

ORDINANCE NO. 15,376

AN ORDINANCE vacating subsurface and surface rights within 4th Street, Court Avenue and 5th 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 subsurface and surface rights within 4th Street, Court Avenue and 5th Avenue, more specifically described as follows, be and is hereby vacated:

SUBSURFACE RIGHTS EASEMENT AREA DESCRIPTION:

A Subsurface Rights Easement below grade and across the portion of the vacated Court Avenue right-of-way, the vacated Southwest 4th Street right-of-way, and the vacated southwest 5th Avenue right-of-way, described as follows:

ALL THAT PART OF COURT AVENUE AND SOUTHWEST 4TH STREET RIGHT-OF-WAY LYING ADJACENT TO AND NORTH AND EAST OF BLOCK 20 OF 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 SAID BLOCK 20 OF FORT DES MOINES; THENCE SOUTH 74°13'02" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF COURT AVENUE, 152.99 FEET; THENCE NORTH 15°46'58" WEST, 2.00 FEET; THENCE NORTH 74°13'02" EAST, 155.00 FEET; THENCE SOUTH 15°22'54" EAST, 100.00 FEET; THENCE SOUTH 74°37'06" WEST, 2.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF SOUTHWEST 4TH STREET; THENCE NORTH 15°22'54" WEST ALONG SAID WEST LINE, 97.99 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (506 S.F.).

AND

ALL THAT PART OF SOUTHWEST 4TH STREET RIGHT-OF-WAY LYING ADJACENT TO AND EAST OF BLOCK 20 OF 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 SOUTHEAST CORNER OF LOT 8 OF SAID BLOCK 20 OF FORT DES MOINES; THENCE NORTH 15°22'54" WEST ALONG THE WEST RIGHT-OF-WAY LINE OF SOUTHWEST 4TH STREET, 90.00 FEET TO THE

POINT OF BEGINNING; THENCE CONTINUING NORTH 15°22'54" WEST ALONG SAID WEST LINE, 115.00 FEET; THENCE NORTH 74°37'06" EAST, 3.00 FEET; THENCE SOUTH 15°22'54" EAST, 115.00 FEET; THENCE SOUTH 74°37'06" WEST, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (345 S.F.).

AND

ALL THAT PART OF SOUTHWEST 5TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF BLOCK 20 OF 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 NORTHWEST CORNER OF SAID BLOCK 20 OF FORT DES MOINES; THENCE SOUTH 15°22'54" EAST ALONG THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST 5TH AVENUE, 90.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°22'54" EAST ALONG SAID EAST LINE, 85.00 FEET; THENCE SOUTH 74°37'06" WEST, 1.50 FEET; THENCE NORTH 15°22'54" WEST, 85.00 FEET; THENCE NORTH 74°37'06" EAST, 1.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (128 S.F.).

AND

ALL THAT PART OF SOUTHWEST 5TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF BLOCK 20 OF 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 SOUTHWEST CORNER OF LOT 5 OF SAID BLOCK 20 OF FORT DES MOINES; THENCE NORTH 15°22'54" WEST ALONG THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST 5TH AVENUE, 85.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 74°37'06" WEST, 4.00 FEET; THENCE NORTH 15°22'54" WEST, 60.00 FEET; THENCE NORTH 74°37'06" EAST, 4.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST 5TH AVENUE; THENCE SOUTH 15°22'54" EAST ALONG SAID EAST LINE, 60.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (240 S.F.).

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

SURFACE RIGHTS EASEMENT AREA DESCRIPTION:

A Surface Rights Easement above grade and across the vacated southwest 5th Avenue right-of-way, described as follows:

ALL THAT PART OF SOUTHWEST 5TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF BLOCK 20 OF 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 SOUTHWEST CORNER OF LOT 5 OF SAID BLOCK 20 OF FORT DES MOINES; THENCE NORTH 15°22'54" WEST ALONG THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST 5TH AVENUE, 85.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 74°37'06" WEST, 4.00 FEET; THENCE NORTH 15°22'54" WEST, 60.00 FEET; THENCE NORTH 74°37'06" EAST, 4.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST 5TH AVENUE; THENCE SOUTH 15°22'54" EAST ALONG SAID EAST LINE, 60.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (240 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:

Lisa A. Wieland, 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. 15-1063), passed by the City Council of said City at a meeting held June 22, 2015 signed by the Mayor on June 22, 2015 and published and provided by law in the Business Record on July 10, 2015. Authorized by Publication Order No. 9195.

Diane Rauh, City Clerk