



**Roll Call Number**

22-0993

**Agenda Item Number**

22

**Date** June 27, 2022

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF EAST WALNUT STREET RIGHT-OF-WAY ADJOINING 317 EAST 6<sup>TH</sup> STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY AND A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO HOA EVMF, LLC FOR \$1,872.00**

**WHEREAS**, on May 9, 2022, by Roll Call No. 22-0688, the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from HOA Hotels, LLC, n/k/a HOA EVMF, LLC, owner of property at 317 East 6<sup>th</sup> Street, to vacate portions of East Walnut Street right-of-way adjoining 317 East 6<sup>th</sup> Street, Des Moines, Iowa, (hereinafter "Property") subject to the reservation of any easements for all existing utilities until such time that they are abandoned or relocated; and

**WHEREAS**, HOA EVMF, LLC has offered to the City of Des Moines ("City") the purchase price of \$1,872.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Easement for Subsurface Building Encroachment on City-owned Property in portions of East Walnut Street right-of-way adjoining 317 East 6<sup>th</sup> Street, Des Moines, Iowa, to allow for the construction, repair, renovation, and maintenance of balcony projections, building footings and subsurface encroachments from a proposed multi-story apartment building into the vacated right-of-way, which price reflects \$672.00 for the Permanent Easement for Air Space and \$1,200.00 for the Permanent Easement for Subsurface Building Encroachment, which price reflects the fair market value of the easements as determined by the City's Real Estate Division; and

**WHEREAS**, the City has no known current or anticipated public need for the Property proposed to be vacated, and the City will not be inconvenienced by the vacation of said Property and conveyance of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Easement for Subsurface Building Encroachment on City-owned Property therein.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that:

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating portions of East Walnut Street right-of-way adjoining 317 East 6<sup>th</sup> Street, Des Moines, Iowa, legally described as follows:

THAT PART OF E WALNUT STREET PUBLIC RIGHT OF WAY BEING SOUTH OF AND ADJOINING LOT 2, SARAH J. GRIFFITH'S SUBDIVISION, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, SAID SARAH J. GRIFFITH'S SUBDIVISION; THENCE NORTH 74°57'02" EAST ALONG THE SOUTH LINE OF SAID LOT 1 AND LOT 2 OF SAID SARAH J. GRIFFITH SUBDIVISION, 24.90 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°57'02" EAST ALONG SAID SOUTH LINE OF LOT 2, A DISTANCE OF 14.79 FEET; THENCE SOUTH 15°02'58" EAST, 3.24 FEET; THENCE SOUTH



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74°57'02" WEST, 14.79 FEET; THENCE NORTH 15°02'58" WEST, 3.24 FEET TO THE POINT OF BEGINNING AND CONTAINING 48 SQUARE FEET LYING BETWEEN ELEVATIONS 41.20 AND 104.53 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 30.25 FEET BEING THE FINISH FLOOR ELEVATION OF THE EAST PEDESTRIAN ENTRANCE FROM THE PROPOSED BUILDING TO E WALNUT STREET;

AND

THE NORTH 1.00 FOOT OF E WALNUT STREET PUBLIC RIGHT OF WAY BEING SOUTH OF AND ADJOINING LOTS 1 THROUGH 7, SARAH J. GRIFFITH'S SUBDIVISION, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING 150 SQUARE FEET;

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Air Space Above City-Owned Property and a Permanent Easement for Subsurface Building Encroachment on City-owned Property, as legally described and to the grantees and for the consideration identified below:

Grantee: HOA EVMF, LLC

Consideration: \$1,872.00

Legal Description:

THAT PART OF VACATED E WALNUT STREET PUBLIC RIGHT OF WAY BEING SOUTH OF AND ADJOINING LOT 2, SARAH J. GRIFFITH'S SUBDIVISION, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, SAID SARAH J. GRIFFITH'S SUBDIVISION; THENCE NORTH 74°57'02" EAST ALONG THE SOUTH LINE OF SAID LOT 1 AND LOT 2 OF SAID SARAH J. GRIFFITH SUBDIVISION, 24.90 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°57'02" EAST ALONG SAID SOUTH LINE OF LOT 2, A DISTANCE OF 14.79 FEET; THENCE SOUTH 15°02'58" EAST, 3.24 FEET; THENCE SOUTH 74°57'02" WEST, 14.79 FEET; THENCE NORTH 15°02'58" WEST, 3.24 FEET TO THE POINT OF BEGINNING AND CONTAINING 48 SQUARE FEET LYING BETWEEN ELEVATIONS 41.20 AND 104.53 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 30.25 FEET BEING THE FINISH FLOOR ELEVATION OF THE EAST PEDESTRIAN ENTRANCE FROM THE PROPOSED BUILDING TO E WALNUT STREET;

AND,

THE NORTH 1.00 FOOT OF VACATED E WALNUT STREET PUBLIC RIGHT OF WAY BEING SOUTH OF AND ADJOINING LOTS 1 THROUGH 7, SARAH J. GRIFFITH'S SUBDIVISION, AN



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OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING 150 SQUARE FEET.

- 3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on July 18, 2022, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. July 14, 2022 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org)).

Please check the posted agenda in advance of the July 18, 2022 meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

- 4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.
- 5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Gatto to adopt. Second by Boesen.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno  
Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER				✓
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			1
MOTION CARRIED		APPROVED		
<u>J. M. Frankhu Cownie</u> Mayor				

**CERTIFICATE**

I, LAURA BAUMGARTNER, Acting 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, Acting City Clerk