



Roll Call Number

23-0221

Agenda Item Number

23

Date February 20, 2023

SET HEARING FOR APPROVAL OF DOCUMENTS FOR A LAND EXCHANGE AGREEMENT WITH JERRY’S HOMES, INC. FOR PROPERTY LOCATED BETWEEN E. PAYTON AVENUE AND E. ARMY POST ROAD FOR THE CARLISLE TRAIL CONNECTION PROJECT

WHEREAS, the City of Des Moines, Iowa, (“City”) is the owner of certain property located between East Payton Avenue and East Army Post Road, Des Moines, Iowa (hereinafter “City Parcel”), as depicted on Plat of Survey 2022-1075 filed of record with the Polk County Recorder’s office on July 25, 2022 in Book 19205, Page 69, and legally described below; and

WHEREAS, Jerry’s Homes, Inc., an Iowa corporation (“Seller”), is the owner of certain property located between East Payton Avenue and East Army Post Road, Des Moines, Iowa, which property adjoins the City Parcel and a portion of which is required by the City of Des Moines Parks and Recreation Department for the Carlisle Trail Connection Project (hereinafter “Seller Parcel”); and

WHEREAS, as part of the Carlisle Trail Connection Project, the City has offered to convey the City Parcel to Jerry’s Homes, Inc. in exchange for a Permanent Easement for Recreational Trail, to be reserved in the quit claim deed from the City of Des Moines to Jerry’s Homes Inc., and a Temporary Easement for Construction and Construction-Related Activities, as legally described below, over, through and across a portion of the City Parcel; and a separate Permanent Easement for Recreational Trail and Temporary Easement for Construction and Construction-Related Activities over, through and across a portion of the Seller Parcel, which represents an equitable exchange of value as determined by the City’s Real Estate Division; 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 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, proposes to convey to Jerry’s Homes, Inc. certain property located between East Payton Avenue and East Army Post Road, Des Moines, Iowa, legally described as follows:

PARCEL 2022-1075

A PART OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., 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 SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 0°(DEGREES) 00’(MINUTES) 11”(SECONDS) EAST ALONG THE EAST LINE OF SAID FRACTIONAL 1/4, A DISTANCE OF 91.12 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF EAST ARMY POST ROAD, AS PRESENTLY ESTABLISHED; THENCE NORTH

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89°13'30" WEST ALONG SAID NORTH RIGHT OF WAY, 295.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°13'30" WEST ALONG SAID RIGHT OF WAY, 117.67 FEET; THENCE NORTH 19°33'16" WEST, 507.13 FEET; THENCE NORTH 30°38'27" EAST, 234.88 FEET; THENCE SOUTH 88°49'41" EAST, 166.93 FEET; THENCE SOUTH 33°54'25" WEST, 275.40 FEET; THENCE SOUTH 12°09'09" EAST, 255.27 FEET; THENCE SOUTH 26°43'08" EAST, 223.94 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.9 ACRES (82933 SQ. FT.).

2. Jerry's Homes, Inc., in exchange for the City Parcel legally described above, offers to convey to the City a Permanent Easement for Recreational Trail which will be reserved in the quit claim deed from the City to Jerry's Homes Inc., and at closing on the acquisition of the City Parcel, a separate Permanent Easement for Recreational Trail over a portion of the Seller Parcel, a Temporary Easement for Construction and Construction-Related Activities in a portion of the City Parcel, and a Temporary Easement for Construction and Construction-Related Activities in a portion of the Seller Parcel, all legally described as follows:

**PERMANENT EASEMENT FOR RECREATIONAL TRAIL RESERVED IN DEED:**

A PART OF PARCEL 2022-1075 AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 19205, PAGE 69 OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., 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 PARCEL 2022-1075; THENCE NORTH 89°(DEGREES) 13'(MINUTES) 30"(SECONDS) WEST ALONG THE SOUTH LINE OF SAID PARCEL, 17.19 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°13'30" WEST ALONG SAID SOUTH LINE, 59.98 FEET; THENCE ALONG AN ARC 47.94 FEET TO THE RIGHT, HAVING A RADIUS OF 115.00 FEET, THE CHORD OF WHICH IS NORTH 33°11'56" WEST, 47.60 FEET; THENCE SOUTH 71°14'09" WEST, 21.46 FEET; THENCE NORTH 16°21'31" WEST, 21.44 FEET; THENCE NORTH 76°02'49" EAST, 21.46 FEET; THENCE ALONG AN ARC 24.48 FEET TO THE RIGHT, HAVING A RADIUS OF 115.00 FEET, THE CHORD OF WHICH IS NORTH 5°21'43" WEST, 24.44 FEET; THENCE ALONG AN ARC 107.60 FEET TO THE LEFT, HAVING A RADIUS OF 285.00 FEET, THE CHORD OF WHICH IS NORTH 10°04'42" WEST, 106.96 FEET; THENCE NORTH 20°53'38" WEST, 168.21 FEET; THENCE ALONG AN ARC 59.78 FEET TO THE LEFT, HAVING A RADIUS OF 100.00 FEET, THE CHORD OF WHICH IS NORTH 38°01'11" WEST, 58.89 FEET; THENCE NORTH 55°08'43" WEST, 5.09 FEET; THENCE ALONG AN ARC 78.43 FEET TO THE RIGHT, HAVING A RADIUS OF 140.00 FEET, THE CHORD OF WHICH IS NORTH 39°05'48" WEST, 77.41 FEET TO A POINT ON THE WESTERLY LINE OF SAID PARCEL; THENCE NORTH 19°33'16" WEST ALONG THE WESTERLY LINE OF SAID PARCEL, 25.04 FEET TO A CORNER OF SAID PARCEL; THENCE NORTH 30°38'27" EAST ALONG THE WESTERLY LINE OF SAID PARCEL, 55.95 FEET; THENCE ALONG AN ARC 122.86 FEET TO THE LEFT, HAVING A RADIUS OF 110.00 FEET, THE CHORD OF WHICH IS SOUTH 23°08'50" EAST, 116.58 FEET; THENCE SOUTH 55°08'43" EAST, 5.09 FEET; THENCE ALONG AN ARC 77.71 FEET TO THE RIGHT, HAVING A RADIUS OF 130.00 FEET, THE CHORD OF WHICH IS SOUTH 38°01'11" EAST, 76.56 FEET; THENCE SOUTH 20°53'38" EAST, 168.21 FEET; THENCE ALONG AN ARC 118.92 FEET TO THE RIGHT, HAVING A RADIUS OF 315.00 FEET, THE CHORD OF WHICH IS SOUTH 10°04'42" EAST, 118.22 FEET; THENCE ALONG AN ARC 20.36 FEET TO THE LEFT, HAVING A RADIUS OF 85.00 FEET, THE CHORD OF

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WHICH IS SOUTH 6°07'28" EAST, 20.31 FEET; THENCE NORTH 73°38'29" EAST, 6.83 FEET; THENCE SOUTH 16°21'31" EAST, 10.00 FEET; THENCE SOUTH 73°38'29" WEST, 6.83 FEET; THENCE ALONG AN ARC 82.88 FEET TO THE LEFT, HAVING A RADIUS OF 85.00 FEET, THE CHORD OF WHICH IS SOUTH 47°39'54" EAST, 79.64 FEET TO THE POINT OF BEGINNING AND CONTAINING 17462 SQUARE FEET.

**PERMANENT EASEMENT FOR RECREATIONAL TRAIL TO BE CONVEYED AT CLOSING:**

A PART OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., 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 SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 0°(DEGREES) 00'(MINUTES) 11"(SECONDS) EAST ALONG THE EAST LINE OF SAID FRACTIONAL 1/4, A DISTANCE OF 91.12 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF EAST ARMY POST ROAD, AS PRESENTLY ESTABLISHED; THENCE NORTH 89°13'30" WEST ALONG SAID NORTH RIGHT OF WAY LINE, 147.75 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°13'30" WEST, 147.88 FEET TO THE SOUTHEAST CORNER OF PARCEL 2022-1075 AS SHOWN ON THE PLAT OF SURVEY RECORDED IN DEED BOOK 19205, PAGE 601; THENCE NORTH 26°43'08" WEST ALONG THE EASTERLY LINE OF SAID PARCEL, 9.05 FEET; THENCE SOUTH 89°36'09" EAST, 46.74 FEET; THENCE NORTH 77°39'14" EAST, 45.33 FEET; THENCE SOUTH 89°40'37" EAST, 50.00 FEET; THENCE SOUTH 29°37'59" EAST, 22.05 FEET TO THE POINT OF BEGINNING AND CONTAINING 2008 SQUARE FEET.

**TEMPORARY EASEMENTS FOR CONSTRUCTION AND CONSTRUCTION-RELATED ACTIVITIES TO BE CONVEYED AT CLOSING:**

A PART OF PARCEL 2022-1075 AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 19205, PAGE 69 OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 2022-1075; THENCE NORTH 19°(DEGREES) 33'(MINUTES) 16"(SECONDS) WEST, 482.09 FEET; THENCE ALONG AN ARC 78.43 FEET TO THE LEFT, HAVING A RADIUS OF 140.00 FEET, THE CHORD OF WHICH IS SOUTH 39°05'48" EAST, 77.41 FEET; THENCE SOUTH 55°08'43" EAST, 5.09 FEET; THENCE ALONG AN ARC 59.78 FEET TO THE RIGHT, HAVING A RADIUS OF 100.00 FEET, THE CHORD OF WHICH IS SOUTH 38°01'11" EAST, 58.89 FEET; THENCE SOUTH 20°53'38" EAST, 168.21 FEET; THENCE ALONG AN ARC 107.60 FEET TO THE RIGHT, HAVING A RADIUS OF 285.00 FEET, THE CHORD OF WHICH IS SOUTH 10°04'42" EAST, 106.96 FEET; THENCE ALONG AN ARC 24.48 FEET TO THE LEFT, HAVING A RADIUS OF 115.00 FEET, THE CHORD OF WHICH IS SOUTH 5°21'43" EAST, 24.44 FEET; THENCE SOUTH 76°02'49" WEST, 21.46 FEET; THENCE SOUTH 16°21'31" EAST, 21.44 FEET; THENCE NORTH 71°14'09" EAST, 21.46 FEET; THENCE ALONG AN ARC 47.94 FEET TO THE LEFT, HAVING A RADIUS OF 115.00 FEET, THE CHORD OF WHICH IS SOUTH 33°11'56" EAST, 47.60 FEET; THENCE NORTH 89°13'30" WEST, 40.49 FEET TO THE POINT OF BEGINNING AND CONTAINING 18227 SQUARE FEET.



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AND,

A PART OF PARCEL 2022-1075 AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 19205, PAGE 69 OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., 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 PARCEL 2022-1075; THENCE NORTH 89°(DEGREES) 13'(MINUTES) 30"(SECONDS) WEST, 17.19 FEET; THENCE ALONG AN ARC 82.88 FEET TO THE RIGHT, HAVING A RADIUS OF 85.00 FEET, THE CHORD OF WHICH IS NORTH 47°39'54" WEST, 79.64 FEET; THENCE NORTH 73°38'29" EAST, 6.83 FEET; THENCE NORTH 16°21'31" WEST, 10.00 FEET; THENCE SOUTH 73°38'29" WEST. 6.83 FEET; THENCE ALONG AN ARC 20.36 FEET TO THE RIGHT, HAVING A RADIUS OF 85.00 FEET, THE CHORD OF WHICH IS NORTH 6°07'28" WEST, 20.31 FEET; THENCE ALONG AN ARC 118.92 FEET TO THE LEFT, HAVING A RADIUS OF 315.00 FEET, THE CHORD OF WHICH IS NORTH 10°04'42" WEST, 118.22 FEET; THENCE NORTH 20°53'38" WEST, 168.21 FEET; THENCE ALONG AN ARC 77.71 FEET TO THE LEFT, HAVING A RADIUS OF 130.00 FEET, THE CHORD OF WHICH IS NORTH 38°01'11" WEST, 76.56 FEET; THENCE NORTH 55°08'43" WEST, 5.09 FEET; THENCE ALONG AN ARC 122.86 FEET TO THE RIGHT, HAVING A RADIUS OF 110.00 FEET, THE CHORD OF WHICH IS NORTH 23°08'50" WEST, 116.58 FEET; THENCE NORTH 30°38'27" EAST, 178.93 FEET; THENCE SOUTH 88°49'41" EAST, 166.93 FEET; THENCE SOUTH 33°54'25" WEST, 275.40 FEET; THENCE SOUTH 12°09'09" EAST, 255.27 FEET; THENCE SOUTH 26°43'08" EAST, 223.94 FEET TO THE POINT OF BEGINNING AND CONTAINING 47244 SQUARE FEET.

AND,

A PART OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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4. That the meeting of the City Council at which the proposed Land Exchange Agreement is to be considered shall be on March 6, 2023, at 5:00 p.m. 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.

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Please check the posted agenda in advance of the March 6, 2023 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 Voss.

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	7			
MOTION CARRIED		APPROVED		
<u>J. M. Franko Cownie</u> 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.

Laura Baumgartner  
Laura Baumgartner, City Clerk