



**Roll Call Number**

**Agenda Item Number**

61A

**Date** October 23, 2023

An Ordinance entitled, "AN ORDINANCE vacating the air and subsurface rights-of-way within 13th Street, Falcon Drive, Mulberry Street, and a north/south alleyway all adjoining 1301 Mulberry Street",

presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage. Second by \_\_\_\_\_.

FORM APPROVED:

(First of three required readings)

/s/ Chas M. Cahill  
Chas M. Cahill  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	

**CERTIFICATE**

I, **LAURA BAUMGARTNER**, 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.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

6/1A

Prepared by: Chas M. Cahill, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, Iowa 50309 (515) 283-4533  
Return to: City Clerk's Office, 400 Robert D. Ray Drive, Des Moines, Iowa 50309

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE vacating the air and subsurface rights-of-way within 13th Street, Falcon Drive, Mulberry Street, and a north/south alleyway all adjoining 1301 Mulberry Street.

WHEREAS, all prior requirements of law pertaining to the vacation of public rights-of-way have been fully observed; and

WHEREAS, it is desirable that the public rights-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 a portion of the air and subsurface rights-of-way within 13th Street, Falcon Drive, Mulberry Street, and a north/south alleyway all adjoining 1301 Mulberry Street, more specifically described as follows, be and is hereby vacated:

AIR RIGHTS

A PART OF MULBERRY STREET RIGHT OF WAY, A PART OF 13TH/ STREET RIGHT OF WAY, A PART OF FALCON DRIVE RIGHT OF WAY, AND A PART OF THE NORTH/SOUTH ALLEY RIGHT OF WAY IN BLOCK 34, KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND BEING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 8 IN BLOCK 34 IN KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES; THENCE S29°20'46"W A DISTANCE OF 11.37 FEET TO THE POINT OF BEGINNING; THENCE N15°21'07"W A DISTANCE OF 148.99 FEET; THENCE N73°29'18"E A DISTANCE OF 148.36 FEET; THENCE S15°25'33"E A DISTANCE OF 150.43 FEET; THENCE S74°02'40"W A DISTANCE OF 148.53 FEET TO THE POINT OF BEGINNING, EXCEPT LOTS 8 & 9 BLOCK 34 KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES,

LYING BETWEEN ELEVATIONS 50.57 AND 95.33 FEET, CITY OF DES MOINES DATUM (REFERENCE GROUND LEVEL ELEVATION OF 36.85 FEET, CITY OF DES MOINES DATUM, AT THE POINT OF COMMENCEMENT OF THE ABOVE-DESCRIBED LOCATION). HORIZONTALLY CONTAINING 4,382 SQUARE FEET, MORE OR LESS.

SUBSURFACE RIGHTS

A PART OF MULBERRY STREET RIGHT OF WAY, A PART OF 13TH/ STREET RIGHT OF WAY, A PART OF FALCON DRIVE RIGHT OF WAY, AND A PART OF THE NORTH/SOUTH ALLEY RIGHT OF WAY IN BLOCK 34, KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND BEING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 8 IN BLOCK 34 IN KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES; THENCE S29°20'46"W A DISTANCE OF 11.37 FEET TO THE POINT OF BEGINNING; THENCE N15°21'07"W A DISTANCE OF 148.99 FEET; THENCE N73°29'18"E A DISTANCE OF 148.36 FEET; THENCE S15°25'33"E A DISTANCE OF 150.43 FEET; THENCE S74°02'40"W A DISTANCE OF 148.53 FEET TO THE POINT OF BEGINNING, EXCEPT LOTS 8 & 9 BLOCK 34 KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES. CONTAINING 4,382 SQUARE FEET, MORE OR LESS. THE ABOVE-DESCRIBED AREA IS INTENDED TO ENCOMPASS THE ENTIRETY OF THE SUBSURFACE STRUCTURE BENEATH 1301 MULBERRY STREET WHICH EXTENDS INTO THE RIGHT-OF-WAY OF MULBERRY STREET, 13TH STREET, FALCON DRIVE AND ALLEY.

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:

---

Chas M. Cahill  
Assistant City Attorney