



Roll Call Number

22-0814

Agenda Item Number

39

Date May 23, 2022

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HOLD HEARING FOR VACATION OF STREET RIGHT-OF-WAY LOCATED AT THE INTERSECTION OF COTTAGE GROVE AVENUE, KINGMAN BOULEVARD AND 25TH STREET AND LEASE TO DRAKE NEIGHBORHOOD ASSOCIATION FOR \$1000

WHEREAS, on June 8, 2020, by Roll Call No. 20-0901, the City Council of the City of Des Moines, Iowa voted to receive and file the recommendation from the City Plan and Zoning Commission to approve a request from the Drake Neighborhood Association, represented by Lori Calhoun (officer), to vacate a triangular segment of street right-of-way in the vicinity of the 2400 block of Cottage Grove at the intersection of Cottage Grove Avenue on the northeast, Kingman Boulevard on the south and 25th Street on the west, (hereinafter "Property") 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 applicant's expense; and
- (2) Any construction on the proposed vacation shall be in accordance with all administrative comments as part of a Site Plan review; and; and

WHEREAS, the City's Real Estate Division has negotiated a Lease Agreement ("Agreement") with Drake Neighborhood Association, P.O. Box 41128, Des Moines, Iowa, an Iowa non-profit corporation, for the purpose of installing and maintaining a monument sign, a memorial garden with swing, plantings and other decorative elements, and associated landscaping, which Agreement will include, among other terms, the following:

- a twenty (20) year lease term;
- an annual lease payment of Fifty Dollars (\$50.00), which amount reflects the fair market value of the leased area as currently estimated by the City's Real Estate Division;
- termination by either party for any reason upon thirty (30) days written notice to the other party; and

WHEREAS, there is no known current or future public need for the portion of street right-of-way proposed to be vacated and leased, and the City will not be inconvenienced by the vacation and lease of said property; and

WHEREAS, on May 9, 2022, by Roll Call No. 22-0693, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and lease of the triangular segment of street right-of-way be set for hearing on May 23, 2022, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate and lease the triangular segment of street right-of-way was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation and lease, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.



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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 lease of a vacating a triangular segment of street right-of-way in the vicinity of the 2400 block of Cottage Grove at the intersection of Cottage Grove Avenue on the northeast, Kingman Boulevard on the south and 25th Street on the west, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the triangular segment of street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the triangular segment of street right-of-way in the vicinity of the 2400 block of Cottage Grove at the intersection of Cottage Grove Avenue on the northeast, Kingman Boulevard on the south and 25th Street on the west, legally described as follows, and said vacation is hereby approved:

A PART OF LOT 188, UNIVERSITY LAND CO.'S FIRST ADDITION TO DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 189 OF SAID UNIVERSITY LAND CO.'S FIRST ADDITION TO DES MOINES; THENCE SOUTH 19' 41" EAST ALONG THE EAST LINE OF SAID LOT 189, A DISTANCE OF 38.23 FEET; THENCE NORTH 40' 19" EAST, 67.84 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 56°58'12" EAST,63.50 FEET; THENCE SOUTH 10°01'48" WEST,8.08 FEET; THENCE SOUTH 60° 04'32" WEST,60.00 FEET; THENCE NORTH 00° 08'06" EAST, 72.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.05 ACRES (2,119 S.F.).

3. The proposed lease of such vacated street right-of-way, as legally described above to Drake Neighborhood Association for twenty years for \$1,000.00, to be paid in annual \$50 payments, subject to any and all easements, restrictions and covenants of record, is hereby approved.
4. The Mayor is authorized and directed to sign the Lease Agreement 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 Lease Agreement, 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 Lease Agreement, 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.



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7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Lease Agreement and a copy of the other documents to the Lessee.

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

Moved by Mandelbaum to adopt. Second by Sheumaker.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

DM

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO				✓
MANDELBAUM	✓			
SHEUMAKER	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	10			1
MOTION CARRIED		APPROVED		

A. M. Frankin Cownie
Mayor

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.

P. Kay Cmelik City Clerk