



Roll Call Number

23-0934

Agenda Item Number

53

Date June 26, 2023

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HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AN UNDEVELOPED PORTION OF SOUTHWEST 4TH STREET RIGHT-OF-WAY LOCATED BETWEEN PORTER AVENUE AND DIEHL AVENUE AND CONVEYANCE OF A PORTION OF SAID VACATED RIGHT-OF-WAY TO MRL ENTERPRISES, LLC FOR \$150.00

WHEREAS, on May 8, 2023, by Roll Call No. 23-0645 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 request from Lisa Wertz and Kristopher Wertz (Contract Buyers), for vacation of approximately 283 lineal feet of undeveloped Southwest Fourth Street right-of-way bounded by Porter Avenue to the north and Diehl Avenue to the south, and to the west of and adjacent to the property at 315 Diehl Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and

WHEREAS, MRL Enterprises, LLC, owner of 315 Diehl Avenue, has offered to the City the purchase price of \$150.00 for the purchase of the east half of the portion of vacated Southwest Fourth Street right-of-way located west of and adjoining 315 Diehl Avenue; (hereinafter "Property") for incorporation into its adjoining residential property for expanded sideyard, 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 the vacated 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 alley 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 June 12, 2023, by Roll Call No. 23-0824, 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 June 26, 2023, 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 street right-of-way was given 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 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 SW 4th Street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of approximately 283 lineal feet of undeveloped Southwest Fourth Street right-of-way bounded by Porter Avenue to the north and Diehl Avenue to the south, legally described as follows, and said vacation is hereby approved:

A PART OF LOT H IN THE CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 32, BLOCK 3 IN SAID CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS; THENCE WEST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 32 TO THE WEST LINE OF SAID LOT H; THENCE NORTHWEST ALONG THE WEST LINE OF SAID LOT H TO THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 1 IN SAID BLOCK 3; THENCE EAST ALONG SAID WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 1 TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTHEAST ALONG THE WEST LINE OF SAID LOTS 1 AND 32 TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 0.32 ACRES (14,002 SQUARE FEET).

3. The proposed sale of the east half of the portion of vacated Southwest Fourth Street right-of-way located west of and adjoining 315 Diehl Avenue, as legally described below, to MRL Enterprises, LLC for \$150.00, subject to reservation of easements therein, is hereby approved:

A PART OF LOT H IN THE CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 32, BLOCK 3 IN SAID CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS; THENCE WEST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 32 TO THE CENTERLINE OF SAID LOT H; THENCE NORTHWEST ALONG THE CENTERLINE OF SAID LOT H TO THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 32; THENCE EAST ALONG SAID WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 32 TO THE NORTHWEST CORNER OF SAID LOT 32; THENCE SOUTHEAST ALONG THE WEST LINE OF SAID LOT 32 TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 0.08 ACRES (3,501 SQUARE FEET).

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance 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 Deed, 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.



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- 6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed, 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 Deed and a copies of the other documents to the grantee.
- 8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Gatto to adopt. Second by Boesen

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER				✓
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			1
MOTION CARRIES <input checked="" type="checkbox"/> APPROVED <input checked="" type="checkbox"/>				
<u>J. M. Frankin Cownie</u> 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