

★ Roll Call Number

Agenda Item Number

37A

Date December 2, 2019


An Ordinance entitled, "AN ORDINANCE vacating segments of East 3<sup>rd</sup> Street, East Walnut Street and alley right-of-way adjoining 304 East Walnut 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				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

**CERTIFICATE**

I, P. Kay Cmelik, 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

37A

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 segments of East 3<sup>rd</sup> Street, East Walnut Street and alley right-of-way adjoining 304 East Walnut 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 segments of East 3<sup>rd</sup> Street, East Walnut Street and alley right-of-way adjoining 304 East Walnut Street, more specifically described as follows, be and is hereby vacated:

EAST WALNUT EASEMENT:

A RECTANGULAR SHAPED PORTION OF THE E. WALNUT STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOTS 1 THROUGH 6 INCLUSIVE, IN STEWART & HEUGLE'S SUBDIVISION OF LOT 1, BLOCK 1, IN SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, IS DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 6; THENCE S77°54'25"W ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 8.53 FEET TO THE POINT OF BEGINNING; THENCE S17°08'11"E, A DISTANCE OF 0.79 FEET; THENCE S72°51'49"W, A DISTANCE OF 6.00 FEET; THENCE N17°08'11"W, A DISTANCE OF 0.90 FEET; THENCE S77°51'49"W, A DISTANCE OF 26.82 FEET; THENCE S12°00'37"E, A DISTANCE OF 1.26 FEET; THENCE S77°51'49"W, A DISTANCE OF 7.00 FEET; THENCE N12°00'37"W, A DISTANCE OF 1.24 FEET; THENCE S77°51'49"W, A DISTANCE OF 16.62 FEET; THENCE S12°08'11"E, A DISTANCE OF 4.00 FEET; THENCE S77°51'49"W, A DISTANCE OF 24.00 FEET; THENCE N12°08'11"W, A DISTANCE OF 4.00 FEET; THENCE S77°51'49"W, A DISTANCE OF 7.27 FEET; THENCE S12°08'11"E, A DISTANCE OF 4.00 FEET; THENCE S77°51'49"W, A DISTANCE OF 24.00 FEET; THENCE N12°08'11"W, A DISTANCE OF 3.75 FEET; THENCE S77°51'49"W, A DISTANCE OF 9.67 FEET; THENCE N12°08'11"W, A DISTANCE OF 0.75 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE N77°54'25"E ALONG THE SOUTH LINE OF SAID LOTS 1 THROUGH 6 INCLUSIVE, A DISTANCE OF 121.36 FEET TO THE POINT OF BEGINNING. SAID EASEMENT CONTAINS 262 SQUARE FEET.

EAST 3rd STREET EASEMENT:

AN IRREGULAR SHAPED PORTION OF THE E. THIRD STREET RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 1 IN STEWART & HEUGLE'S SUBDIVISION OF LOT 1, BLOCK 1, IN SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, AND WEST OF AND ADJOINING LOT 2 IN BLOCK 1, SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, AND THE INTERVENING ALLEY IN SAID BLOCK 1, ALL IN DES MOINES, POLK COUNTY, IOWA, IS DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE N17°14'03"W ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 17.68 FEET TO THE POINT OF BEGINNING; THENCE S72°51'49"W, A DISTANCE OF 2.11 FEET; THENCE N17°08'11"W, A DISTANCE OF 86.92 FEET; THENCE N72°51'49"E, A DISTANCE OF 1.96 FEET; THENCE N17°14'03"W, A DISTANCE OF 22.75 FEET; THENCE S72°51'49"W, A DISTANCE OF 1.17 FEET; THENCE N17°08'11"W, A DISTANCE OF 24.00 FEET; THENCE N72°51'49"E, A DISTANCE OF 1.13 FEET TO THE WEST LINE OF SAID LOT 2; THENCE S17°14'03"E ALONG THE EAST LINE OF THE E 3RD STREET RIGHT OF WAY AS IT IS PRESENTLY ESTABLISHED, A DISTANCE OF 133.67 FEET TO THE POINT OF BEGINNING. SAID EASEMENT CONTAINS 205 SQUARE FEET.

EAST ALLEY EASEMENT:

AN IRREGULAR SHAPED PORTION OF THE NORTH/SOUTH ALLEY RIGHT OF WAY LYING EAST OF AND ADJOINING LOT 6 IN STEWART & HEUGLE'S SUBDIVISION OF LOT 1, BLOCK 1, IN SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, AND EAST OF AND ADJOINING LOT 2 IN BLOCK 1, SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, AND THE INTERVENING ALLEY IN SAID BLOCK 1, ALL IN DES MOINES, POLK COUNTY, IOWA, IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE N72°49'23"E ALONG THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 3.50 FEET; THENCE S17°08'11"E, A DISTANCE OF 5.30 FEET; THENCE S72°51'49"W, A DISTANCE OF 2.00 FEET; THENCE S17°08'11"E, A DISTANCE OF 119.65 FEET; THENCE N72°51'49"E, A DISTANCE OF 1.25 FEET; THENCE S17°08'11"E, A DISTANCE OF 9.00 FEET; THENCE S72°51'49"W, A DISTANCE OF 0.75 FEET; THENCE S17°08'11"E, A DISTANCE OF 41.19 FEET; THENCE S72°51'49"W, A DISTANCE OF 2.00 FEET; THENCE N17°08'11"W ALONG THE EAST LINE OF SAID LOT 6 AND THE EAST LINE OF SAID LOT 2, A DISTANCE OF 175.13 FEET TO THE POINT OF BEGINNING. SAID EASEMENT CONTAINS 305 SQUARE FEET.

NORTH ALLEY EASEMENT:

AN IRREGULAR SHAPED PORTION OF THE EAST/ WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOT 2 IN BLOCK 1, SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT AND THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 2, ALL IN DES MOINES, POLK COUNTY, IOWA, IS DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE N72°49'23"E ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 1.39 FEET TO THE POINT OF BEGINNING; THENCE N17°08'11"W, A DISTANCE OF 1.80 FEET; THENCE N72°51'49"E, A DISTANCE OF 5.00 FEET; THENCE S17°08'11"E, A DISTANCE OF 1.50 FEET; THENCE N72°51'49"E, A DISTANCE OF 121.00 FEET; THENCE N17°08'11"W, A DISTANCE OF 2.50 FEET; THENCE N72°51'49"E, A DISTANCE OF 8.00 FEET; THENCE S17°08'11"E, A DISTANCE OF 2.70 FEET; THENCE S72°49'23"W ALONG THE NORTH LINE OF SAID LOT 2 AND ITS EASTERLY EXTENSION, A DISTANCE OF 134.00 FEET TO THE POINT OF BEGINNING. SAID EASEMENT CONTAINS 61 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 City of Des Moines hereby reserves necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the applicant's expense.

Sec. 4. The vacation is subject to any development that incorporates the subject right-of-way shall comply with all Site Plan requirements:

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:

  
\_\_\_\_\_  
Lisa A. Wieland  
Assistant City Attorney