

Date September 9, 2013

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HOLD HEARING FOR VACATION AND CONVEYANCE OF SEGMENTS OF KEOSAUQUA WAY AND OAKRIDGE DRIVE RIGHT-OF-WAY ADJOINING 1300, 1310 AND 1330 KEOSAUQUA WAY TO KUM & GO, L.C. FOR \$13,010

WHEREAS, on August 26, 2013, by Roll Call No. 13-1319, the City Council received a recommendation from the City Plan and Zoning Commission that segments of Keosauqua Way and Oakridge Drive right-of-way adjoining 1300, 1310 and 1330 Keosauqua Way ("City Right-of-Way"), hereinafter more fully described, be vacated as requested by Kum & Go, L.C. for redevelopment, subject to the condition that said property may be used by the City of Des Moines for future streetscape purposes; and

WHEREAS, Kum & Go, L.C. is the purchaser of the properties locally known as 1300, 1310 and 1330 Keosauqua Way that abut the City Right-of-Way and has offered to the City of Des Moines the purchase price of \$13,010 for the vacation and purchase of such Right-of-Way, legally described below, for incorporation with surrounding properties for redevelopment, which price reflects the fair market value of the property as currently estimated by the City's Real Estate Division; and

WHEREAS, Kum & Go, L.C. and the City's Real Estate Division have negotiated an Offer to Purchase which includes, among other terms, closing subject to the condition that Kum & Go, L.C. first close on the purchase and demonstrate ownership of the abutting property, and the terms included in the City Plan and Zoning Commission recommendation regarding future streetscape usage of the City Right-of-Way by the City; and

WHEREAS, there is no known current or future public need or benefit for the City Right-of-Way proposed to be sold and the City will not be inconvenienced by the sale of said property; and

WHEREAS, on August 26, 2013, by Roll Call No. 13-1320, it was duly resolved by the City Council that the proposed vacation and conveyance of the City Right-of-way be set down for hearing on September 9, 2013, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said 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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed vacation and conveyance of public right-of-way, as described below, 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 segments of Keosauqua Way and Oakridge Drive right-of-way adjoining 1300, 1310 and 1330 Keosauqua Way, more specifically described as follows:

A PART OF LOTS A AND B, OAKRIDGE PLAT NO. 1, AN OFFICIAL PLAT, ALL NOW INCLUDED IN, FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST CORNER OF LOT 19, SAID OAKRIDGE PLAT NO. 1, SAID POINT BEING ON THE WESTERLY LINE OF SAID LOT A; THENCE NORTH 41° (DEGREES) 11' (MINUTES) 55" (SECONDS) WEST ALONG SAID WESTERLY LINE OF LOT A, A DISTANCE OF 473.00 FEET; THENCE NORTH 43°29'14" EAST, 1.82 FEET; THENCE SOUTH 41°06'47" EAST, 477.47 FEET; THENCE SOUTH 46°39'16" WEST, 2.79 FEET; THENCE SOUTH 39°28'52" EAST, 6.92 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 26.31 FEET, WHOSE ARC LENGTH IS 19.08 FEET AND WHOSE CHORD BEARS SOUTH 08°27'04" WEST, 18.67 FEET; THENCE NORTH 89°24'08" WEST, 36.83 FEET TO THE SOUTHERLY CORNER OF SAID LOT 19; THENCE NORTH 50°18'28" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 19, A DISTANCE OF 43.60 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.03 ACRE (1301 SQUARE FEET).

3. That the sale and conveyance of such right-of-way to Kum & Go, L.C. for \$13,010, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved, subject to the closing conditions set forth above and in the Offer to Purchase:

A VACATED PART OF LOTS A AND B, OAKRIDGE PLAT NO. 1, AN OFFICIAL PLAT, ALL NOW INCLUDED IN, FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST CORNER OF LOT 19, SAID OAKRIDGE PLAT NO. 1, SAID POINT BEING ON THE WESTERLY LINE OF SAID LOT A; THENCE NORTH 41° (DEGREES) 11' (MINUTES) 55" (SECONDS) WEST ALONG SAID WESTERLY LINE OF LOT A, A DISTANCE OF 473.00 FEET; THENCE NORTH 43°29'14" EAST, 1.82 FEET; THENCE SOUTH 41°06'47" EAST, 477.47 FEET; THENCE SOUTH 46°39'16" WEST, 2.79 FEET; THENCE SOUTH 39°28'52" EAST, 6.92 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 26.31 FEET, WHOSE ARC LENGTH IS 19.08 FEET AND WHOSE CHORD BEARS SOUTH 08°27'04" WEST, 18.67 FEET; THENCE NORTH 89°24'08" WEST, 36.83 FEET TO THE SOUTHERLY CORNER OF SAID LOT 19; THENCE NORTH 50°18'28" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 19, A DISTANCE OF 43.60 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.03 ACRE (1301 SQUARE FEET).

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Quit Claim Deed for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

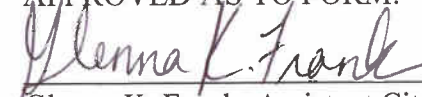
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5. Upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of said Deed, together 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 following closing.
6. Upon fulfillment by Kum & Go, L.C. of the closing conditions, the Real Estate Division Manager is authorized and directed to proceed to closing on the sale, and to forward the original of the Deed, 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 following closing.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and copies of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

(Council Communication No. 13- 455)

Moved by _____ to adopt.

APPROVED AS TO FORM:



 Glenna K. Frank, Assistant City Attorney

DRW

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| GRIESS | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| MEYER | | | | |
| MOORE | | | | |
| TOTAL | | | | |
| MOTION CARRIED | | | APPROVED | |
| _____ Mayor | | | | |

CERTIFICATE

I, DIANE RAUH, 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.

_____ City Clerk