

ORDINANCE NO. 1435

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, vacating by the petition method certain portions of public right-of-way at South 241st Street and 24th Avenue South more specifically identified and described within this Ordinance, in the City of Des Moines, subject to the petitioner's compliance with requirements set forth herein.

WHEREAS, on June 26, 2008, the City Council adopted Resolution No. 1079, declaring its intent to consider vacation of certain portions of public right-of-way at South 241st Street and 24th Avenue South, in the City of Des Moines, and

WHEREAS, notice of the public hearing was given in accordance with law and the public hearing was held before the City Council on July 24, 2008, and all persons wishing to be heard were heard, and

WHEREAS, based on the evidence presented, the City Council makes the following findings of fact:

(1) The public right-of-way which is the subject of this ordinance consists of certain portions of public right-of-way at South 241st Street and 24th Avenue South, more specifically identified and described as:

(R-O-W VACATION):

That portion of 24th Avenue South abutting Lots 16-18, Block 30 and Lots 20-30, Block 29 as per the plat of Puget Sound Park Addition to Des Moines, recorded in Volume 4 of Plats, Page 61, records of King County, Washington which lies west of a line that is located a distance of 60' west of the eastern right-of-way line of 24th Avenue South as per the plat of Interurban Heights, recorded in Volume 15 of Plats, Page 90, records of King County, Washington; together with the entire portion of South 241st Street which lies between Blocks 29 and 30 of the plat of Puget Sound Park Addition to Des Moines, recorded in Volume 4 of Plats, Page 61, records of King County, Washington, situated in the City of Des Moines, Washington.

(REMAINING R-O-W):

That portion of 24th Avenue South abutting Blocks 1 and 12 of the plat of Interurban Heights, recorded in Volume 15 of Plats, Page 90, records of King County, Washington that is 60' in width as measured from the eastern right-of-way line of 24th Avenue South of said plat from the north line of Lot 18, Block 30 south to the south line of Lot 20, Block 29 as per the plat of Puget Sound Park Addition to Des Moines, recorded in Volume 4 of Plats, Page 61, records of King County, Washington, situated in the City of Des Moines, Washington.

(2) The public right-of-way which is the subject of this ordinance is both improved (24th Avenue South) and unimproved

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(South 241st Street) for transportation purposes, no public expenditures have been made in the acquisition of the same, and per DMMC 12.12.020 is classified as a Class C right-of-way; and

(3) The public right-of-way which is the subject of this ordinance is necessary for present and future use by public utilities under appropriate easements; and

(4) The public right-of-way which is the subject of this ordinance is surplus to the present and future needs of the citizens of the City of Des Moines for transportation purposes, will not result in the land locking of any present or future parcels, will not cause any adverse effects to neighborhood traffic circulation patterns, and it is in the public interest to vacate this public right-of-way; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. Findings adopted. The recitals set forth above are adopted as the City Council's findings of fact.

Sec. 2. Right-of-way vacation. Subject to the requirements set forth in this ordinance, the public right-of-way legally described as follows:

(R-O-W VACATION):

"That portion of 24th Avenue South abutting Lots 16-18, Block 30 and Lots 20-30, Block 29 as per the plat of Puget Sound Park Addition to Des Moines, recorded in Volume 4 of Plats, Page 61, records of King County, Washington which lies west of a line that is located a distance of 60' west of the eastern right-of-way line of 24th Avenue South as per the plat of Interurban Heights, recorded in Volume 15 of Plats, Page 90, records of King County, Washington; together with the entire portion of South 241st Street which lies between Blocks 29 and 30 of the plat of Puget Sound Park Addition to Des Moines, recorded in Volume 4 of Plats, Page 61, records of King County, Washington, situated in the City of Des Moines, Washington."

(REMAINING R-O-W):

"That portion of 24th Avenue South abutting Blocks 1 and 12 of the plat of Interurban Heights, recorded in Volume 15 of Plats, Page 90, records of King County, Washington that is 60' in width as measured from the eastern right-of-way line of 24th Avenue South of said plat from the north line of Lot 18, Block 30 south to the south line of Lot 20, Block 29 as per the plat of Puget Sound Park Addition to Des Moines, recorded in Volume 4 of Plats, Page 61, records of King County, Washington, situated in the City of Des Moines, Washington."

is vacated and the property within the right-of-way so vacated shall belong to the respective abutting property owners.

Sec. 3. Conditions of right-of-way vacation. The right-of-way subject to vacation under this ordinance shall be subject to the following conditions:

(1) The abutting property owners shall not be required to pay the City of Des Moines compensation for vacation of this Class C right-of-way, pursuant to DMMC 12.12.050(2)(c).

(2) The abutting property owners recognize that the City of Des Moines retains an easement or the right to exercise and grant easements for utility purveyors in respect to the land vacated by this ordinance for the construction, repair, and maintenance of public utilities and services, and that the City of Des Moines will grant utility easements through the right-of-way subject to vacation under this ordinance:

(a) To protect existing surface water management (SWM) facilities in locations and dimensions generally described as covering the south twenty (20) feet of the area to be vacated within South 241st Street, which exact locations and dimensions have been provided by the City; and

(b) To protect existing water district facilities in locations and dimensions generally described as covering the north twenty (20) feet of the area to be vacated within South 241st Street, which exact locations and dimensions have been provided by Highline Water District; and

(c) To protect existing sewer district facilities in locations and dimensions generally described as covering the central ten (10) feet of the area to be vacated within South 241st Street, which exact locations and dimensions have been provided by Midway Sewer District; and

(d) To protect existing Puget Sound Energy (PSE) electrical facilities in locations and dimensions generally described as covering the north ten (10) feet of the area to be vacated within South 241st Street, which exact locations and dimensions have been provided by PSE; and

(e) To protect existing Comcast facilities in locations and dimensions generally described as covering the east ten (10) feet of the area to be vacated within South 241st Street, which exact locations and dimensions have been provided by Comcast.

(f) For the purposes of easement retention, the above-mentioned easement dimensions are based upon being centered over the existing utility facilities.

(3) Petitioner, Jon Cooper, doing business as Cooper Development, LLC, shall be responsible for obtaining and recording all utility easements referenced herein, with the exception of the City of Des Moines Surface Water Management easement, and provide recorded copies of such easements to the

City of Des Moines. If the utility easements are not obtained and recorded, and proof of such provided to the City of Des Moines, within 180 days of the signing of this ordinance, this ordinance shall be repealed and the street vacation shall be null and void.

Sec. 4. Easements and reservation of easements.

Pursuant to RCW 35.79.030, the City of Des Moines retains or will be granted easements as set forth in section 3 of this ordinance and retains the right to exercise and grant easements in respect to the land vacated by this ordinance and abutting property for the construction, repair, and maintenance of public utilities and services, and for vehicular access.

Sec. 5. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

Sec. 6. Recordation. The City Clerk shall cause a certified copy of this ordinance to be recorded in the records of the King County Recorder.

Sec. 7. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines this 7th day of August, 2008 and signed in authentication thereof this 7th day of August, 2008.



M A Y O R

APPROVED AS TO FORM:


Assistant City Attorney

ATTEST:


City Clerk

Effective Date: September 6, 2008

Published: August 13, 2008

LEGAL NOTICE

SUMMARY OF ADOPTED ORDINANCE

CITY OF DES MOINES

ORDINANCE NO. 1435, Adopted August 7, 2008.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance vacates by the petition method certain portions of public right-of-way at South 241st Street and 24th Avenue South more specifically identified and described within this ordinance, in the City of Des Moines, subject to the petitioner's compliance with requirements set forth in Ordinance No. 1435.

The full text of the ordinance will be mailed without cost upon request.

Denis Staab
City Clerk

Published: August 13, 2008