

Date October 18, 2021

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF COHEN PARK LOCATED NORTH OF AND ADJOINING 1106 SCOTT AVENUE AND APPROVAL OF A LAND EXCHANGE AGREEMENT WITH DES MOINES CLIMATE CONTROLLED SELF STORAGE, LLC

WHEREAS, the City of Des Moines, Iowa, (“City”) is the owner of certain parkland located in Cohen Park and lying north of and adjoining 1106 Scott Avenue, Des Moines, Iowa (hereinafter “City Parcel”), more particularly described below; and

WHEREAS, Des Moines Climate Controlled Self Storage, LLC, an Iowa limited liability company, (“Seller”) is the owner of 1106 Scott Avenue, Des Moines, Iowa, and the vacated alley right-of-way lying east of and adjoining 1106 Scott Avenue, a portion of which shall be combined with 1106 Scott Avenue to create a parcel of equal size to the City Parcel (hereinafter “Seller Parcel”), more particularly described below; and

WHEREAS, Des Moines Climate Controlled Self Storage, LLC, has offered to the City of Des Moines, Iowa, the Seller Parcel in exchange for the City Parcel, described below, in order to assemble said City Parcel with its adjoining property for purposes of commercial redevelopment, subject to a reservation of easements therein, which represents an equitable exchange of value as determined by the City’s Real Estate Division and the City Parks and Recreation Director; and

WHEREAS, the property conveyed to the City by said land exchange agreement shall be assembled with the adjoining Cohen Park and shall be dedicated to as parkland; and

WHEREAS, there is no known current or future public need for the City Parcel proposed to be exchanged and the City will not be inconvenienced by the vacation and conveyance of said City Parcel.

WHEREAS, on October 4, 2021, by Roll Call No. 21-1469, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and land exchange agreement be set for hearing on October 18, 2021, 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 and convey the City Parcel by a land exchange agreement 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 the 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 the proposed vacation and conveyance of a portion of Cohen Park, 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 City Parcel proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a portion of Cohen Park lying north of and adjoining 1106 Scott Avenue, Des Moines, Iowa legally described as follows, subject to the reservation of easements therein, and said vacation is hereby approved:

City Parcel:

A PARCEL OF LAND IN PARCEL 'A', AN OFFICIAL PARCEL RECORDED IN BOOK 15781, PAGE 375-376 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NE CORNER OF SAID PARCEL 'A'; THENCE S14°46'34"E, 49.91 FEET ALONG THE EAST LINE OF SAID PARCEL 'A' TO THE NE CORNER OF LOT 4, BLOCK 13, ALLEN'S SECOND ADDITION TO DES MOINES, AN OFFICIAL PLAT RECORDED IN BOOK 'B', PAGE 50 AT THE POLK COUNTY RECORDER'S OFFICE, SAID NE CORNER ALSO BEING THE MOST EASTERN POINT OF SAID PARCEL 'A'; THENCE S74°47'07"W, 46.91 FEET ALONG A LINE THAT COINCIDES WITH THE NORTH LINE OF SAID LOT 4 AND THE SOUTH LINE OF SAID PARCEL 'A' TO THE NW CORNER OF THE E1/3 OF SAID LOT 4; THENCE S14°44'11"E, 12.43 FEET ALONG THE EAST LINE OF SAID E1/3 OF SAID LOT 4 TO A POINT ON THE SOUTH LINE OF THE NORTH 12.43 FEET OF SAID LOT 4; THENCE S74°47'07"W, 107.42 FEET ALONG A LINE THAT COINCIDES WITH SAID SOUTH LINE OF THE NORTH 12.43 FEET OF LOT 4 TO A POINT; THENCE N14°48'48"W, 3.46 FEET ALONG A LINE THAT COINCIDES WITH THE WEST LINE OF PARCEL 2019-34, AN OFFICIAL PARCEL RECORDED IN BOOK 18580, PAGE 467 AT THE POLK COUNTY RECORDER'S OFFICE TO A POINT ON THE NORTH LINE OF SAID PARCEL 'A', SAID POINT ALSO BEING THE SW CORNER OF SAID PARCEL 2019-34; THENCE N58°04'14"E, 161.53 FEET ALONG SAID NORTH LINE OF PARCEL 'A' AND THE SOUTH LINE OF SAID PARCEL 2019-34 TO THE POINT OF BEGINNING AND CONTAINING 5454 SQUARE FEET MORE OR LESS.

3. The proposed exchange of the vacated parkland described above for property of equal value owned by Des Moines Climate Controlled Self Storage, LLC located at the east edge of Cohen Park and including 1106 Scott Avenue and the west eight feet of vacated alley lying east of and adjoining 1106 Scott Avenue, as legally described below, is hereby approved:

Seller Parcel:

A PARCEL OF LAND IN LOTS 4, 5, AND PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING DIRECTLY EAST OF AND ADJOINING SAID LOTS 4 & 5, ALL IN BLOCK 13, ALLEN'S SECOND ADDITION TO DES MOINES, AN OFFICIAL PLAT RECORDED IN BOOK 'B', PAGE 50 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SW CORNER OF THE E1/3 OF SAID LOT 5, SAID SW CORNER ALSO BEING THE SE CORNER OF PARCEL 'A', AN OFFICIAL PARCEL RECORDED IN BOOK

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15781, PAGE 375-376 AT THE POLK COUNTY RECORDER'S OFFICE; THENCE N14°44'11"W, 99.49 FEET ALONG THE WEST LINE OF SAID E1/3 OF LOT 5, SAID WEST LINE COINCIDES WITH THE WEST LINE OF THE E1/3 OF SAID LOT 4 AND THE EAST LINE OF SAID PARCEL 'A', TO A POINT ON THE SOUTH LINE OF THE NORTH 12.43 FEET OF SAID LOT 4; THENCE N74°47'07"E, 54.88 FEET ALONG A LINE THAT COINCIDES WITH SAID SOUTH LINE OF THE NORTH 12.43 FEET OF SAID LOT 4 TO A POINT; THENCE S14°36'28"E, 99.66 FEET ALONG A LINE PARALLEL TO THE EAST LINE OF SAID LOTS 4 & 5 TO A POINT ON THE SOUTH LINE OF SAID BLOCK 13, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF SCOTT AVENUE AS IT IS PRESENTLY ESTABLISHED; THENCE S74°57'27"W, 54.66 FEET ALONG SAID SOUTH LINE AND SAID NORTH RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING AND CONTAINING 5454 SQUARE FEET MORE OR LESS.

4. Upon receipt of the executed Land Exchange Agreement and Warranty Deed from Seller to the City for the Seller Parcel, the Mayor is authorized and directed to sign the Land Exchange Agreement, Quit Claim Deed, and acceptance of the Warranty Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon receipt of the executed Land Exchange Agreement and Warranty Deed from Seller to the City for the Seller Parcel, said property shall become dedicated parkland and assembled with the adjoining Cohen Park.
6. The City Clerk is authorized and directed to forward the original of the Warranty Deed and the Quit Claim Deed, 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.
7. The Real Estate Division Manager is authorized and directed to forward the original of the Warranty Deed and the Quit Claim Deed, 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.
8. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and a copy of the other documents to the grantee.
9. There are no proceeds associated with this transaction.

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(Council Communication No. 21-447)

Moved by _____ to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

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