

13
CHICAGO TITLE INS. CO.
REF# 10108-06

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CITY OF DES MOINES
CITY CLERK

Return Address:

City of Des Moines
Attn: City Clerk
21630 11th Avenue South, Suite A
Des Moines, WA 98198-6398



20151015000596

CHICAGO TITLE ORD 85.00
PAGE-001 OF 013
10/15/2015 13:20
KING COUNTY, WA

Document Title(s) (or transactions contained therein): (all areas applicable to your document **must** be filled in)

1. Ordinance No. 1622 with Exhibits A, B & C 2. _____
3. _____ 4. _____

Reference Number(s) of Documents assigned or released:

Additional reference #'s on page _____ of document

Grantor(s) (Last name, first name, initials)

1. City of Des Moines, A Municipal Corporation

2. _____

Additional names on page _____ of document.

Grantee(s) (Last name first, then first name and initials)

1. The Adriana Senior Apartments, LLLP

2. _____

Additional names on page _____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

A portion of the west right-of-way on 7th Avenue South and a portion of the north right-of-way of South 226th Street, located in the northwest quarter of Section 17, Township 22 North, Range 4 East, W.M., in the City of Des Moines, King County, Washington.

Additional legal is on page 7 & 8 of ordinance document.

Assessor's Property Tax Parcel/Account Number Assessor Tax # not yet assigned

Adjacent to Parcels #2006600500 & 2006600475

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Signature of Requesting Party

ORDINANCE NO. 1622

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, vacating a portion of City right-of-way generally described as a portion of the west right-of-way on 7th Avenue South and a portion of the north right-of-way of South 226th Street, located in the City of Des Moines, for limited purpose subject to the conditions and requirements set forth herein.

WHEREAS, DMMC 12.10.060 adopts the street vacation procedures of chapter 35.79 RCW, and

WHEREAS, the City has received a petition from The Adriana Senior Apartments, LLLP, to vacate certain public right-of-way known as portion of the west right-of-way on 7th Avenue South and a portion of the north right-of-way of South 226th Street, located in the City of Des Moines as illustrated in Exhibit "A", and legally described in Exhibit "B", both attached hereto and incorporated by reference, and

WHEREAS, the petition was signed by the owners of more than two-thirds of the property abutting the portion of the streets sought to be vacated as required by RCW 35.79.010, and

WHEREAS, the City is vacating the right-of-way for a specific limited purpose in order to allow the development to meet the City's floor area ratio for the proposed building, and

WHEREAS, the proposal is consistent with the intent of the goals, policies and strategies identified in the City of Des Moines Comprehensive Plan, and

WHEREAS, Comprehensive Plan Land Use Element policy 2-03-08 (1) and (2) promote new development and redevelopment in the Marina District to create a vibrant district with a quality mix of businesses that will enhance the waterfront and serve as a destination for local residents and visitors, and

WHEREAS, the Marina District Element vision and goals are aimed at creating a revitalized neighborhood that is inviting to new businesses, development shoppers and residents, and

WHEREAS, Marina District Element policy 10-03-05 states that building height should not adversely impact the adjacent street environment or nearby land uses; Strategy 10-04-10 is intended to ensure that new development or redevelopment in the

Marina District exhibits design excellence by paying particular attention to site design, building form, architecture and public space as described in the *Marina District Design Guidelines* (2009), and

WHEREAS, the City and franchise utilities will continue to need access to the vacated area, and in accordance with RCW 35.79.030, the City may retain an easement for public use and access, sidewalk, and for utilities, and may retain the right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services, and

WHEREAS, franchise utilities will continue to operate and maintain their utilities and associated facilities within the City's exclusive easement in accordance with the City's Franchise Agreements, and

WHEREAS, RCW 35.79.010 requires that the City Council set the public hearing and date by resolution which was, in this case, established by Resolution No. 1293 fixing the public hearing for May 14, 2015, to be followed by City Council action, and

WHEREAS, notice of the public hearing was given in accordance with RCW 35.79.020 and the public hearing was held before the Des Moines City Council on May 14, 2015, and all persons wishing to be heard were heard, and

WHEREAS, no objections to the vacation were filed by any abutting property owners prior to the hearing, and the City Council finds that no person has demonstrated special injury due to substantial impairment of access to such person's property; now therefore,

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

Sec. 1. Findings adopted. Based on the evidence presented, the City Council adopts the following findings of fact:

(1) The public right-of-way subject to this Ordinance consists of a portion of the west right-of-way on 7th Avenue

South and a portion of the north right-of-way of South 226th Street, further legally described in Section 2 of this Ordinance; and

(2) The public right-of-way described in section 2 of this Ordinance has been improved and maintained for transportation purposes; and

(3) The right-of-way is classified as a Class "A" right-of-way since public funds have been expended in its acquisition, improvement or maintenance; and

(4) Vacation of a Class "A" right-of-way requires full compensation; and

(5) An easement is necessary for public use and access, and for public utilities for the public right-of-way which is described in section 2 of this Ordinance.

Sec. 2. Right-of-way vacation. Subject to the requirements set forth in section 3 this Ordinance, the following described public right-of-way as depicted on the attached map entitled Exhibit "A" (incorporated herein by this reference) and legally described in Exhibit "B" (incorporated herein by this reference) is vacated for limited purpose and the property within the right-of-way so vacated shall belong to the respective abutting property owner, as required by RCW 35.79.040:

That portion of 7th Avenue South and that portion of South 226th Street located in the northwest quarter of Section 17, Township 22 North, Range 4 East, W.M., in the City of Des Moines, King County, Washington.

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 owner shall be required to provide the City of Des Moines compensation for vacation of this Class A right-of-way, pursuant to DMMC 12.10.070(2)(a). Compensation for the right of way to be vacated has been

determined to be valued at \$105,825.00 (\$21.25/SF*4,980 SF). In lieu of cash compensation, the City Manager is authorized to accept in-kind services related to Transportation Capital Projects of equal or greater value, or combination thereof. Total compensation is due to the City no later than December 31, 2015.

(2) The Petitioner, The Adriana Senior Apartments, LLLP, recognizes that the City of Des Moines retains an exclusive easement for public use and access, sidewalks and utilities, and that the City retains 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 land subject to vacation under this Ordinance. As such, the Petitioner shall provide the City with an exclusive easement, attached as Exhibit "C" (incorporated herein by this reference).

(3) Petitioner, The Adriana Senior Apartments, LLLP, shall be responsible for obtaining a building permit from the City of Des Moines for construction of the development by September 30, 2015. If the building permit is not obtained, 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, as set forth in section 3 of this Ordinance the City of Des Moines retains an exclusive easement for public use and access, sidewalks and utilities, and that the City retains 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 land subject to vacation under this Ordinance.

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 five (5) days after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines this 14th day of May, 2015 and signed in authentication thereof this 14th day of May, 2015.


MAYOR

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Clerk

Published: May 20, 2015

I, Bonnie Wilkins, City Clerk, do hereby
certify that the foregoing is a true and
correct copy of the original instrument
on file and of record in my office in
Des Moines, Washington 98198

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1622, Adopted May 14, 2015.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

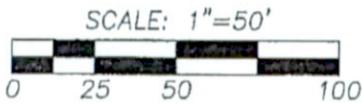
This Ordinance vacates a portion of City right-of-way generally described as a portion of the west right-of-way on 7th Avenue South and a portion of the north right-of-way of South 226th Street, located in the City of Des Moines, for limited purpose subject to the conditions and requirements set forth herein.

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

Bonnie Wilkins
City Clerk

Published: May 20, 2015

EXHIBIT "A" S. 225TH ST.



LEGEND

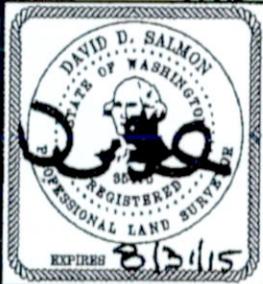
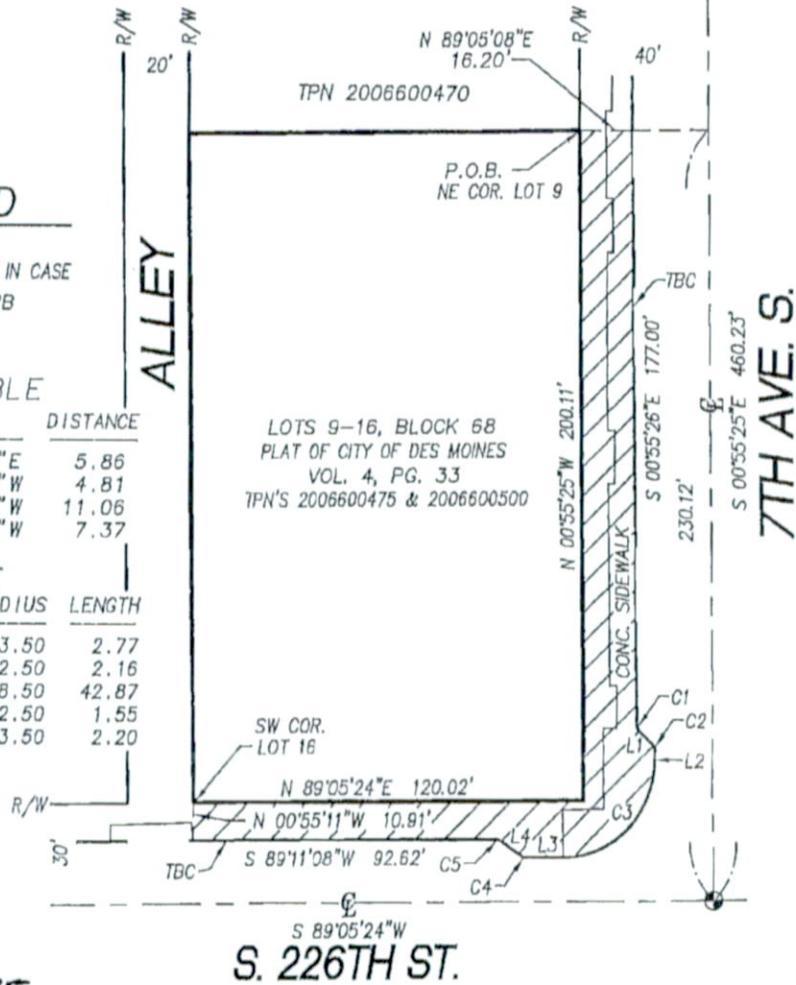
- ⊙ FOUND MONUMENT IN CASE
- TBC TOP BACK CURB

LINE TABLE

NO.	BEARING	DISTANCE
L1	S 46°10'43"E	5.86
L2	S 03°20'25"W	4.81
L3	S 89°31'32"W	11.06
L4	N 54°53'40"W	7.37

CURVE TABLE

NO.	DELTA	RADIUS	LENGTH
C1	45°17'32"	3.50	2.77
C2	49°31'08"	2.50	2.16
C3	86°11'07"	28.50	42.87
C4	35°34'48"	2.50	1.55
C5	36°00'24"	3.50	2.20



NCS SURVEYING

3930 South 352nd Street
Auburn, Washington 98001
Cell: (253) 606-8829
Fax: (253) 681-3841
dsalmon@ncssurveying.com

DATE:	MARCH, 2015
JOB NO.:	130405
DRAWN BY:	MFB/TWB
CHECKED BY:	D. SALMON
SCALE:	1" = 50'

EXHIBIT B

ADDITIONAL PROPERTY LEGAL

THAT PORTION OF 7TH AVENUE SOUTH AND THAT PORTION OF SOUTH 226TH STREET LOCATED IN THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN THE CITY OF DES MOINES, KING COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 9, PLAT OF CITY OF DES MOINES, RECORDED IN VOLUME 4, PAGE 33, RECORDS OF KING COUNTY, WASHINGTON, THENCE N 89°05'08"E, 16.20 FEET TO THE TOP BACK OF AN EXISTING CURB; THENCE S 00°55'26"E ALONG SAID CURB, 177.00 FEET TO A POINT OF CURVATURE; THENCE CONTINUING ALONG SAID CURB 2.77 FEET ALONG THE ARC OF A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 3.50 FEET, THROUGH A CENTRAL ANGLE OF 45°17'32" TO A POINT OF TANGENCY; THENCE S 46°10'43"E CONTINUING ALONG SAID CURB, 5.86 FEET TO A POINT OF CURVATURE; THENCE CONTINUING ALONG SAID CURB 2.16 FEET ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 2.50 FEET, THROUGH A CENTRAL ANGLE OF 49°31'08" TO A POINT OF TANGENCY; THENCE S 03°20'25"W CONTINUING ALONG SAID CURB, 4.81 FEET TO A POINT OF CURVATURE; THENCE CONTINUING ALONG SAID CURB 42.87 FEET ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 28.50 FEET, THROUGH A CENTRAL ANGLE OF 86°11'07" TO A POINT OF TANGENCY; THENCE S 89°31'32"W CONTINUING ALONG SAID CURB, 11.06 FEET A POINT OF CURVATURE; THENCE CONTINUING ALONG SAID CURB 1.55 FEET ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 2.50 FEET, THROUGH A CENTRAL ANGLE OF 35°34'48" TO A POINT OF TANGENCY; THENCE N 54°53'40"W CONTINUING ALONG SAID CURB, 7.37 FEET TO A POINT OF CURVATURE; THENCE CONTINUING ALONG SAID CURB 2.20 FEET ALONG THE ARC OF A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 3.50 FEET, THROUGH A CENTRAL ANGLE OF 36°00'24" TO A POINT OF TANGENCY; THENCE S 89°11'08"W CONTINUING ALONG SAID CURB, 92.62 FEET; THENCE N 00°55'11"W, 10.91 FEET TO THE NORTHERLY RIGHT-OF-WAY OF SAID SOUTH 226TH STREET; THENCE N 89°05'24"E ALONG LAST SAID RIGHT-OF-WAY, 120.02 FEET TO THE WESTERLY RIGHT-OF-WAY OF 7TH AVE SOUTH; THENCE N 00°55'25"W ALONG LAST SAID WESTERLY RIGHT-OF-WAY, 200.11 FEET TO THE POINT OF BEGINNING.

CONTAINING 4980 SQUARE FEET.

ATTACHED HERE TO EASEMENT EXHIBIT MAP A.

EXHIBIT C

City of Des Moines
Engineering Services Division
Attn: Tommy Owen
21650 11th Avenue South
Des Moines, WA 98198

**EXCLUSIVE EASEMENT FOR
PUBLIC USE and ACCESS, SIDEWALK, AND UTILITIES**

Grantor: 7th AVENUE INVESTMENTS, LLC

Grantee: CITY OF DES MOINES

Abbreviated Legal:

Additional Legal: Exhibit A

Assessors Tax Parcel ID#: 200660-0500 & 200660-0475

IN THE MATTER OF: The 7th Avenue Investments, LLC Right-of-Way Vacation of a portion of the west right-of-way on 7TH Avenue South and a portion of the north right-of-way on South 226th Street

GRANTOR, 7th AVENUE INVESTMENTS, LLC, for and in consideration of mutual benefits for public use and access, do hereby grant and convey to GRANTEE, the CITY OF DES MOINES, a Washington municipal corporation, its successors and assigns, a exclusive perpetual easement and right-of-way over, through, under, across, upon, and in the real property illustrated in Exhibit A and described in Exhibit B, both attached hereto and by this reference incorporated herein. Said easement contains an area of approximately 4,980 square feet, more or less.

GRANTOR, acknowledges that the Grantee will continue to exercise all its authority pursuant to applicable franchise agreements with its utilities in accordance with RCW 35.79.030.

GRANTEE is granted the right to use the real property described in Exhibit A and B for any purpose, including but not limited to the construction, operation, maintenance, repair, and replacement of transportation facilities to facilitate public use and access including

sidewalk, street furnishings, landscaping, traffic control devices and street lighting, communication facilities and appurtenances thereto; and for the construction, operation, maintenance, repair, and replacement of utility and franchise utility facilities, pipes, lines, poles, manholes, and appurtenances thereto together with the right of access into the easement area across Grantors property at times and locations which are reasonable, do not unreasonably interfere with the Grantor's access, and enable Grantee to exercise its rights under this easement.

GRANTEE is also granted the right to use such additional area immediately adjacent to the above-described easement as shall be required for construction, such additional area to be held to a minimum necessary for that purpose; and after completion of construction or any subsequent entry, Grantee shall restore the affected area as near as may be to its condition immediately before such construction or entry.

GRANTEE does hereby release, indemnify and promise to defend and save Grantors harmless from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorney's fees incurred by Grantors in defense thereof, resulting or arising directly or indirectly on account of or out of negligent acts or omissions of Grantee or its servants, agents, employees or contractors in the exercise of the rights granted herein; provided, however, this paragraph does not indemnify Grantors against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of Grantors or Grantors agents or employees.

GRANTOR does hereby release, indemnify and promise to defend and save Grantees harmless from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorney's fees incurred by Grantees in defense thereof, resulting or arising directly or indirectly on account of or out of negligent acts or omissions of Grantor or its servants, agents, employees or contractors in the exercise of the rights granted herein; provided, however, this paragraph does not indemnify Grantees against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of Grantees or Grantees agents or employees.

This easement shall be a covenant running with the land and shall forever bind Grantors, their heirs, successors, and assigns.

Dated this 14th day of October, 2015.

GRANTOR:

7th AVENUE INVESTMENTS, LLC



Its Manager

(Notary Acknowledgment Continued on Pages 3 and 4)

acknowledged it as the **City Manager** of the **City of Des Moines** to be the free and voluntary act of such party for the uses and purposes stated therein..

Dated this 14th day of October, 2015.



Vicki C Sheckler
Notary Public in and for the State of Washington
Residing at Des Moines, WA.
My Appointment Expires 04/29/2016