

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF BEAVERDALE PARK, 3333 ADAMS AVENUE, LOCATED ALONG THE WESTERN PARK BOUNDARY, AND APPROVAL OF A LAND EXCHANGE AGREEMENT WITH STEVEN G. BERRY AND LINDA K. BERRY AS TRUSTEES OF THE STEVEN G. BERRY AND LINDA K. BERRY REVOCABLE TRUST U/A DATED APRIL 16, 2019

WHEREAS, the City of Des Moines, Iowa, (“City”) is the owner of certain parkland located in Beaverdale Park at 3333 Adams Avenue and lying south of and adjoining 3301 34th Street, Des Moines, Iowa and which encompasses the driveway access to 3301 34th Street (hereinafter “City Parcel”), more particularly described below; and

WHEREAS, Steven G. Berry and Linda K. Berry, Trustees of the Steven G. Berry and Linda K. Berry Revocable Trust U/A dated April 16, 2019, (“Seller”) are owners of 3301 34th Street, Des Moines, Iowa, a portion of which is required by the City of Des Moines Parks and Recreation Department for streambank stabilization and erosion control efforts within Beaverdale Park (hereinafter “Seller Parcel”), more particularly described below; and

WHEREAS, Steven G. Berry and Linda K. Berry, have offered to the City of Des Moines, Iowa, the Seller Parcel, as well as a ten-foot wide Permanent Easement for Ingress and Egress over property adjoining the Seller Parcel for access purposes in exchange for the City Parcel, described below, in order to assemble said City Parcel with its adjoining property for purposes of creating a private driveway access to their property at 3401 34th Street, subject to a reservation of easements therein, which represents an equitable exchange of value as determined by the City’s Real Estate Division and the City Parks and Recreation Director; and

WHEREAS, the property conveyed to the City by said land exchange agreement shall be assembled with the adjoining Beaverdale Park and shall be dedicated to as parkland; and

WHEREAS, there is no known current or future public need for the City Parcel proposed to be exchanged and the City will not be inconvenienced by the vacation and conveyance of said City Parcel.

WHEREAS, on November 7, 2022 by Roll Call No. 22-1723, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and land exchange agreement be set for hearing on November 21, 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 convey the City Parcel by a land exchange agreement was given as provided by law, setting forth the time and place for hearing on said proposal; and



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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 a portion of Beaverdale Park, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City Parcel proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a portion of Beaverdale Park lying south of and adjoining 3401 34th Street, Des Moines, Iowa legally described as follows, subject to the reservation of easements therein, and said vacation is hereby approved:

City Parcel:

A PART OF LOT 33, KINGMAN'S ORCHARD, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 33; THENCE NORTH 0°(DEGREES) 48'(MINUTES) 51"(SECONDS) WEST ALONG THE WEST LINE OF SAID LOT, 639.89 FEET TO THE NORTHWEST CORNER OF SAID LOT; THENCE SOUTH 89°38'33" EAST ALONG THE NORTH LINE OF SAID LOT, 104.65 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS IS 232.50 FEET, WHOSE ARC LENGTH IS 46.12 FEET AND WHOSE CHORD BEARS SOUTH 37°17'55" WEST, 46.05 FEET; THENCE SOUTH 31°36'56" WEST, 85.23 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS IS 49.50 FEET, WHOSE ARC LENGTH IS 31.11 FEET AND WHOSE CHORD BEARS SOUTH 13°36'43" WEST, 30.60 FEET; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 2787.50 FEET, WHOSE ARC LENGTH IS 154.59 FEET AND WHOSE CHORD BEARS SOUTH 2°48'11" EAST, 154.57 FEET; THENCE SOUTH 1°12'52" EAST, 345.82 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT; THENCE SOUTH 89°50'06" WEST ALONG SAID SOUTH LINE, 30.66 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.51 ACRES (22170 SQ. FT.).

3. The proposed exchange of the vacated parkland described above for property of equal value owned by the Steven G. Berry and Linda K. Berry Revocable Trust U/A dated April 16, 2019, Steven G. Berry and Linda K. Berry, Trustees, located at the west side of Beaverdale Park (Seller Parcel), and for a ten-foot wide Permanent Easement for Ingress and Egress over property adjoining the Seller Parcel, all as legally described below, is hereby approved:

Seller Parcel:

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A PART OF LOT 34, KINGMAN'S ORCHARD, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 34; THENCE NORTH 89°(DEGREES) 38'(MINUTES) 33"(SECONDS) WEST ALONG THE SOUTH LINE OF SAID LOT, 300.00 FEET; THENCE NORTH 53°41'12" EAST, 368.29 FEET TO A POINT ON THE EAST LINE OF SAID LOT; THENCE SOUTH 0°50'24" EAST ALONG SAID EAST LINE, 220.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.76 ACRES (32993 SQ. FT.).

Permanent Easement:

A 10.00 FEET WIDE EASEMENT BEING A PART OF LOT 34, KINGMAN'S ORCHARD, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 34; THENCE NORTH 89°(DEGREES) 38'(MINUTES) 33"(SECONDS) WEST ALONG THE SOUTH LINE OF SAID LOT, 300.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°38'33" WEST ALONG SAID SOUTH LINE, 16.74 FEET; THENCE NORTH 53°41'12" EAST, 388.85 FEET TO A POINT ON THE EAST LINE OF SAID LOT; THENCE SOUTH 0°50'24" EAST ALONG SAID EAST LINE, 12.28 FEET; THENCE SOUTH 53°41'12" WEST, 368.29 FEET TO THE POINT OF BEGINNING AND CONTAINING 3786 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Land Exchange Agreement, Quit Claim Deed, and acceptance of the Warranty Deed and Permanent Easement for Ingress and Egress for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon full execution of the Land Exchange Agreement and recording of the Warranty Deed by the City, said property (Seller Parcel) shall become dedicated parkland and shall be assembled with the adjoining Beaverdale Park.
6. The City Clerk is authorized and directed to forward the original of the Warranty Deed, the Quit Claim Deed, and the Permanent Easement for Ingress and Egress, 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.
7. The Real Estate Division Manager is authorized and directed to forward the original of the Warranty Deed, the Quit Claim Deed, and the Permanent Easement for Ingress and Egress, 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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8. 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 Deed and a copy of the other documents to the grantee.

9. There are no proceeds associated with this transaction.

Moved by Gatto to adopt. Second by Voss.

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.

MOTION CARRIED APPROVED
M. Frank Coover 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
Laura Baumgartner, City Clerk