



Roll Call Number

23-0055

Agenda Item Number

41

Date January 9, 2023

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT IN PROPERTY LOCATED EAST OF AND ADJOINING 2035 EAST OVID AVENUE TO PETERSON VENTURES, LLC FOR \$225.00

WHEREAS, the City of Des Moines, Iowa is the owner of certain property located east of and adjoining 2035 East Ovid Avenue, Des Moines, Iowa, upon which property the City has constructed a stormwater drainage canal; and

WHEREAS, Peterson Ventures, LLC, ("Buyer"), a South Dakota limited liability company, owner of 2035 East Ovid Avenue, has offered to the City of Des Moines ("City") the purchase price of \$225.00 for the purchase of a Permanent Easement for Building Encroachment upon a portion of the City property located east of and adjoining its property (hereinafter "Easement Area") to allow for the continued placement, repair, and maintenance of certain mechanical equipment as an encroachment onto the City property, which price reflects the fair market value of the permanent easement as determined by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need for the Easement Area, and the City will not be inconvenienced by the conveyance of a Permanent Easement for Building Encroachment upon said City property; and

WHEREAS, on December 12, 2022 by Roll Call No. 22-1881, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance be set down for hearing on January 9, 2023, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to convey the Permanent Easement for Building Encroachment 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 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 conveyance of a Permanent Easement for Building Encroachment in a portion of the City property located east of and adjoining 2035 East Ovid Avenue, Des Moines, Iowa, as described herein, are hereby overruled and the hearing is closed.



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2. There is no public need or benefit for the Easement Area, and the public would not be inconvenienced by reason of the conveyance of a Permanent Easement for Building Encroachment in a portion of the City property located east of and adjoining 2035 East Ovid Avenue, Des Moines, Iowa, as legally described below, to Peterson Ventures, LLC for \$225.00, and said conveyance is hereby approved:

That part of Lot 26, OVID HEIGHTS, an official plat, located in the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the northwest corner of said Lot 26; thence South 00 degrees 00 minutes 44 seconds West, a distance of 166.15 feet, to the Point of Beginning; thence South 89 degrees 59 minutes 16 seconds East, a distance of 12.00 feet; thence South 00 degrees 00 minutes 44 seconds West, a distance of 20.00 feet; thence North 89 degrees 59 minutes 16 seconds West, a distance of 12.00 feet; thence North 00 degrees 00 minutes 44 seconds East, a distance of 20.00 feet, to the Point of Beginning.

Containing 0.006 acres (240 square feet) more or less.

3. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Building Encroachment for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. 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 Permanent Easement for Building Encroachment, 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.
5. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Building Encroachment, 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.
6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Building Encroachment and copies of the other documents to the grantee.
7. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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Moved by Westergaard 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 Mayor signature J. M. Franklin Cowme.

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