

Date October 19, 2020

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AN UNDEVELOPED, DEAD-END SEGMENT OF SOUTHEAST 14<sup>TH</sup> COURT RIGHT-OF-WAY FROM EAST VINE STREET TO A POINT APPROXIMATELY 300 FEET TO THE SOUTH AND CONVEYANCE TO CHRISTINEA BENDER AND LENNY BENDER AND TO CATHERINE COLEMAN FOR \$600.00**

**WHEREAS**, on June 8, 2020, by Roll Call No. 20-0900, 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 an undeveloped dead end segment of Southeast 14th Court right-of-way from East Vine Street to a point that is 300 feet to the south, subject to the following:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the buyer's expense; and
- (2) Conveyance of the west half of the ROW adjoining 1431 East Vine Street. Otherwise, reservation of access rights from East Vine Street for that property across the western half of vacated ROW adjoining that property; and
- (3) Reservation of an easement for access to separately adjoining properties adjoining to the west without developed access until such time as those properties are assembled with other property that is provided with direct access to a public street; and

**WHEREAS**, Christinea Bender and Lenny Bender, the owners of 97 Johnson Court, have offered to the City of Des Moines, Iowa ("City") the purchase price of \$450.00 for the purchase of the portion of vacated dead-end Southeast 14<sup>th</sup> Court from East Vine Street to a point approximately 300 feet to the south and adjoining their property, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to reservation of an easement for access to separately adjoining properties without developed street access until such time as those properties are assembled with other property that is provided with direct access to a public street, which price reflects the fair market value of said portion of street right-of-way as determined by the City's Real Estate Division; and

**WHEREAS**, Catherine Coleman, the owner of 1431 East Vine Street, has offered to the City of Des Moines, Iowa ("City") the purchase price of \$150.00 for the purchase of the portion of vacated dead-end Southeast 14th Court adjoining her property, 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 said portion of 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.

**WHEREAS**, on October 5, 2020, by Roll Call No. 20-1563, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the street right-of-way be set for hearing on October 19, 2020, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa, and given Mayor Cownie's March 17, 2020 Proclamation, as amended prohibiting indoor

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gatherings of ten or more persons on public property, Section One of the Governor’s June 25, 2020 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak and the City Manager’s decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location; and

**WHEREAS**, due notice of said proposal to vacate and convey the street right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal, including how to participate electronically and telephonically; and

**WHEREAS**, in accordance with City Council direction, those interested in the proposed vacation and conveyance, 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of street right-of-way as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the undeveloped dead end segment of Southeast 14th Court right-of-way from East Vine Street to a point that is 300 feet to the south, legally described as follows, and said vacation is hereby approved:

ALL OF SOUTHEAST 14<sup>TH</sup> COURT RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 1 THROUGH 6 IN D. REES’S SUBDIVISION OF LOT 30, BROOKS & CO’S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.34 ACRES (15,000 SQUARE FEET).

3. The proposed sale of such vacated street right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, and for the Bender parcel, further subject to reservation of an easement for access to separately adjoining properties without developed street access until such time as those properties are assembled with other property that is provided with direct access to a public street, and said conveyance is hereby approved:

Grantee: Christinea Bender and Lenny Bender

Consideration: \$450.00

Legal Description: THE WEST HALF (W 1/2) OF THE VACATED SOUTHEAST 14<sup>TH</sup> COURT RIGHT OF WAY LYING EAST OF AND ADJOINING LOTS 15 THROUGH 17, AND THE EAST HALF (E 1/2) OF THE VACATED SOUTHEAST 14<sup>TH</sup> COURT RIGHT OF WAY LYING WEST

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OF AND ADJOINING LOTS 1 THROUGH 6, ALL IN D. REES'S SUBDIVISION OF LOT 30, BROOKS & CO'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.26 ACRES (11,250 SQUARE FEET).

Grantee: Catherine Coleman

Consideration: \$150.00

Legal Description: THE WEST HALF (W 1/2) OF THE VACATED SOUTHEAST 14<sup>TH</sup> COURT RIGHT OF WAY LYING EAST OF AND ADJOINING LOT 20 IN D. REES'S SUBDIVISION OF LOT 30, BROOKS & CO'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.09 ACRES (3,750 SQUARE FEET).

4. The Mayor is authorized and directed to sign the Offers to Purchase and Quit Claim Deeds for the conveyances as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Quit Claim Deeds, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deeds, together with 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 these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deeds and a copy of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland  
 Lisa A. Wieland, Assistant City Attorney

psw

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

**CERTIFICATE**

I, P. Kay Cmelik, 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.

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 City Clerk

