

Date June 13, 2016

Page 1

HOLD HEARING FOR VACATION AND CONVEYANCE OF AN IRREGULAR PORTION OF 6TH AVENUE RIGHT-OF-WAY AND AN IRREGULAR PORTION OF 5TH AVENUE RIGHT-OF-WAY ALL ADJOINING 921 6TH AVENUE TO CATHOLIC HEALTH INITIATIVES – IOWA CORPORATION FOR \$99,556.00

WHEREAS, on May 9, 2016, by Roll Call No. 16-0755, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission recommending approval of a request for the vacation of an irregular portion of right-of-way from the southeast corner of School Street and 6th Avenue, and an irregular portion of right-of-way from the southwest corner of School Street and 5th Avenue, all adjoining 921 6th Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated, and subject to review and approval of a Site Plan by the City of Des Moines Plan and Zoning Commission for all related site and landscaping improvements; and

WHEREAS, Catholic Health Initiatives – Iowa Corporation, an affiliate of Mercy Properties, the owner of 921 6th Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$99,556.00 for the purchase of the irregular portion of street right-of-way adjoining 921 6th Avenue for incorporation into the adjoining commercial property to allow for expansion of the existing site improvements, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to review and approval of a Site Plan by the City of Des Moines Plan and Zoning Commission for all related site and landscaping improvements, which price reflects the restricted-use fair market value of said portion of street right-of-way as currently estimated by the City’s Real Estate Division; and

WHEREAS, there is no known current or future public need for the street right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property.

WHEREAS, on May 23, 2016, by Roll Call No. 16-0844, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the City right-of-way be set for hearing on June 13, 2016, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate 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 and conveyance of an irregular portion of right-of-way from the southeast corner

Date June 13, 2016

of School Street and 6th Avenue, and an irregular portion of right-of-way from the southwest corner of School Street and 5th Avenue, all adjoining 921 6th Avenue, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of an irregular portion of right-of-way from the southeast corner of School Street and 6th Avenue, and an irregular portion of right-of-way from the southwest corner of School Street and 5th Avenue, all adjoining 921 6th Avenue, legally described as follows, and said vacation is hereby approved:

5th Avenue:

THAT PART OF PUBLIC RIGHT-OF-WAY FOR 5TH AVENUE AND SCHOOL STREET ADJOINING BLOCK "E" OF RIVER HILLS, PLAT 1, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA, WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID BLOCK "E"; THENCE ON AN ASSUMED BEARING OF N 00°11'41" W, ALONG THE EASTERLY LINE OF SAID BLOCK "E"; 198.00 FEET TO THE POINT OF BEGINNING; THENCE NORTHERLY 124.92 ON A NON-TANGENTIAL CURVE TO THE LEFT HAVING A RADIUS OF 1218.08 FEET, A CENTRAL ANGLE OF 05°52'33", AND A CHORD WHICH BEARS N 06°50'43" W, FOR 124.86 FEET; THENCE N 11°53'33" W, 88.53 FEET; THENCE NORTHERLY 97.39 ON A TANGENTIAL CURVE TO THE RIGHT HAVING A RADIUS OF 850.00 FEET, HAVING A CENTRAL ANGLE OF 06°33'54", AND A CHORD WHICH BEARS N 08°36'36" W, FOR 97.34 FEET; THENCE N 05°19'39" W, 30.50 FEET; THENCE NORTHERLY 23.42 ON A TANGENTIAL CURVE TO THE LEFT HAVING A RADIUS OF 148.76 FEET, A CENTRAL ANGLE OF 09°01'20", AND A CHORD WHICH BEARS N 09°50'19" W, FOR 23.40 FEET; THENCE N 43°39'55" W, 50.57 FEET; THENCE N 89°25'58" W, 102.51 FEET TO THE NORTHEASTERLY LINE OF SAID BLOCK "E"; THENCE ALONG THE NORTHEASTERLY LINE OF SAID BLOCK "E" THE FOLLOWING COURSES; S 38°12'23" E, 84.64 FEET; THENCE S 89°25'58" E, 5.00 FEET; THENCE S 24°07'41" E, 39.62 FEET; THENCE S 00°17'20" E, 30.00 FEET; THENCE S 89°25'48" E, 11.00 FEET; THENCE S 20°08'47" E, 141.01 FEET; THENCE S 20°21'35" E, 64.18 FEET; THENCE S 20°07'14" E, 77.09 FEET; THENCE S 89°25'58" E, 9.83 FEET TO THE POINT OF BEGINNING. CONTAINING 22,362 SQUARE FEET OR 0.51 ACRES.

6th Avenue:

THAT PART OF PUBLIC RIGHT-OF-WAY FOR 6TH AVENUE AND SCHOOL STREET ADJOINING BLOCK "E" OF RIVER HILLS, PLAT 1, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA, WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID BLOCK "E"; THENCE ON AN ASSUMED BEARING OF N 00°16'10" W, ALONG THE WESTERLY LINE OF

Date June 13, 2016

SAID BLOCK "E", 539.00 FEET TO THE POINT OF BEGINNING; THENCE N 00°16'10" W, 29.83 FEET; THENCE N 44°43'50" E, 35.07 FEET; THENCE S 89°25'58" E, 25.20 FEET TO THE NORTHWESTERLY LINE OF SAID BLOCK "E"; THENCE S 42°23'19" W, ALONG SAID NORTHWESTERLY LINE, 73.78 FEET TO THE POINT OF BEGINNING. CONTAINING 1,063 SQUARE FEET OR 0.02 ACRES

3. The proposed sale of such vacated right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, and said conveyance is hereby approved:

Grantee: Catholic Health Initiatives – Iowa Corporation
Consideration: \$99,556.00

5th Avenue:

THAT PART OF VACATED PUBLIC RIGHT-OF-WAY FOR 5TH AVENUE AND SCHOOL STREET ADJOINING BLOCK "E" OF RIVER HILLS, PLAT 1, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA, WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID BLOCK "E"; THENCE ON AN ASSUMED BEARING OF N 00°11'41" W, ALONG THE EASTERLY LINE OF SAID BLOCK "E"; 198.00 FEET TO THE POINT OF BEGINNING; THENCE NORTHERLY 124.92 ON A NON-TANGENTIAL CURVE TO THE LEFT HAVING A RADIUS OF 1218.08 FEET, A CENTRAL ANGLE OF 05°52'33", AND A CHORD WHICH BEARS N 06°50'43" W, FOR 124.86 FEET; THENCE N 11°53'33" W, 88.53 FEET; THENCE NORTHERLY 97.39 ON A TANGENTIAL CURVE TO THE RIGHT HAVING A RADIUS OF 850.00 FEET, HAVING A CENTRAL ANGLE OF 06°33'54", AND A CHORD WHICH BEARS N 08°36'36" W, FOR 97.34 FEET; THENCE N 05°19'39" W, 30.50 FEET; THENCE NORTHERLY 23.42 ON A TANGENTIAL CURVE TO THE LEFT HAVING A RADIUS OF 148.76 FEET, A CENTRAL ANGLE OF 09°01'20", AND A CHORD WHICH BEARS N 09°50'19" W, FOR 23.40 FEET; THENCE N 43°39'55" W, 50.57 FEET; THENCE N 89°25'58" W, 102.51 FEET TO THE NORTHEASTERLY LINE OF SAID BLOCK "E"; THENCE ALONG THE NORTHEASTERLY LINE OF SAID BLOCK "E" THE FOLLOWING COURSES; S 38°12'23" E, 84.64 FEET; THENCE S 89°25'58" E, 5.00 FEET; THENCE S 24°07'41" E, 39.62 FEET; THENCE S 00°17'20" E, 30.00 FEET; THENCE S 89°25'48" E, 11.00 FEET; THENCE S 20°08'47" E, 141.01 FEET; THENCE S 20°21'35" E, 64.18 FEET; THENCE S 20°07'14" E, 77.09 FEET; THENCE S 89°25'58" E, 9.83 FEET TO THE POINT OF BEGINNING. CONTAINING 22,362 SQUARE FEET OR 0.51 ACRES.

6th Avenue:

THAT PART OF VACATED PUBLIC RIGHT-OF-WAY FOR 6TH AVENUE AND SCHOOL STREET ADJOINING BLOCK "E" OF RIVER HILLS, PLAT 1, AN OFFICIAL

Date June 13, 2016

PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA, WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID BLOCK "E"; THENCE ON AN ASSUMED BEARING OF N 00°16'10" W, ALONG THE WESTERLY LINE OF SAID BLOCK "E", 539.00 FEET TO THE POINT OF BEGINNING; THENCE N 00°16'10" W, 29.83 FEET; THENCE N 44°43'50" E, 35.07 FEET; THENCE S 89°25'58" E, 25.20 FEET TO THE NORTHWESTERLY LINE OF SAID BLOCK "E"; THENCE S 42°23'19" W, ALONG SAID NORTHWESTERLY LINE, 73.78 FEET TO THE POINT OF BEGINNING. CONTAINING 1,063 SQUARE FEET OR 0.02 ACRES

- 4. The Mayor is authorized and directed to sign the Offer to Purchase and 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 Quit Claim Deed, together with a certified copy of this 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 Quit Claim 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 Quit Claim Deed and a copy of the other documents to the grantee.
- 8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

(Council Communication No. 16-307)

Moved by _____ to adopt.

★ Roll Call Number

Agenda Item Number

59

Date June 13, 2016

Page 5

APPROVED AS TO FORM:

Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

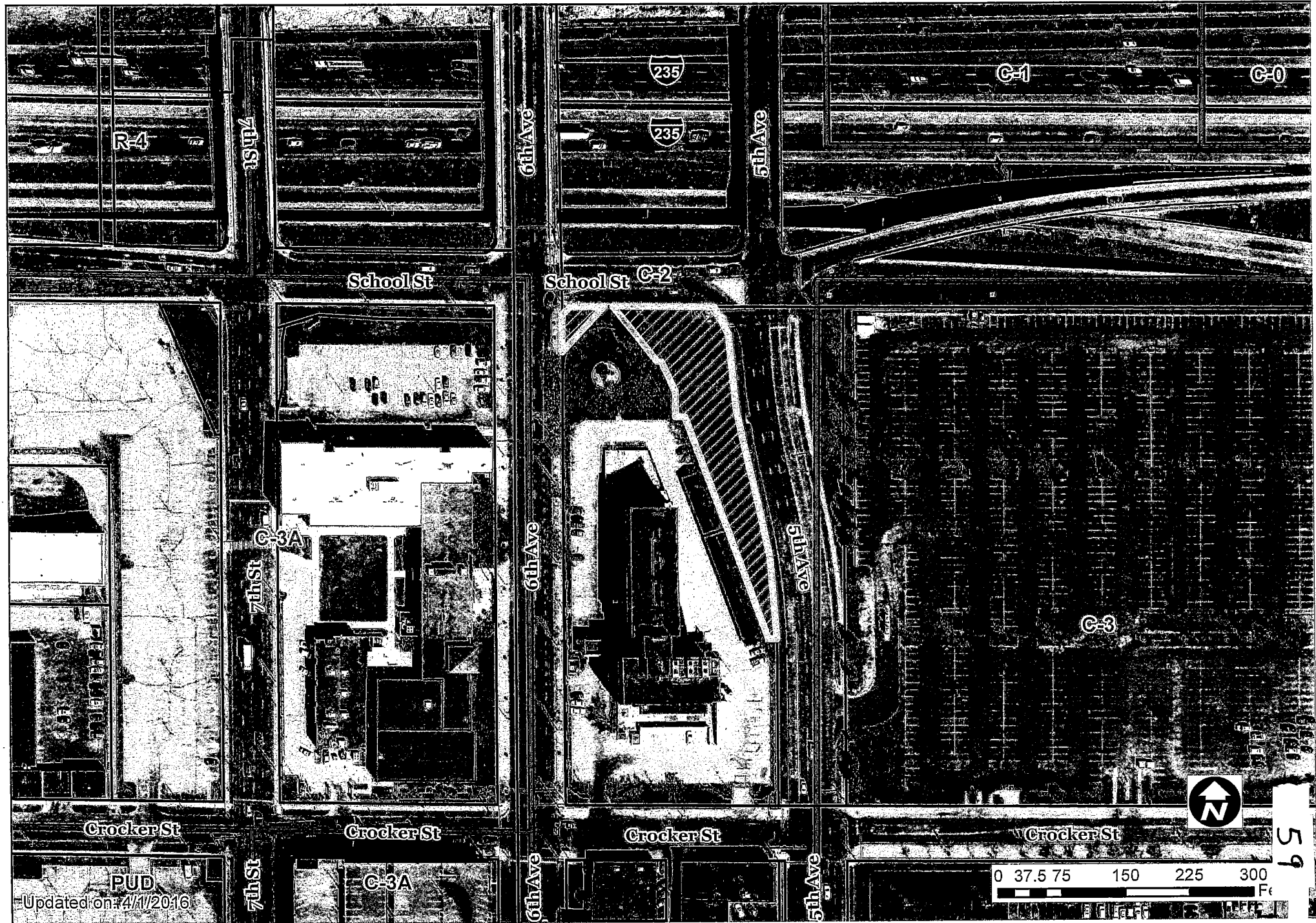
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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

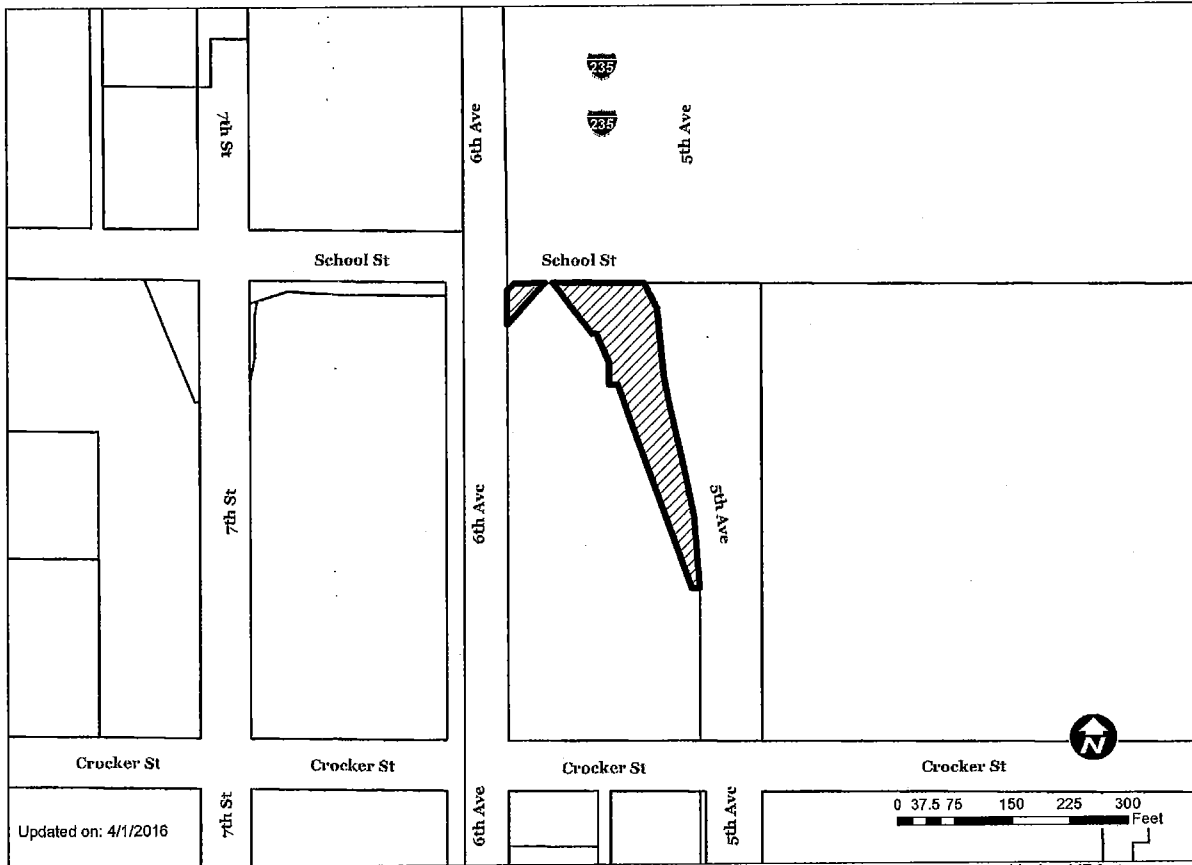


59

Catholic Health Initiatives – Iowa Corporation (owner), 921 6th Avenue, represented by Ron Muecke (officer).		File #		
		11-2016-1.09		
Description of Action	Approval of a request for vacation of an irregular portion of Right-of-Way from the southeast corner of School Street and 6th Avenue, and an irregular portion of Right-Of-Way from the southwest corner of School Street and 5th Avenue; to allow for site expansion of the subject property, subject to conditions			
2020 Community Character Plan	Current: High Density Residential. Proposed PlanDSM: Downtown Mixed-Use.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"C-2" General Retail and Highway-Oriented Commercial District, "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay District, and "FSO" Freestanding Signs Overlay 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	8-0-2	Required 6/7 Vote of the City Council	Yes
	Denial			No

Catholic Health Initiatives - Iowa Corporation

11-2016-1.09



April 27, 2016

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 April 21, 2016, the following action was taken regarding a request from Catholic Health Initiatives – Iowa Corporation (owner), 921 6th Avenue, represented by Ron Muecke (officer), for review and approval of a request for vacation of an irregular portion of Right-of-Way from the southeast corner of School Street and 6th Avenue, and an irregular portion of Right-Of-Way from the southwest corner of School Street and 5th Avenue; to allow for site expansion of the subject property.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 8-0-2 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri				X
Jacqueline Easley			X	
Tim Fitzgerald	X			
Jann Freed				X
John "Jack" Hilmes				X
Greg Jones	X			
Sasha Kamper	X			
William Page	X			
Mike Simonson			X	
CJ Stephens				X
Greg Wattier	X			

APPROVAL of the requested vacation of ROWs, subject to the following conditions:
 (11-2016-1.09)

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.

2. Review and approval of a Site Plan by the City's Plan and Zoning Commission for all related site and landscaping improvements.

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of ROWs 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. Review and approval of a Site Plan by the City's Plan and Zoning Commission for all related site and landscaping improvements.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation would allow Mercy College of Health Sciences to assemble land required to renovate existing facilities, add a new building and make site improvements. The vacated right-of-way would be incorporated into a relocated parking lot.
2. **Size of Site:** The subject ROWs are two irregularly shaped segments measuring 23926.6 square feet (0.54 acres).
3. **Existing Zoning (site):** "C-2" General Retail and Highway-Oriented Commercial District.
4. **Existing Land Use (site):** Sidewalk and turf.
5. **Adjacent Land Use and Zoning:**
 - North** – "C-2", Use is School Street and Interstate 235.
 - South** – "C-2", Use is five-story building owned by Mercy Properties.
 - East** – "C-3", Use is Polk County owned surface parking lot.
 - West** – "C-3A", Use is 6th Avenue and properties owned by the Catholic Health Initiatives.
6. **General Neighborhood/Area Land Uses:** The subject right-of-way segments are located in the northern portion of downtown near Interstate 235. The area contains a mix of commercial, multiple-family and surface parking uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is not located in or within 250 feet of a recognized neighborhood. All neighborhoods were notified of the

Commission meeting by mailing of the Preliminary Agenda on April 1, 2016. A Final Agenda was mailed to all neighborhood associations on April 15, 2016. Additionally, separate notifications of the hearing for the site plan were mailed on April 11, 2016 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for every property adjoining or directly across from the subject site.

8. Relevant Zoning History: None.

9. 2020 Community Character Land Use Plan Designation: High Density Residential/Limited Commercial.

10. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation: The subject property is located within an area designated on the proposed PlanDSM future land use map as Downtown Mixed Use. The plan defines this category as “mixed-use, high density residential uses, and compact combinations of pedestrian-oriented retail, office, residential and parking in downtown. Should include active uses (e.g. retail) on ground floor, particularly at key intersections.”

11. Applicable Regulations: In consideration of the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, 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. Traffic/Street System:** The requested vacation would not impact the existing street network. The subject right-of-way segments are remnants of land acquired for the construction of Interstate 235.
- 2. Utilities:** The subject right-of-way contains fiber optic lines and conduits. Easements must be reserved for any existing utilities until such time that they may be abandoned or are relocated.
- 3. Future Use:** The proposed vacation would allow Mercy College of Health Sciences to assemble land required to renovate existing facilities, add a new building and make site improvements. The vacated right-of-way would be incorporated into a relocated parking lot. The proposed improvements will require a Site Plan approved by the City’s Plan and Zoning Commission. The applicant has submitted a Site Plan scheduled for May 05, 2016. The applicant has also submitted a request for a Variance to setback requirements to the Zoning Board of Adjustment that will be reviewed at the April 27, 2016 public meeting.

SUMMARY OF DISCUSSION

Greg Jones asked if anyone was present to speak on this item. None were present or requested to speak.

COMMISSION ACTION:

Mike Simonson moved staff recommendation for approval of the requested vacation of ROWs 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. Review and approval of a Site Plan by the City's Plan and Zoning Commission for all related site and landscaping improvements.

Motion passed 8-0-2 (Jacqueline Easley and Mike Simonson abstained).

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment