



Date December 17, 2018

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM NELSON DEVELOPMENT 1, LLC FOR VACATION OF RIGHT-OF-WAY ADJOINING 2650 UNIVERSITY AVENUE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 6, 2018, its members voted 9-0 to recommend APPROVAL of a request from Nelson Development 1, LLC, represented by Alexander Grgurich (officer), to vacate the following segment of City right-of-way adjoining 2650 University Avenue, to allow for assemblage with the adjoining properties and redevelopment for a 5-story hotel building, subject to reservation of easements for any existing utilities until such time that they are abandoned or relocated, and provision of minimum 20-foot wide public access easement(s) to ensure vehicles are able to drive in between the northern terminus of the remaining segment of north/south alley and both 26th Street and 27th Street:

- (1) North/south alley between 26th Street and 27th Street running from University Avenue to a point 329 feet to the south;
(2) Air rights within the adjoining south 1.5 feet of University Avenue and the east 1.0 feet of 27th Street; and
(3) Subsurface rights within the adjoining south 3.0 feet of University Avenue and the adjoining east 3.0 feet of 27th Street.

MOVED by _____ to receive and file the attached communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

(11-2018-1.25)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and 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



December 12, 2018

Date December 17, 2018

Agenda Item 25

Roll Call # _____

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their December 6, 2018 meeting, the following action was taken regarding a request from Nelson Development 1, LLC (owner) represented by Alexander Grgurich (officer) for vacation of the following in the vicinity of 2650 University Avenue:

- A) North/South alley between 26th Street and 27th Street running from University Avenue to a point 329 feet to the south.
- B) Air rights within the adjoining South 1.5 feet of University Avenue and the east 1.0 feet of 27th Street.
- C) Subsurface rights within the adjoining South 3.0 feet of University Avenue and the adjoining East 3.0 feet of 27th Street. Subject property located at 2650 University Avenue.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	X			
Chris Cutler				X
David Courard-Hauri				X
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes				X
Lisa Howard	X			
Carolyn Jenison				X
Greg Jones	X			
William Page	X			
Mike Simonson	X			
Rocky Sposato	X			
Steve Wallace				X
Greg Wattier	X			

RECOMMEND APPROVAL of the request to vacate multiple segments of public right-of-way, subject to the following conditions:

1. Provision of easements for any existing utilities until such time that they are abandoned or relocated.
2. Provision of minimum 20-foot wide public access easements to ensure vehicles are able to drive in between the northern terminus of the remaining segment of north/south alley and both 26th Street and 27th Street.

(11-2018-1.25)

Written Responses

0 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the request to vacate multiple segments of public right-of-way, subject to the following conditions:

1. Provision of easements for any existing utilities until such time that they are abandoned or relocated.
2. Provision of minimum 20-foot wide public access easements to ensure vehicles are able to drive in between the northern terminus of the remaining segment of north/south alley and both 26th Street and 27th Street.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation of right-of-way and Site Plan would allow for redevelopment of the property with a 5-story, 60-foot tall hotel building containing 124 guest rooms. The design of the building includes a 68.1-foot tall element on the northeastern portion of the building. The building would also include ground-level commercial space along University Avenue. The proposed building would be "L"-shaped, with a 5-story portion framing the entire University Avenue frontage and a 1-story portion framing part of the 26th Street frontage. The proposed development would also include an off-street parking lot on the southern portion of the site. The southernmost 48 feet of the parking lot area is zoned "R1-60" One-Family Low-Density Residential District.

The proposal includes the vacation of the north/south alley right-of-way bisecting the site, as well as the vacation of adjoining segments of street right-of-way in order to accommodate footings and awnings.

The applicant has also requested waiver of the "NPC" Design Guidelines that state a building should be no more than 45 feet tall and that any permitted non-residential use should be no more than 2 stories since the proposed building would be 60 feet in height and 5 stories.

2. **Size of Site:** Approximately 1.91 acres.

3. **Existing Zoning (site):** The majority of the property is zoned Limited "NPC" Neighborhood Pedestrian Commercial District. The southern 48 feet is zoned "R1-60" One-Family Low-Density Residential District. The entire site is within the "FSO Freestanding Signs Overlay District.

4. **Existing Land Use (site):** The northern portion of the property contains a parking lot. The southern portion of the property has been undeveloped open space since the previously existing residential structures were removed from the property.

5. **Adjacent Land Use and Zoning:**

North – "R-3"; Use is Drake University's campus.

South – "R1-60", Uses are a single-family dwelling and a built-as single-family dwelling that has been converted three (3) dwelling units.

East – "NPC"; Use is an undeveloped lot.

West – "NPC"; Uses are Drake University's Alumni House and undeveloped lots.

6. **General Neighborhood/Area Land Uses:** The subject property is located along the south side of the University Avenue mixed-use corridor, directly across from Drake University's campus.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Drake Neighborhood. The neighborhood association was notified of the Commission meeting by mailing of the Preliminary Agenda on November 16, 2018. Additionally, separate notifications of the hearing for this specific item were mailed on November 26, 2018 (10 days prior to the hearing) to the Drake Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on November 30, 2018.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood associations to the City of Des Moines Neighborhood Development Division. The Drake Neighborhood Association notices were mailed to Jennifer Sayers, 1129 28th Street, Des Moines, IA 50311.

8. **Relevant Zoning History:** On July 24, 2000, the City Council rezoned a majority of the property from "R-3" Multiple-Family Residential District to Limited "NPC" Neighborhood Pedestrian Commercial District, by Ordinance No. 13,840, subject to the following conditions:

- A. The following uses of structures and land shall not be permitted upon the Property:
1. Gas stations;
 2. Locker plant;
 3. Automotive and motorcycle accessory and parts store;
 4. Lawn mower repair shops;

5. Radio stations;
 6. Animal hospitals, veterinary clinics, or kennels;
 7. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots);
 8. Ballrooms and dance halls;
 9. Billiards parlors, pool halls and game rooms;
 10. Carpenter and cabinet making shops for retail custom work;
 11. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges miniature golf courses, trampoline centers, and similar recreational uses and facilities;
 12. Drive-in theaters;
 13. Lumber yards;
 14. Mini-warehouse;
 15. Monument sales yards;
 16. Any business holding a liquor license, beer or wine permit which is not operated as either:
 - a. a grocery store or pharmacy at least half of whose gross income is derived from the sale of merchandise other than liquor, wine or beer; or
 - b. a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services;
 17. Plumbing and heating shops;
 18. Sheet metal shops;
 19. Sign painting shops;
 20. Mobile home parks;
 21. Used car sales lots;
 22. Garage for general motor vehicle repair;
 23. Automobile washing establishments;
 24. Adult entertainment businesses; and
 25. Off-premises advertising signs.
- B. Signage upon the Property shall be limited to that allowed in the "C-1" Neighborhood Retail Commercial District.
- C. Prior to the demolition of any residential structure upon the Property by Drake University, and prior to the sale of any portion of the Property by Drake University which contains a residential structure, Drake University shall provide notice of such demolition or sale at least 120 days in advance to the City of Des Moines and to the Drake Neighborhood Association to allow interested parties an opportunity to negotiate with Drake University for the purchase and moving of the structures.

On February 4, 2002, the City Council rezoned the southernmost 48 feet of the property from "R-3" Multiple-Family Residential District to "R1-60" One-Family Low-Density Residential District, by Ordinance No. 14,050.

9. **PlanDSM Creating Our Tomorrow:** The subject property is located along a portion of University Avenue that is designated in PlanDSM as Neighborhood Mixed Use, which is defined as "Small scale mixed use development typically located at the intersections of collector and/or arterial streets and along transportation corridors. Non-residential development is designed to serve the immediate neighborhood and include small retail, offices, restaurants, and service oriented development. Low-medium density residential may be included in mixed use development."

10. Applicable Regulations: The Commission, considering the criteria set forth in Chapter 18B of the Iowa Code, 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.

In acting upon any Site Plan application for property located within an "NPC" Neighborhood Pedestrian Commercial District, the Plan and Zoning Commission shall apply the design standards in Section 82-213 of this article (the standards for all Site Plans) in consideration of the criteria set forth in Chapter 18B of the Iowa Code and the additional standards listed below. They were developed for the purpose of preserving the community character of the commercial corridor within the district. The design guidelines express the predominant character giving features along the commercial corridor. The Commission may approve a Site Plan that does not comply with the design guidelines if it finds the overall development is in harmony with the commercial corridor, that the failure to comply with the design guidelines does not negatively impact the character of surrounding properties, and that the failure to comply with the design guidelines is due to the following:

1. An unusual lot shape, size, topography or double frontage. A lot over one acre in size shall always be considered to be of unusual size;
2. A need to facilitate a smooth transition between existing developments in the vicinity;
3. A need to accommodate existing development;
4. A need to preserve an existing building; or
5. A use with unique design requirements.

Staff believes that it would be appropriate to grant the waiver of the "NPC" Design Guidelines that state a building should be no more than 45 feet tall and that any permitted non-residential use should be no more than 2 stories in height since the proposed building would be 60 feet in height and 5 stories. The proposed 60-foot tall, 5-story building would not negatively impact the character of surrounding properties. The 1.91-acre subject property is located along a segment of University Avenue that is densely developed with commercial and institutional uses, including the church at 2500 University Avenue that is over 60 feet tall. The subject property is also located directly across from Drake University's campus, which contains several taller buildings.

II. ADDITIONAL APPLICABLE INFORMATION

1. NPC Design Guidelines: The following design guidelines are applicable to review of any Site Plan within an "NPC" district.

A) Buildings should frame the street and maintain a minimal setback from the street.

The proposed building would frame University Avenue and maintain a minimal setback from the street.

- B) The front facade of the first floor of the building on the primary commercial street should have a ratio of at least 40 percent window and window display area to total street facade.

The front façade of the building would contain glass and aluminum storefront windows that would exceed this minimum requirement.

- C) The front entrance should be oriented to the street. On a corner lot, the building should have a well-defined entrance on the primary commercial street.

The proposed structure would have multiple entrances fronting University Avenue, as well as an entrance fronting 26th Street.

- D) Materials should be brick, stone, tile, stucco, or horizontal wood clapboard with a maximum width of six inches. Two-story buildings are encouraged.

The entire ground level of the structure would be predominantly sided with brick and glass storefronts. The upper levels would be sided with brick and metal panels.

- E) Commercial buildings with over 50 feet of building frontage should have the appearance of being broken into separate bays of between 20 to 35 lineal feet using structural elements, fenestration patterns, protruding or recessed bays, or architectural details.

The proposed design satisfies this criterion since it provides the appearance of multiple tenant bays along University Avenue.

- F) Building frontage should occupy at least 50 percent of the primary street frontage.

The proposed building would occupy over 90% of the street frontage along University Avenue.

- G) Off-street loading and parking spaces should be provided in compliance with sections 134-1376 and 134-1377 of the zoning chapter, subject to the following modifications:

1. The minimum number of off-street parking spaces is 60 percent of the number of spaces otherwise required by subsection 134-1377(a).

The Site Plan provides 112 off-street parking spaces. City Code Section 134-1377 would otherwise require 136 spaces for the proposed building. However, the "NPC" District requires only 82 parking spaces (60% of the requirement).

2. Parking should not exceed the amount otherwise required by section 134-1377 of this Code.

The submitted Site Plan includes 112 parking spaces, which does not exceed the 136 spaces otherwise required by Section 134-1377 of the City Code.

3. Parking should not use the front yard but should be concentrated along the side and in back of the building in the predominant pattern of character defining buildings.

The submitted Site Plan satisfies this criterion. All off-street parking is located to the rear and/or side of the building.

4. Shared parking among businesses or between business and residential projects will be allowed, provided a shared parking plan is presented at the time of application, signed by the property owners, ensuring non-duplication of parking. The shared parking must be within 300 feet of the business or dwelling.

Off-site parking is not required for the applicant to comply with the minimum parking requirements.

5. On-street parking directly adjacent to the occupant frontage shall count toward the minimum off-street parking requirement. Elimination of such on-street parking by the city shall have no effect on an approved Site Plan.

The submitted Site Plan shows approximately 28 on-street parking spaces along the adjoining University Avenue, 26th Street, and 27th Street frontages.

6. Tandem parking spaces shall count toward the minimum off-street parking requirement if a parking plan demonstrates that the parking will be for employees and will be occupied for over four hours between changes.

Tandem parking is not proposed or required to comply with the minimum parking requirements.

7. An emphasis of trees, shrubs and other plantings should be placed around the perimeter of any parking area and within large parking lots to create a more attractive area. The landscape plan should generally enhance the visual appearance of the building, parking area and any pedestrian areas.

The landscape plan demonstrates that significant plantings would be provided around the perimeter of the parking lot and within multiple landscape islands within the parking lot.

H) The following bulk regulations should be observed:

1. Minimum lot area Mixed-use project, 10,000 square feet, No minimum requirement for permitted nonresidential uses.
2. Minimum lot area per dwelling unit multiple dwellings, 2,000 square feet.
3. Front yard: minimum of zero feet.
4. Side yards: minimum of zero feet.
5. Rear yard: None required, except when adjoining any R or C-0 district or portion of a PUD designated for residential use, in which case ten feet.
6. Height: minimum of 15 feet, maximum of 45 feet.

7. Number of stories:
- Residential uses, a maximum of four stories.
 - All other permitted uses, a maximum of two stories.

The proposed building requires waiver of the "NPC" Design Guidelines that state the building should be a maximum of 45 feet in height and a maximum of two stories since it is a permitted non-residential use.

8. Signs, which are attached or projecting from the building and designed for the character of the building, are preferred. Monument signs are allowed.

As required by the Limited "NPC" District, any signage shall be limited to that allowed in the "C-1" Neighborhood Retail Commercial District. Freestanding signage is required to comply with the Freestanding Sign Overlay District.

9. Any extension of parking into an adjoining residential district shall support the intent of the NPC neighborhood pedestrian commercial district and conform with the guidelines in this section.

The submitted Site Plan satisfies this criterion. While the proposed parking lot would extend up to 48 feet into a residential district, the parking does support the intent of the NPC neighborhood pedestrian commercial district.

- 2. Extension of Parking into an "R" District:** In acting upon any Site Plan application that includes an extension of parking under the authority of section 134-1377(f)(8) into a residential district where it would otherwise be prohibited, the Plan and Zoning Commission shall apply the design standards in section 82-213, and taking into consideration the criteria set forth in Chapter 18B of the Iowa Code. Further, the proposed Site Plan shall be denied unless it is shown to that such extension of parking meets the following criteria:

- 1) The construction and use of this parking lot will have no significant detrimental impact on the use and enjoyment of adjoining properties.

Staff believes that the proposed parking lot will not be detrimental to the surrounding neighborhood because the parking lot addition would be adequately setback from adjoining properties and screened with landscaping and a 6-foot tall fence.

- 2) No parking should be permitted in the required front yard of the "R" district unless compatible with the adjoining land use.

The proposed parking lot would not be located within the minimum required 15-foot front yard setback along 26th Street or within the minimum required 20-foot front yard setback along 27th Street.

- 3) Adequate setbacks shall be provided to protect adjacent residentially zoned property. A minimum ten (10) foot setback from adjacent "R" district property lines should be observed.

The proposed parking lot would be setback 10 feet from the adjoining residentially zoned property to the south.

- 4) Appropriate screening shall be provided to shield adjacent residential uses from the impacts of the parking lot.

The proposed parking lot addition would be screened from adjoining residential uses to the south by a 10-foot -wide landscape buffer. This buffer would include a 6-foot tall fence and a mix of overstory trees and evergreen trees.

- 5) Adequate landscaping shall be provided and maintained to buffer and beautify the parking area. Both interior and peripheral landscaping should be considered.

The site plan shows a mix of shrubs, overstory trees, and evergreen trees throughout the site.

- 6) Where feasible, the entrance to the parking area should be from an adjoining alley or the less restrictive district.

The proposed Site Plan would utilize drive approaches from 26th Street and 27th Street located on the portion of the property that is zoned "NPC" District. The proposed parking lot would also provide access to the remaining north/south segment of alley to the south of the parking lot.

3. **Utilities:** There are aerial electrical facilities within the north/south alley right-of-way that would be buried as part of the development. Staff recommends provision of a note to state that all utilities are to be located underground.

There are no other identified sewer, water, or electrical facilities within the requested segments of right-of-way. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated.

4. **Stormwater Management:** The Site Plan demonstrates that stormwater management would be provided within underground detention chambers beneath the parking lot.
5. **University Avenue Streetscape Plan:** The City is currently partnering with Drake University to develop a streetscape plan for University Avenue from 25th Street to 31st Street. The submitted Site Plan includes sidewalk, curb bumpouts, and planter beds that appear to comply with the current draft of the streetscape plan. While this streetscape plan has not yet been finalized, Staff recommends that the Site Plan comply with the principles of the University Avenue Streetscape Plan to the satisfaction of the City's Planning Administrator.

The City's Traffic & Transportation Division has requested that the proposed bumpouts

along University Avenue at both 26th Street and 27th Street be lengthened to 60 feet to the satisfaction of the City's Traffic Engineer in order to enhance pedestrian safety.

6. **Street System & Access:** The requested vacation would eliminate the northern portion of an existing north/south alley. The submitted Site Plan demonstrates that 12-foot wide access easements would be provided to allow vehicles to exit from the remaining segment of alley to both 26th Street and 27th Street. Staff recommends that these easements be at least 20 feet wide in order to accommodate two-way circulation.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Utilities:** No public utilities have been identified within the subject ROW. It is necessary to reserve an easement for any public utilities which may exist.
2. **Street System/Access:** The subject ROW does not comprise any developed portion of the public street network and only provides undeveloped access to the adjoining land owners. No railroad facilities are located within the subject requested ROW.

SUMMARY OF DISCUSSION

Jacqueline Easley asked if anyone was present to speak on this item. None were present or requested to speak.

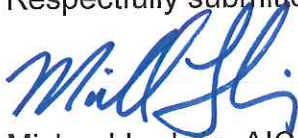
COMMISSION ACTION:

Jann Freed made a motion to recommend approval of the request to vacate multiple segments of public right-of-way, subject to the following conditions:

1. Provision of easements for any existing utilities until such time that they are abandoned or relocated.
2. Provision of minimum 20-foot wide public access easements to ensure vehicles are able to drive in between the northern terminus of the remaining segment of north/south alley and both 26th Street and 27th Street.

Motion passed: 9-0

Respectfully submitted,



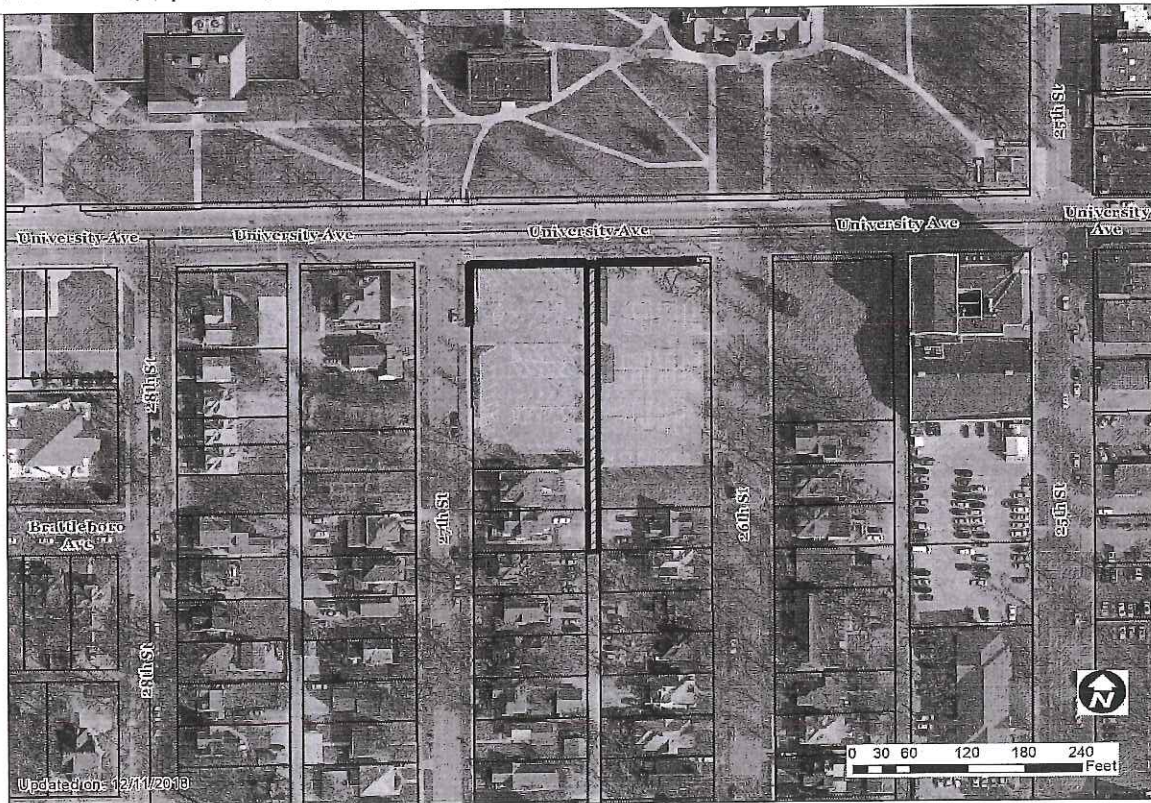
Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

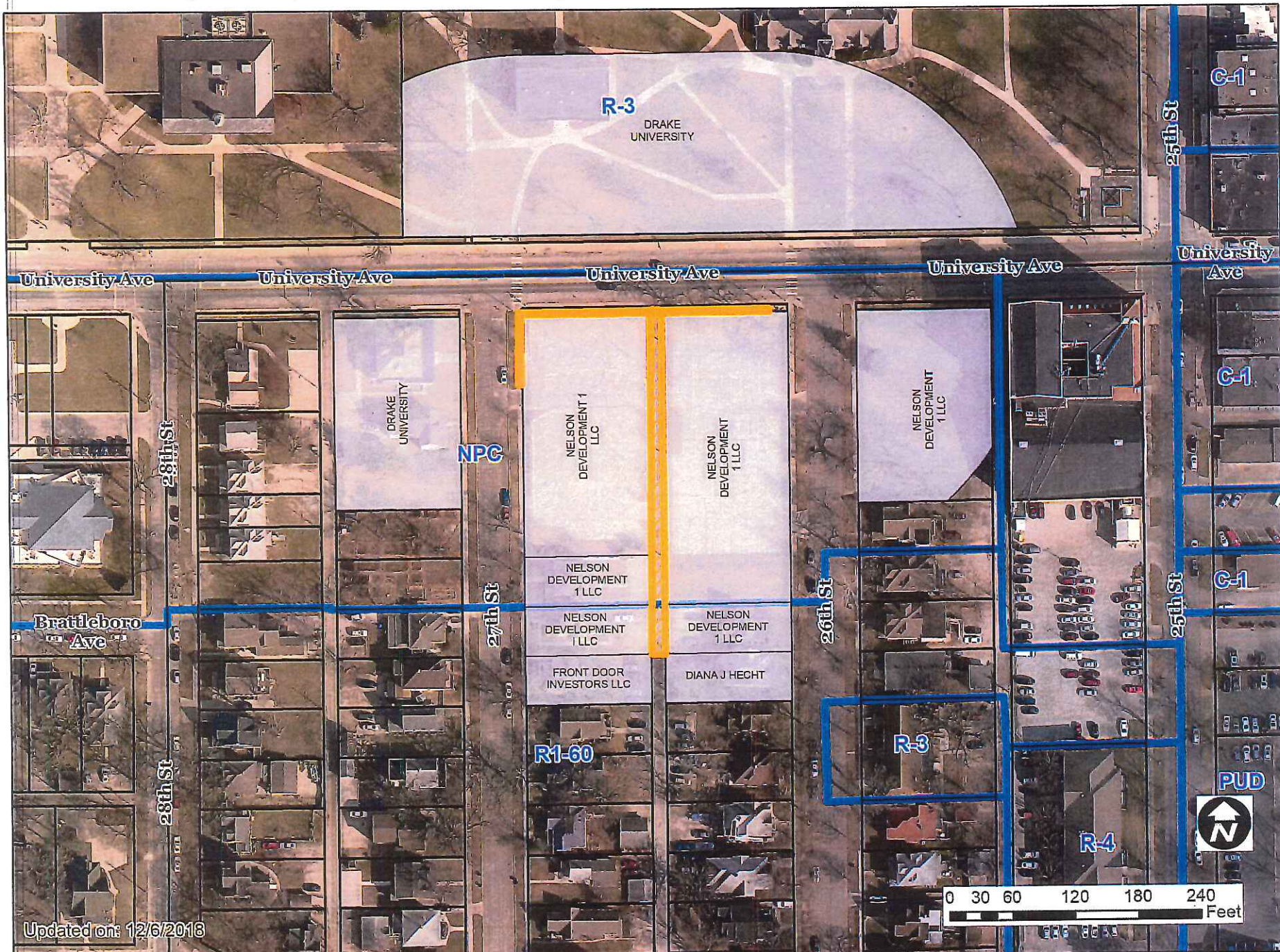
Nelson Development 1, LLC (owner) represented by Alexander Grgurich (officer) for property located at 2650 University Avenue.		File # 11-2018-1.25		
Description of Action	Vacation of the following: 1) North/South alley between 26th Street and 27th Street running from University Avenue to a point 329 feet to the south. 2) Air rights within the adjoining South 1.5 feet of University Avenue and the east 1.0 feet of 27th Street. 3) Subsurface rights within the adjoining South 3.0 feet of University Avenue and the adjoining East 3.0 feet of 27th Street.			
PlanDSM Future Land Use	Current: Neighborhood Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	Limited "NPC" Neighborhood Pedestrian Commercial District and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	N/A.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Subject Property	0	0		
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Nelson Development 1, LLC, 2650 University Avenue

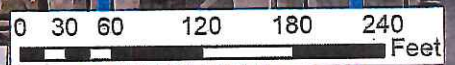
11-2018-1.25



1 inch = 123 feet



Updated on: 12/6/2018



1 inch = 123 feet

25