



65

Date August 5, 2019

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A
PORTION OF 8TH STREET RIGHT-OF-WAY LOCATED EAST OF AND ADJOINING
ENOS AVENUE AND CONVEYANCE TO DES MOINES AREA COMMUNITY
COLLEGE FOR \$11,250.00**

WHEREAS, on March 11, 2019 the Plan and Zoning Commission voted to recommend approval of a request from Des Moines Area Community College to vacate a 50-foot wide by 60-foot wide segment of 8th Street right-of-way located west of and adjoining 1144 7th Street, Des Moines, Iowa, to allow for assemblage and redevelopment with a student life center, 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 relocated at the applicant's expense;
- (2) Provision of an access easement from the eastern terminus of Enos Avenue to either University Avenue or to 7th Street; and
- (3) Any development that incorporates the subject 8th Street right-of-way shall comply with all site plan requirements; and

WHEREAS, Des Moines Area Community College (DMACC), owner of 1144 7th Street, has offered to the City of Des Moines ("City") the purchase price of \$11,250.00 for the purchase of the portion of vacated 8th Street right-of-way located west of and adjoining 1144 7th Street, Des Moines, Iowa (hereinafter "Property"), to allow for assemblage with its adjoining property for redevelopment with a student life center as part of the DMACC Urban Campus, 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 relocated at the DMACC's expense;
- (2) Conveyance by DMACC to City of a Permanent Easement for Vehicular Ingress and Egress from vacated 8th Street north to University Avenue;
- (3) Any development that incorporates the subject 8th Street right-of-way shall comply with all site plan requirements; and
- (4) A no-build restriction, which restriction will be included in the Quit Claim Deed from the City to DMACC, which prohibits DMACC from erecting any structure, building or other improvement over or within the Property. This restriction shall not preclude the construction of a sidewalk or parking area and associated sidewalk and parking area improvements, so long as such improvements are both above ground and do not interfere in any way with the utilities on the Property. This no build restriction shall be lifted at any time after all of the following occur:
 - (a) Relocation of all utilities by Buyer off the Property at Buyer's sole expense;
 - (b) Payment to City by Buyer of \$11,250.00, said amount being the difference between the full Fair Market Value of the Property and the restricted Fair Market Value paid by Buyer through this offer; and
 - (c) Written release of said no-build restriction by the City;



[Handwritten signature]

Date August 5, 2019

which price reflects the restricted fair market value of the Property as determined by the City's Real Estate Division; and

WHEREAS, the City has no known current or anticipated public need for the Property proposed to be sold, subject to reservation of easements therein, and the City will not be inconvenienced by the vacation and sale of said Property; and

WHEREAS, on July 15, 2019, by Roll Call No. 19-1099, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Property be set for hearing on August 5, 2019, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate and convey a 50-foot wide by 60-foot wide segment of 8th Street right-of-way located west of and adjoining 1144 7th Street, was given to all necessary parties 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 a 50-foot wide by 60-foot wide segment of 8th Street right-of-way located west of and adjoining 1144 7th Street, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said right-of-way, legally described as follows, and said vacation is hereby approved:

THAT PART OF LOTS 8 AND 9 OF THE OFFICIAL PLAT OF THE NORTHEAST FRACTIONAL QUARTER (NE FRL 1/4) OF THE NORTHWEST FRACTIONAL QUARTER (NW FRL 1/4) OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND THE VACATED WEST 25 FEET OF 8TH STREET, WEST OF AND ADJACENT TO SAID LOTS 8 AND 9, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 4; THENCE N.89°53'43"W., 678.02 FEET, ALONG THE NORTH LINE OF SAID SECTION 4, TO THE WEST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°05'11"E., 386.55 FEET, ALONG THE WEST LINE OF VACATED 8TH STREET, TO THE POINT OF BEGINNING; THENCE S.89°53'43"E., 50.00 FEET, TO THE EAST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°03'37"E., 60.00 FEET, ALONG SAID EAST LINE OF 8TH STREET; THENCE N.89°53'43"W., 50.00 FEET, TO THE WEST LINE OF SAID



65

Date August 5, 2019

8TH STREET; THENCE N.00°03'37"E., 60.00 FEET, ALONG SAID WEST LINE OF 8TH STREET, TO THE POINT OF BEGINNING. CONTAINING 3000.00 SQUARE FEET MORE OR LESS, AND SUBJECT TO ALL EASEMENTS OF RECORD.

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 the following conditions, is hereby approved:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the DMACC's expense;
- (2) Conveyance by DMACC to City of a Permanent Easement for Vehicular Ingress and Egress from vacated 8th Street north to University Avenue;
- (3) Any development that incorporates the subject 8th Street right-of-way shall comply with all site plan requirements; and
- (4) A no-build restriction, which restriction will be included in the Quit Claim Deed from the City to DMACC, which prohibits DMACC from erecting any structure, building or other improvement over or within the Property. This restriction shall not preclude the construction of a sidewalk or parking area and associated sidewalk and parking area improvements, so long as such improvements are both above ground and do not interfere in any way with the utilities on the Property. This no build restriction shall be lifted at any time after all of the following occur:
 - (a) Relocation of all utilities by Buyer off the Property at Buyer's sole expense;
 - (b) Payment to City by Buyer of \$11,250.00, said amount being the difference between the full Fair Market Value of the Property and the restricted Fair Market Value paid by Buyer through this offer; and
 - (c) Written release of said no-build restriction by the City.

Grantee: Des Moines Area Community College

Consideration: \$11,250.00

Legal Description: THAT PART OF LOTS 8 AND 9 OF THE OFFICIAL PLAT OF THE NORTHEAST FRACTIONAL QUARTER (NE FRL 1/4) OF THE NORTHWEST FRACTIONAL QUARTER (NW FRL 1/4) OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND THE VACATED WEST 25 FEET OF 8TH STREET, WEST OF AND ADJACENT TO SAID LOTS 8 AND 9, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 4; THENCE N.89°53'43"W., 678.02 FEET, ALONG THE NORTH LINE OF SAID SECTION 4, TO THE WEST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°05'11"E., 386.55 FEET, ALONG THE WEST LINE OF VACATED 8TH STREET, TO THE POINT OF BEGINNING; THENCE S.89°53'43"E., 50.00 FEET, TO THE EAST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°03'37"E., 60.00 FEET, ALONG SAID EAST LINE OF VACATED 8TH STREET; THENCE N.89°53'43"W., 50.00 FEET, TO THE WEST LINE OF SAID VACATED 8TH STREET; THENCE N.00°03'37"E., 60.00 FEET, ALONG SAID WEST LINE OF VACATED 8TH STREET, TO THE POINT OF BEGINNING. CONTAINING 3000.00 SQUARE FEET MORE OR LESS, AND SUBJECT TO ALL EASEMENTS OF RECORD.



Roll Call Number

Agenda Item Number

65

Page 4

Date August 5, 2019

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.

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Lisa A. Wieland, Assistant City Attorney

per

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

MOTION CARRIED

APPROVED

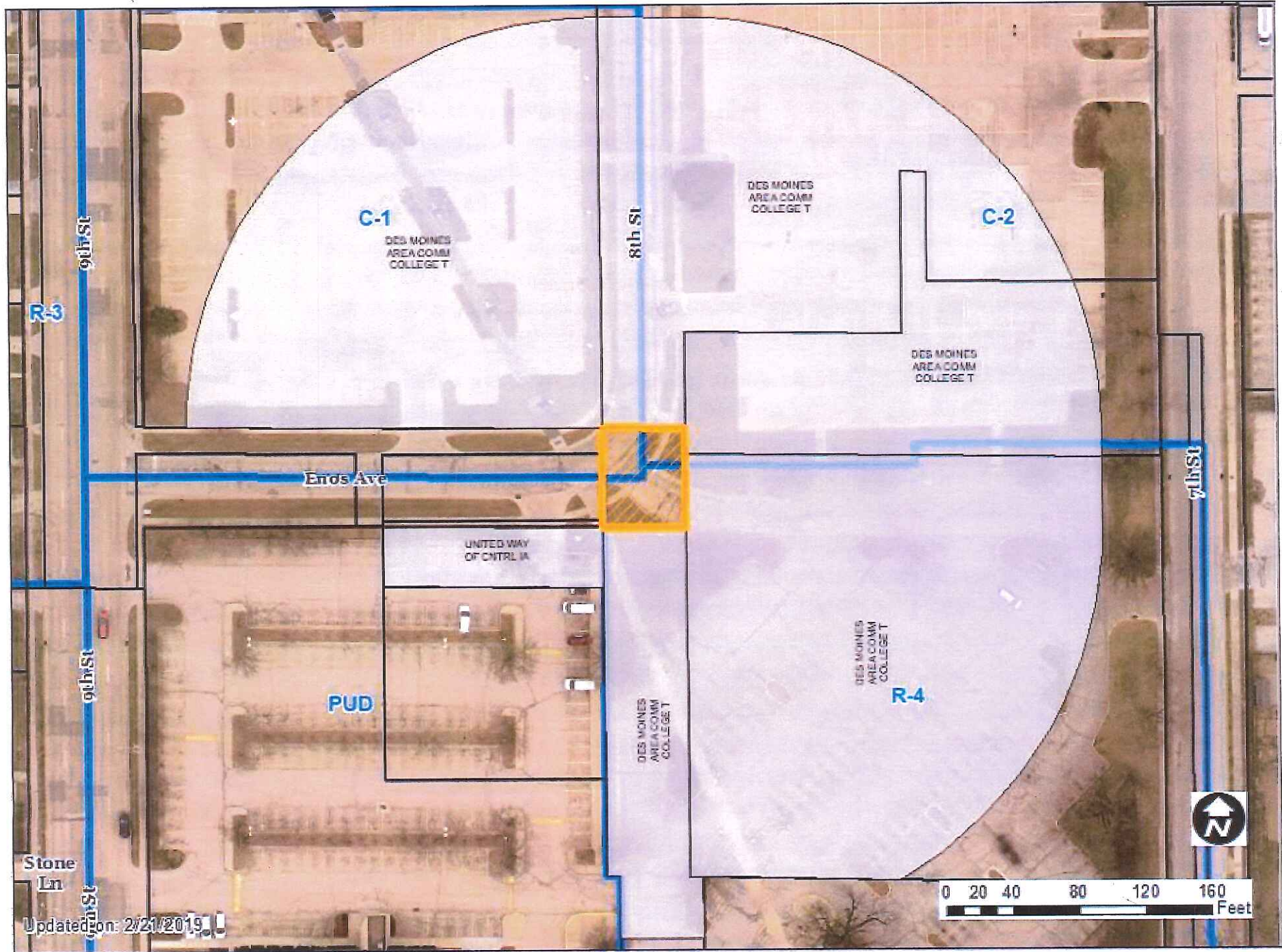
Mayor

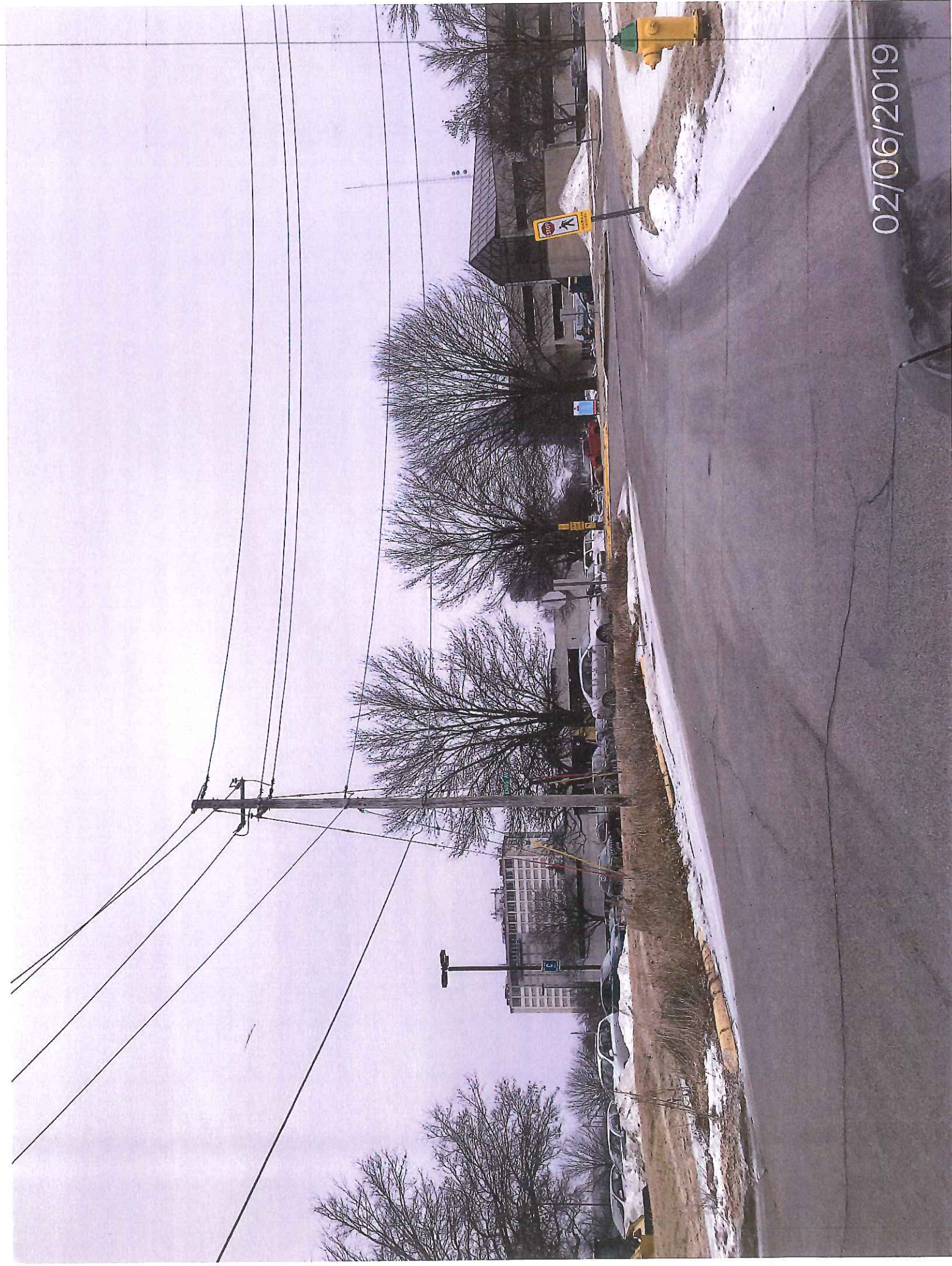
CERTIFICATE

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

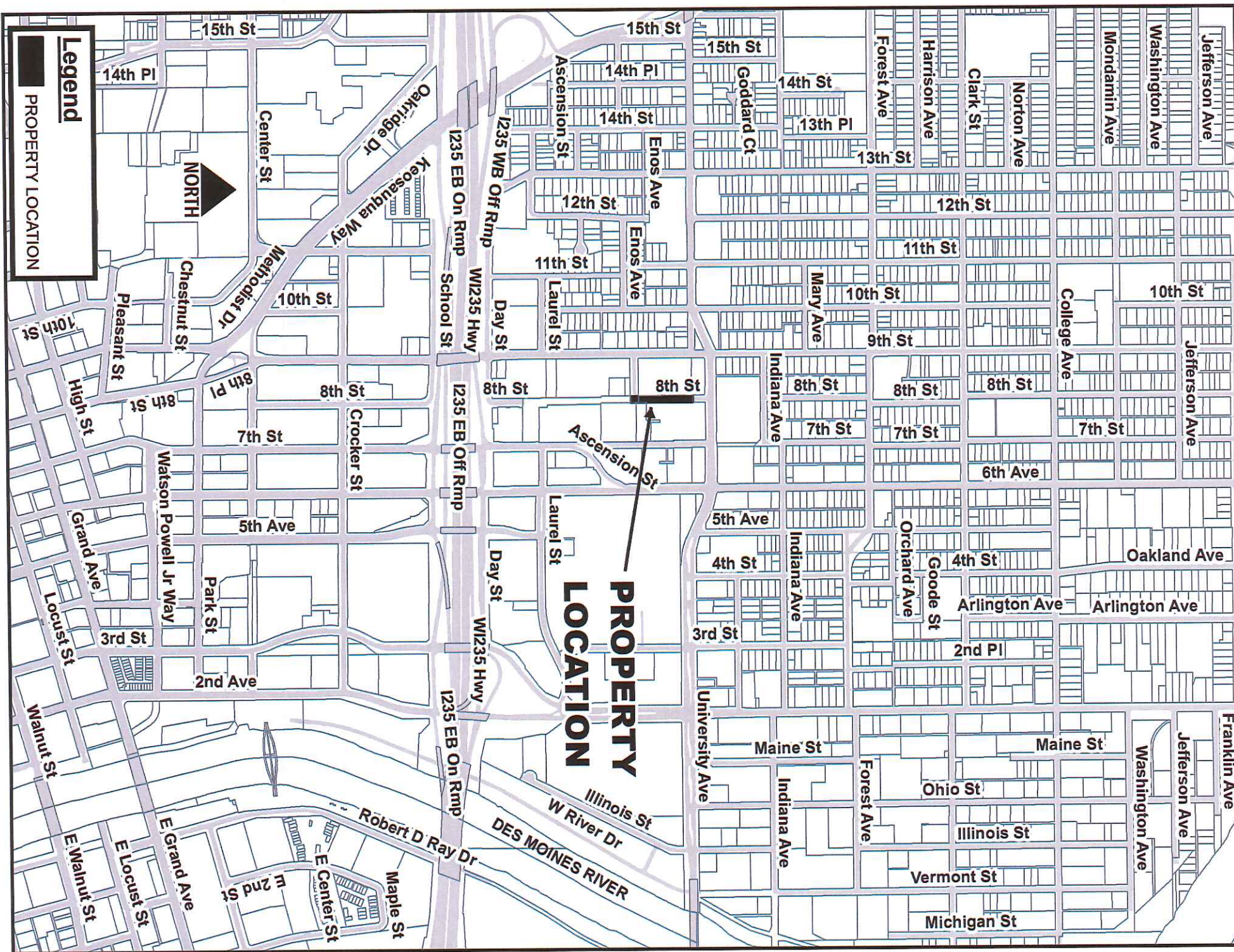




02/06/2019



02/06/2019



March 5, 2019

Date
Agenda Item 65
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 February 21, 2019 meeting, the following action was taken regarding a request from Des Moines Area Community College (owner) 1144 7th Street, represented by Robert Denson (officer) for vacation of a 50-foot wide by 60-foot long segment of 8th Street west of and adjoining the subject property, to allow for assemblage with the subject property for construction of a student life center.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	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 requested vacation of 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 relocated at the applicant's expense.
2. Provision of an access easement from the eastern terminus of Enos Avenue to either University Avenue or to 7th Street.

3. Any development that incorporates the subject Right-of-Way shall comply with all Site Plan requirements.

(11-2019-1.02)

Written Responses

0 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of Right-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 relocated at the applicant's expense.
2. Provision of an access easement from the eastern terminus of Enos Avenue to either University Avenue or to 7th Street.
3. Any development that incorporates the subject Right-of-Way shall comply with all Site Plan requirements.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The requested vacation would allow the Right-of-Way (ROW) to be assembled with the adjoining properties. The resulting parcel would be redeveloped with a new student life center building on the DMACC Urban Campus.
2. **Size of Site:** 50 feet by 60 feet (3,000 square feet).
3. **Existing Zoning (site):** "R-4" Multiple-Family Residential District, "C-1" Neighborhood Retail Commercial District, "C-2" General Retail and Highway-Oriented Commercial District, "FSO" Freestanding Signs Overlay District, and "GGP" Gambling Games Prohibition Overlay District.
4. **Existing Land Use (site):** The subject ROW contains a segment of 8th Street located at the eastern terminus of a dead-end segment of Enos Avenue. This segment of 8th Street ROW is the only remaining segment of 8th Street ROW in this area, as the segments both to the north and to the south have been vacated and assembled with the DMACC campus. However, the portion of vacated 8th Street ROW located to the north of the requested ROW still contains former 8th Street, which provides a connection between the eastern terminus of Enos Avenue and University Avenue.

5. Adjacent Land Use and Zoning:

North – “C-1” & “C-2”; Use is vacated 8th Street ROW and off-street parking associated with DMACC.

South – “R-4”; Use is off-street parking associated with DMACC.

6. **General Neighborhood/Area Land Uses:** The requested ROW is located within an area that contains the DMACC Urban Campus and the United Way office building.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Cheatom Park Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on February 1, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on February 11, 2019 (10 days prior to the hearing) to the Cheatom Park Neighborhood and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject ROW. A final agenda was mailed on February 15, 2019.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Cheatom Park Neighborhood notices were mailed to Susan Wells, 1157 14th Place, Des Moines, IA 50314.

8. **Relevant Zoning History:** None.

9. **PlanDSM Land Use Plan Designation:** The proposed project area is designated as “Public/Semi-Public” on the Future Land Use Map.

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.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Utilities:** There are existing water and sewer lines within the requested Right-of-Way. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
2. **Traffic & Transportation:** The subject right is located at the eastern terminus of a dead-end segment of Enos Avenue. This dead-end segment of Enos Avenue provides access to parking lots for both the United Way and DMACC. Staff recommends that any vacation be subject to provision of an access easement from the eastern terminus of Enos Avenue to either University Avenue or to 7th Street in order to allow vehicular and pedestrian access.
3. **Site Plan Requirements:** Any development that incorporates the subject ROW would be required to comply with all Site Plan requirements.

SUMMARY OF DISCUSSION

Jann Freed asked if any member of the audience or the commission desired to speak regarding the item. None were present or requested to speak.

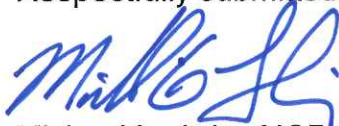
COMMISSION ACTION:

Greg Jones made a motion for approval of the requested vacation of Right-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 relocated at the applicant's expense.
2. Provision of an access easement from the eastern terminus of Enos Avenue to either University Avenue or to 7th Street.
3. Any development that incorporates the subject Right-of-Way shall comply with all Site Plan requirements.

Motion passed: 9-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

Des Moines Area Community College (owner) 1144 7th Street, represented by Robert Denson (officer).				File #	
				11-2019-1.02	
Description of Action		Vacation of a 50-foot wide by 60-foot long segment of 8th Street west of and adjoining the subject property, to allow for assemblage with the subject property for construction of a student life center.			
PlanDSM Future Land Use		Current: Public/Semi-Public and Neighborhood Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan		No planned improvements.			
Current Zoning District		"R-4" Multiple-Family Residential District, "C-2" General Retail and Highway-Oriented Commercial District, "C-1" Neighborhood Retail Commercial District, "GGP" Gambling Games Prohibition Overlay 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	X

Des Moines Area Community College, 1144 7th Street

11-2019-1.02



1 inch = 77 feet