


COUNCIL COMMUNICATION

	Number:	21-381	Meeting:	September 13, 2021
	Agenda Item:	29	Roll Call:	21-1421
	Submitted by:	Erin Olson-Douglas, Development Services Department Director		

AGENDA HEADING:

Approval and acceptance of a Stormwater Management Facilities Maintenance Covenant and Permanent Easement Agreement with Des Moines Industrial Land, LLC and Des Moines Industrial, LLC for a stormwater detention basin located in the vicinity of 200 SE 15th Street for development of a multi-modal transloading facility.

SYNOPSIS:

Recommend the approval and acceptance of a Stormwater Management Facilities Maintenance Covenant and Permanent Easement Agreement (“Agreement”) between the City and the transload facility owner and developer, Des Moines Industrial Land, LLC and Des Moines Industrial, LLC (Paul Cownie, CEO, 512 ½ E. Grand Avenue, Des Moines, IA 50309).

During the construction of Phase I of the transloading project, the development team contemplated how best to incorporate future proposed expansion opportunities for the facility. To maximize the future development potential of the property, it was determined that relocation of an existing city regional detention basin on the east end of the project site would be necessary, with the basin to be relocated to an elongated area that parallels East Martin Luther King Jr. Parkway between SE 15th and SE 18th Streets. The relocated stormwater basin location would also need to incorporate required site landscaping necessary to meet minimum code requirements and the conditions placed on the approval of the site plan by the Plan and Zoning Commission.

It was mutually determined that the most appropriate course of action would be to have the developer build, own, and maintain the newly constructed regional stormwater basin, with a permanent maintenance covenant and easement agreement in place to ensure that it functions as designed and is appropriately maintained for necessary future use by both the City and Developer.

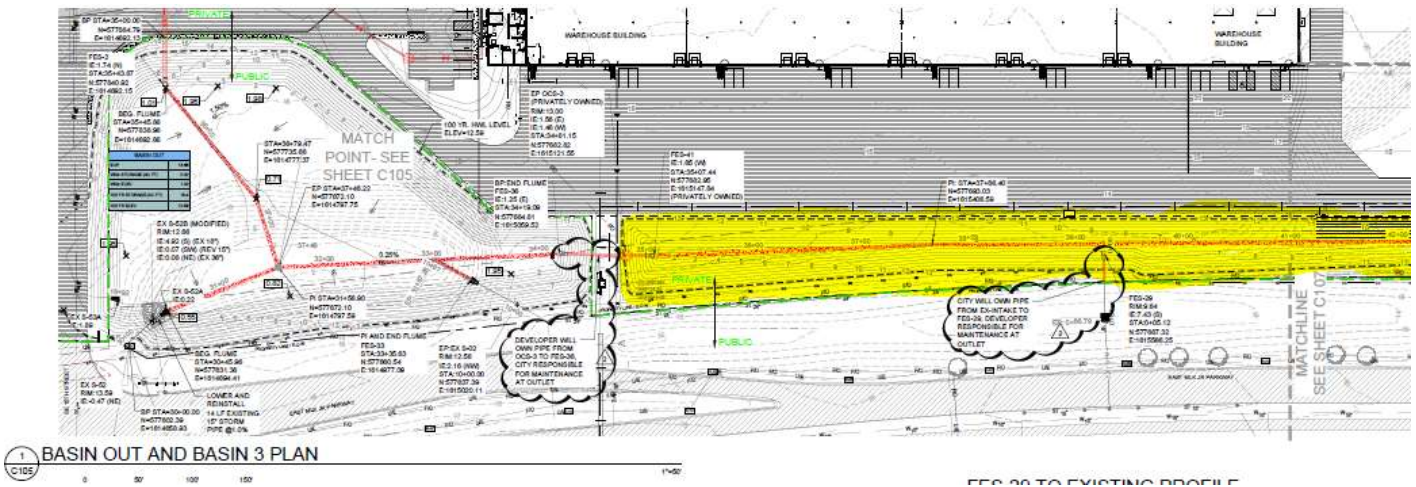
Similar stormwater agreements are routinely provided on plats and subdivisions to require property owners or homeowner associations to maintain stormwater management facilities that serve the surrounding private property interests. For those agreements, the subdivision ordinance and Chapter 2 of the Des Moines Municipal Code allow the City Manager to accept the Agreements on behalf of the City. In contrast, the transload facility agreement is unique in that it involves stormwater facilities that will serve the City as part of a regional stormwater detention area rather than serving solely private owners, and it is required as part of the site plan approval rather than the subdivision process. For these reasons, this Agreement is being presented to Council for approval.

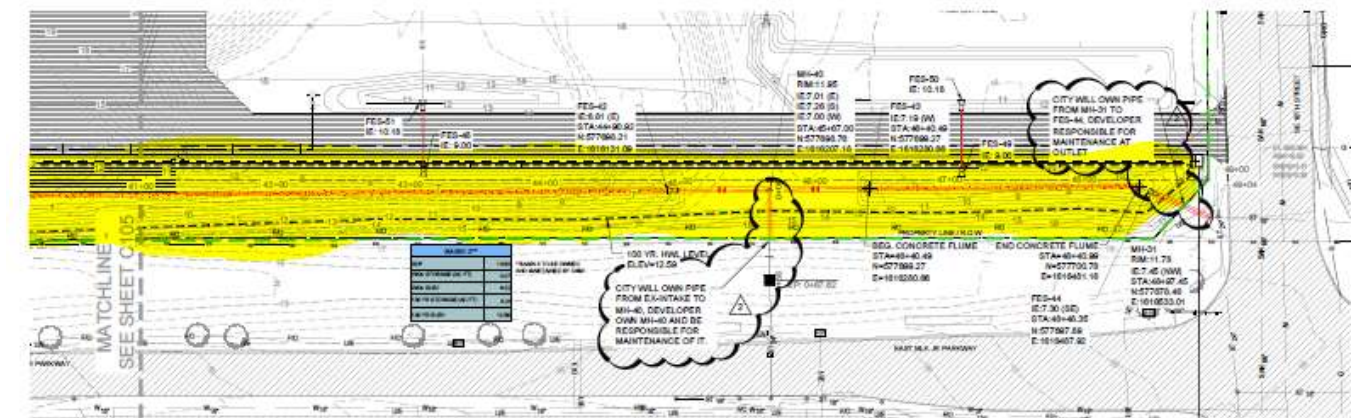
FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

- Review and approval of the site plan for the transloading facility under Des Moines Municipal Code Chapter 135 identified a need for reconfiguration of the proposed stormwater detention basins on the Property to allow Developer to meet landscaping requirements imposed by the Plan and Zoning Commission and allow the City to use a stormwater detention basin (Basin 3) located on the Property as part of the City’s Regional Detention Area at East Martin Luther King, Jr. Parkway and Southeast 15th Street in addition to Developer’s use of the basin.
- The Developer and City have negotiated a Stormwater Management Facilities Maintenance Covenant and Permanent Easement Agreement (“Agreement”), in form on file in the office of the City Clerk, which Agreement provides that Developer, and its successors in interest and assigns, will control and address stormwater runoff for the Property and provide the City with access to and use of the stormwater detention basin, will maintain, inspect, and abate any nuisances within the basin and the flared end section (FES) discharge points and stormwater junction box from City-owned storm sewers and City right-of-way within and into the basin in accordance with the approved Stormwater Management Plan, and will reimburse the City for all costs associated with City repair and maintenance of the improvements in the event that Developer fails to complete said work.
- The City’s Development Services, Engineering, and Public Works Departments intend for the Agreement to fulfill the developer’s obligation under the Planning and Design Ordinance, Chapter 135 of the Des Moines Municipal Code, to provide stormwater management and landscaping for the Property.
- The Agreement is being presented to City Council for approval due to its use for site plan approval rather than subdivision purposes, and due to the extent of duties and obligations placed on the Developer in the Agreement, and further due to the nature of the City’s interest in use of the stormwater detention basin as part of the City’s regional stormwater management system.

Revised Basin Location:





1 BASIN OUT AND BASIN 3 PLAN

20 BASIN 3 MH-40 TO EXISTING PROFILE 20

PREVIOUS COUNCIL ACTION(S):

Date: December 20, 2020

Roll Call Number: [20-1997](#)

Action: [Approving](#) Private Construction Contracts between Ryan Companies US, Inc. and Des Moines Industrial, LLC for Storm Sewer Improvements in 200 E 15th Street. Moved by Gatto to adopt. Motion Carried 7-0.

Date: July 13, 2020

Roll Call Number: [20-1121](#)

Action: [Conceptual](#) Development Plan by Des Moines Industrial, LLC of property located in the vicinity of 200 SE 15th Street for development of a multi-modal transloading facility. ([Council Communication No. 20-311](#)) Moved by Gatto to adopt. Motion Carried 6-1. Absent: Boesen.

Date: December 16, 2019

Roll Call Number: [19-2068](#) and [19-2069](#)

Action: Items regarding Des Moines Transloading Facility:

- (A) [Approving](#) development agreement with Des Moines Area Metropolitan Planning Organization (MPO) for the Des Moines Transloading facility and authorizing contingent assignment and assumption of IDOT Railroad Revolving Loan and Grant Program (RRLGP) Obligations. Moved by Gatto to adopt. Motion Carried 6-0. Mayor Cownie abstains from voting based on an appearance of a conflict of interest.
- (B) [Authorization](#) for additional action. Moved by Gatto to adopt. Motion Carried 6-0. Mayor Cownie abstains from voting based on an appearance of a conflict of interest.

Date: December 16, 2019

Roll Call Number: [19-2067](#)

Action: On conveyance of City-owned property at 200 SE 15th Street to Des Moines Industrial, LLC for development of a multi-modal transloading facility within the SE AgriBusiness Urban Renewal Area, \$1,434,000. Moved by Gatto to adopt. Motion Carried 6-0. Mayor Cownie abstains from voting based on an appearance of a conflict of interest.

BOARD/COMMISSION ACTION(S):

Board: Plan and Zoning Commission

Date: June 4, 2020

Resolution Number: N/A

Action: Plan and Zoning Commission voted 13-0 to approve a site plan for property in the vicinity of 301 Southeast 15th Street, to allow development of a 31.14-acre site for a 121,103-square foot Workshop/Warehouse Building and associate rail access site facilities necessary for multi-modal rail transfer with design alternatives, subject to the following conditions:

- Compliance with remaining administrative review comments of the Site Plan by the Permit and Development Center.
- Vacation of the necessary frontage buffer planting area along East M.L. King Jr. Parkway.
- Provision of additional landscaping trees and shrub plantings in the in the open space area between the west parking lot and the south loading area, to the satisfaction of the Planning Administrator.

Board: Urban Design Review Board

Date: May 19, 2020

Resolution Number: N/A

Action: Motion to recommend approval of the design as presented by Hielkema. Seconded by Hanley. Motion carried. Yes – 7, No – 0, Absent – 0, Abstain – 2.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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