

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2009

COUNCIL BILL NO. 366
COMMITTEE OF REFERENCE:
PUBLIC WORKS

A BILL

For an ordinance vacating portions of an alley behind 1830-48 West 38th Avenue, 1837-25 West 37th Avenue, 3704 Shoshone Street, and 3711-29 Quivas Street, with reservations.

WHEREAS, the Manager of Public Works of the City and County of Denver has found and determined that the public use, convenience and necessity no longer require that certain portion of that certain area in the system of thoroughfares of the municipality hereinafter described and, subject to approval by ordinance, has vacated the same with reservations;

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That the action of the Manager of Public Works in vacating the following described area in the City and County of Denver and State of Colorado, to wit:

A PARCEL OF GROUND LOCATED IN BLOCK 35 EICHOLTZS RE-SUBDIVISION OF BLOCKS 33,34,35,36 H. WITTIER'S N.D. ADDITION, SECTION 28 TOWNSHIP 3 SOUTH RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 34, SAID BLOCK 35 BEING THE SAME AS A POINT ON THE NORTHERLY RIGHT-OF-WAY OF WEST 37TH AVENUE; THENCE NORTHERLY ALONG THE REAR LOT LINES OF LOTS 34 THROUGH 27, TO THE SOUTHWEST CORNER OF THE WESTERLY ALLEY VACATED PER ORDINANCE NUMBER 687 SERIES OF 1976, COUNCIL BILL 765; THENCE EASTERLY TO A POINT ON THE WEST LINE OF LOT 39, SAID POINT ALSO BEING SOUTHEAST CORNER OF THE SAID WESTERLY VACATED ALLEY; THENCE SOUTHERLY ALONG THE WESTERLY LOT LINE OF LOT 39 TO THE SOUTHWEST CORNER OF LOT 39; THENCE EASTERLY ALONG THE SOUTH LOT LINE OF LOTS 39 AND 40, TO THE SOUTHEAST CORNER OF LOT 40; THENCE NORTHERLY ALONG THE EAST LINE OF LOT 40 TO A POINT ON THE SOUTHWEST CORNER OF THE SAID EASTERLY VACATED ALLEY; THENCE EASTERLY TO A POINT ON THE WEST LOT LINE OF LOT 8, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID EASTERLY VACATED ALLEY; THENCE SOUTHERLY ALONG THE WEST LOT LINES OF LOTS 8 THROUGH 1, TO THE SOUTHWEST CORNER OF LOT 1; THENCE WESTERLY ALONG THE NORTHERLY RIGHT-OF-WAY OF WEST 37TH AVENUE TO THE SOUTHEAST CORNER OF LOT 38; THENCE NORTHERLY ALONG EAST LOT LINE OF LOT 38 TO THE NORTHEAST CORNER OF LOT 38; THENCE WESTERLY ALONG THE NORTH LINE OF LOTS 38 THROUGH 35 TO THE NORTHWEST CORNER OF LOT 35; THENCE SOUTHERLY ALONG THE WEST LOT LINE OF LOT 35 TO THE SOUTHWEST CORNER OF LOT 35, POINT ALSO BEING ON THE NORTHERLY RIGHT-OF-WAY OF WEST 37TH AVENUE; THENCE WESTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF WEST 37TH AVENUE TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS APPROXIMATELY 9,002 SQ.FT (0.21 ACRES) MORE OR LESS.
(SEE ATTACHED GRAPHICAL EXHIBIT)

NOTE: THIS DOES NOT CONSTITUTE A MONUMENTED LAND SURVEY. THE PARCEL DESCRIBED ABOVE IS THE REMAINDER OF THE TWO NORTH-SOUTH ALLEYS NOT VACATED BY ORDINANCE 687, SERIES OF 1976, COUNCIL BILL 756 LOCATED IN BLOCK 35, LOCATED BETWEEN WEST 37TH AVENUE, WEST 38TH AVENUE, QUIVAS STREET AND SHOSHONE STREETS, EICHOLTZ RE-SUBDIVISION OF BLOCKS 33,34,35,36, H, WITTER'S N.D. ADDITION, CITY AND COUNTY OF DENVER.

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be and the same is hereby approved and the described portion of that certain alley is hereby vacated and declared vacated with reservations; PROVIDED, HOWEVER, said vacation shall be subject to the following reservations:

A perpetual, non-exclusive easement is hereby reserved by the City and County of Denver, its successors and assigns, over, under, across, along, and through the vacated area for the purposes of constructing, operating, maintaining, repairing, upgrading and replacing public or private utilities including storm drainage and sanitary sewer facilities and all appurtenances to said utilities. A hard surface shall be maintained by the property owner over the entire easement area. The City reserves the right to authorize the use of the reserved easement by all utility providers with existing facilities in the easement area. No trees, fences, retaining walls, landscaping or structures shall be allowed over, upon or under the easement area. Any such obstruction may be removed by the City or the utility provider at the property owner's expense. The property owner shall not re-grade or alter the ground cover in the easement area without permission from the City and County of Denver. The property owner shall be liable for all damages to such utilities, including their repair and replacement, at the property owner's sole expense. The City and County of Denver, its successors, assigns, licensees, permittees and other authorized users shall not be liable for any damage to property owner's property due to use of this reserved easement.

COMMITTEE APPROVAL DATE: N/A MAYOR-COUNCIL DATE: June 23, 2009

PASSED BY THE COUNCIL _____ 2009

_____ - PRESIDENT

APPROVED: _____ - MAYOR _____ 2009

ATTEST: _____ - CLERK AND RECORDER,
EX-OFFICIO CLERK OF THE
CITY AND COUNTY OF DENVER

1 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2009; _____ 2009
2 PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY, June 23, 2009
3 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
4 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
5 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
6 § 3.2.6 of the Charter.
7
8 David R. Fine, City Attorney
9 BY: _____, Assistant City Attorney DATE: _____, 2009