



Roll Call Number

22-1744

Agenda Item Number

36

Date November 7, 2022

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**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR THE VACATION OF ALLEY RIGHT-OF-WAY LOCATED AT 601 E. UNIVERSITY AVENUE WITHIN BURKE PARK, AND DEDICATION OF THE PROPERTY AS PARKLAND**

**WHEREAS**, The City of Des Moines Parks and Recreation Department has requested the vacation of the east-west and north-south alley right-of-way located at 601 E. University Avenue within Burke Park, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated, which request was not presented to the City’s Plan and Zoning Commission for review and has instead been determined by the City Traffic Engineer to have no significant impact upon the public use of the right-of-way, in accordance with Municipal Code 102-286(b); 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

**WHEREAS**, on October 24, by Roll Call No. 22-1638, 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 November 7, 2022, 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 the east-west and north-south alley right-of-way located at 601 E. University Avenue within Burke Park, 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 the east-west and north-south alley right-of-way located at 601 E. University Avenue within Burke Park, as described herein, are hereby overruled and the hearing is closed.
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:



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A PART OF ALLEY RIGHT OF WAY IN JAMES HALL'S SECOND SUBDIVISION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF THE EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOT 7 IN SAID JAMES HALL'S SECOND SUBDIVISION,

AND

ALL OF THE NORTH/SOUTH ALLEY RIGHT OF WAY ADJOINING THE WEST LINE OF SAID JAMES HALL'S SECOND SUBDIVISION AND LYING SOUTH OF THE NORTH LINE OF SAID JAMES HALL'S SECOND SUBDIVISION AND LYING NORTH OF THE VACATED FILMORE RIGHT OF WAY (VACATED BY ORDINANCE 6391),

AND CONTAINING APPROXIMATELY 0.05 ACRES (2,286 SQUARE FEET).

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.

4. The now vacated right-of-way is to be used as parkland and is hereby dedicated as such with dedication effective upon Council Approval.

Moved by Westergaard to adopt. Second by Voss.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno

Mackenzie L. Moreno, Assistant City Attorney

**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

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

Josh Lubell  
MAYOR PRO TEM