

22-1723

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Date November 7, 2022

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF BEVERDALE PARK, 3333 ADAMS AVENUE, LOCATED ALONG THE WESTERN PARK BOUNDARY, AND APPROVAL OF A LAND EXCHANGE AGREEMENT WITH STEVEN G. BERRY AND LINDA K. BERRY AS TRUSTEES OF THE STEVEN G. BERRY AND LINDA K. BERRY REVOCABLE TRUST U/A DATED APRIL 16, 2019

WHEREAS, the City of Des Moines, Iowa, (“City”) is the owner of certain parkland located in Beaverdale Park at 3333 Adams Avenue and lying south of and adjoining 3301 34th Street, Des Moines, Iowa and which encompasses the driveway access to 3301 34th Street (hereinafter “City Parcel”), more particularly described below; and

WHEREAS, Steven G. Berry and Linda K. Berry, Trustees of the Steven G. Berry and Linda K. Berry Revocable Trust U/A dated April 16, 2019 (“Seller”) are owners of 3301 34th Street, Des Moines, Iowa, a portion of which is required by the City of Des Moines Parks and Recreation Department for streambank stabilization and erosion control efforts within Beaverdale Park (hereinafter “Seller Parcel”), more particularly described below; and

WHEREAS, Steven G. Berry and Linda K. Berry, have offered to the City of Des Moines, Iowa, the Seller Parcel, as well as a ten-foot wide Permanent Easement for Ingress and Egress over property adjoining the Seller Parcel for access purposes, in exchange for the City Parcel, described below, to assemble said City Parcel with its adjoining property for purposes of creating a private driveway access to their property at 3401 34th Street, 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 Beaverdale Park and shall be dedicated to as parkland; and

WHEREAS, the City has no known current or anticipated 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.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

1. The City Council of the City of Des Moines, Iowa shall consider adoption of an ordinance permanently vacating a portion of Beaverdale Park lying south of and adjoining 3401 34th Street, Des Moines, Iowa legally described as follows, subject to the reservation of easements therein:

City Parcel:

A PART OF LOT 33, KINGMAN'S ORCHARD, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 33; THENCE NORTH 0°(DEGREES) 48'(MINUTES) 51"(SECONDS) WEST ALONG THE WEST LINE OF SAID LOT, 639.89 FEET TO THE NORTHWEST CORNER OF SAID LOT; THENCE SOUTH 89°38'33" EAST ALONG THE NORTH LINE OF SAID LOT, 104.65 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS IS 232.50 FEET, WHOSE ARC LENGTH IS 46.12 FEET AND WHOSE CHORD BEARS SOUTH 37°17'55" WEST, 46.05 FEET; THENCE SOUTH 31°36'56" WEST, 85.23 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS IS 49.50 FEET, WHOSE ARC LENGTH IS 31.11 FEET AND WHOSE CHORD BEARS SOUTH 13°36'43" WEST, 30.60 FEET; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 2787.50 FEET, WHOSE ARC LENGTH IS 154.59 FEET AND WHOSE CHORD BEARS SOUTH 2°48'11" EAST, 154.57 FEET; THENCE SOUTH 1°12'52" EAST, 345.82 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT; THENCE SOUTH 89°50'06" WEST ALONG SAID SOUTH LINE, 30.66 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.51 ACRES (22170 SQ. FT.).

2. The City Council of the City of Des Moines, Iowa further proposes to exchange the vacated parkland described above for property of equal value owned by Steven G. Berry and Linda K. Berry, Trustees of the Steven G. Berry and Linda K. Berry Revocable Trust U/A dated April 16, 2019 located at the west side of Beaverdale Park (Seller Parcel), legally described below:

Seller Parcel:

A PART OF LOT 34, KINGMAN'S ORCHARD, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 34; THENCE NORTH 89°(DEGREES) 38'(MINUTES) 33"(SECONDS) WEST ALONG THE SOUTH LINE OF SAID LOT, 300.00 FEET; THENCE NORTH 53°41'12" EAST, 368.29 FEET TO A POINT ON THE EAST LINE OF SAID LOT; THENCE SOUTH 0°50'24" EAST ALONG SAID EAST LINE, 220.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.76 ACRES (32993 SQ. FT.).

3. Steven G. Berry and Linda K. Berry, Trustees of the Steven G. Berry and Linda K. Berry Revocable Trust U/A dated April 16, 2019 further propose to convey to the City of Des Moines a ten-foot wide Permanent Easement for Ingress and Egress over property adjoining the Seller Parcel, legally described as follows:

Permanent Easement:

A 10.00 FEET WIDE EASEMENT BEING A PART OF LOT 34, KINGMAN'S ORCHARD, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 34; THENCE NORTH 89°(DEGREES) 38'(MINUTES) 33"(SECONDS) WEST ALONG THE SOUTH LINE OF SAID LOT, 300.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°38'33" WEST ALONG SAID SOUTH LINE, 16.74 FEET; THENCE NORTH 53°41'12" EAST, 388.85 FEET TO A POINT ON THE

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EAST LINE OF SAID LOT; THENCE SOUTH 0°50'24" EAST ALONG SAID EAST LINE, 12.28 FEET; THENCE SOUTH 53°41'12" WEST, 368.29 FEET TO THE POINT OF BEGINNING AND CONTAINING 3786 SQUARE FEET.

4. That the meeting of the City Council at which the adoption of said ordinance and the proposed Land Exchange Agreement is to be considered shall be on November 21, 2022, 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.

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. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.

5. There are no proceeds associated with this transaction.

Moved by Gatto to adopt. Second by Boesen.

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				✓
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			1
MOTION CARRIED	APPROVED			

John Fubell
MAYOR PRO TEM

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
Laura Baumgartner, City Clerk