

Date December 4, 2006

HOLD HEARING TO AMEND THE LEGAL DESCRIPTION FOR A PERMANENT EASEMENT FOR ENCROACHMENT ADJOINING 301 EAST COURT AVENUE PREVIOUSLY GRANTED TO EAST VILLAGE COURT, L.L.C. FOR \$370

WHEREAS, on March 20, 2006, by Roll Call No. 06-524, the City Council adopted a recommendation from the City Plan and Zoning Commission to vacate and convey a permanent encroachment easement for the steps to the building at 301 East Court Avenue; and

WHEREAS, on August 21, 2006, by Roll Call No. 06-1694, after notice and public hearing, the City Council approved the vacation and conveyance of an Encroachment Easement adjoining 301 East Village Court Avenue to East Village Court, L.L.C. for \$370; and

WHEREAS, because of a site plan design change, East Village Court, L.L.C. has requested that the location of the encroachment easement be amended; and

WHEREAS, the grantee identified below is the owner of property abutting such right-of-way and has offered to the City of Des Moines the purchase price identified below for the vacation and purchase of such right-of-way described below; and

WHEREAS, on November 20, 2006, by Roll Call No. 06-2298, it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way be set down for hearing on December 4, 2006, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of public right-of-way as described below are hereby overruled and the hearing is closed.

2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of an encroachment easement adjoining 301 East Court Avenue, more specifically described as follows:

★ Roll Call Number

Agenda Item Number

51

Dispositions – East Village Court, L.L.C.: Page 2

Date December 4, 2006

The South 5.0 feet of the East 12.0 feet of the West 48.0 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 36.00 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 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.

DESCRIPTION REVIEWED
11/15/06
[Signature]

3. That the sale and conveyance of such right-of-way, as described below, to East Village Court, L.L.C. for \$370, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

The vacated South 5.0 feet of the East 12.0 feet of the West 48.0 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 36.00 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 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.

4. The Mayor is authorized and directed to sign the Permanent Easement for Encroachment on City-owned Property for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is

★ Roll Call Number

Agenda Item Number

51

Dispositions – East Village Court, L.L.C.: Page 3

Date December 4, 2006

authorized and directed to forward the original of the said Easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Encroachment on City-owned Property and copies of the other documents to the grantees.

8. The proceeds from the sale of this property will be deposited into the following account: 2006-07 Operating Budget, Page 310, Property Maintenance, SP767.

(Council Communication No. 06-158)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Ann DiDonato
 Ann DiDonato
 Assistant City Attorney

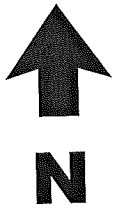
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
VLISSIS				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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.

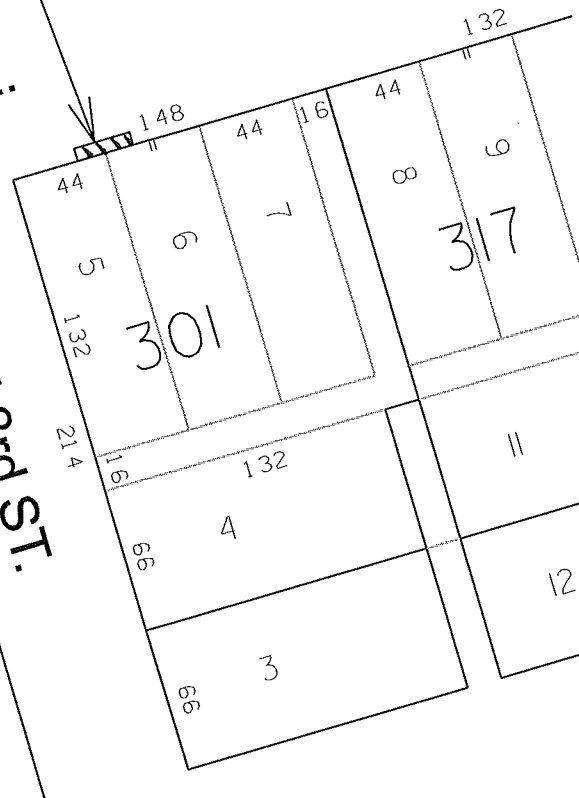
_____ City Clerk



ENCROACHMENT EASEMENT -
EAST VILLAGE COURT, LLC

E COURT AVE.

E 3rd ST.



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