 16th Street and East Grand Avenue 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 ("Easement"); 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 April 6, 2026, by Roll Call No. 26-0432, 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 Above City-Owned Property be set for hearing on April 20, 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 repeal Ordinance 16,540 and to adopt an ordinance permanently vacating portions of East 16th Street and East Grand Avenue right-of-way adjoining 1600 East Grand Avenue and convey the Corrected Permanent Easement for Air Space Above City-Owned

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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 Ordinance No. 16,540 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 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, 59.67 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

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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 Corrected 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, (Contract Seller) and Maria Araceli Pena (Contract Buyer), 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":

A PART OF THE VACATED 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.

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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 Westergaard 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			

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 Boesen Mayor

Laura Baumgartner
Laura Baumgartner, City Clerk