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Date July 13, 2015

HOLD HEARING FOR CONVEYANCE OF PREVIOUSLY VACATED CARPENTER AVENUE AND VACATION AND CONVEYANCE OF SEGMENTS OF 27TH STREET, CARPENTER AVENUE AND THE NORTH/SOUTH ALLEY RIGHT-OF-WAY ADJOINING 1300 25TH STREET TO DRAKE UNIVERSITY FOR \$116,500

WHEREAS, on May 17, 1993, by Roll Call 93-1842, City Council passed Ordinance No. 11,984 vacating a portion of Carpenter Avenue in the vicinity of 26th Street; and

WHEREAS, on March 23, 2015, by Roll Call No. 15-0493, City Council received a recommendation from the City Plan and Zoning Commission regarding a request from Drake University for vacation of 27th Street from Forest Avenue to Carpenter Avenue, and of the 16 foot wide north/south alley from Forest Avenue to a point approximately 320.5 feet to the south, subject to the following conditions:

- 1) Reservation of necessary easements for all existing utilities in place until such time as they are abandoned or are relocated.
- 2) Installation of required paved fire apparatus turn around on the remaining dead-end public segment of Carpenter Avenue.
- 3) Review and approval of a Site Plan by the City's Permit and Development Center for all related site and landscaping improvements; and

WHEREAS, on May 18, 2015, by Roll Call No. 15-0807, City Council received a recommendation from the City Plan and Zoning Commission regarding a request from Drake University for vacation of Carpenter Avenue from 25th Street to 27th Street, subject to the following conditions:

- 1) Reservation of necessary easements for all existing utilities in place until such time as they are abandoned or are relocated.
- 2) Reservation of a 20-foot wide easement for fire department access.
- 3) Review and approval of a Site Plan by the City's Permit and Development Center for all related site and landscaping improvements; and

WHEREAS, Drake University, owner of all of the adjoining property, has offered to the City of Des Moines the purchase price of \$116,500.00 for the vacation and purchase of 27th Street from Forest Avenue to Carpenter Avenue, the 16 foot wide north/south alley from Forest Avenue to a point approximately 320.5 feet to the south, and Carpenter Avenue from 25th Street to 27th Street (collectively "City Right-of-Way"), subject to a permanent no-build restriction, a 20-foot wide access easement reserved by the City of Des Moines for fire department access, a permanent easement reserved by the City of Des Moines for the continued use and maintenance of the existing utilities, and conditions included in the City Plan and Zoning Commission recommendation, and subject to the special conditions contained in the Offer to Purchase Real Estate to the City of Des Moines and Acceptance negotiated by the City of Des Moines and Drake University, which purchase will allow Drake University to assemble the City Right-of-Way with its adjoining property in the surrounding block for renovation and expansion of existing facilities, which price reflects the appraised value of the City Right-of-Way; and

WHEREAS, there is no known current or future public need or benefit for the City Right-of-Way proposed to be vacated, or for the City Right-of-Way proposed to be sold, and the City will not be inconvenienced by the vacation and sale of said property; and

Date July 13, 2015

WHEREAS, on June 22, 2015, by Roll Call No. 15-1016, it was duly resolved by the City Council that the proposed vacation of 27th Street from Forest Avenue to Carpenter Avenue, and of Carpenter Avenue from 25th Street to 27th Street, and of the 16 foot wide north/south alley from Forest Avenue to a point approximately 320.5 feet to the south, and conveyance of the City Right-of-Way be set down for hearing on July 13, 2015, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to vacate 27th Street from Forest Avenue to Carpenter Avenue, and Carpenter Avenue from 25th Street to 27th Street, and the 16 foot wide north/south alley from Forest Avenue to a point approximately 320.5 feet to the south, and convey the City Right-of-Way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation and conveyance, 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of 27th Street from Forest Avenue to Carpenter Avenue, and of Carpenter Avenue from 25th Street to 27th Street, and of the 16 foot wide north/south alley from Forest Avenue to a point approximately 320.5 feet to the south and conveyance of the City Right-of-Way, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of 27th Street from Forest Avenue to Carpenter Avenue, and of Carpenter Avenue from 25th Street to 27th Street, and of the 16 foot wide north/south alley from Forest Avenue to a point approximately 320.5 feet to the south, as legally described below, and said vacation is hereby approved:

-EXCEPT- A PORTION OF CARPENTER AVE RIGHT OF WAY LYING BETWEEN 25TH STREET AND 27TH STREET MORE SPECIFICALLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 75 FEET WEST OF THE SOUTHEAST CORNER OF LOT 91 IN UNIVERSITY PLACE, AN OFFICIAL PLAT, SAID POINT ALSO LYING ON THE NORTH RIGHT OF WAY LINE OF CARPENTER AVENUE AS IT IS PRESENTLY ESTABLISHED; THENCE EAST ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 216 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID NORTH RIGHT OF WAY LINE, 14 FEET; THENCE WEST AND PARALLEL TO SAID NORTH RIGHT OF WAY LINE, 216 FEET; THENCE NORTH AND PERPENDICULAR TO SAID NORTH RIGHT OF WAY LINE, 14 FEET TO THE POINT OF BEGINNING-

ALL THAT PART OF CARPENTER AVENUE RIGHT OF WAY LYING BETWEEN THE SOUTHERLY EXTENSION OF THE WEST RIGHT OF WAY LINE OF 27TH STREET



Date July 13, 2015

AND THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 65 IN SAID UNIVERSITY PLACE; AND

ALL THAT PART OF THE NORTH/SOUTH ALLEY RIGHT OF WAY LYING BETWEEN THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 104 AND THE EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 42.5 FEET OF LOT 9, ALL IN SAID UNIVERSITY PLACE; AND

ALL THAT PART OF THE 27TH STREET RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 104 THROUGH 116 IN SAID UNIVERSITY PLACE;

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. The proposed sale of such vacated right-of-way and a portion of previously vacated Carpenter Avenue right-of-way, all as legally described below, to Drake University, for \$116,500.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to a no-build restriction and conditions included in the City Plan and Zoning Commission recommendation, and subject to the special conditions contained in the Offer to Purchase Real Estate to the City of Des Moines and Acceptance, is hereby approved:

ALL THAT PART OF VACATED CARPENTER AVENUE RIGHT OF WAY LYING BETWEEN THE SOUTHERLY EXTENSION OF THE WEST RIGHT OF WAY LINE OF 27TH STREET AND THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 65 IN UNIVERSITY PLACE, AN OFFICIAL PLAT; AND

ALL THAT PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING BETWEEN THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 104 AND THE EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 42.5 FEET OF LOT 9, ALL IN SAID UNIVERSITY PLACE; AND

ALL THAT PART OF THE VACATED 27TH STREET RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 104 THROUGH 116 IN SAID UNIVERSITY PLACE;

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 2.37 ACRES (103,274 SQUARE FEET).

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Deed, together with a certified copy of this

Date July 13, 2015

resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Deed, together with 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 these documents to be recorded.


7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Deed and copies of the other documents to the grantees.

8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

(Council Communication No. 15-388)

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Lisa A. Wieland
 Assistant City Attorney

aw

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

MOTION CARRIED APPROVED
 _____ Mayor

CERTIFICATE

I, DIANE RAUH, 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.

_____ City Clerk

May 14, 2015

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held May 7, 2015, the following action was taken regarding a request from Drake University (owner) 2525 Carpenter Avenue represented by Deborah Newsome (officer) for vacation of Carpenter Avenue from 25th Street to 27th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Jann Freed	X			
John "Jack" Hilmes			X	
Greg Jones	X			
Sasha Kamper	X			
William Page	X			
Jonathan Rosenbloom				X
Mike Simonson	X			
CJ Stephens	X			
Vicki Stogdill	X			
Greg Wattier				X

APPROVAL of the requested vacation of street and alley rights-of-way subject to the following conditions: (11-2015-1.05)

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.
2. Reservation of a 20-foot wide easement for fire department access.

3. Review and approval of a Site Plan for by the City's Permit and Development Center for all related site and landscaping improvements.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of street and alley rights-of-way subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.
2. Reservation of a 20-foot wide easement for fire department access.
3. Review and approval of a Site Plan for by the City's Permit and Development Center for all related site and landscaping improvements.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation would ensure that no dead-end street is created as Drake University continues to assemble land required to renovate existing facilities. The vacated segment of Carpenter Avenue will become part of the Drake University campus.
2. **Size of Site:** 43,440 square feet (0.99 acres).
3. **Existing Zoning (site):** "R-3" Multiple-Family Residential District, "FSO" Free Standing Sign Overlay District.
4. **Existing Land Use (site):** Developed right-of-way.
5. **Adjacent Land Use and Zoning:**

North – "R-3". Use is Educational. The properties to the north are part of Drake University and include the Harmon Fine Arts Center, Drake University Law School and the Opperman Hall and Law Library.

East – "R-3". Use is 25th Street right-of-way.

South – "R-3". Use is Educational. The properties to the south are part of Drake University and include the Carnegie Hall, Sheslow Auditorium and Howard Hall.

West – "R-3", Use is Educational. The properties to the west are part of Drake University and include the Cowles Library, Jewett Residence Hall and the painted Street.

6. **General Neighborhood/Area Land Uses:** The subject segment of right-of-way is located in the east part of the Drake University campus between Forest and University Avenues.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in Drake Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on April 21, 2015 and by mailing of the Final Agenda on May 1, 2015. Additionally, separate notifications of the hearing for this specific item were mailed on April 27, 2015 (10 days prior) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the requested right-of-way and alley.

All agendas and notices are mailed to the primary contact designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Drake Neighborhood Association mailings were sent to Deric Gourd, 2422 Drake Park Avenue, Des Moines, IA 50311.

8. **Relevant Zoning History:** None.
9. **2020 Community Character Land Use Plan Designation:** Public/Semi-Public. This designation is described as area with uses such as government facilities, schools and hospitals.
10. **Applicable Regulations:** The Commission reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, in consideration of the criteria set forth in Chapter 18B of the Iowa Code, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Utilities:** The subject right-of-way contains water and sanitary sewer lines. Easements must be reserved for any existing utilities until such time that they may be abandoned or are relocated.
2. **Street System/Access:** The requested vacation of the right-of-way segment would not significantly impact the existing surrounding street network. All adjoining parcels requiring access are owned by Drake University and the requested segment provides vehicular access within the campus.
3. **Future Use:** On March 5, 2015, the Plan and Zoning Commission conditionally approved a request for vacation of 27th Street from Forest Avenue to Carpenter Avenue, and a 16-foot wide north/south alley from Forest Avenue to a point 320.5 feet to the south, to allow Drake University to assemble land required to renovate existing facilities, add two new buildings and expand an existing parking lot. The vacated segment of 27th Street is proposed to be developed as a walkway or plaza connected with Carpenter Avenue at the south. The vacation was conditionally approved subject to approval of a Site Plan, installation of a paved fire apparatus turnaround on the dead-end public segment of Carpenter Avenue and reservation of necessary easements for all existing utilities.

The proposed vacation of Carpenter Street from 25th Street to 27th Street would eliminate the creation of a dead-end, public segment of right-of-way and allow Drake University to continue to assemble land required to renovate and improve its facilities. Any proposed improvements will require a Site Plan to be reviewed and approved by the City's Permit and Development Center. Any vacation of the requested street segment will require an easement for fire department access.

SUMMARY OF DISCUSSION

Greg Jones asked if anyone was present to speak on this item. A citizen raised their hand to speak on this item. Therefore, it was put on the public hearing agenda.

Jolene Schmidt stated that the City of Des Moines Traffic and Transportation Department suggested they vacate this portion of Carpenter. She had a preliminary plan that they are working on that is not complete, but she can answer any questions.

Mike Simonson asked if the applicant is in agreement with staff's recommendation.

Jolene Schmidt stated yes they are in agreement with staff's recommendation.

CHAIRPERSON OPENED THE PUBLIC HEARING

Harlan Donaldson 4143 Knob Hill Drive stated he owns a property on 29th Street and parking has been a tremendous problem around the stadium. He believes that closing the alley (which was approved) and this portion of Carpenter takes out nearly 150 parking spaces. He questioned how Drake will accommodate the loss of 150 on-street parking spaces.

Jolene Schmidt stated they are going to add another 122 spaces to the parking lot that is currently on 27th Street and will be accessed from Forest Avenue using the new entrance.

Harlan Donaldson asked if they plan to close Carpenter and take out the street.

Jolene Schmidt stated currently, there is no site plan so it would be hard to answer that question. They have just formed a committee. One of their worries are ADA accessibility issues because they have approximately 5 handicapped parking spaces on Carpenter Avenue.

Harlan Donaldson asked if this street is vacated is Drake bound to anything once the property is transferred to Drake.

Jason Van Essen noted in the staff recommendation that conveyance of that street segment is subject to site plan review for any changes. Therefore, they will not be able to do any changes without a formal review.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Will Page asked if the Drake Neighborhood Association was notified and have they given any response.

Jason Van Essen stated they would have received notice and currently there has been no response.

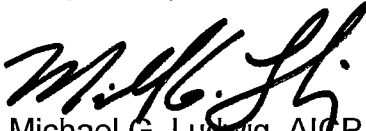
COMMISSION ACTION:

Mike Simonson moved staff recommendation to approve the requested vacation of street and alley rights-of-way subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.
2. Reservation of a 20-foot wide easement for fire department access.
3. Review and approval of a Site Plan for by the City's Permit and Development Center for all related site and landscaping improvements.

Motion passed 11-0-1 (John "Jack" Hilmes abstained)

Respectfully submitted,



Michael G. Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

Drake University (owner) 2525 Carpenter Avenue represented by Deborah Newsome (officer).				File #	
				11-2015-1.05	
Description of Action	Approval of the requested vacation of Carpenter Avenue from 25th Street to 27th Street subject to conditions.				
2020 Community Character Plan	Current: Public/Semi-Public. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No Planned Improvements.				
Current Zoning District	"R-3" Multiple-Family Residential District.				
Proposed Zoning District	N/A.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area					
Plan and Zoning Commission Action	Approval	11-0-1	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Drake University, 2525 Carpenter Avenue

11-2015-1.05

