

★ Roll Call Number

24-1344

Agenda Item Number

16

Date October 7, 2024

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF EAST 36TH STREET, EAST 36TH COURT, ARTHUR AVENUE, EAST 40TH COURT, AND LOT Q RIGHT-OF-WAY LOCATED IN THE FOURMILE CREEK FLOODPLAIN AND CONVEYANCE TO 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, on September 16, 2024, by Roll Call No. 24-1235, 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 City-initiated request to vacate the following segments of public street located in the Lower Fourmile Creek Floodplain (“Property”) to allow for the removal of the roadways and the restoration of the areas for incorporation into the Lower Fourmile Creek Greenway:

- East 36th Street from East Sheridan Avenue to Arthur Avenue,
- East 36th Court from East Sheridan Avenue to Arthur Avenue,
- Arthur Avenue to the west of East 37th Street,
- East 40th Court to the south of East Jefferson Avenue,
- Lot Q between the vacated Four Mile Drive and the south line of Lot Q,

subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated at the Polk County Conservation Board’s expense; and

WHEREAS, in accordance with the 28E Agreement and Iowa Code 364.7, the City proposes to vacate and 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 Lower 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.

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ALL OF LOT Q IN SAID ELMWOOD PARK,

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

2. The City Council of the City of Des Moines, Iowa, further proposes to convey the vacated street right-of-way, as legally described below, to Polk County, Iowa for the use and benefit of the Polk County Conservation Board at no cost in accordance with Iowa Code 364.7(3) 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.

ALL OF LOT V, AND

ALL THAT PART OF LOT M LYING SOUTH OF THE EASTERLY EXTENSION OF THE
NORTH LINE OF LOT 857, AND

ALL THAT PART OF LOT N LYING SOUTH OF THE EASTERLY EXTENSION OF THE
NORTH LINE OF LOT 893,

ALL IN FOUR MILE, AN OFFICIAL PLAT,

AND

LOT J, ELMWOOD PARK, AN OFFICIAL PLAT, -EXCEPT THE FOLLOWING
DESCRIBED AREA: BEGINNING AT THE SOUTHEAST CORNER OF LOT 248 IN SAID
ELMWOOD PARK; THENCE NORTH ALONG THE WEST LINE OF SAID LOT J, A
DISTANCE OF 70.0 FEET; THENCE EAST AND PERPENDICULAR TO SAID WEST
LINE TO THE EAST LINE OF SAID LOT J; THENCE SOUTH ALONG SAID EAST LINE
TO THE SOUTH LINE OF SAID LOT J; THENCE WEST ALONG SAID SOUTH LINE TO
THE POINT OF BEGINNING-,



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3. That the meeting of the City Council at which the adoption of said ordinance and the proposed conveyance is to be considered shall be on October 21, 2024, 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.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m., October 17, 2024 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

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 will be no proceeds associated with the conveyance of this property.

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
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			
MOTION CARRIED		APPROVED		

Connie Boesen 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 City Clerk