



Roll Call Number

23-0824

Agenda Item Number

24

Date June 12, 2023

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**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AN UNDEVELOPED PORTION OF SOUTHWEST 4<sup>TH</sup> STREET RIGHT-OF-WAY LOCATED BETWEEN PORTER AVENUE AND DIEHL AVENUE AND CONVEYANCE OF A PORTION OF SAID VACATED RIGHT-OF-WAY TO MRL ENTERPRISES, LLC FOR \$150.00**

**WHEREAS**, on May 8, 2023, by Roll Call No. 23-0645 the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from Lisa Wertz and Kristopher Wertz (Contract Buyers), for vacation of approximately 283 lineal feet of undeveloped Southwest Fourth Street right-of-way bounded by Porter Avenue to the north and Diehl Avenue to the south, and to the west of and adjacent to the property at 315 Diehl Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and

**WHEREAS**, MRL Enterprises, LLC, owner of 315 Diehl Avenue, has offered to the City the purchase price of \$150.00 for the purchase of the east half of the portion of vacated Southwest Fourth Street right-of-way located west of and adjoining 315 Diehl Avenue; (hereinafter "Property") for incorporation into its adjoining residential property for expanded sideyard, subject to the reservation of easements for all existing utilities in place until such time that they are abandoned or relocated, which price reflects the fair market value of the vacated street right-of-way as determined by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need for the street right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating approximately 283 lineal feet of undeveloped Southwest Fourth Street right-of-way bounded by Porter Avenue to the north and Diehl Avenue to the south, Des Moines, Iowa, legally described as follows:

A PART OF LOT H IN THE CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS, 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:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 32, BLOCK 3 IN SAID CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS; THENCE WEST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 32 TO THE WEST LINE OF SAID LOT H; THENCE NORTHWEST ALONG THE WEST LINE OF SAID LOT H TO THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 1 IN SAID BLOCK 3; THENCE EAST ALONG SAID WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 1 TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTHEAST ALONG THE WEST LINE OF SAID LOTS 1 AND 32 TO



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THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 0.32 ACRES (14,002 SQUARE FEET).

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the east half of the portion of vacated Southwest Fourth Street right-of-way located west of and adjoining 315 Diehl Avenue, as legally described, to MRL Enterprises, LLC for \$150.00, subject to reservation of easements therein:

A PART OF LOT H IN THE CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS, 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:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 32, BLOCK 3 IN SAID CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS; THENCE WEST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 32 TO THE CENTERLINE OF SAID LOT H; THENCE NORTHWEST ALONG THE CENTERLINE OF SAID LOT H TO THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 32; THENCE EAST ALONG SAID WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 32 TO THE NORTHWEST CORNER OF SAID LOT 32; THENCE SOUTHEAST ALONG THE WEST LINE OF SAID LOT 32 TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 0.08 ACRES (3,501 SQUARE FEET).

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on June 26, 2023, said meeting to be held 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. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



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Moved by Gatto to adopt. Second by Mandelbaum

APPROVED AS TO FORM:

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

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and TOTAL.

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.

J. M. Franklin Cownie Mayor

Laura Baumgartner
Laura Baumgartner, City Clerk