

ORDINANCE NO. 15,615

AN ORDINANCE vacating the east-west alley right-of-way adjoining 322 East Court 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 the east-west alley right-of-way adjoining 322 East Court Avenue, more specifically described as follows, be and is hereby vacated:

ALL OF THE EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 8, 9 AND 10, BLOCK 2, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 2112 SQUARE FEET.

SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS 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. The City of Des Moines hereby further reserves a permanent no-build easement upon, over and within the Property. Grantee shall erect no structure, building, fence, or other improvement over or within the Property, other than surface paving, or a garbage enclosure installed on said paving that does not impede the easement reserved herein and is approved in writing by City's Community Development Department and Engineering Department, Traffic and Transportation Division, as applicable, or as otherwise consented to in writing by the City. The City of Des Moines also hereby further reserves a Permanent Easement for Public Vehicular Ingress and Egress. The Vehicular Access Easement and the Permanent No-Build Easement shall be lifted upon the satisfaction of all of the following conditions: 1) relocation of any and all utilities by Grantee, or Grantee's successors or assigns, off the Property at Grantee's or Grantee's successors or assigns' sole expense, 2) payment by Grantee, or Grantee's successors or assigns, of an additional \$41,000.00 to the City of Des Moines, Iowa, 3) approval by the City Council of the City of Des Moines, Iowa of a Release of Permanent No-Build Easement and the filing of same with the Polk County Recorder, and 3) approval by the City Council of the City of Des Moines, Iowa of a Release of Permanent Easement for Public Vehicular Ingress and Egress and the filing of same with the Polk County Recorder.

Sec. 4. Any future use of the vacated right-of-way shall be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted.

Sec. 5. 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. 17-1687), passed by the City Council of said City at a meeting held September 25, 2017 signed by the Mayor on September 25, 2017 and published and provided by law in the Business Record on October 13, 2017. Authorized by Publication Order No.10182.

Diane Rauh, City Clerk