



Roll Call Number

22-1724

Agenda Item Number

16

Date November 7, 2022

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SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF 7TH STREET, WALNUT STREET AND MULBERRY STREET RIGHT-OF-WAY ADJOINING 207 7TH STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT AND A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT TO LAWMARK, L.P. FOR \$102,128

WHEREAS, Lawmark, L.P., a Delaware limited partnership has requested the vacation of portions of 7th Street, Walnut Street and Mulberry Street right-of-way adjoining 207 7th Street, Des Moines, Iowa, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated, 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, Lawmark, L.P., the owner of 207 7th Street, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$102,128.00 for the purchase of a Permanent Easement for Building Encroachment and a Permanent Easement for Subsurface Building Encroachment in said vacated right-of-way for existing encroachments into the street right-of-way from their adjoining building, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, which price reflects the fair market value of the street right-of-way 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 street right-of-way and the conveyance of a Permanent Easement for Building Encroachment and a Permanent Easement for Subsurface Building Encroachment in said vacated right-of-way.

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 subsurface and surface portions of 7th Street, Walnut Street and Mulberry Street right-of-way adjoining 207 7th Street, legally described as follows:

SUBSURFACE AREA:

THE EAST 14.5 FEET OF THE 7TH STREET RIGHT-OF-WAY LYING WEST OF BLOCK 11 OF FORT DES MOINES, AN OFFICIAL PLAT, AND -EXCEPT THE EAST 66 FEET THEREOF-, THE SOUTH 14 FEET OF THE WALNUT STREET RIGHT OF WAY LYING NORTH OF AND ADJOINING SAID BLOCK 11, AND THE SOUTH 14 FEET OF THE WALNUT STREET RIGHT OF WAY LYING NORTH OF AND ADJOINING THAT PORTION

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OF THE EAST 14.5 FEET OF 7TH STREET RIGHT OF WAY WHICH IS LYING WEST OF AND ADJOINING SAID BLOCK 11, ALL PORTIONS OF RIGHT OF WAYS ARE IN SAID FORT DES MOINES, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.17 ACRES (7,388 SQUARE FEET).

SURFACE AREA:

THE NORTH 0.25 FEET OF THE MULBERRY STREET RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING LOT 4, BLOCK 11, TOWN OF FORT DES MOINES, AN OFFICIAL PLAT, AND THE NORTH 0.25 FEET OF THE MULBERRY STREET RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING THAT PORTION OF THE EAST 0.25 FEET OF 7TH STREET RIGHT-OF-WAY WHICH IS LYING WEST OF AND ADJOINING SAID BLOCK 11, AND THE EAST 0.25 FEET OF THE 7TH STREET RIGHT-OF-WAY LYING WEST OF AND ADJOINING SAID BLOCK 11, ALL PORTIONS OF RIGHT OF WAYS ARE IN SAID FORT DES MOINES, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 104 SQUARE FEET.

- 2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Building Encroachment and a Permanent Easement for Subsurface Building Encroachment in such vacated right-of-way, as legally described below, to Lawmark, L.P. for \$102,128.00, subject to reservation of easements therein:

SUBSURFACE ENCROACHMENT EASEMENT:

THE EAST 14.5 FEET OF THE VACATED 7TH STREET RIGHT-OF-WAY LYING WEST OF BLOCK 11 OF FORT DES MOINES, AN OFFICIAL PLAT, AND **-EXCEPT** THE EAST 66 FEET THEREOF-, THE SOUTH 14 FEET OF THE VACATED WALNUT STREET RIGHT OF WAY LYING NORTH OF AND ADJOINING SAID BLOCK 11, AND THE SOUTH 14 FEET OF THE VACATED WALNUT STREET RIGHT OF WAY LYING NORTH OF AND ADJOINING THAT PORTION OF THE EAST 14.5 FEET OF VACATED 7TH STREET RIGHT OF WAY WHICH IS LYING WEST OF AND ADJOINING SAID BLOCK 11, ALL PORTIONS OF VACATED RIGHT OF WAYS ARE IN SAID FORT DES MOINES, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.17 ACRES (7,388 SQUARE FEET).

SURFACE ENCROACHMENT EASEMENT:

THE NORTH 0.25 FEET OF THE VACATED MULBERRY STREET RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING LOT 4, BLOCK 11, TOWN OF FORT DES MOINES, AN OFFICIAL PLAT, AND THE NORTH 0.25 FEET OF THE VACATED MULBERRY STREET RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING THAT PORTION OF THE EAST 0.25



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FEET OF 7TH STREET RIGHT-OF-WAY WHICH IS LYING WEST OF AND ADJOINING SAID BLOCK 11, AND THE EAST 0.25 FEET OF THE VACATED 7TH STREET RIGHT-OF-WAY LYING WEST OF AND ADJOINING SAID BLOCK 11, ALL PORTIONS OF VACATED RIGHT OF WAYS ARE IN SAID FORT DES MOINES, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 104 SQUARE FEET.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easements is to be considered shall be on November 21, 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. At that time the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

Please check the posted agenda in advance of the November 21, 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

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and TOTAL. Includes signatures for Mayor Pro Tem and City Clerk.

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.
Laura Baumgartner, City Clerk