

★ Roll Call Number

Agenda Item Number
46B-1

Date February 6, 2017


An Ordinance entitled, "AN ORDINANCE vacating an irregular portion of street right-of-way from the southeast corner of School Street and 6th Avenue, and an irregular portion of street right-of-way from the southwest corner of School Street and 5th Avenue, both adjoining 921 6th Avenue",

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

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 an irregular portion of street right-of-way from the southeast corner of School Street and 6th Avenue, and an irregular portion of street right-of-way from the southwest corner of School Street and 5th Avenue, both adjoining 921 6th 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 an irregular portion of street right-of-way from the southeast corner of School Street and 6th Avenue, and an irregular portion of street right-of-way from the southwest corner of School Street and 5th Avenue, both adjoining 921 6th Avenue, more specifically described as follows, be and is hereby vacated:

That part of Public Right-of-way for 6th Avenue and School Street adjoining Block "E" of River Hills Plat 1, an Official Plat, now included in and forming a part of the City of Des Moines, Iowa which is more particularly described as follows: Commencing at the Southwesterly corner of said Block "E"; thence on an assumed bearing of N 00°16'10" W, along the Westerly line of said Block "E", 539.00 feet to the Point of Beginning; thence N 00°16'10" W, 29.83 feet; thence N 44°43'50" E, 35.07 feet; thence S 89°25'58" E, 25.20 feet to the Northwesterly line of said Block "E"; thence S 42°23'19" W, along said Northwesterly line, 73.78 feet to the Point of Beginning.

AND

That part of Public Right-of-way for 5th Avenue and School Street adjoining Block "E" of River Hills Plat 1, an Official Plat, now included in and forming a part of the City of Des Moines, Iowa which is more particularly described as follows: Commencing at the Southeasterly corner of said Block "E"; thence on an assumed bearing of N 00°11'41" W, along the Easterly line of said Block "E", 198.00 feet to the Point of Beginning; thence

Northerly 124.92 feet on a non-tangential curve to the left having a radius of 1218.08 feet, a central angle of 05°52'33", and a chord which bears N 06°50'43" W, for 124.86 feet; thence N 11°53'33" W, 88.53 feet; thence Northerly 97.39 feet on a tangential curve to the right having a radius of 850.00 feet, having a central angle of 06°33'54", and a chord which bears N 08°36'36" W, for 97.34 feet; thence N 05°19'39" W, 30.50 feet; thence Northerly 23.42 feet on a tangential curve to the left having a radius of 148.76 feet, a central angle of 09°01'20", and a chord which bears N 09°50'19" W, for 23.40 feet; thence N 43°39'55" W, 50.57 feet; thence N 89°25'58" W, 102.51 feet to the Northeasterly line of said Block "E"; thence along the Northeasterly line of said Block "E" the following courses: S 38°12'23" E, 84.64 feet; thence S 89°25'58" E, 5.00 feet; thence S 24°07'41" E, 39.62 feet; thence S 00°17'20" E, 30.00 feet; thence S 89°25'48" E, 11.00 feet; thence S 20°08'47" E, 141.01 feet; thence S 20°21'35" E 64.18 feet; thence S20°07'14" E, 77.09 feet; thence S 89°25'58" E, 9.83 feet to the Point of Beginning.

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 City of Des Moines hereby reserves the following permanent no-build easement:

Grantee and Grantee's successors and assigns shall erect no structure, building or other improvement above grade over or within the Property. This restriction shall not preclude the construction of a garbage enclosure, driveway, parking lot or sidewalk, and associated driveway, parking lot or sidewalk improvements, so long as such improvements do not interfere in any way with the utilities on the Property, or as otherwise consented to, in writing, by Grantor. This easement shall run with the land but shall be lifted at any time after all of the following occur:

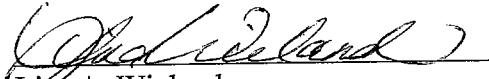
- a) Relocation of all utilities by Grantee and/or Grantee's successors and assigns off the Property at the sole expense of Grantee and/or Grantee's successors and assigns or the written acknowledgment of abandonment of such utilities by the Grantor and/or applicable utility; and
- b) Payment to Grantor by Grantee and/or Grantee's successors and assigns of \$99,556.00, said amount being the difference between the full Fair Market Value of the Property and the restricted Fair Market Value paid by Grantee at this time; and
- c) Written release of said no-build restriction by the Grantor.

Sec. 4. All site and landscaping improvements shall be further subject to the approval of a Site Plan by the City of Des Moines Plan and Zoning Commission.

Sec. 5. 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. 6. 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 "Lisa A. Wieland", written over a horizontal line.

Lisa A. Wieland
Assistant City Attorney