

ORDINANCE NO. 15,239

AN ORDINANCE vacating portions of the Court Avenue and 4th Street rights-of-way adjoining the Hotel Randolph and the adjacent Earl & Le Bosquet and Youngerman Block Buildings at the northwest corner of Court Avenue and 4th Street.

WHEREAS, all prior requirements of law pertaining to the vacation of public right-of-way have been fully observed; and

WHEREAS, it is desirable that the public right-of-way herein described be vacated; NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Section 1. That portions of the Court Avenue and 4th Street rights-of-way adjoining the Hotel Randolph and the adjacent Earl & Le Bosquet and Youngerman Block Buildings at the northwest corner of Court Avenue and 4th Street, more specifically described as follows, be and are hereby vacated:

AIR RIGHTS EASEMENT AREA A

All that portion of the area described as follows which lies above grade:  
A PART OF 4<sup>TH</sup> STREET RIGHT OF WAY LYING ADJACENT TO THE EASTERLY LINE OF LOT 8, BLOCK 21 AND A PART OF COURT AVENUE RIGHT OF WAY LYING ADJACENT TO THE SOUTHERLY LINE OF LOT 8, BLOCK 21 OF THE ORIGINAL TOWN OF FORT DES MOINES AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA; BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 8; THENCE NORTHWESTERLY ALONG SAID EASTERLY LINE TO THE SOUTH LINE OF THE NORTH 1/6<sup>TH</sup> OF SAID LOT 8; THENCE NORTHEASTERLY PERPENDICULAR TO SAID EASTERLY LINE, 4 FEET; THENCE SOUTHEASTERLY PARALLEL TO SAID EASTERLY LINE, 114.6 FEET; THENCE SOUTHWESTERLY PARALLEL TO SAID SOUTHERLY LINE, 70.4 FEET; THENCE NORTHWESTERLY PERPENDICULAR TO SAID SOUTHERLY LINE, 4 FEET TO THE SOUTHWEST CORNER OF SAID LOT 8; THENCE NORTHEASTERLY ALONG SAID SOUTHERLY LINE TO THE POINT OF BEGINNING AND CONTAINING 370 S.F.

AIR RIGHTS EASEMENT AREA B

All that portion of the area described as follows which lies more than 8 feet above grade, which shall be measured from the surface of the underlying public sidewalk:  
A PART OF 4<sup>TH</sup> STREET RIGHT OF WAY LYING ADJACENT TO THE EASTERLY LINE OF LOT 8, BLOCK 21 OF THE ORIGINAL TOWN OF FORT DES MOINES AN

OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA BEGINNING 42.6 FEET NORTHWESTERLY OF THE SOUTHEAST CORNER OF SAID LOT 8 MEASURED ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING; THENCE CONTINUING NORTHWESTERLY ALONG SAID EASTERLY LINE, 13 FEET; THENCE NORTHEASTERLY PERPENDICULAR TO SAID EASTERLY LINE, 10 FEET; THENCE SOUTHEASTERLY PARALLEL TO SAID EASTERLY LINE, 13 FEET; THENCE SOUTHWESTERLY PERPENDICULAR TO SAID EASTERLY LINE, 10 FEET TO THE POINT OF BEGINNING AND CONTAINING 130 S.F. **NOTE:** Air Rights Easement Area B overlaps with Air Rights Easement Area A by 52 square feet (4' x 13').

SUBSURFACE EASEMENT AREA A

All that portion of the area described as follows which lies below grade:  
A PART OF COURT AVENUE RIGHT OF WAY LYING ADJACENT TO THE SOUTHERLY LINE OF LOT 8, BLOCK 21 OF THE ORIGINAL TOWN OF FORT DES MOINES AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA BEGINNING 6 FEET SOUTHWESTERLY OF THE SOUTHEAST CORNER OF SAID LOT 8 MEASURED ALONG SAID SOUTHERLY LINE TO THE POINT OF BEGINNING; THENCE SOUTHEASTERLY PERPENDICULAR TO SAID SOUTHERLY LINE, 6 FEET; THENCE SOUTHWESTERLY PARALLEL TO SAID SOUTHERLY LINE, 16 FEET; THENCE SOUTHEASTERLY PERPENDICULAR TO SAID SOUTHERLY LINE, 10 FEET; THENCE SOUTHWESTERLY PARALLEL TO SAID SOUTHERLY LINE, 23 FEET; THENCE NORTHWESTERLY PERPENDICULAR TO SAID SOUTHERLY LINE, 16 FEET TO SAID SOUTHERLY LINE; THENCE NORTHEASTERLY ALONG SAID SOUTHERLY LINE TO THE POINT OF BEGINNING AND CONTAINING 0.01 AC (464 S.F).

SUBSURFACE EASEMENT AREA B

All that portion of the area described as follows which lies below grade:  
A PART OF 4<sup>TH</sup> STREET RIGHT OF WAY LYING ADJACENT TO THE EASTERLY LINE OF LOT 8, BLOCK 21 OF THE ORIGINAL TOWN FORT DES MOINES AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA BEGINNING 44 FEET NORTHWESTERLY OF THE SOUTHEAST CORNER OF SAID LOT 8 MEASURED ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING; THENCE CONTINUING NORTHWESTERLY ALONG SAID EASTERLY LINE, 23 FEET; THENCE NORTHEASTERLY PERPENDICULAR TO SAID EASTERLY LINE, 16 FEET; THENCE SOUTHEASTERLY PARALLEL TO SAID EASTERLY LINE, 23 FEET; THENCE SOUTHWESTERLY PERPENDICULAR TO SAID EASTERLY LINE, 16 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 AC (386 S.F).

Sec. 2. The City of Des Moines hereby reserves an easement upon the property described above for the continued use and maintenance of any utilities now in place, with the right of entry for servicing same.

Sec. 3. That the City Clerk is hereby authorized and directed to cause a certified copies of this ordinance and proof of publication thereof together with proof of publication of the notice of the public hearing on this matter to be properly filed in the office of the Recorder of Polk County, Iowa.

Sec. 4. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 13-1841), passed by the City Council of said City at a meeting held November 18, 2013 signed by the Mayor on November 18, 2013 and published and provided by law in the Business Record on December 6, 2013. Authorized by Publication Order No. 8647.

Diane Rauh, City Clerk