

Date February 23, 2015

HOLD HEARING FOR VACATION OF A PORTION OF EAST 3RD STREET RIGHT-OF-WAY ADJOINING 215 EAST 3RD STREET AND CONVEYANCE OF A PERMANENT ENCROACHMENT EASEMENT TO 215 EAST 3RD STREET, LLC FOR \$100

WHEREAS, 215 East 3rd Street, LLC is the owner of the real property locally known 215 East 3rd Street, which property abuts the City right-of-way, and has offered to the City of Des Moines the purchase price of \$100 for the vacation of the City right-of-way and purchase of a permanent encroachment easement interest in the City right-of-way to allow for out-swinging doors into the City right-of-way and for the placement of decorative planters or other barriers on the City right-of-way adjoining the real property locally known as 215 East 3rd Street, Des Moines, Iowa, which purchase price reflects the fair market value of the easement as currently estimated by the City's Real Estate Division; and

WHEREAS, the vacation and conveyance is proposed to be approved subject to the requirements and conditions contained in the Permanent Easement for Encroachment onto City-owned Property, and further subject to continued use and maintenance of any and all existing public utilities within the Easement Area at the time of recording of this Easement, including those for the benefit and use of the City of Des Moines, with the right of entry for servicing same.

WHEREAS, this portion of City right-of-way located west of and adjoining 215 East 3rd Street has been determined by the City Engineer and City Traffic Engineer to have no significant impact upon the public use of East 3rd Street, and the City will not be inconvenienced by the vacation and conveyance of the permanent encroachment easement; and

WHEREAS, on February 9, 2015, by Roll Call No. 15-0204, it was duly resolved by the City Council that the proposed vacation and proposed conveyance of such easement be set down for hearing on February 23, 2015, at 5:00 p.m., in the City Council Chamber; and

WHEREAS, due notice of said proposal to vacate the City right-of-way and convey the proposed easement therein 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 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed vacation and proposed conveyance of the easement in such vacated right-of-way as described below are hereby overruled, and the hearing is closed.
2. The City Engineer and City Traffic Engineer have determined that there will be no significant impact upon the public use of East 3rd Street right-of-way and the public would not be inconvenienced by reason

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of the vacation of two 3 foot by 6.5 foot sections of right-of-way adjoining the real property locally known as 215 East 3rd Street, legally described as follows, and said vacation is hereby approved:

Two 3.00 foot x 6.50 foot easements in the right-of-way of East 3rd Street as it is presently established adjoining Parcel B of that Plat of Survey filed in Book 15437 at Page 978 in the Office of the Recorder for Polk County, Iowa, of Lots 3 and 4 in Block 2 of Scott and Dean's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa. Said easements being more particularly described as follows:

Easement #1

Commencing as a point of reference at the Southwest corner of said Parcel B on the East right-of-way line of East 3rd Street; thence North 15°(degrees) 26'(minutes) 52"(seconds) West, 62.08 feet along the East right-of-way line of said East 3rd Street to the Point of Beginning; thence South 74°33'08" West, 3.00 feet; thence North 15°26'52" West, 6.50 feet; thence North 74°33'08" East, 3.00 feet to the East right-of-way line of said East 3rd Street; thence South 15°26'52" East, 6.50 feet along the East right-of-way line of said East 3rd Street to the point of beginning. Containing 19.50 square feet; and

Easement #2

Commencing as a point of reference at the Southwest corner of said Parcel B on the East right-of-way line of East 3rd Street; thence North 15°(degrees) 26'(minutes) 52"(seconds) West, 100.83 feet along the East right-of-way line of said East 3rd Street to the Point of Beginning; thence South 74°33'08" West, 3.00 feet; thence North 15°26'52" West, 6.50 feet; thence North 74°33'08" East, 3.00 feet to the East right-of-way line of said East 3rd Street; thence South 15°26'52" East, 6.50 feet along the East right-of-way line of said East 3rd Street to the point of beginning. Containing 19.50 square feet.

Containing 39.00 square feet in total.

3. That the sale and conveyance of an easement in such vacated right-of-way as described below, to 215 East 3rd Street, LLC for \$100, together with payment by said grantee of the estimated publication and recording costs for this transaction, be and is hereby approved, subject to the conditions set forth in the Plan and Zoning Commission recommendation and set forth herein above:

Two 3.00 foot x 6.50 foot easements in the vacated right-of-way of East 3rd Street as it is presently established adjoining Parcel B of that Plat of Survey filed in Book 15437 at Page 978 in the Office of the Recorder for Polk County, Iowa, of Lots 3 and 4 in Block 2 of Scott and Dean's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa. Said easements being more particularly described as follows:

Easement #1

Commencing as a point of reference at the Southwest corner of said Parcel B on the East right-of-way line of East 3rd Street; thence North 15°(degrees) 26'(minutes) 52"(seconds) West, 62.08 feet along the East right-of-way line of said East 3rd Street to the Point of Beginning; thence South 74°33'08"

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West, 3.00 feet; thence North 15°26'52" West, 6.50 feet; thence North 74°33'08" East, 3.00 feet to the East right-of-way line of said East 3rd Street; thence South 15°26'52" East, 6.50 feet along the East right-of-way line of said East 3rd Street to the point of beginning. Containing 19.50 square feet; and

Easement #2

Commencing as a point of reference at the Southwest corner of said Parcel B on the East right-of-way line of East 3rd Street; thence North 15°(degrees) 26'(minutes) 52"(seconds) West, 100.83 feet along the East right-of-way line of said East 3rd Street to the Point of Beginning; thence South 74°33'08" West, 3.00 feet; thence North 15°26'52" West, 6.50 feet; thence North 74°33'08" East, 3.00 feet to the East right-of-way line of said East 3rd Street; thence South 15°26'52" East, 6.50 feet along the East right-of-way line of said East 3rd Street to the point of beginning. Containing 19.50 square feet.

Containing 39.00 square feet in total.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Easement for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon final passage of an ordinance vacating said rights-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 the Easement, 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. In accordance with the terms set forth in the Offer to Purchase, the Real Estate Division Manager is authorized and directed to close on the sale and forward the original of the Easement, together with a certified copy of this resolution and of the affidavit of publication of 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 Easement 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.

★ Roll Call Number

Agenda Item Number

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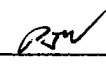
Date February 23, 2015

(Council Communication No. 15-080)

Moved by _____ to adopt.

APPROVED AS TO FORM:


Cori Kuhn Coleman, Assistant City Attorney



COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
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