

Date October 7, 2024

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF EXCESS CITY-OWNED PROPERTY LOCATED IN THE FOURMILE CREEK FLOODPLAIN TO POLK COUNTY, IOWA FOR THE USE AND BENEFIT OF THE POLK COUNTY CONSERVATION BOARD FOR THE LOWER FOURMILE CREEK GREENWAY PROJECT

WHEREAS, on July 15, 2019, by Roll Call No. 19-1121, the City Council of the City of Des Moines, Iowa (“City”) approved the Lower Fourmile Creek Greenway Management and Maintenance Chapter 28E Agreement (“28E Agreement”) between the City of Des Moines and the Polk County Conservation Board (“PCCB”); and

WHEREAS, the 28E Agreement provides for the transfer of certain lands from the City to Polk County to be managed by PCCB in accordance with the Lower Fourmile Creek Greenway Master Plan; and

WHEREAS, the City has identified a number of excess City-owned properties (“Property”) that are ready to be transferred to Polk County under the terms of said 28E Agreement; and

WHEREAS, in accordance with the 28E Agreement and Iowa Code 364.7, the City proposes to convey the Property to Polk County, Iowa, for the use and benefit of the Polk County Conservation Board at no cost for the public purpose of the Fourmile Creek Greenway Project, subject to the following conditions:

- a) Reservation of a permanent easement upon the Property for the continued use and maintenance of any public utilities now in place, including those for the benefit of the City of Des Moines and other public utilities, with the right of entry for servicing same.
- b) Reservation of a permanent easement upon the Property for existing and/or future recreation trail
- c) The Property will revert back to the City in the event that PCCB ceases to exist or loses its eligibility status as a public entity or qualified conservation organization.
- d) Compliance with the Lower Fourmile Creek Greenway Master Plan; and

WHEREAS, there is no known current or future public need for the City-owned property proposed to be conveyed and the City will not be inconvenienced by the conveyance of said Property; and

WHEREAS, on September 16, 2024, by Roll Call No. 24-1237, it was duly resolved by the City Council that the proposed conveyance be set down for hearing on October 7, 2024, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and



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WHEREAS, in accordance with City Council direction, those interested in this 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:

1. Upon due consideration of the facts and statements of interested persons, the objections to the proposed conveyance of the City-owned property, real estate located in the Fourmile Creek Floodplain, as described below, are hereby overruled and the hearing is closed:

THE NORTH 9.0 OF LOT 633, AND

THE NORTH HALF (N 1/2) OF LOT 866, AND

LOTS 632, 634, 635, 644, AND 645, AND

LOTS 849 THROUGH 853, AND

LOTS 856, 857, 891, 902 AND 903, AND

ALL IN FOUR MILE, AN OFFICIAL PLAT, AND

LOTS 239 THROUGH 258 IN ELMWOOD PARK, AN OFFICIAL PLAT, AND

LOTS 4, 5 AND 6 IN SAID ELMWOOD PARK, - EXCEPT THE FOLLOWING DESCRIBED AREA: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 4; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 12.14 FEET; THENCE SOUTHWESTERLY ALONG A CURVE WITH A RADIUS OF 370 FEET THROUGH SAID LOTS 4, 5 AND 6 TO A POINT ON THE SOUTH LINE OF SAID LOT 6, SAID POINT BEING 36.38 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 6; THENCE EAST TO THE POINT OF BEGINNING-,

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

2. That the conveyance by the City of Des Moines of said real property to Polk County, Iowa, for the use and benefit of the Polk County Conservation Board at no cost for the public purpose of the Fourmile Creek Greenway Project, is in accordance with the above 28E Agreement and Iowa Code 364.7, and subject to the following conditions, be and is hereby approved:



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- a) Reservation of a permanent easement upon the Property for the continued use and maintenance of any public utilities now in place, including those for the benefit of the City of Des Moines and other public utilities, with the right of entry for servicing same.
 - b) Reservation of a permanent easement upon the Property for existing and/or future recreation trail.
 - c) The Property will revert back to the City in the event that PCCB ceases to exist or loses its eligibility status as a public entity or qualified conservation organization.
 - d) Compliance with the Lower Fourmile Creek Greenway Master Plan.
3. The Mayor is authorized and directed to sign the Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
 4. The City Clerk is authorized and directed to forward the original of this 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 delivered to the Polk County Conservation Board for their acceptance.
 5. Following acceptance of the Quit Claim Deed by the Polk County Conservation Board, the Real Estate Division Manager is authorized and directed to forward the original of the fully executed 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.
 6. 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 copies of the other documents to the Polk County Conservation Board.
 7. There will be no proceeds associated with the conveyance of this property.



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Moved by _____ to adopt, Second by _____.

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
SIMONSON				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

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.

City Clerk

August 26, 2024

Communication from the City Plan and Zoning Commission advising that at their August 15, 2024 meeting, the following action was taken on a city initiated request for vacation of the following segments of right-of-way, for purposes of a project to remove the roadways and restore the area for incorporation into the Lower Fourmile Creek Greenway.

- A. East 36th Street from East Sheridan Avenue to Arthur Avenue.
- B. East 36th Court from East Sheridan Avenue to Arthur Avenue.
- C. Arthur Avenue to the west of East 37th Street.
- D. East 40th Court to the south of East Jefferson Avenue.
- E. Lot Q between the vacated Four Mile Drive and the south line of Lot Q.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 14-0 as follows.

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus	X				
Leah Rudolphi	X				
Abby Chungath	X				
Kayla Berkson	X				
Chris Draper	X				
Laura Kessel	X				
Todd Garner	X				
Johnny Alcivar	X				
Justyn Lewis					X
Carolyn Jenison	X				
William Page	X				
Andrew Lorentzen	X				
Emily Webb	X				
Katie Gillette	X				
Rick Trower	X				

Approval of the requested right-of-way vacations, subject to the reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

Part B) Staff recommends approval of the request to rezone the property from “MX1” Mixed-Use District to “MX2” Mixed-Use District.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested right-of-way vacations, subject to the reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

STAFF REPORT TO THE PLANNING COMMISSION

GENERAL INFORMATION

- 1. Purpose of Request:** The proposed vacations would accommodate expanded facilities for the Lower Fourmile Creek Greenway and reduce flooding impacts on adjoining residential neighborhoods.
- 2. Size of Site:** The requested segments of right-of-way comprise approximately 3.01 acres (131,436.6 square feet).
- 3. Existing Zoning (site):** "F" Flood District.
- 4. Existing Land Use (site):** The impacted area consists of public street rights-of-way.
- 5. Adjacent Land Use and Zoning:**
 - North** – "F"; Uses are flood plain and Lower Fourmile Creek Greenway.
 - South** – "F"; Uses are flood plain and Lower Fourmile Creek Greenway.
 - East** – "F"; Uses are flood plain and Lower Fourmile Creek Greenway.
 - West** – "F", Uses are flood plain and Lower Fourmile Creek Greenway.
- 6. General Neighborhood/Area Land Uses:** The subject area consists of three (3) separate segments of right-of-way. The first segment includes East 36th, East 36th Court, and Arthur Avenue in the vicinity of East Sheridan Avenue. The second segment includes East 40th Court south of East Jefferson Avenue. The final segment includes Lot Q south of the vacated Four Mile Drive. The area consists of a mix of open space/parks and some scattered residential uses.
- 7. Applicable Recognized Neighborhood(s):** The subject properties are in the Grays Woods and the Sheridan Gardens Neighborhood Associations. All recognized neighborhood associations were notified of the meeting by emailing of the Preliminary Agenda on July 26, 2024 and by emailing of the Final Agenda on August 9, 2024. Additionally, separate notifications of the hearing for this specific item were mailed on August 5, 2024 (10 days prior) to the applicable neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public Right-of-Way. The Grays Woods Neighborhood Association mailings

were sent to Steve Laws, 1431 East 36th Street, Des Moines, IA 50317. The Sheridan Gardens Neighborhood Association mailings were sent to Tori Shanks, 3118 East 37th Street, Des Moines, IA 50317.

- 8. Relevant Zoning History:** On March 22, 2021, by Roll Call No. 21-0503, the City Council approved a request, subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense, to vacate the following segments of rights-of-way:
- A. East Sheridan Avenue from East 35th Street to East 36th Street.
 - B. East 35th Street from Hull Avenue to Arthur Avenue.
 - C. East 39th Street from East Jefferson Avenue to Four Mile Drive.
 - D. Osceola Avenue from East 40th Street to East 41st Street.
 - E. East 40th Street from Osceola Avenue to East Washington Avenue Right-of-Way developed with the Gay Lea Wilson Trail.
 - F. East 41st Street from Osceola Avenue to Indianapolis Avenue.

On April 4, 2022, by Roll Call No. 22-0551, the City Council approved a request, subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense, to vacate rights-of-way including:

- A. East 41st Street from Mattern Avenue to East Jefferson Avenue.
 - B. East 41st Court from East Jefferson Avenue to Four Mile Drive.
 - C. The South approximately 70 feet of East 40th Court north of Four Mile Drive.
 - D. Four Mile Drive from East Jefferson Avenue to Williams Court.
 - E. East 40th Street from East Jefferson Avenue to Four Mile Drive
 - F. Hull Avenue connecting East 35th Street to East 35th Street.
 - G. North approximately 200 feet of East 40th Street south of Washington Avenue.
 - H. Easterly half of Colfax Avenue from East Aurora Avenue to East Shawnee Avenue.
- 9. PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Parks and Open Space with Development Control Zone overlay.
- 10. Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

- 1. Utilities:** Identified utilities located in or near the impacted area include water valves, water hydrants, distribution water mains, sanitary sewer conduit, sanitary sewer manholes, and non-City-owned streetlights. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
- 2. Traffic/Access:** The requested vacations would not negatively impact access to private properties or traffic patterns.

SUMMARY OF DISCUSSION

Johnny Alcivar asked if any member of the public or commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Carolyn Jenison made a motion of the requested right-of-way vacations, subject to the reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

THE VOTE: 14-0

Respectfully submitted,



Jason Van Essen
Planning & Urban Design Administrator

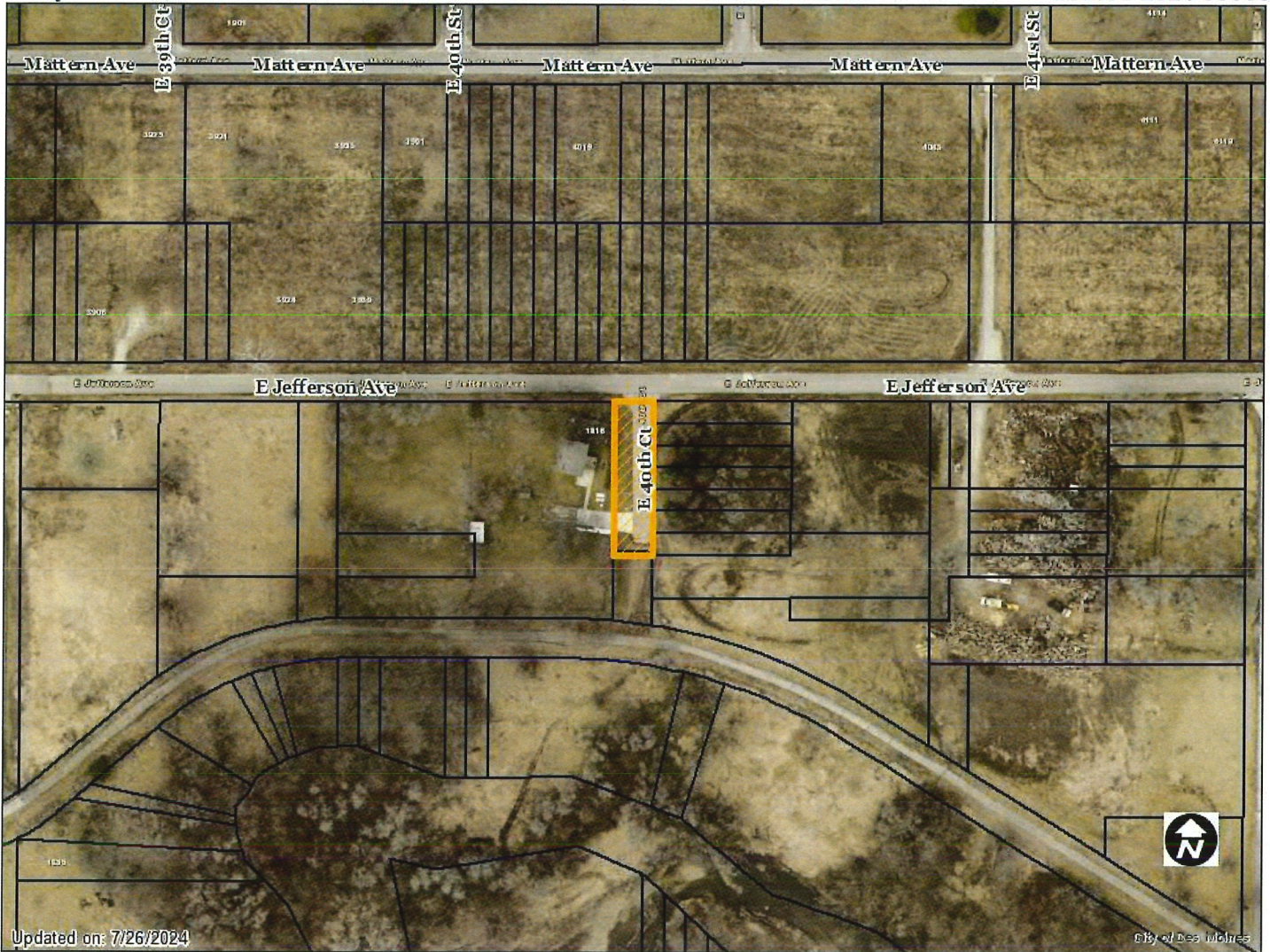
JMV:mrw

City of Des Moines ROW Vacation East 36th-East 37th to Arthur Ave-East Sheridan ROWV-2024-00008



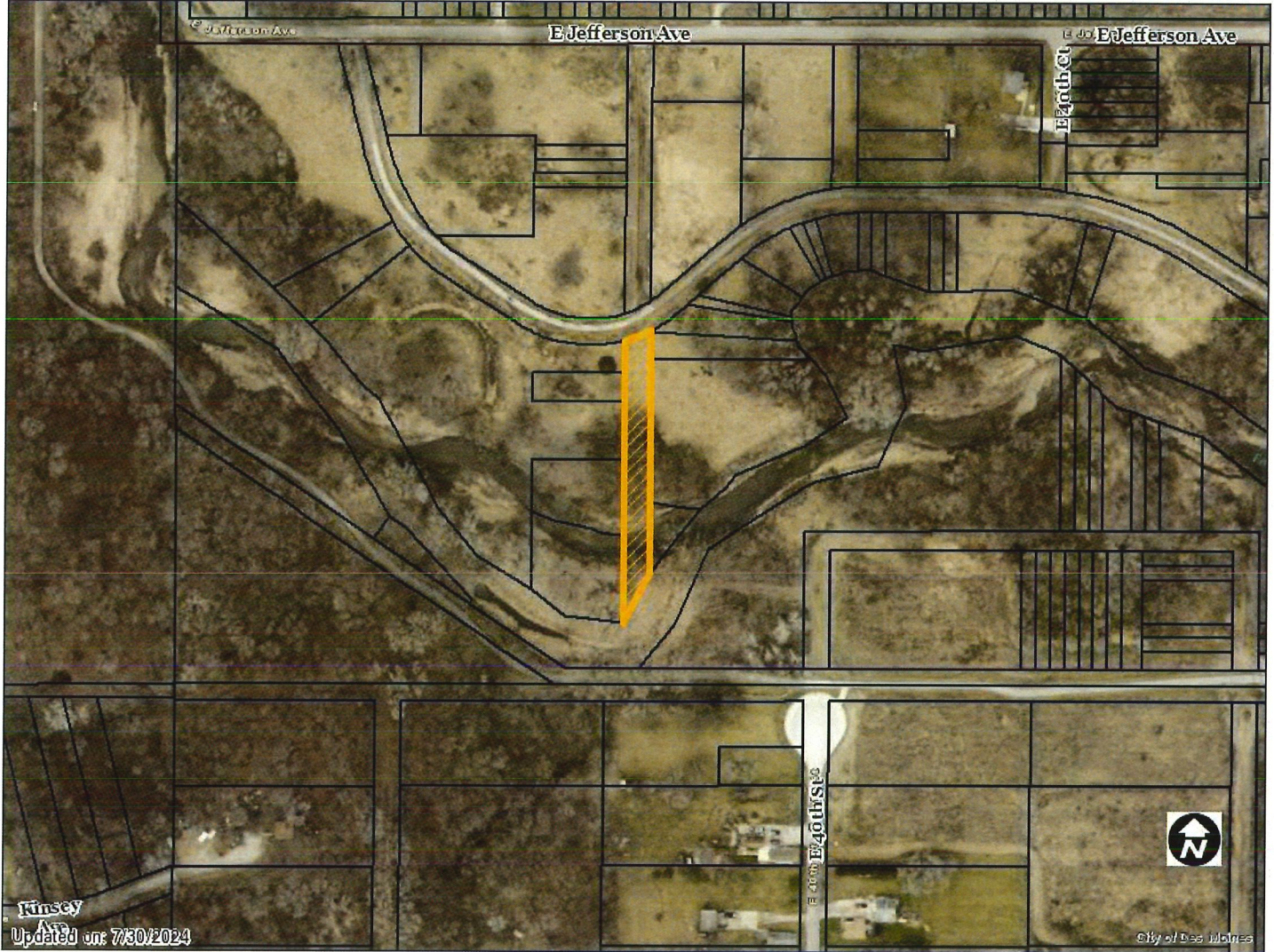
City of Des Moines ROW Vacation East 40th Court-Jefferson Avenue

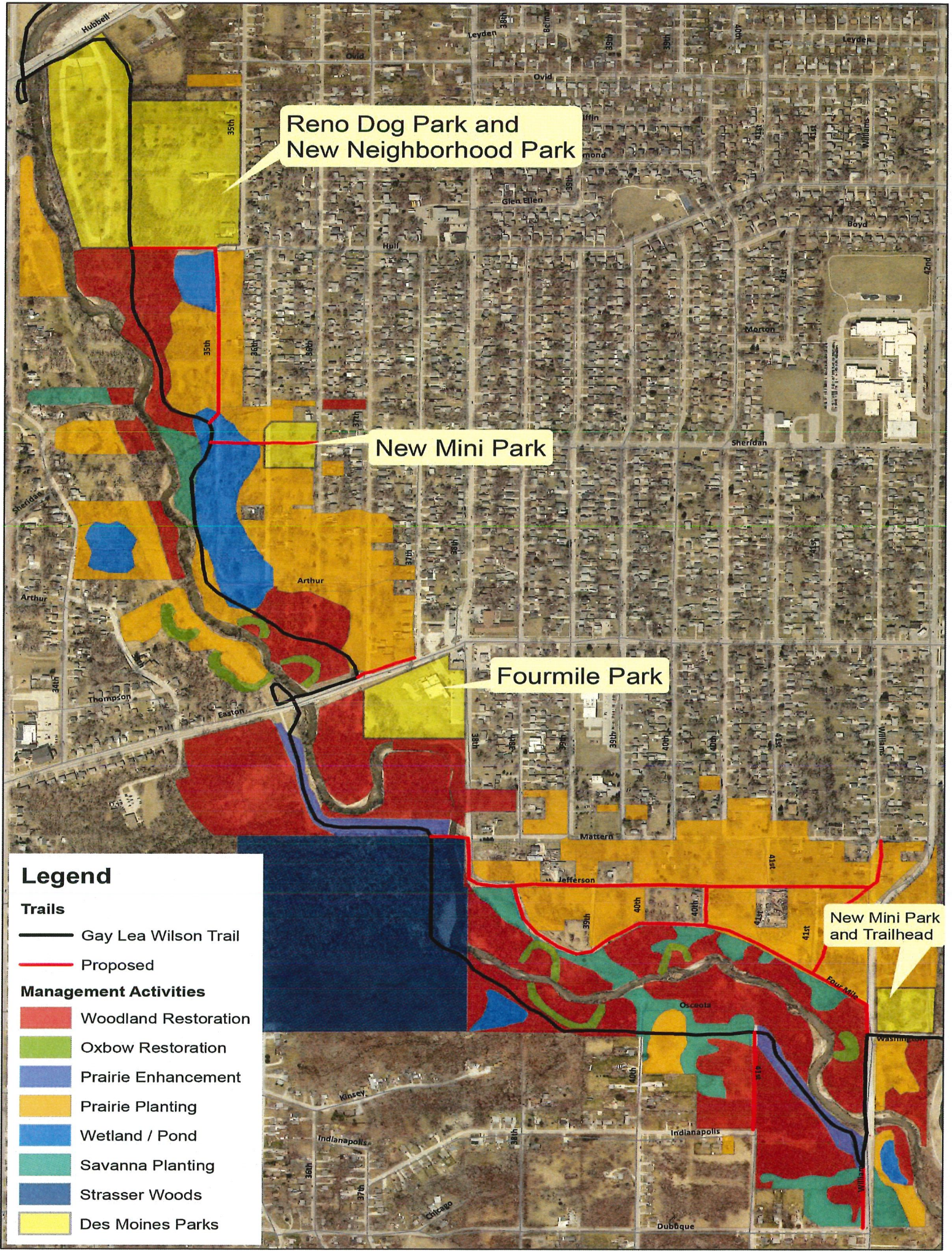
ROWV-2024-000008-2



Updated on: 7/26/2024

City of Des Moines





Reno Dog Park and
New Neighborhood Park



New Mini Park

Fourmile Park

New Mini Park
and Trailhead

Legend

Trails

-  Gay Lea Wilson Trail
-  Proposed

Management Activities

-  Woodland Restoration
-  Oxbow Restoration
-  Prairie Enhancement
-  Prairie Planting
-  Wetland / Pond
-  Savanna Planting
-  Strasser Woods
-  Des Moines Parks

EXHIBIT A
SHT 1 OF 3

46

NORTH LINE
OF LOT 893

E Sheridan Ave

LOT 893

LOT 857

NORTH LINE
OF LOT 857

PT LOT N

PT LOT M

FOUR MILE

E 36th St

E 36th Ct

E 37th St

LOT V

Arthur Ave



Legend

 AREA TO BE VACATED

EXHIBIT A
SHT 2 OF 3

ELMWOOD PARK

E Jefferson Ave



WEST LINE OF LOT J

EAST LINE OF LOT J

LOT 248

SE CORNER OF LOT 248

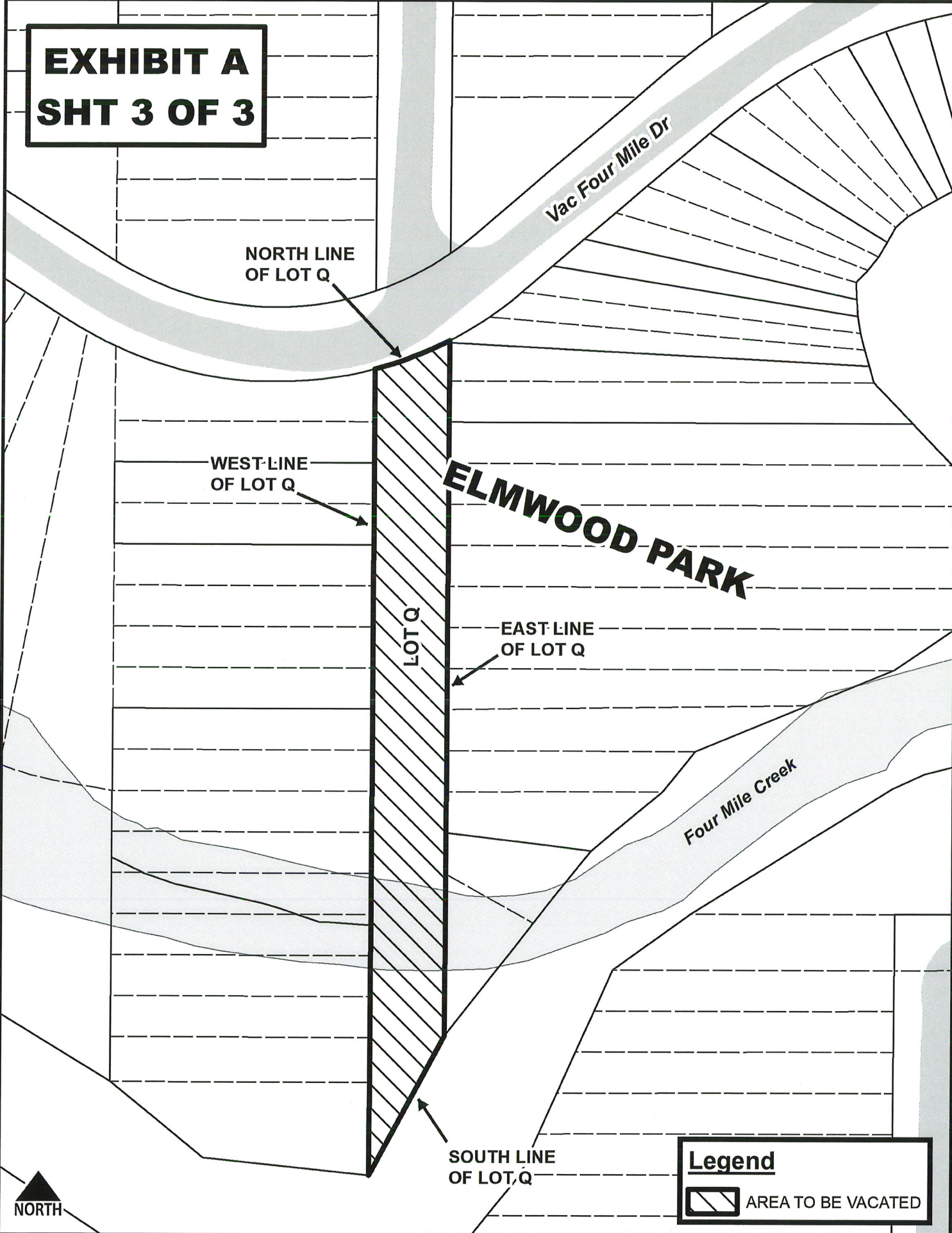
SOUTH LINE OF LOT J

Legend

 AREA TO BE VACATED



EXHIBIT A
SHT 3 OF 3



Vac Four Mile Dr

NORTH LINE
OF LOT Q

WEST LINE
OF LOT Q

ELMWOOD PARK

EAST LINE
OF LOT Q

LOT Q

Four Mile Creek

SOUTH LINE
OF LOT Q

NORTH

Legend

 AREA TO BE VACATED

City of Des Moines ROW Vacation East 36th-East 37th to Arthur Ave-East Sheridan ROWV-2024-000008



City of Des Moines ROW Vacation East 40th Court-Jefferson Avenue

ROWV-2024-000008-2



City of Des Moines ROW Vacation Lot Q- Four Mile area

ROWV-2024-00008-3

