



**Roll Call Number**

20-0227

**Agenda Item Number**

16

**Date** February 10, 2020

**SET HEARING FOR APPROVAL OF DOCUMENTS TO CORRECT THE VACATION OF PORTIONS OF EAST 4<sup>TH</sup> STREET, DES MOINES STREET AND EAST 5<sup>TH</sup> STREET RIGHT-OF-WAY ADJOINING 415 AND 421 DES MOINES STREET, AND CONVEYANCE OF A CORRECTED PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO 555 E FOURTH PARKING, LLC**

**WHEREAS**, on November 19, 2018, by Roll Call No. 18-1943, the City Council of the City of Des Moines, Iowa voted to approve the vacation of the subsurface rights in the east 2.0 feet of East 4<sup>th</sup> Street, the south 4.5 feet of Des Moines Street and the west 3.0 feet of East 5<sup>th</sup> Street right-of-way adjoining the property located south of Des Moines Street between East 4<sup>th</sup> Street and East 5<sup>th</sup> Street, formerly locally known as 415 and 421 Des Moines Street, Des Moines, Iowa, and conveyance of a Permanent Easement for Subsurface Building Encroachment on City-owned Property in such vacated right-of-way to 555 E Fourth Parking, LLC; and

**WHEREAS**, said Permanent Easement for Subsurface Building Encroachment on City-owned Property (hereinafter "Easement") was filed of record with the Polk County Recorder's Office on December 14, 2018, in Book 17183, Pages 745-762; and

**WHEREAS**, subsequent to the filing, the Polk County Auditor's Office discovered an error in the legal description of the Easement; and

**WHEREAS**, 555 E Fourth Parking, LLC, owner of 415 and 421 Des Moines Street, has asked the City of Des Moines to issue a Corrected Permanent Easement for Subsurface Building Encroachment on City-owned Property in order to correct the scrivener's error in the legal description of the vacation ordinance and Easement recorded on December 14, 2018 in Book 17183, Pages 745-762; and

**WHEREAS**, there is no public need or benefit for the subsurface rights proposed to be vacated and conveyed, and the public would not be inconvenienced by reason of the vacation and conveyance of the Corrected Permanent Easement for Subsurface Building Encroachment on City-owned Property.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, as follows:

1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the subsurface rights in the east 2.0 feet of East 4<sup>th</sup> Street, the south 4.5 feet of Des Moines Street, and the west 3.0 feet of East 5<sup>th</sup> Street right-of-way adjoining the property located south of Des Moines Street between East 4<sup>th</sup> Street and East 5<sup>th</sup> Street, formerly locally known as 415 and 421 Des Moines St, legally described as follows:

A PART OF THE EAST 4TH STREET, EAST 5TH STREET, AND DES MOINES STREET RIGHTS-OF-WAY LYING ADJACENT TO LOT 1, BLOCK 10, EAST FORT DES MOINES, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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COMMENCING AT THE NORTHEAST OF CORNER OF LOT 2, CITY CENTER PLAT NO. 1, AN OFFICIAL PLAT; THENCE NORTH 74°47'22" EAST, 80.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF E. 4TH STREET AND TO THE POINT OF BEGINNING; THENCE SOUTH 15°17'24" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 142.21 FEET; THENCE SOUTH 74°49'57" WEST, 2.00 FEET; THENCE NORTH 15°17'24" WEST, 146.71 FEET; THENCE NORTH 74°47'22" EAST, 344.75 FEET; THENCE SOUTH 15°20'33" EAST, 155.35 FEET; THENCE SOUTH 74°50'22" WEST, 3.00 FEET TO THE EAST LINE OF SAID LOT 1; THENCE NORTH 15°20'33" WEST ALONG SAID EAST LINE, 150.85 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 74°47'22" WEST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 339.76 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.05 ACRES (2,288 S.F.);

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD

- A public hearing shall be held on February 24, 2020, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.
- The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.
- There are no proceeds associated with this conveyance.

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland  
Lisa A. Wieland, Assistant City Attorney

PCW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED  
P. M. Frankhu Cowme Mayor

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.

P. Kay Cmelik City Clerk