



Roll Call Number

Agenda Item Number

49A

Date October 12, 2015

An Ordinance entitled, "AN ORDINANCE vacating portions of Southwest 4th Street and West Martin Luther King, Jr. Parkway (also known as Elm Street) adjoining 300 West Martin Luther King Jr. Parkway",

presented.

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

FORM APPROVED:

(First of three required readings)

Lisa A. Wieland
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
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

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Prepared by: Lisa A. Wieland, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, Iowa 50309 (515) 283-4124
Return to: City Clerk's Office, 400 Robert D. Ray Drive, Des Moines, Iowa 50309

ORDINANCE NO. _____

AN ORDINANCE vacating portions of Southwest 4th Street and West Martin Luther King, Jr. Parkway (also known as Elm Street) adjoining 300 West Martin Luther King Jr. Parkway.

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 vacating portions of Southwest 4th Street and West Martin Luther King, Jr. Parkway (also known as Elm Street) adjoining 300 West Martin Luther King Jr. Parkway, more specifically described as follows, be and is hereby vacated:

All that part of SW 4th Street lying East of and adjoining Lots 54 through 63 inclusive in Railroad Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa,

And

That part of West Martin Luther King Jr. Parkway (former Elm Street) right-of-way being more particularly described as follows:

Beginning at the Northeast corner of Lot 54 in Railroad Addition, an Official Plat; thence North 15°(degrees) 19'(minutes) 11"(seconds) West, 54.40 feet along the northerly extension of the West right-of-way line of SW 4th Street; thence North 80°01'27" East, 122.41 feet; thence South 15°44'55" East, 32.08 feet to the North line of that 10 foot strip of right-of-way previously vacated by Ordinance No. 15,378 and conveyed to Green Ltd., L.C. by that Quit Claim Deed filed in Book 15636, Page 653 in the Office of the Recorder for Polk County, Iowa; thence South 74°15'05" West, 76.13 feet along the North line of said previously vacated right-of-way to the northerly extension of the East right-of-way line of SW 4th Street; thence South 15°19'11" East, 10.00 feet along the northerly extension of the East right-of-way line of SW 4th Street to the Northwest corner of Lot 1 in Green Colonial Place Plat 2, an Official Plat; thence South 74°15'05" West,

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46.00 feet to the point of beginning. All now included in and forming a part of the City of Des Moines, Polk County, Iowa, and containing 18,028 square feet.

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 vacation of the property is subject to the following:

- (1) Reservation of any necessary easements for all existing utilities in place, including known water and sanitary sewer mains, until such time that they are abandoned or are relocated.
- (2) Provision of private drive connections to West Martin Luther King, Jr. Parkway and Southwest 5th Street from 300 West Martin Luther King, Jr. Parkway, if determined necessary following further discussion with the City Traffic Engineer regarding the need and requirements for provision of private access easements for separately owned private properties adjoining to the west.
 - (a) This vacation shall not become effective until such time that Eychaner Holdings, Inc. has provided the City of Des Moines with the aforementioned access easement to be reviewed and subject to the approval of the Legal Department of the City of Des Moines. This condition shall be deemed satisfied upon the recording of an affidavit from the Real Estate Manager acknowledging all conditions have been satisfied.
- (3) The access from remaining Elm Street to the west shall be closed with a permanent barrier, including a curb and a landscaped berm.
- (4) Restoration of the vacated Elm Street right-of-way by the purchaser in accordance with an administratively approved site plan.

Sec. 4. 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. 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