



21-1499

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**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF CITY OF DES MOINES STREET RIGHT-OF-WAY LOCATED NORTH OF MARTIN LUTHER KING, JR. PARKWAY AND WEST OF SOUTHEAST 6<sup>TH</sup> STREET AS PART OF THE MARKET DISTRICT REDEVELOPMENT PROJECT**

**WHEREAS**, on June 8, 2020, by Roll Call No. 20-0914 the City Council of the City of Des Moines approved the preliminary terms of a development agreement with The District Developer, LLC for the phased master planned redevelopment of 11 blocks of property within the Market District, including the purchase and redevelopment of City-owned property within the Market District; and

**WHEREAS**, on February 22, 2021, by Roll Call No. 21-0260 the City Council of the City of Des Moines received and filed a recommendation from the City Plan and Zoning Commission to approve a City-initiated request to vacate segments of City right-of-way within an area generally bounded by East Vine Street on the north, East Martin Luther King, Jr. Parkway on the south, Southeast 5th Street on the east, and Southeast 3rd Street on the west, within the Market District, to accommodate right-of-way acquisitions needed to reconfigure block areas for redevelopment in accordance with the Market District at East Village Large-Scale Development Plan, subject to reservation of easements for any existing utilities until such time that they are abandoned or relocated as part of redevelopment of the Market District at East Village area at the expense of private developers or in accordance with a development agreement with the City of Des Moines:

- A) Segment of the west side of Southeast 3<sup>rd</sup> Street between East Vine Street and East Market Street.
- B) Southeast 3<sup>rd</sup> Street from the south side of East Market Street to a point 71.90 feet north.
- C) East Market Street from Southeast 3<sup>rd</sup> Street to Southeast 4<sup>th</sup> Street.
- D) Segment of the west side of Southeast 4<sup>th</sup> Street between East Market Street and Vacated East Elm Street.
- E) Segment of the west side of Southeast 4<sup>th</sup> Street between Vacated East Elm Street to the south side of Vacated Raccoon Street.
- F) Segment of the west side of Southeast 4<sup>th</sup> Street between Vacated Raccoon Street and East M. L. King Jr. Parkway.
- G) Segment of the east side of Southeast 4<sup>th</sup> Street between East Vine Street and Vacated East Market Street.
- H) Segment of the east side of Southeast 4<sup>th</sup> Street at Vacated East Market Street.
- I) Segment of the east side of Southeast 4<sup>th</sup> Street between Vacated East Market Street and East Elm Street.
- J) Segment of the east side of Southeast 4<sup>th</sup> Street between East Elm Street and East Raccoon Street.
- K) Segment of the east side of Southeast 4<sup>th</sup> Street at Vacated Raccoon Street.
- L) Segment of the east side of Southeast 4<sup>th</sup> Street between Vacated Raccoon Street and East M.L. King Jr. Parkway.



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- M) Segment of the west side of Southeast 5<sup>th</sup> Street between East Vine Street and Vacated East Market Street.
- N) Segment of the west side of Southeast 5<sup>th</sup> Street at Vacated East Market Street.
- O) Segment of the west side of Southeast 5<sup>th</sup> Street between Vacated East Market Street and East Elm Street.
- P) Segment of the west side of Southeast 5<sup>th</sup> Street between Vacated East Elm Street and Raccoon Street.
- Q) Segment of the west side of Southeast 5<sup>th</sup> Street at Vacated Raccoon Street.
- R) Segment of the west side of Southeast 5<sup>th</sup> Street between Vacated Raccoon Street and East M.L. King Jr. Parkway.
- S) Segment of the east side of Southeast 5<sup>th</sup> Street between East Vine Street and East Market Street.
- T) Segment of East Market Street from Southeast 5<sup>th</sup> Street to Southeast 6<sup>th</sup> Street; and

**WHEREAS**, on August 9, 2021, by Roll Call No. 21-1285 the City Council of the City of Des Moines voted to approve the vacation of a segment of Southeast 3<sup>rd</sup> Street right-of-way and segments of Southeast 4<sup>th</sup> Street right-of way (E and F above), subject to the reservation of easements therein, to be incorporated with Block 6 and Block 7 in the Market District for conveyance to The District Developer, LLC per the terms of the development agreement; and

**WHEREAS**, The District Developer, LLC has requested the vacation of the remaining segments of street and alley right-of-way within the Market District generally bounded by East Vine Street on the north, East Martin Luther King, Jr. Parkway on the south, Southeast 5th Street on the east, and Southeast 3rd Street on the west, in order to be able to finalize the Plat of Survey for the conveyance of the City-owned property interests within the Market District to The District Developer, LLC; subject to the reservation of any necessary easements for all existing utilities in place until such time as they may be abandoned or relocated; and

**WHEREAS**, there is no known current or future public need or benefit for the right-of-way proposed to be vacated and the City will not be inconvenienced by the vacation of said right-of-way, subject to the reservation of any necessary easements for all existing utilities in place until such time as they may be abandoned or relocated; and

**WHEREAS**, on September 13, 2021, by Roll Call No. 21-1410, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the right-of-way be set for hearing on August 9, 2021, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to vacate the remaining segments of street and alley right-of-way within the Market District generally bounded by East Vine Street on the north, East Martin Luther King, Jr. Parkway on the south, Southeast 5th Street on the east, and Southeast 3rd Street on the west, subject to the reservation of any necessary easements for all existing utilities in place until such time as they may be abandoned or relocated; and



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WHEREAS, in accordance with City Council direction, those interested in the proposed vacation, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of street and alley right-of-way within the Market District generally bounded by East Vine Street on the north, East Martin Luther King, Jr. Parkway on the south, Southeast 5th Street on the east, and Southeast 3rd Street on the west, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said right-of-way, legally described as follows, and said vacation is hereby approved, subject to the reservation of any necessary easements for all existing utilities in place until such time as they may be abandoned or relocated:

All that part of the alley Right of Way located in Block 7, Scott and Dean's Addition, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Alley Right of Way lying between the southerly line of the vacated Raccoon Street Right of Way and the northerly line of the East Martin Luther King Jr Parkway Right of Way and between Lots 5 and 6, said Block 7. Area contains 1,130 square feet.

AND

That part of SE 4th Street Right of Way lying westerly of Block 17, Town of De Moine, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Commencing at the northwest corner of said Block 17; thence South 15 degrees 03 minutes 44 seconds East, along the westerly line of said Block 17, a distance of 110.56 feet to the point of beginning; thence South 74 degrees 50 minutes 39 seconds West, 0.57 feet; thence South 15 degrees 03 minutes 55 seconds East, 165.12 feet; thence North 74 degrees 46 minutes 32 seconds East, 0.56 feet to a point on said westerly line; thence North 15 degrees 03 minutes 44 seconds West, along said westerly line, a distance of 165.12 feet to the Point of Beginning.

Area contains 93 square feet.



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**BASIS OF BEARING:** The orientation of this bearing system is based on the westerly line of Block 17. Said line bears North 15 degrees 03 minutes 44 seconds West.

IARCS - Zone 8

**AND**

That part of SE 4th Street Right of Way lying easterly of Block 5, Scott and Dean's Addition, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Commencing at the northeast corner of said Block 5; thence South 15 degrees 03 minutes 42 seconds East, along the easterly line of said Block 5, a distance of 2.03 feet to the Point of Beginning; thence North 74 degrees 46 minutes 32 seconds East, 0.54 feet; thence South 15 degrees 03 minutes 55 seconds East, 271.52 feet; thence South 74 degrees 44 minutes 00 seconds West, 0.56 feet to a point on said easterly line; thence North 15 degrees 03 minutes 42 seconds West, along said easterly line, a distance of 271.52 feet to said Point of Beginning.

Area contains 148 square feet.

**BASIS OF BEARING:** The orientation of this bearing system is based on the easterly line of Block 5. Said line bears North 15 degrees 03 minutes 42 seconds West.

IARCS - Zone 8

**AND**

That part of SE 4th Street Right of Way lying westerly of Block 44, Town of De Moine, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Beginning at the northwest corner of said Block 44; thence South 74 degrees 48 minutes 36 seconds West, 0.58 feet; thence South 15 degrees 03 minutes 55 seconds West, 91.87 feet; thence North 89 degrees 20 minutes 27 seconds East, 0.81 feet to a point on the westerly line of said Block 44; thence North 15 degrees 11 minutes 37 seconds West, on said westerly line, a distance of 92.07 feet to said Point of Beginning.

Area contains 63 square feet.

**BASIS OF BEARING:** The orientation of this bearing system is based on the West line Block 44. Said line bears North 15 degrees 11 minutes 37 seconds West.

IARCS - Zone 8

AND

That part of SE 5th Street right of way lying easterly of Lots 9 and 10, Block 44, Town of De Moine, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Beginning at the northeast corner of said Block 44; thence North 74 degrees 48 minutes 41 seconds East, 6.15 feet; thence South 15 degrees 00 minutes 20 seconds East, 111.88 feet; thence South 74 degrees 49 minutes 48 seconds West, 6.27 feet to a point on the easterly line of said Block 44; thence North 14 degrees 56 minutes 39 seconds West, along said easterly line, a distance of 111.88 feet to said Point of Beginning.

Area contains 695 square feet.

**BASIS OF BEARING:** The orientation of this bearing system is based on the East line Block 44. Said line bears North 14 degrees 56 minutes 39 seconds West.

IARCS - Zone 8

AND

That part of SE 4th Street Right of Way lying westerly of Block 31, Town of De Moine, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Beginning at the southwest corner of said Block 31; thence South 74 degrees 47 minutes 47 seconds West, 0.74 feet; thence North 15 degrees 03 minutes 55 seconds West, 274.48 feet; thence North 74 degrees 44 minutes 00 seconds East, 1.24 feet to a point on the westerly line of said Block 31; thence South 14 degrees 57 minutes 38 seconds East along said westerly line, a distance of 274.48 feet to said Point of Beginning.

Area contains 271 square feet.

AND

That part of SE 5th Street Right of Way lying easterly of Block 31, Town of De Moine, an Official Plat included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Beginning at the southeast corner of said Block 31; thence North 75 degrees 51 minutes 49 seconds East, 6.08 feet; thence North 14 degrees 57 minutes 22 seconds West, 274.95 feet; thence South 74 degrees 44 minutes 00 seconds West, 6.02 feet to a point on the easterly

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line of said Block 31; thence South 14 degrees 56 minutes 39 seconds East, along said easterly line, a distance of 274.83 feet to the Point of Beginning.

Area contains 1,664 square feet.

**BASIS OF BEARING:** The orientation of this bearing system is based on the East line Block 31. Said line bears South 14 degrees 56 minutes 39 seconds East.

IARCS - ZONE 8

**AND**

That part of SE 4th Street Right of Way lying westerly of Block 30, Town of De Moine, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Commencing at the southwest corner of said Block 30; thence North 15 degrees 14 minutes 56 seconds West, 5.34 feet to the Point of Beginning; thence South 74 degrees 44 minutes 00 seconds West, 1.33 feet; thence North 15 degrees 03 minutes 55 seconds West, 271.46 feet; thence North 74 degrees 46 minutes 32 seconds East, 0.46 feet to a point on the westerly line of said Block 30; thence South 15 degrees 14 minutes 56 seconds East along said westerly line, a distance of 271.45 feet to said Point of Beginning.

Area contains 244 square feet.

**AND**

That part of SE 5th Street Right of Way lying easterly of Block 30, Town of De Moine, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Commencing at the southeast corner of said Block 30; thence North 14 degrees 58 minutes 36 seconds West, 5.14 feet to the Point of Beginning; thence North 74 degrees 44 minutes 00 seconds East, 11.90 feet; thence North 14 degrees 57 minutes 22 seconds West, 271.21 feet; thence North 15 degrees 58 minutes 03 seconds West, 75.01 feet; thence South 74 degrees 46 minutes 32 seconds West, 10.96 feet; thence South 14 degrees 59 minutes 11 seconds East, 6.08 feet; thence South 15 degrees 11 minutes 10 seconds East, 70.50 feet to the northeast corner of said Block 30; thence South 14 degrees 58 minutes 36 seconds East, along the easterly line of said Block 30, a distance of 269.64 feet to said Point of Beginning.

Area contains 4,103 square feet.

**BASIS OF BEARING:** The orientation of this bearing system is based on the East line of Block 30. Said line bears South 14 degrees 58 minutes 36 seconds East.



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**AND**

That part of SE 5th Street Right of Way lying easterly of Block 17, Town of De Moines, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Commencing at the northeast corner of said Block 17; thence South 14 degrees 59 minutes 11 seconds East, along the easterly line of said Block 17, a distance of 20.58 feet to the Point of Beginning; thence North 74 degrees 40 minutes 51 seconds East, 11.00 feet; thence South 14 degrees 58 minutes 44 seconds East, 254.73 feet; thence South 74 degrees 46 minutes 32 seconds West, 10.96 feet to a point on the easterly right of way line of SE 5th Street; thence North 14 degrees 59 minutes 11 seconds West, along said easterly right of way line, a distance of 254.71 feet to said Point of Beginning.

Area contains 2,796 square feet.

**AND**

That part of SE 5th Street Right of Way lying westerly of N 1/2 Market Square Town of De Moines, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Commencing at the northwest corner of said N 1/2 Market Square; thence South 14 degrees 59 minutes 12 seconds East, along the westerly line of said N 1/2 Market Square, a distance of 21.00 feet to the Point of Beginning; thence South 74 degrees 40 minutes 51 seconds West, 13.00 feet; thence South 14 degrees 58 minutes 44 seconds East, 254.83 feet; thence North 74 degrees 46 minutes 32 seconds East, 13.03 feet to a point on the southerly extension of said westerly line; thence North 14 degrees 59 minutes 12 seconds West, along said southerly extension and along said westerly line, a distance of 254.85 feet to said Point of Beginning.

Area contains 3,317 square feet.

**BASIS OF BEARING:** The orientation of this bearing system is based on the easterly line of Block 17. Said line bears North 14 degrees 59 minutes 11 seconds West.

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**AND**



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That part of SE 4th Street Right of Way lying between Blocks 31 and 44, Town of De Moine, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Beginning at the northwest corner of said Block 44; thence South 74 degrees 48 minutes 36 seconds West, 0.58 feet; thence North 15 degrees 03 minutes 55 seconds West, 66.06 feet; thence North 74 degrees 47 minutes 47 seconds East, 0.74 feet to the southwest corner of said Block 31; thence South 14 degrees 55 minutes 59 seconds East, along the southerly extension of the easterly right of way line of SE 4th Street, a distance of 66.06 feet to the Point of Beginning.

Area contains 43 square feet.

AND

That part of SE 5th Street Right of Way lying between Blocks 31 and 44, Town of De Moine, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa is described as follows:

Beginning at the northeast corner of said Block 44; thence North 74 degrees 48 minutes 41 seconds East, 6.15 feet; thence North 15 degrees 00 minutes 20 seconds West, 66.02 feet; thence South 75 degrees 51 minutes 49 seconds West, 6.08 feet to the southeast corner of said Block 31; thence South 14 degrees 56 minutes 39 seconds East, along the southerly extension of the westerly right of way line of SE 5th Street, a distance of 66.14 feet to the Point of Beginning.

Area contains 404 square feet.

**BASIS OF BEARING:** The orientation of this bearing system is based on the West line Block 44. Said line bears South 15 degrees 03 minutes 55 seconds East.

IARCS - Zone 8

3. Upon final passage of an ordinance vacating said right-of-way and approval by resolution of this City Council, the City Clerk is authorized and directed to forward a certified copy of this resolution and of the affidavit of publication of the notice of this hearing to the Polk County Recorder's Office for the purpose of causing said documents to be recorded.



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Moved by Gatto to adopt.

APPROVED AS TO FORM:

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

on

| COUNCIL ACTION                      | YEAS | NAYS     | PASS | ABSENT |
|-------------------------------------|------|----------|------|--------|
| COWNIE                              | ✓    |          |      |        |
| BOESEN                              | ✓    |          |      |        |
| GATTO                               | ✓    |          |      |        |
| GRAY                                | ✓    |          |      |        |
| MANDELBAUM                          | ✓    |          |      |        |
| VOSS                                | ✓    |          |      |        |
| WESTERGAARD                         | ✓    |          |      |        |
| TOTAL                               | 7    |          |      |        |
| MOTION CARRIED                      |      | APPROVED |      |        |
| <u>J. M. Frankhu Cowme</u><br>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