

★ Roll Call Number

Agenda Item Number

47A

Date November 7, 2016


An Ordinance entitled, "AN ORDINANCE vacating air space and subsurface rights in portions of Southeast 5th Street, Southeast 6th Street and East Elm Street right-of-way all adjoining 220 Southeast 6th Street",

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				
MOORE				
WESTERGAARD				
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

47A

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 air space and subsurface rights in portions of Southeast 5th Street, Southeast 6th Street and East Elm Street right-of-way all adjoining 220 Southeast 6th Street.

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 air space and subsurface rights in portions of Southeast 5th Street, Southeast 6th Street and East Elm Street right-of-way all adjoining 220 Southeast 6th Street, more specifically described as follows, be and is hereby vacated:

SUBSURFACE:

EXH-1

A ONE FOOT SUBSURFACE FOOTING EASEMENT BEING A PART OF EAST ELM STREET RIGHT-OF-WAY LYING BETWEEN SOUTHEAST 5TH STREET AND SOUTHEAST 6TH STREET BEING LOCATED IN MARKET SQUARE IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE SOUTH HALF OF SAID MARKET SQUARE IN THE TOWN OF DE MOINE; THENCE S14°54'27"E, 1.00 FEET; THENCE S74°58'01"W, 206.02 FEET; THENCE N15°01'59"W, 1.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF EAST ELM STREET; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE N74°58'01"E, 206.02 FEET TO THE POINT OF BEGINNING. DESCRIBED EASEMENT CONTAINS 206 SQUARE FEET AND IS SUBJECT TO OTHER EASEMENTS, AND RESTRICTIONS OF RECORD; AND FURTHER SUBJECT TO ORDINANCE NOS. 157 AND 1067;

EXH-2

A ONE FOOT SUBSURFACE FOOTING EASEMENT BEING A PART OF SOUTHEAST 5TH STREET RIGHT-OF-WAY LYING BETWEEN EAST ELM STREET AND EAST MARKET STREET BEING LOCATED IN MARKET SQUARE IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTH HALF OF THE SOUTH HALF OF MARKET SQUARE OF SAID MARKET SQUARE IN THE TOWN OF DE MOINE; THENCE S74°58'01"W, 1.00 FEET; THENCE N14°48'50"W, 13.50 FEET; THENCE N74°58'01"E, 1.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF SOUTHEAST 5TH STREET; THENCE ALONG SAID EAST RIGHT-OF-WAY LINE S14°48'50"E, 13.50 FEET TO THE POINT OF BEGINNING. DESCRIBED EASEMENT CONTAINS 14 SQUARE FEET AND IS SUBJECT TO OTHER EASEMENTS AND RESTRICTIONS OF RECORD;

AIR SPACE:

EXH-3

A FOUR FOOT AIR RIGHTS EASEMENT BEING A PART OF EAST ELM STREET RIGHT-OF-WAY LYING BETWEEN SOUTHEAST 5TH STREET AND SOUTHEAST 6TH STREET BEING LOCATED IN MARKET SQUARE IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE SOUTH HALF OF SAID MARKET SQUARE IN THE TOWN OF DE MOINE; THENCE ALONG THE NORTH RIGHT-OF-WAY LINE OF EAST ELM STREET S74°58'01"W, 167.36 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE S74°58'01"W, 26.00 FEET; THENCE S15°01'59"E, 4.00 FEET; THENCE N74°58'01"E, 26.00 FEET; THENCE N15°01'59"W, 4.00 FEET TO THE POINT OF BEGINNING. DESCRIBED EASEMENT CONTAINS 104 SQUARE FEET AND IS SUBJECT TO OTHER EASEMENTS, AND RESTRICTIONS OF RECORD; AND FURTHER SUBJECT TO ORDINANCE NOS. 157 AND 1067.

ASSUMING A FINISHED FLOOR ELEVATION OF 18.45 FEET (CITY OF DES MOINES VERTICAL DATUM), THE BOTTOM OF CANOPY ELEVATION IS APPROXIMATELY 29.37 FEET (CITY OF DES MOINES VERTICAL DATUM), AND THE TOP OF CANOPY ELEVATION IS APPROXIMATELY 31.05 FEET (CITY OF DES MOINES VERTICAL DATUM);

EXH-4

A TWO FOOT AIR RIGHTS EASEMENT BEING A PART OF SOUTHEAST 6TH STREET RIGHT-OF-WAY LYING BETWEEN EAST ELM STREET AND EAST MARKET STREET BEING LOCATED IN MARKET SQUARE IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE SOUTH HALF OF SAID MARKET SQUARE IN THE TOWN OF DE MOINE; THENCE ALONG THE WEST RIGHT-OF-WAY OF SOUTHEAST 6TH STREET N14°54'27"W, 53.45 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE N14°54'27"W, 11.10 FEET; THENCE N75°05'33"E, 2.00 FEET; THENCE S14°54'27"E, 11.10 FEET; THENCE S75°05'33"W, 2.00 FEET TO THE POINT OF BEGINNING. DESCRIBED EASEMENT CONTAINS 22 SQUARE FEET AND IS SUBJECT TO OTHER EASEMENTS AND RESTRICTIONS OF RECORD.

ASSUMING A FINISHED FLOOR ELEVATION OF 18.45 FEET (CITY OF DES MOINES VERTICAL DATUM), THE BOTTOM OF CANOPY ELEVATION IS APPROXIMATELY 32.42 FEET (CITY OF DES MOINES VERTICAL DATUM), AND THE TOP OF CANOPY ELEVATION IS APPROXIMATELY 33.69 FEET (CITY OF DES MOINES VERTICAL DATUM);

EXH-5

A ONE FOOT AIR RIGHTS EASEMENT BEING A PART OF SOUTHEAST 6TH STREET RIGHT-OF-WAY LYING BETWEEN EAST ELM STREET AND EAST MARKET STREET BEING LOCATED IN MARKET SQUARE IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE SOUTH HALF OF SAID MARKET SQUARE IN THE TOWN OF DE MOINE; THENCE ALONG THE WEST RIGHT-OF-WAY OF SOUTHEAST 6TH STREET N14°54'27"W, 50.58 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE N14°54'27"W, 70.04 FEET; THENCE N75°05'33"E, 1.00 FEET; THENCE S14°54'27"E, 70.04 FEET; THENCE S75°05'33"W, 1.00 FEET TO THE POINT OF BEGINNING. DESCRIBED EASEMENT CONTAINS 70 SQUARE FEET AND IS SUBJECT TO OTHER EASEMENTS AND RESTRICTIONS OF RECORD.


ASSUMING A FINISHED FLOOR ELEVATION OF 18.45 FEET (CITY OF DES MOINES VERTICAL DATUM), THE BOTTOM OF PARAPET ELEVATION IS APPROXIMATELY 63.45 FEET (CITY OF DES MOINES VERTICAL DATUM), AND A TOP OF PARAPET ELEVATION IS APPROXIMATELY 65.14 FEET (CITY OF DES MOINES VERTICAL DATUM);

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:



Lisa A. Wieland
Assistant City Attorney