

★ Roll Call Number

Agenda Item Number

46A

Date August 21, 2006

An Ordinance entitled, "AN ORDINANCE permanently vacating a portion of the East Court Avenue right-of-way, and air space above East Court Avenue and East 3<sup>rd</sup> Street, and the north/south alley, all adjoining 301 East Court Avenue",

presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

Ann DiDonato  
Ann DiDonato  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
VLASSIS				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

46A

Prepared by: Ann DiDonato, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, Iowa 50320 (515) 283-4130

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE permanently vacating a portion of the East Court Avenue right-of-way, and air space above East Court Avenue and East 3<sup>rd</sup> Street, and the north/south alley, all adjoining 301 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:

Section 1. That a portion of the East Court Avenue right-of-way, and air space above East Court Avenue and East 3<sup>rd</sup> Street, and the north/south alley, all adjoining 301 East Court Avenue, more specifically described as follows, be and is hereby vacated.

Encroachment Easement

The South 5.0 feet of the East 12.0 feet of the West 46.0 feet of East Court Avenue right-of-way lying North of and adjoining Lots 5 and 6, Block 3, Scott and Dean's Addition to Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, more particularly described as follows:

Commencing at the Northwest corner of said Lot 5; thence North 78°(degrees) 00'(minutes) 39"(seconds) East, along the southerly right-of-way line of said East Court Avenue, said line being the northerly line of said Lots 5 and 6, a distance of 34.00 feet to the point of beginning; thence North 11°59'21" West, 5.00 feet; thence North 78°00'39" East, 12.00 feet; thence South 11°59'21" East, 5.00 feet to a point on the southerly right-of-way line of said East Court Avenue; thence South 78°00'39" West, along the southerly right-of-way line of said East Court

DESCRIPTION APPROVED  
*[Signature]*  
11/16/06 14:10

46A

Avenue, said line being the northerly line of said Lots 5 and 6, a distance of 12.00 feet to the point of beginning, containing 60 square feet more or less.

Air Space

Air Space is all of the Air Space which is located above the South 5.00 feet of East Court Avenue right-of-way lying North of and adjoining Lots 5, 6 and 7, Block 3, Scott and Dean's Addition to Fort Des Moines, an Official Plat, and lying North of and adjoining the Vacated North/South alley right-of-way lying East of and adjoining said Lot 7, and all of the Air Space above the East 5.00 feet of East 3<sup>rd</sup> Street, lying West of and adjoining Lots 4 and 5 of said Block 3, and lying West of and adjoining the Vacated East/West alley right-of-way lying North of and adjoining said Lot 4, and all of the Air Space above the South 5.00 feet of East Court Avenue right-of-way lying North of and adjoining the East 5.00 feet of East 3<sup>rd</sup> Street right-of-way adjoining said Lot 5, which is below a plane with an elevation of 52.1 feet, City Datum, and which is above a plane with an elevation of 36.0 feet, City Datum, all now included in and forming a part of the City of Des Moines, Polk County Iowa, further described as follows:

DESCRIPTION ATTACHED  
James [Signature]  
8/14/06 14:10

Beginning at the Northwest corner of Lot 8 of said Block 3, Scott and Deans Addition to Fort Des Moines; thence South 78°(degrees) 00'(minutes) 39"(seconds) West along the southerly right-of-way line of East Court Avenue, and along line being the westerly extension of the northerly line of said Lot 8 and the northerly line of said Lots 7, 6 and 5, a distance of 148.07 feet, to the Northwest corner of said Lot 5; thence South 12°35'37" East along the westerly line of East 3<sup>rd</sup> Street right-of-way and along a line being the westerly line of said Lot 5 and its southerly extension and along the westerly line of said Lot 4, a distance of 215.88 feet to the Southwest corner of said Lot 4; thence South 77°24'23" West, 5.00 feet; thence North 12°35'37" West, 225.94 feet; thence North 78°00'39" East, 153.12 feet; thence South 11°59'21" East, 5.00 feet to the point of beginning. Containing 1845 sq ft. 100.00 feet = 23.5 feet (City Datum)

Alley

All that part of the North/South alley right-of-way lying East of and adjoining Lot 4, Block 3, Scott and Dean's Addition to Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

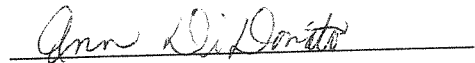
Sec. 2. The City of Des Moines hereby reserves an easement upon the property described above for the continued use and maintenance of any utilities now in place, with the right of entry for servicing same.

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.

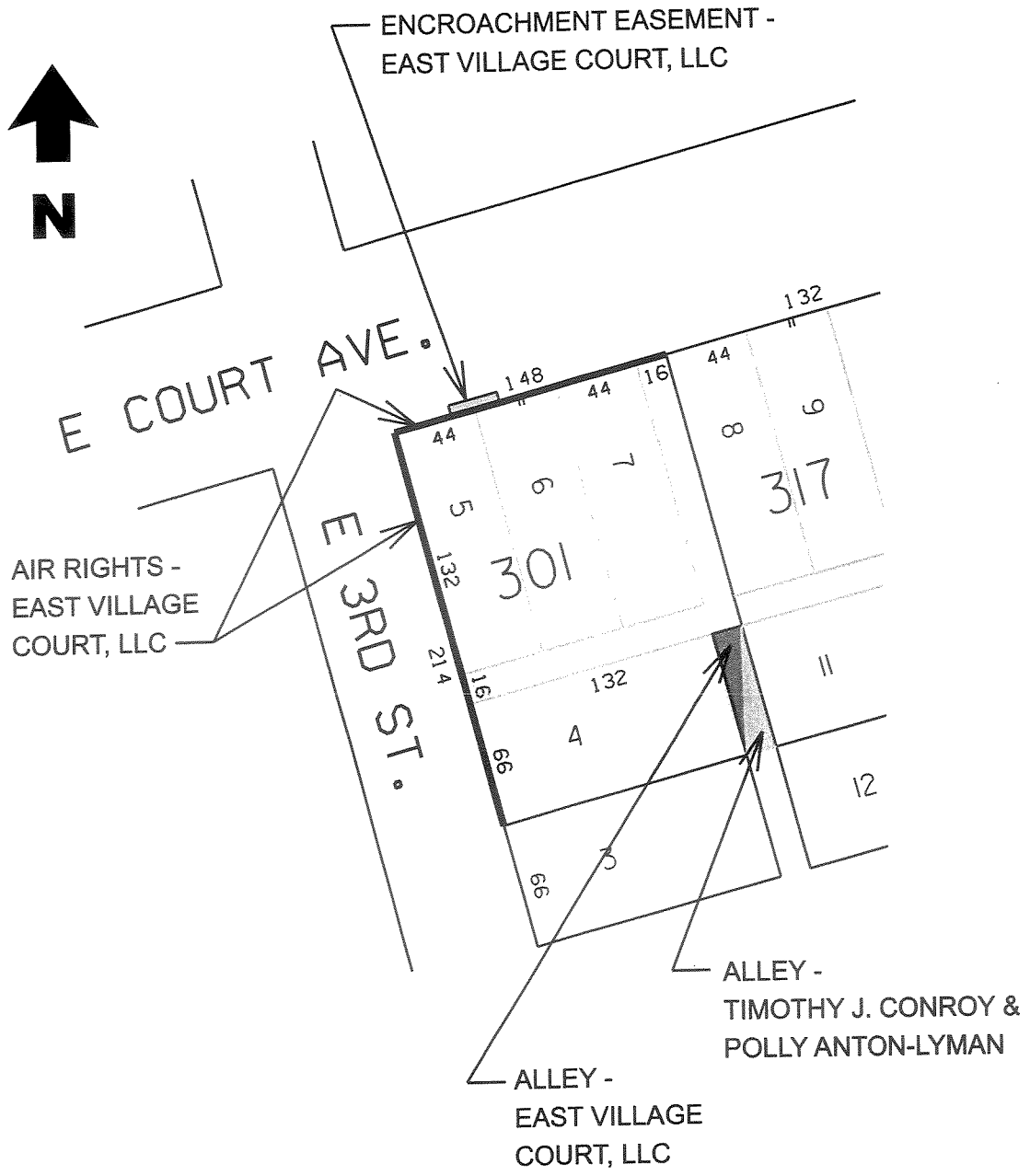
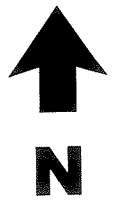
Sec. 4. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

A handwritten signature in cursive script, reading "Ann DiDonato", is written over a solid horizontal line.

Ann DiDonato  
Assistant City Attorney

46A



**PROPERTY DISPOSITION  
 301 EAST COURT AVENUE  
 ACTIVITY I.D. 34-2006-047**