



Roll Call Number

Agenda Item Number

29

Date May 4, 2015

An Ordinance entitled, "AN ORDINANCE vacating portions of Mulberry Street, 5th Avenue and Walnut Street rights-of-way adjoining 222 5th Avenue",

which was considered and voted upon under Roll Call No. 15- 0688 of April 20, 2015; again presented.

Moved by _____ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED		APPROVED		

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.

Mayor

City Clerk

Prepared by: Kathleen Vanderpool, Deputy City Attorney, 400 Robert D. Ray Drive, Des Moines, Iowa 50309 (515) 283-4945
 Return to: City Clerk's Office, 400 Robert D. Ray Drive, Des Moines, Iowa 50309

ORDINANCE NO. _____

AN ORDINANCE vacating portions of Mulberry Street, 5th Avenue and Walnut Street rights-of-way adjoining 222 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 certain identified interests of Mulberry Street, 5th Avenue and Walnut Street rights-of-way adjoining 222 5th Avenue, more specifically described as follows, be and is hereby vacated:

AIR RIGHTS - BUILDING CANOPIES

AREA 1

ALL OF THE AIR SPACE FOR THAT PART OF THE RIGHT-OF-WAY OF 5TH AVENUE LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID BLOCK 14 OF ORIGINAL TOWN OF FORT DES MOINES; THENCE NORTH 15°25'01" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 14, A DISTANCE OF 30.72 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°25'01" WEST ALONG SAID EAST LINE, 9.00 FEET; THENCE NORTH 74°34'59" EAST, 4.00 FEET; THENCE SOUTH 15°25'01" EAST, 9.00 FEET; THENCE SOUTH 74°34'59" WEST, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 36 S.F. WHICH IS BELOW A PLANE ELEVATION OF 44.70 FEET CITY DATUM AND

AREA 2

ALL OF THE AIR SPACE FOR THAT PART OF THE RIGHT-OF-WAY OF 5TH AVE LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID BLOCK 14 OF ORIGINAL TOWN OF FORT DES MOINES; THENCE NORTH 15°25'01" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 14, A DISTANCE OF 105.05 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°25'01" WEST ALONG SAID EAST LINE, 9.00 FEET; THENCE NORTH 74°34'59" EAST, 4.00 FEET; THENCE SOUTH 15°25'01" EAST, 9.00 FEET; THENCE SOUTH 74°34'59" WEST, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 36 S.F. WHICH IS BELOW A PLANE ELEVATION OF 44.90 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 43.90 FEET CITY DATUM, CURRENT GROUND ELEVATION 33.9 FEET.

AREA 3

ALL OF THE AIR SPACE FOR THAT PART OF THE RIGHT-OF-WAY OF 5TH AVE LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID BLOCK 14 OF ORIGINAL TOWN OF FORT DES MOINES; THENCE NORTH 15°25'01" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 14, A DISTANCE OF 142.41 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°25'01" WEST ALONG SAID EAST LINE, 27.00 FEET; THENCE NORTH 74°34'59" EAST, 4.00 FEET; THENCE SOUTH 15°25'01" EAST, 27.00 FEET; THENCE SOUTH 74°34'59" WEST, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 108 S.F. WHICH IS BELOW A PLANE ELEVATION OF 45.10 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 44.10 FEET CITY DATUM, CURRENT GROUND ELEVATION 34.2 FEET.

AIR RIGHTS - BUILDING FACADE

ALL OF THE AIR SPACE FOR THAT PART OF THE RIGHT-OF-WAY OF MULBERRY STREET, 5TH AVE AND WALNUT STREET LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF LOT 4 OF SAID BLOCK 14 OF ORIGINAL TOWN OF FORT DES MOINES; THENCE NORTH 74°12'44" EAST ALONG THE SOUTHERLY LINE OF SAID BLOCK 14, A DISTANCE OF 149.82 FEET TO THE SOUTHEASTERLY CORNER OF SAID BLOCK 14; THENCE NORTH 15°25'01" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 14, A DISTANCE OF 282.66 FEET TO THE NORTHEASTERLY CORNER OF SAID BLOCK 14; THENCE SOUTH 74°10'07" WEST ALONG THE NORTHERLY LINE OF SAID BLOCK 14, A DISTANCE OF 149.93 FEET TO THE NORTHEAST CORNER OF LOT 1 OF SAID BLOCK 14; THENCE SOUTH 74°12'30" WEST ALONG THE NORTH LINE OF SAID LOT 1, BLOCK 14, A DISTANCE OF 4.00 FEET; THENCE NORTH 15°26'19" WEST, 4.00 FEET; THENCE NORTH 74°12'30" EAST, 4.00 FEET; THENCE NORTH 74°10'07" EAST, 153.93 FEET; THENCE SOUTH 15°25'01"EAST, 290.66 FEET; THENCE SOUTH 74°12'44" WEST, 153.82 FEET; THENCE SOUTH 74°10'00" WEST, 4.00 FEET; THENCE NORTH 15°26'19" WEST, 4.00 FEET TO THE SOUTHERLY LINE OF SAID BLOCK 14; THENCE NORTH 74°10'00" EAST ALONG SAID SOUTHERLY LINE, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.06 ACRES (2,394 SF) WHICH IS BELOW A PLANE ELEVATION OF 96.00 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 47.10 FEET CITY DATUM, CURRENT GROUND ELEVATION RANGE BETWEEN 33.8 - 34.5 FEET.

ENCROACHMENT

A PART OF THE RIGHT-OF-WAY OF MULBERRY STREET, 5TH AVE AND WALNUT STREET LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF LOT 4 OF SAID BLOCK 14 OF ORIGINAL TOWN OF FORT DES MOINES; THENCE NORTH 74°12'44" EAST ALONG THE SOUTHERLY LINE OF SAID BLOCK 14, A DISTANCE OF 149.82 FEET TO THE SOUTHEASTERLY CORNER OF SAID BLOCK 14; THENCE NORTH 15°25'01" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 14, A DISTANCE OF 282.66 FEET TO THE NORTHEASTERLY CORNER OF SAID BLOCK 14; THENCE SOUTH 74°10'07" WEST ALONG THE NORTHERLY LINE OF SAID BLOCK 14, A DISTANCE OF 149.93 FEET TO THE NORTHEASTERLY CORNER OF LOT 1 OF SAID BLOCK 14; THENCE NORTH 15°26'19" WEST ALONG THE EASTERLY LINE OF SAID LOT 1 EXTENDED NORTHEASTERLY, 1.20 FEET; THENCE NORTH 74°10'07" EAST, 151.13 FEET; THENCE SOUTH 15°25'01"EAST, 284.86 FEET; THENCE SOUTH 74°12'44" WEST, 151.02 FEET TO THE EASTERLY LINE OF SAID LOT 4 EXTENDED SOUTHEASTERLY; THENCE NORTH 15°26'19" WEST ALONG SAID EASTERLY LINE OF LOT 4 EXTENDED SOUTHEASTERLY, 1.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.02 ACRES (672 SF).

ENCROACHMENT - DOOR OPENING

AREA 1 - ENCROACHMENT

THAT PART OF THE RIGHT-OF-WAY OF 5TH AVENUE LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES; THENCE NORTH 15°25'01" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 14, A DISTANCE OF 30.72 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°25'01" WEST ALONG SAID EASTERLY LINE, 4.50 FEET; THENCE NORTH 74°34'59" EAST, 4.00 FEET; THENCE SOUTH 15°25'01" EAST, 4.50 FEET; THENCE SOUTH 74°34'59" WEST, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 18 S.F.

AREA 2 - ENCROACHMENT

THAT PART OF THE RIGHT-OF-WAY OF 5TH AVENUE LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES; THENCE NORTH 15°25'01" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 14, A DISTANCE OF 108.69 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°25'01" WEST ALONG SAID EASTERLY LINE, 4.50 FEET; THENCE NORTH 74°34'59" EAST, 4.00 FEET; THENCE SOUTH 15°25'01" EAST, 4.50 FEET; THENCE SOUTH 74°34'59" WEST, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 18 S.F.

AREA 3 - ENCROACHMENT

THAT PART OF THE RIGHT-OF-WAY OF 5TH AVENUE LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES; THENCE NORTH 15°25'01" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 14, A DISTANCE OF 145.93 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°25'01" WEST ALONG SAID EASTERLY LINE, 20.00 FEET; THENCE NORTH

74°34'59" EAST, 4.00 FEET; THENCE SOUTH 15°25'01" EAST, 20.00 FEET; THENCE SOUTH 74°34'59" WEST, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 80 S.F.

AREA 4 - ENCROACHMENT

THAT PART OF THE RIGHT-OF-WAY OF 5TH AVENUE LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES; THENCE NORTH 15°25'01" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 14, A DISTANCE OF 254.05 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°25'01" WEST ALONG SAID EASTERLY LINE, 8.00 FEET; THENCE NORTH 74°34'59" EAST, 4.00 FEET; THENCE SOUTH 15°25'01" EAST, 8.00 FEET; THENCE SOUTH 74°34'59" WEST, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 32 S.F.

AREA 5 - ENCROACHMENT

THAT PART OF THE RIGHT-OF-WAY OF MULBERRY STREET LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES; THENCE SOUTH 74°12'44" WEST ALONG THE SOUTHERLY LINE OF SAID BLOCK 14, A DISTANCE OF 112.26 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°47'16" EAST, 4.00 FEET; THENCE SOUTH 74°12'44" WEST, 4.50 FEET; THENCE NORTH 15°47'16" WEST, 4.00 FEET TO SAID SOUTHERLY LINE; THENCE NORTH 74°12'44" EAST ALONG SAID SOUTHERLY LINE, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 18 S.F.

AREA 6 - ENCROACHMENT

THAT PART OF THE RIGHT-OF-WAY OF WALNUT STREET LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF SAID BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES; THENCE SOUTH 74°10'07" WEST ALONG THE NORTHERLY LINE OF SAID BLOCK 14, A DISTANCE OF

112.16 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 74°10'07" WEST ALONG SAID NORTHERLY LINE, 8.00 FEET; THENCE NORTH 15°49'53" WEST, 4.00 FEET; THENCE NORTH 74°10'07" EAST, 8.00 FEET; THENCE SOUTH 15°49'53" EAST, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 18 S.F.

AREA 7 - ENCROACHMENT

THAT PART OF THE RIGHT-OF-WAY OF WALNUT STREET LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF SAID BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES; THENCE SOUTH 74°10'07" WEST ALONG THE NORTHERLY LINE OF SAID BLOCK 14, A DISTANCE OF 140.59 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 74°10'07" WEST ALONG SAID NORTHERLY LINE, 8.00 FEET; THENCE NORTH 15°49'53" WEST, 4.00 FEET; THENCE NORTH 74°10'07" EAST, 8.00 FEET; THENCE SOUTH 15°49'53" EAST, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 18 S.F.

SUBSURFACE ENCROACHMENT

A PART OF THE RIGHT-OF-WAY OF MULBERRY STREET, 5TH AVE AND WALNUT STREET LYING ADJACENT TO BLOCK 14 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

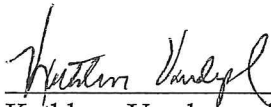
BEGINNING AT THE SOUTHEASTERLY CORNER OF LOT 4 OF SAID BLOCK 14 OF ORIGINAL TOWN OF FORT DES MOINES; THENCE NORTH 74°12'44" EAST ALONG THE SOUTHERLY LINE OF SAID BLOCK 14, A DISTANCE OF 149.82 FEET TO THE SOUTHEASTERLY CORNER OF SAID BLOCK 14; THENCE NORTH 15°25'01" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 14, A DISTANCE OF 282.66 FEET TO THE NORTHEASTERLY CORNER OF SAID BLOCK 14; THENCE SOUTH 74°10'07" WEST ALONG THE NORTHERLY LINE OF SAID BLOCK 14, A DISTANCE OF 149.93 FEET TO THE NORTH- EASTERLY CORNER OF LOT 1 OF SAID BLOCK 14; THENCE NORTH 15°26'19" WEST ALONG THE EASTERLY LINE OF SAID LOT 1 EXTENDED NORTHEASTERLY, 11.00 FEET; THENCE NORTH 74°10'07" EAST, 158.13 FEET; THENCE SOUTH 15°25'01"EAST, 301.86 FEET; THENCE SOUTH 74°12'44" WEST, 158.02 FEET TO THE EASTERLY LINE OF SAID LOT 4 EXTENDED SOUTHEASTERLY; THENCE NORTH 15°26'19" WEST ALONG SAID EASTERLY LINE OF LOT 4 EXTENDED SOUTHEASTERLY, 8.20 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.12 ACRES (5,353 SF).

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, appearing to read "Kathleen Vanderpool", is written over a horizontal line.

Kathleen Vanderpool
Deputy City Attorney