**No Change from Previous Reading**

# CITY OF WEST DES MOINES
# STAFF REPORT COMMUNICATION

**Meeting Date:** February 19, 2024

**ITEM:** Grand Avenue Reconstruction Project – Vacate 23,398 sq. ft. of right-of-way of Grand Avenue – City of West Des Moines – VAC-006290-2023

**ORDINANCE:** Approval of Second Reading, Waive Third and Adopt Ordinance Vacating Public Right-of-Way

**Background:** Jason Schlickbernd with the City of West Des Moines' Engineering Services Department, on behalf of the applicant and property owner, City of West Des Moines, requests approval of the vacation of that portion of excess right-of-way situated near the Southeast corner of Grand Avenue and Racoon River Drive. The roadway segment subject of this request has been determined by City staff to no longer be necessary. The purpose of this action is to vacate excess street right-of-way in anticipation of selling the property in conjunction with construction of the Grand Avenue Reconstruction, I-35 to S 60th Street Project. As part of the vacation, a Reservation of Permanent Easement is requested for the purpose of accessing any public utilities within the easement area. A temporary construction easement is for the purpose of the aforementioned project.

**Staff Review & Comment:**

- *History*: The subject property (Grand Avenue right-of-way) automatically became part of City streets network following annexation by the City of West Des Moines. In 1993, the Iowa DOT transferred underlying fee title that included one of the subject areas (2,472 sq. ft.) to the City of West Des Moines. In 1995, the City also acquired the underlying fee title that included the other subject area (20,926 sq. ft.) from North/South Investors, L.C. Now a part of the street, as defined in attached Exhibit "A", is to be vacated as it is no longer needed due to the Grand Avenue Reconstruction, I-35 to S 60th Street Project.
- *Disposition of the Property:* This action is for the vacation of the right-of-way only.
- *Public Utilities*: There are several known public utilities contained within these right-of-way areas (sanitary sewer, storm sewer and fiber) and they will remain. The city will reserve a permanent utility easement over the right-of-way areas for use by these utilities. The approval of the reservation of permanent easement is included in the City Council approval of this vacation.

**Outstanding Issues:** There are no outstanding issues.

Plan and Zoning Commission Action:

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|---|---|
| Date: | December 27, 2023 |
| Vote: | 6-0 for approval with Commissioner Conlin absent |
| Recommendation: | Approval of the Vacation |

City Council First Reading:
Date: February 5, 2024
Vote: 4-0 for approval; Council Member Doug Loots absent

City Council Second Reading:
Date:
Vote:

**Recommendation:** Approve the Second Reading, Waive Third and Adopt Ordinance Vacating Public Right-of-Way situated near the Southeast corner of Grand Avenue and Racoon River Drive

**Lead Staff Member: Jason Schlickbernd**

**Approval Meeting Dates:**

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|---|---|
| Plan & Zoning Commission | December 27, 2023 |
| City Council: First Reading | February 5, 2024 |
| City Council: Second Reading | February 19, 2024 |
| City Council: Third Reading | February 19, 2024 |

**Staff Report Reviews**

| | | |
|---|---|---|
| Plan & Zoning Commission | ☒ Development Coordinator/Director | ☒ Legal Department |
| City Council | ☒ Director<br>☐ Appropriations/Finance | ☐ Legal Department<br>☑ Agenda Acceptance |

**Publications**

| | |
|---|---|
| Published In | Des Moines Register |
| Date Published | December 20, 2023 |

**Subcommittee Review (if applicable)**

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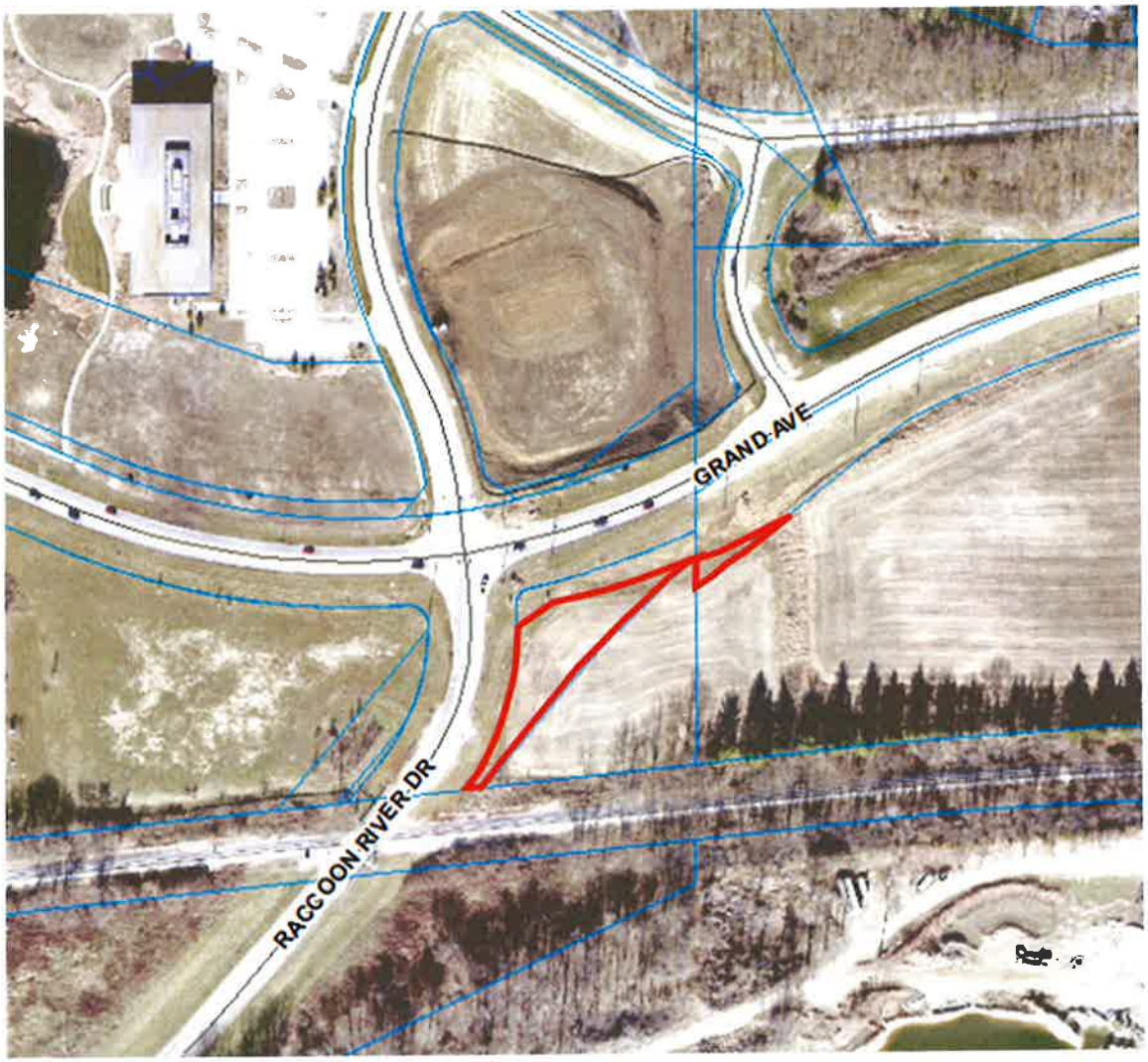
|---|---|---|---|
| Committee | Development & Planning | | |
| Date Reviewed | Not Presented | | |
| Recommendation | ☐ Yes | ☐ No | ☐ Split |

## Location Illustration



**A RESOLUTION OF THE PLAN AND ZONING COMMISSION**
**NO. PZC-23-064**

**WHEREAS,** pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, the applicant and property owner, City of West Des Moines, requests approval of the vacation of public street right-of-way for that portion of Grand Avenue situated near the Southeast corner of Grand Avenue and Racoon River Drive and as highlighted on the included location map.

**WHEREAS,** the request complies with the applicable provisions of the Comprehensive Plan and City Code.

**NOW THEREFORE,** the Plan and Zoning Commission of the City of West Des Moines recommends the City Council approve the Vacation of Public Right-of-Way (VAC-006290-2023).

**PASSED AND ADOPTED** on December 27, 2023.

Tina Shaw, Vice Chair
Plan and Zoning Commission

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on December 27, 2023, by the following vote:

AYES: Costa, Crowley, Davis, Hatfield, McCoy,Shaw

NAYS:

ABSTENTIONS:

ABSENT: Conlin

ATTEST:

Recording Secretary

Prepared by: Kara Tragesser, City of West Des Moines, Development Services Dept., P.O. Box 65320, West Des Moines, IA 50265-3620, 515-222-3620
When Recorded Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265-0320

**ORDINANCE NO.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:**

**Section 1.** Pursuant to Title 7, Chapter 1, Section 10 of the West Des Moines Code of Ordinances, "VACATION AND DISPOSAL", it has been determined that the public right-of-way legally described in attached Exhibit "A" is no longer necessary for public use and the vacation of the right-of-way will not deny access to abutting property.

**Section 2. Savings Clause.** If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

**Section 3. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the _____ day of _____, 2024
and approved this _____ day of _____, 2024.

_____
Russ Trimble, Mayor

ATTEST:

Ryan Jacobson, City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2024, and was published in the Des Moines Register on _____ , 2024.

**Exhibit A: Legal Description of Right-of-Way To Be Vacated**

A PORTION OF PARCEL F, AQUISITION PLAT GRAND AVENUE RIGHT OF WAY, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL F; THENCE 289.39 FEET ON A 1567.10 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 44°43'42" WEST, 288.98 FEET ON THE EAST LINE OF SAID PARCEL F; THENCE SOUTH 39°28'14" WEST, 138.18 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL F; THENCE SOUTH 84°24'34" WEST, 17.13 FEET ON THE SOUTH LINE OF SAID PARCEL F TO THE PRESENTLY ESTABLISHED EAST RIGHT OF WAY LINE OF RACCOON RIVER DRIVE; THENCE 235.90 FEET ON A 411.10 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING NORTH 17°34'23" EAST, 232.67 FEET ON SAID EAST RIGHT OF WAY LINE; THENCE NORTH 56°31'55" EAST, 59.91 FEET; THENCE 197.24 FEET ON A 1131.50 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING NORTH 72°38'20" EAST, 196.99 FEET TO THE POINT OF BEGINNING CONTAINING (20,926 SQUARE FEET) 0.48 ACRES, MORE OR LESS;