



Roll Call Number

Agenda Item Number

38A

Date February 11, 2019

An Ordinance entitled, "AN ORDINANCE vacating portions of the following street and alley right-of-way adjoining 2650 University Avenue, Des Moines, Iowa: (1) the north/south alley between 26th Street and 27th Street running from University Avenue to a point 329 feet to the south; (2) the air rights within the adjoining south 1.5 feet of University Avenue and the east 1.0 feet of 27th Street; and (3) the subsurface rights within the adjoining south 3.0 feet of University Avenue and the adjoining east 3.0 feet of 27th Street",

presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

*Lisa A. Wieland*  
Lisa A. Wieland  
Assistant City Attorney

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.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

Mayor

City Clerk

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE vacating portions of the following street and alley right-of-way adjoining 2650 University Avenue, Des Moines, Iowa: (1) the north/south alley between 26th Street and 27th Street running from University Avenue to a point 329 feet to the south; (2) the air rights within the adjoining south 1.5 feet of University Avenue and the east 1.0 feet of 27th Street; and (3) the subsurface rights within the adjoining south 3.0 feet of University Avenue and the adjoining east 3.0 feet of 27th Street.

WHEREAS, all prior requirements of law pertaining to the vacation of public right-of-way have been fully observed; and

WHEREAS, it is desirable that the public right-of-way herein described be vacated;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Sec. 1. That portions of the following street and alley right-of-way adjoining 2650 University Avenue, Des Moines, Iowa: (1) the north/south alley between 26th Street and 27th Street running from University Avenue to a point 329 feet to the south; (2) the air rights within the adjoining south 1.5 feet of University Avenue and the east 1.0 feet of 27th Street; and (3) the subsurface rights within the adjoining south 3.0 feet of University Avenue and the adjoining east 3.0 feet of 27th Street. more specifically described as follows, be and is hereby vacated:

Alley

***-EXCEPT THE NORTH 7 FEET-***, ALL THE NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 1 THROUGH 7, DRAKE UNIVERSITY'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 4,606 SQUARE FEET.

Air Rights Easement 1

A PART OF UNIVERSITY AVENUE RIGHT-OF-WAY LYING NORTHERLY OF THE SOUTH LINE OF THE NORTH 7.00 FEET OF LOTS 1, 36 AND THE NORTH/SOUTH ALLEY LYING ADJACENT TO SAID LOTS 1 AND 36 AND A PART OF VACATED 27TH STREET RIGHT-OF-WAY LYING WESTERLY OF LOTS 35 AND 36, EXCEPT THE NORTH 7.00 FEET OF LOT 36, ALL BEING A PART OF DRAKE UNIVERSITY'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AREA "A"

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH 7.00 FEET OF SAID LOT 36; THENCE SOUTH  $00^{\circ} 05' 53''$  EAST ALONG THE EAST RIGHT-OF-WAY LINE OF SAID 27TH STREET, 65.00 FEET; THENCE SOUTH  $89^{\circ} 54' 07''$  WEST, 1.00 FEET; THENCE NORTH  $00^{\circ} 05' 53''$  WEST, 66.49 FEET; THENCE NORTH  $89^{\circ} 12' 10''$  EAST, 2.98 FEET; THENCE SOUTH  $00^{\circ} 47' 50''$  EAST, 1.50 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH  $89^{\circ} 12' 10''$  WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 2.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 69 S.F. LYING BETWEEN ELEVATIONS 198.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON 27TH STREET)

AND

AREA "C"

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 7.00 FEET OF SAID LOT 36; THENCE NORTH  $89^{\circ} 12' 10''$  EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE, 77.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH  $00^{\circ} 47' 50''$  WEST, 1.50 FEET; THENCE NORTH  $89^{\circ} 12' 10''$  EAST, 3.00 FEET; THENCE SOUTH  $00^{\circ} 47' 50''$  EAST, 1.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH  $89^{\circ} 12' 10''$  WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F. LYING BETWEEN ELEVATIONS 198.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE)

AND

AREA "D"

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 7.00 FEET OF SAID LOT 36; THENCE NORTH  $89^{\circ} 12' 10''$  EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE, 99.50 FEET TO THE POINT OF BEGINNING; THENCE NORTH  $00^{\circ} 47' 50''$  WEST, 1.50 FEET; THENCE NORTH  $89^{\circ} 12' 10''$  EAST, 3.00 FEET; THENCE SOUTH  $00^{\circ} 47' 50''$  EAST, 1.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH  $89^{\circ} 12' 10''$  WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F. LYING BETWEEN ELEVATIONS 198.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE)

AND

AREA "F"

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 7.00 FEET OF SAID LOT 36; THENCE NORTH  $89^{\circ} 12' 10''$  EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE, 178.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH  $00^{\circ} 47' 50''$  WEST, 1.50 FEET; THENCE NORTH  $89^{\circ} 12' 10''$  EAST, 3.00 FEET; THENCE SOUTH  $00^{\circ} 47' 50''$  EAST, 1.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH  $89^{\circ} 12' 10''$  WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F. LYING BETWEEN ELEVATIONS 198.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE)

AND

AREA "G"

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 7.00 FEET OF SAID LOT 36; THENCE NORTH  $89^{\circ} 12' 10''$  EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE, 200.50 FEET TO THE POINT OF BEGINNING; THENCE NORTH  $00^{\circ} 47' 50''$  WEST, 1.50 FEET; THENCE NORTH  $89^{\circ} 12' 10''$  EAST, 3.00 FEET; THENCE SOUTH  $00^{\circ} 47' 50''$  EAST, 1.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH  $89^{\circ} 12' 10''$  WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F. LYING BETWEEN ELEVATIONS 198.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE)

AND

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AREA "T"

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 7.00 FEET OF SAID LOT 36; THENCE NORTH 89° 12' 10" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE, 231.50 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 47' 50" WEST, 1.50 FEET; THENCE NORTH 89° 12' 10" EAST, 3.00 FEET; THENCE SOUTH 00° 47' 50" EAST, 1.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH 89° 12' 10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F. LYING BETWEEN ELEVATIONS 198.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE).

Air Rights Easement 2

A PART OF UNIVERSITY AVENUE RIGHT-OF-WAY LYING NORTHERLY OF THE SOUTH LINE OF THE NORTH 7.00 FEET OF LOTS 1, 36 AND THE NORTH/SOUTH ALLEY LYING ADJACENT TO SAID LOTS 1 AND 36, BEING A PART OF DRAKE UNIVERSITY'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AREA "B"

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 7.00 FEET OF SAID LOT 36; THENCE NORTH 89° 12' 10" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE, 2.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 47' 50" WEST, 1.50 FEET; THENCE NORTH 89° 12' 10" EAST, 75.00 FEET; THENCE SOUTH 00° 47' 50" EAST, 1.50 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 89° 12' 10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 75.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 112 S.F. LYING BETWEEN ELEVATIONS 245.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE)

AND

AREA "E"

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 7.00 FEET OF SAID LOT 36; THENCE NORTH 89° 12' 10" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE, 102.50 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 47' 50" WEST, 1.50 FEET; THENCE NORTH 89° 12' 10" EAST, 75.50 FEET; THENCE SOUTH 00° 47' 50" EAST, 1.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH 89° 12' 10" WEST ALONG SAID

SOUTH RIGHT-OF-WAY LINE, 75.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 113 S.F. LYING BETWEEN ELEVATIONS 245.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE)

AND

AREA "H"

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 7.00 FEET OF SAID LOT 36; THENCE NORTH 89° 12' 10" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE, 203.50 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 47' 50" WEST, 1.50 FEET; THENCE NORTH 89° 12' 10" EAST, 28.00 FEET; THENCE SOUTH 00° 47' 50" EAST, 1.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH 89° 12' 10" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE, 28.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 42 S.F. LYING BETWEEN ELEVATIONS 245.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE).

Subsurface Easement

A PART OF UNIVERSITY AVENUE RIGHT-OF-WAY LYING NORTHERLY OF THE SOUTH LINE OF THE NORTH 7.00 FEET OF LOTS 1, 36 AND THE NORTH/SOUTH ALLEY LYING ADJACENT TO SAID LOTS 1 AND 36 AND A PART OF VACATED 27TH STREET RIGHT-OF-WAY LYING WESTERLY OF LOTS 35 AND 36, EXCEPT THE NORTH 7.00 FEET OF LOT 36, ALL BEING A PART OF DRAKE UNIVERSITY'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST OF CORNER OF THE NORTH 7.00 FEET OF SAID LOT 36; THENCE SOUTH 00°05'53" EAST ALONG THE EAST RIGHT-OF-WAY LINE OF SAID 27TH STREET, 66.04 FEET; THENCE SOUTH 89°54'07" WEST, 3.00 FEET; THENCE NORTH 00°05'53" WEST, 69.00 FEET; THENCE NORTH 89°12'10" EAST, 238.00 FEET; THENCE SOUTH 00°47'50" EAST, 3.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SAID UNIVERSITY AVENUE; THENCE SOUTH 89°12'10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 235.04 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.02 ACRES (912 S.F.).

Sec. 2. The City of Des Moines hereby reserves an easement upon the property described above for the continued use and maintenance of any utilities now in place, with the right of entry for servicing same.


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Sec. 3. The vacation is further subject to provision of a minimum 20-foot wide Permanent Easement for public ingress and egress to ensure vehicles are able to drive in between the northern terminus of the remaining segment of north/south alley and both 26<sup>th</sup> Street and 27<sup>th</sup> Street.

Sec. 4. That the City Clerk is hereby authorized and directed to cause certified copies of this ordinance and proof of publication thereof together with proof of publication of the notice of the public hearing on this matter to be properly filed in the office of the Recorder of Polk County, Iowa.

Sec. 5. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

  
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Lisa A. Wieland  
Assistant City Attorney