

★ Roll Call Number

Agenda Item Number

52A

Date September 25, 2017


An Ordinance entitled, "AN ORDINANCE vacating the east-west alley right-of-way lying north of and adjoining 322 East Court 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 the east-west alley right-of-way adjoining 322 East Court 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 the east-west alley right-of-way adjoining 322 East Court Avenue, more specifically described as follows, be and is hereby vacated:

ALL OF THE EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 8, 9 AND 10, BLOCK 2, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 2112 SQUARE FEET.

SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.

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 further reserves a permanent no-build easement upon, over and within the Property. Grantee shall erect no structure, building, fence, or other improvement over or within the Property, other than surface paving, or a garbage enclosure installed on said paving that does not impede the easement reserved herein and is approved in writing by City's Community Development Department and Engineering Department, Traffic and Transportation Division, as applicable, or as otherwise consented to in writing by the City. The City of Des Moines also hereby further reserves a Permanent Easement for Public Vehicular Ingress and Egress. The Vehicular Access Easement and the Permanent No-Build Easement shall be lifted upon the satisfaction of all of the following conditions: 1) relocation of any and all utilities by Grantee, or

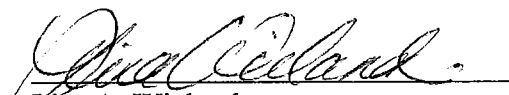
52A

Grantee's successors or assigns, off the Property at Grantee's or Grantee's successors or assigns' sole expense, 2) payment by Grantee, or Grantee's successors or assigns, of an additional \$41,000.00 to the City of Des Moines, Iowa, 3) approval by the City Council of the City of Des Moines, Iowa of a Release of Permanent No-Build Easement and the filing of same with the Polk County Recorder, and 3) approval by the City Council of the City of Des Moines, Iowa of a Release of Permanent Easement for Public Vehicular Ingress and Egress and the filing of same with the Polk County Recorder.

Sec. 4. Any future use of the vacated right-of-way shall be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted.

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