

Date January 27, 2020

**HOLD HEARING FOR VACATION OF EXCESS EAST MARTIN LUTHER KING, JR. PARKWAY RIGHT-OF-WAY ADJOINING 1422 SCOTT AVENUE**

**WHEREAS**, on December 16, 2019, by Roll Call No. 19-2003, the City Council of the City of Des Moines voted to receive and file a communication from the Plan and Zoning Commission regarding a City of Des Moines initiated request to vacate an irregular-shaped parcel of excess right-of-way from the East M.L. King Jr. Parkway project in the vicinity of 1422 Scott Avenue, adjoining Southeast 14<sup>th</sup> Street, Des Moines, Iowa, as legally described below, to allow for assemblage with adjoining City owned property for future redevelopment, subject to the reservation of any necessary easements for all existing utilities in place until such time as they may be abandoned or relocated, and further subject to the preservation of adequate clear zone within the remaining public right-of-way from the adjacent recreational trail in East Martin Luther King, Jr. Parkway to the satisfaction of the City Parks and Recreation Director; and

**WHEREAS**, there is no known current or future public need or benefit for the right-of-way proposed to be vacated and the City will not be inconvenienced by the vacation of said right-of-way, subject to the reservation of any necessary easements for all existing utilities in place until such time as they may be abandoned or relocated, and further subject to the preservation of adequate clear zone within the remaining public right-of-way from the adjacent recreational trail in East Martin Luther King, Jr. Parkway to the satisfaction of the City Parks and Recreation Director; and

**WHEREAS**, on January 13, 2020, by Roll Call No. 20-0061, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the right-of-way be set for hearing on January 27, 2020, 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 vacate an irregular-shaped parcel of excess right-of-way from the East M.L. King Jr. Parkway project in the vicinity of 1422 Scott Avenue, adjoining Southeast 14<sup>th</sup> Street, Des Moines, Iowa, 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 vacation, 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 the proposed vacation of an irregular-shaped parcel of excess right-of-way from the East M.L. King Jr. Parkway project in the vicinity of 1422 Scott Avenue, adjoining Southeast 14<sup>th</sup> Street, as described herein, are hereby overruled and the hearing is closed.

Date January 27, 2020

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 said right-of-way, legally described as follows, and said vacation is hereby approved, subject to the reservation of any necessary easements for all existing utilities in place until such time as they may be abandoned or relocated, and further subject to the preservation of adequate clear zone within the remaining public right-of-way from the adjacent recreational trail in East Martin Luther King, Jr. Parkway to the satisfaction of the City Parks and Recreation Director:

Legal Description

A PORTION OF LOT 49 IN BROOKS AND CO'S ADDITION TO THE CITY OF DES MOINES, NOW INCLUDED IN AND FORMING PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AS SHOWN ON CORRECTED PLAT OF SURVEY BOOK 13570, PAGE 766, SAID PORTION WAS ACQUIRED BY CONDEMNATION PROCEEDINGS FILED IN BOOK 15052, PAGE 572, AND IS ALSO A PORTION OF RIGHT OF WAY TRACT 1 AS SHOWN ON PLAT OF SURVEY, RIGHT OF WAY DEDICATION AND DISPOSAL PARCELS FOR EAST MARTIN LUTHER KING JR. PARKWAY IN BOOK 15696, PAGE 382, ALL RECORDED IN THE POLK COUNTY, IOWA, RECORDER'S OFFICE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

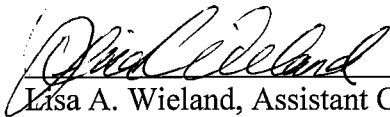
REFERRING TO THE SOUTHWEST CORNER OF SAID LOT 49; THENCE NORTH 00°(DEGREES) 01'(MINUTES) 38"(SECONDS) WEST, 215.04 FEET ON THE WEST LINE OF SAID LOT 49 TO THE PRESENTLY ESTABLISHED SOUTH RIGHT OF WAY LINE OF EAST MARTIN LUTHER KING JR. PARKWAY; THENCE SOUTH 89°58'52" EAST, 25.00 FEET ON SAID SOUTH RIGHT OF WAY LINE TO THE EAST RIGHT OF WAY LINE OF SOUTHEAST 14TH STREET AND THE POINT OF BEGINNING; THENCE NORTH 00°01'38" WEST, 97.44 FEET ON SAID EAST RIGHT OF WAY LINE; THENCE SOUTH 72°13'56" EAST, 62.26 FEET; THENCE 38.00 FEET ON A 113.00 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 81°32'26" EAST, 37.82 FEET; THENCE NORTH 88°49'28" EAST, 8.05 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF THE FORMER CHICAGO BURLINGTON AND QUINCY RAILROAD; THENCE 110.55 FEET ON A 4919.09 FOOT RADIUS CURVE TO THE RIGHT WITH A CHORD BEARING SOUTH 70°37'02" EAST, 110.55 FEET ON SAID SOUTHERLY RIGHT OF WAY LINE; THENCE SOUTH 69°38'46" EAST, 104.81 FEET ON SAID SOUTHERLY RIGHT OF WAY LINE TO SAID SOUTH RIGHT OF WAY LINE; THENCE NORTH 89°58'52" WEST, 307.25 FEET TO THE POINT OF BEGINNING, CONTAINING 0.37 ACRES (16,113 SQUARE FEET) MORE OR LESS.

3. Upon final passage of an ordinance vacating said right-of-way and approval by resolution of this City Council, the City Clerk is authorized and directed to forward 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 said documents to be recorded.

Date January 27, 2020

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

  
 Lisa A. Wieland, Assistant City Attorney

*PSW*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED	APPROVED			
_____ Mayor				

**CERTIFICATE**

I, P. Kay Cmelik, 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

