

ORDINANCE NO. 15,359

AN ORDINANCE vacating air space and subsurface rights within East Grand Avenue and subsurface rights within East 4th Street right-of-way adjoining 401 East Grand Avenue.

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:

Sec. 1. That air space and subsurface rights within East Grand Avenue and subsurface rights within East 4th Street right-of-way adjoining 401 East Grand Avenue, more specifically described as follows, be and is hereby vacated:

AREA 1 - AIR RIGHTS EASEMENT DESCRIPTION:

ALL OF THE AIR SPACE FOR THAT PART OF EAST GRAND AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND NORTH OF LOT 5, BLOCK 9 OF EAST FORT DES MOINES, 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 NORTHEAST CORNER OF LOT 4 OF SAID BLOCK 9; THENCE SOUTH 74°50'22" WEST ALONG THE NORTH LINE OF SAID LOT 4 AND SAID LOT 5, A DISTANCE OF 69.88 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 74°50'22" WEST ALONG SAID NORTH LINE OF LOT 5, A DISTANCE OF 36.94 FEET; THENCE NORTH 15°09'38" WEST, 12.00 FEET; THENCE NORTH 74°50'22" EAST, 37.00 FEET; THENCE SOUTH 14°54'28" EAST, 12.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (444 S.F.) WHICH IS BELOW A PLANE ELEVATION OF 48.21 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 41.42 FEET CITY DATUM. THE GROUND ELEVATION WITHIN SAID DESCRIPTION IS APPROXIMATELY 27.2 FEET.

AREA 2 - AIR RIGHTS EASEMENT DESCRIPTION:

ALL OF THE AIR SPACE FOR THAT PART OF EAST GRAND AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND NORTH OF LOTS 4 AND 5, BLOCK 9 OF EAST FORT DES MOINES, 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 NORTHEAST CORNER OF SAID LOT 4; THENCE SOUTH 74°50'22" WEST ALONG THE NORTH LINE OF SAID LOT 4, A

DISTANCE OF 31.63 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 74°50'22" WEST ALONG THE NORTH LINE OF SAID LOTS 4 AND 5, A DISTANCE OF 38.19 FEET; THENCE NORTH 15°09'38" WEST, 3.00 FEET; THENCE NORTH 74°50'22" EAST, 38.19 FEET; THENCE SOUTH 15°09'38" EAST, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 115 S.F. WHICH IS BELOW A PLANE ELEVATION OF 103.44 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 41.42 FEET CITY DATUM. THE GROUND ELEVATION WITHIN SAID DESCRIPTION IS APPROXIMATELY 28.4 FEET.

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

SUBSURFACE RIGHTS EASEMENT DESCRIPTION:

ALL THAT PART OF EAST GRAND AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND NORTH OF BLOCK 9 OF EAST FORT DES MOINES AND THAT PART OF EAST 4TH STREET RIGHT-OF-WAY LYING WEST OF THE EAST 47.5 FEET OF LOT 6 OF SAID BLOCK 9 OF EAST FORT DES MOINES, 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 NORTHEAST CORNER OF LOT 4 OF SAID BLOCK 9; THENCE SOUTH 74°50'22" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF EAST GRAND AVENUE, 167.50 FEET; THENCE SOUTH 15°24'21" EAST ALONG THE EAST RIGHT-OF-WAY LINE OF EAST 4TH STREET, 43.67 FEET; THENCE SOUTH 74°35'39" WEST, 5.00 FEET; THENCE NORTH 15°24'21" WEST, 48.69 FEET; THENCE NORTH 74°50'22" EAST, 205.42 FEET; THENCE SOUTH 15°09'38" EAST, 5.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SAID EAST GRAND AVENUE; THENCE SOUTH 74°50'22" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 32.90 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.03 ACRES (1,245 S.F.).

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

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 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:

Cori Kuhn Coleman
Assistant City Attorney