

Date April 20, 2020

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF 24TH STREET AND UNIVERSITY AVENUE RIGHT-OF-WAY ADJOINING 2331 UNIVERSITY AVENUE AND CONVEYANCE OF CERTAIN EASEMENT INTERESTS TO NEIGHBORHOOD DEVELOPMENT CORPORATION FOR \$343.00

WHEREAS, on March 9, 2020, by Roll Call No. 20-0420, the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from Neighborhood Development Corporation, owner of property at 2331 University Avenue, to vacate the following portions of street right-of-way, subject to the reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense; and further subject to the provision of bollards or planters on both sides of the 3-foot by 3.5-foot proposed door swing vacations into the public right-of-way on University Avenue as approved by the City Planning Administrator:

- (1) Two 3-foot by 3.5-foot segments of University Avenue, to allow for an exterior door swings;
- (2) A 43.73-foot long by 0.40-foot segment of University Avenue to accommodate an existing building encroachment;
- (3) Two 7.5-foot by 5-foot segments of University Avenue air rights to allow for sign canopies; and
- (4) A 46.77-foot by 0.90-foot segment of 24th Street to allow for an existing building encroachment; and

WHEREAS, Neighborhood Development Corporation, owner of property at 2331 University Avenue, has offered to the City of Des Moines ("City") the purchase price of \$343.00 for the purchase of a Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment – Door Swing, and a Permanent Easement for Building Encroachment in portions of the vacated University Avenue and 24th Street right-of-way adjoining 2331 University Avenue, Des Moines, Iowa (hereinafter "Property"), for the purpose of installing, operating, maintaining, or repairing sign canopies and door swings on the building at 2331 University Avenue, and for the purpose of mitigating an existing building encroachment into the right-of-way, which price reflects the 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 vacated and conveyed, subject to: 1) the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at applicant's expense; and 2) the provision of bollards or planters on both sides of the 3-foot by 3.5-foot proposed door swing vacations into the public right-of-way on University Avenue as approved by the City, and the City will not be inconvenienced by the vacation and sale of easements within said Property.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the following portions of University Avenue and 24th Street right-of-way adjoining 2331 University Avenue, Des Moines, Iowa:

Date April 20, 2020

- (1) Two 3-foot by 3.5-foot segments of University Avenue, to allow for an exterior door swings;
- (2) A 43.73-foot long by 0.40-foot segment of University Avenue to accommodate an existing building encroachment;
- (3) Two 7.5-foot by 5-foot segments of University Avenue air rights to allow for sign canopies; and
- (4) A 46.77-foot by 0.90-foot segment of 24th Street to allow for an existing building encroachment;

legally described as follows:

AIR RIGHTS ENCROACHMENT

Area #1

That part of University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southeast corner of said West 84.25 feet of Lot 34; thence South 89°(degrees) 33'(minutes) 45"(seconds) West (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 40.51 feet along the South line of said Lot 34 to the Point of Beginning; thence South 00°26'15" East, 7.50 feet; thence South 89°33'45" West, 5.00 feet; thence North 00°26'15" West, 7.50 feet to the South line of said Lot 34; thence North 89°33'45" East, 5.00 feet to the point of beginning.

Lying between elevations 183.76 feet and 189.76 feet, City of Des Moines Vertical Datum (reference ground level elevation of 174.26 feet, City of Des Moines Vertical Datum). Horizontally containing 37.50 square feet.

Area #2

That part of University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southeast corner of said West 84.25 feet of Lot 34; thence South 89°(degrees) 33'(minutes) 45"(seconds) West (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 79.15 feet along the South line of said Lot 34 to the Point of Beginning; thence South 00°26'15" East, 7.50 feet; thence South 89°33'45" West, 5.00 feet; thence North 00°26'15" West, 7.50 feet to the South line of said Lot 34; thence North 89°33'45" East, 5.00 feet to the point of beginning.

Date April 20, 2020

Lying between elevations 183.76 feet and 189.76 feet, City of Des Moines Vertical Datum (reference ground level elevation of 174.26 feet, City of Des Moines Vertical Datum). Horizontally containing 37.50 square feet.

DOOR SWING ENCROACHMENT:

That part of University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of said Lot 34; thence North 89°(degrees) 33'(minutes) 45"(seconds) East (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 38.90 feet along the South line of said Lot 34; thence South 00°01'16" West, 0.36 feet to the Point of Beginning; thence South 89°58'44" East, 3.50 feet; thence South 00°01'16" West, 3.00 feet; thence North 89°58'44" West, 3.50 feet; thence North 00°01'16" East, 3.00 feet to the point of beginning. Containing 10.50 square feet.

SURFACE ENCROACHMENT:

24th Street

That part of 24th Street right-of-way lying West of and adjoining the West 84.25 feet of Lots 33 and 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of said Lot 34; thence North 00°(degrees) 15'(minutes) 47"(seconds) East (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 24.39 feet along the West line of said Lot 34 to the Point of Beginning; thence North 00°01'56" East, 46.77 feet; thence South 89°44'13" East, 0.19 feet to the West line of said Lot 33; thence South 00°15'47" West, 46.77 feet along the West lines of said Lots 33 and 34 to the point of beginning. Containing 4.41 square feet.

University Avenue

That part of University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Beginning at the Southwest corner of said Lot 34; thence North 89°(degrees) 33'(minutes) 45"(seconds) East (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 43.73 feet along the South line of said Lot 34; thence South 00°26'15" East, 0.40 feet; thence North 89°58'44" West, 43.74 feet; thence North 00°15'47" East, 0.05 feet to the point of beginning. Containing 9.84 square feet.

Date April 20, 2020

- 2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment – Door Swing, and a Permanent Easement for Building Encroachment, as legally described and to the grantees and for the consideration identified below, subject to: 1)) the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at applicant’s expense; and 2) the provision of bollards or planters on both sides of the 3-foot by 3.5-foot proposed door swing vacations into the public right-of-way on University Avenue as approved by the City Planning Administrator:

Grantee: Neighborhood Development Corporation
 Consideration: \$343.00
 Legal Description:

AIR RIGHTS EASEMENT

Area #1

That part of Vacated University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southeast corner of said West 84.25 feet of Lot 34; thence South 89°(degrees) 33’(minutes) 45”(seconds) West (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 40.51 feet along the South line of said Lot 34 to the Point of Beginning; thence South 00°26’15” East, 7.50 feet; thence South 89°33’45” West, 5.00 feet; thence North 00°26’15” West, 7.50 feet to the South line of said Lot 34; thence North 89°33’45” East, 5.00 feet to the point of beginning.

Lying between elevations 183.76 feet and 189.76 feet, City of Des Moines Vertical Datum (reference ground level elevation of 174.26 feet, City of Des Moines Vertical Datum). Horizontally containing 37.50 square feet.

Area #2

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Commencing at the Southeast corner of said West 84.25 feet of Lot 34; thence South 89°(degrees) 33’(minutes) 45”(seconds) West (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 79.15 feet along the South line of said Lot 34 to the Point of Beginning; thence South 00°26’15” East, 7.50 feet; thence South 89°33’45” West, 5.00 feet; thence North 00°26’15” West, 7.50

Date April 20, 2020

feet to the South line of said Lot 34; thence North 89°33'45" East, 5.00 feet to the point of beginning.

Lying between elevations 183.76 feet and 189.76 feet, City of Des Moines Vertical Datum (reference ground level elevation of 174.26 feet, City of Des Moines Vertical Datum). Horizontally containing 37.50 square feet.

DOOR SWING EASEMENT:

That part of Vacated University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of said Lot 34; thence North 89°(degrees) 33'(minutes) 45"(seconds) East (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 38.90 feet along the South line of said Lot 34; thence South 00°01'16" West, 0.36 feet to the Point of Beginning; thence South 89°58'44" East, 3.50 feet; thence South 00°01'16" West, 3.00 feet; thence North 89°58'44" West, 3.50 feet; thence North 00°01'16" East, 3.00 feet to the point of beginning. Containing 10.50 square feet.

SURFACE EASEMENT:

24th Street

That part of Vacated 24th Street right-of-way lying West of and adjoining the West 84.25 feet of Lots 33 and 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of said Lot 34; thence North 00°(degrees) 15'(minutes) 47"(seconds) East (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 24.39 feet along the West line of said Lot 34 to the Point of Beginning; thence North 00°01'56" East, 46.77 feet; thence South 89°44'13" East, 0.19 feet to the West line of said Lot 33; thence South 00°15'47" West, 46.77 feet along the West lines of said Lots 33 and 34 to the point of beginning. Containing 4.41 square feet.

University Avenue

That part of Vacated University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Beginning at the Southwest corner of said Lot 34; thence North 89°(degrees) 33'(minutes) 45"(seconds) East (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 43.73 feet along the South line

Date April 20, 2020

of said Lot 34; thence South 00°26'15" East, 0.40 feet; thence North 89°58'44" West, 43.74 feet; thence North 00°15'47" East, 0.05 feet to the point of beginning. Containing 9.84 square feet.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of permanent easements are to be considered shall be May 4, 2020, said meeting to be held at 5:00 p.m., in the MSC Board Room, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa.
4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.
5. 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

PSW

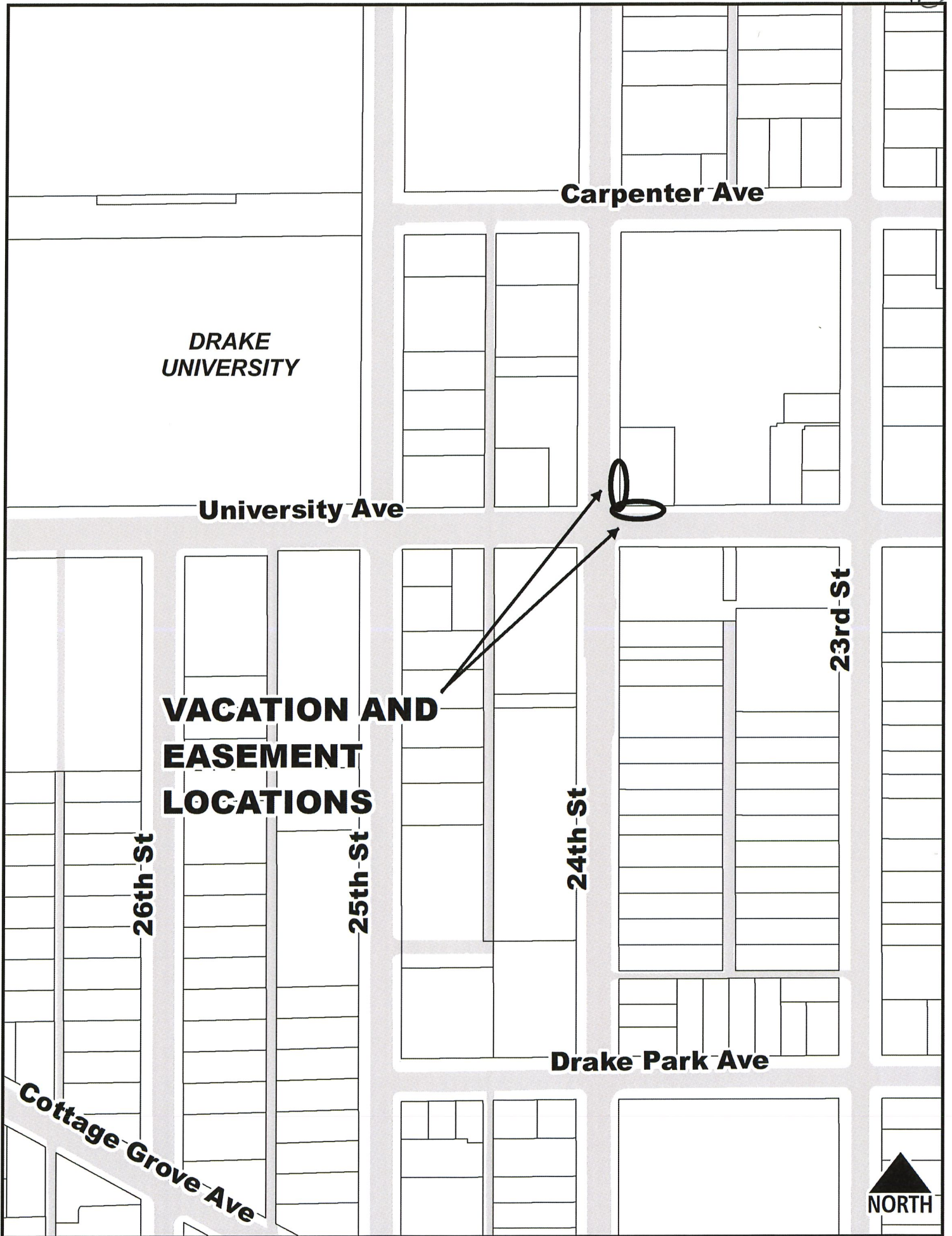
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, P. KAY CMELIK, 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



**DRAKE
UNIVERSITY**

Carpenter Ave

University Ave

**VACATION AND
EASEMENT
LOCATIONS**

26th St

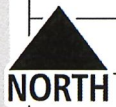
25th St

24th St

23rd St

Drake Park Ave

Cottage Grove Ave





Date April 20, 2020
 Agenda Item 15
 Roll Call # _____

March 3, 2020

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their February 20, 2020 meeting, the following action was taken regarding a request from Neighborhood Development Corporation (owner) represented by Abbey Gilroy (officer) for vacation of the following segments of Right-Of-Way adjoining property at 2331 University Avenue.

- A) A 3-foot by 3.5-foot segment of University Avenue to allow for an exterior door swing.
- B) A 43.73-foot by 0.40-foot segment of University Avenue to accommodate existing building encroachment.
- C) Two 7.5-foot by 5-foot segments of University Avenue air rights to allow for canopies.
- D) A 46.77-foot by 0.90-foot segment of 24th Street to allow for existing building encroachment.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Jacqueline Easley				X
Jann Freed				X
John "Jack" Hilmes				X
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones				X
William Page				X
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier				X
Emily Webb	X			

RECOMMEND APPROVAL of the requested vacations subject to the following conditions:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Provision of bolsters or planters to both sides of the 3-foot by 3.5-foot proposed vacation into the public right-of-way on University Avenue as approved by the Planning Administrator. (11-2020-1.01)

Written Responses

2 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Part A-D) Staff recommends approval of the requested vacations subject to the following conditions:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Provision of bolsters or planters to both sides of the 3-foot by 3.5-foot proposed vacation into the public right-of-way on University Avenue as approved by the Planning Administrator.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation would allow redevelopment of the addressed property for use as a mixed use building housing office and restaurant spaces.
2. **Size of Site:** 10,124 square feet (0.232 acre) for addressed property. 99.75 square feet total for 5 vacation areas.
3. **Existing Zoning (site):** "MX2" Mixed Use District. *MX2 is intended for mixed-use, regional-scale nodes and corridors within the city, where residents and visitors may access multiple uses by walking.*
4. **Existing Land Use (site):** The site consists of sidewalks within the public rights-of-way of University Avenue and 24th Street.
5. **Adjacent Land Use and Zoning:**

North – “PUD”; Use includes University Square PUD consisting of a mix of office, retail, and residential.

South – “PUD”; Use includes University Square PUD consisting of a mix of office, retail, and residential.

East – “PUD”; Use includes University Square PUD consisting of a mix of office, retail, and residential.

West – “PUD”; Use includes University Square PUD consisting of a mix of office, retail, and residential.

6. General Neighborhood/Area Land Uses: The subject property is located in Drake Neighborhood, which is an area consisting of a mix of single-household residential, multiple-household residential, office, commercial, religious, educational, and institutional uses.

7. Applicable Recognized Neighborhood(s): The subject property is located in the Drake Neighborhood and within 250 feet of the Carpenter (and Drake) Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on January 31, 2020 and by mailing of the Final Agenda on February 14, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on February 10, 2020 (10 days prior to public hearing) to the Neighborhood Associations and to the primary titleholder on file with the Polk County Assessor for each property adjacent or directly across the street from the requested right-of-way.

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 on the date of the mailing. The Drake Neighborhood Association notices were mailed to Jennifer Sayers, 1129 28th Street, Des Moines, IA 50311. The Carpenter (and Drake) Neighborhood Association notices were mailed to Robert Gieber, 2315 Carpenter Avenue, Des Moines, IA 50311.

8. Relevant Zoning History: None.

9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation: Neighborhood Mixed Use.

10. Applicable Regulations: Taking into consideration 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. Utilities: While no utilities have been identified within the requested rights-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. **Streets/Sidewalk:** The 3-foot by 3.5-foot proposed vacation to allow for an exterior door swing would be onto the sidewalk in the public right-of-way on University Avenue. Staff feels that bolsters or planters as approved by the Planning Administrator would ensure public safety of pedestrians utilizing the subject sidewalk.

SUMMARY OF DISCUSSION

Dory Briles 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:

Rocky Sposato made a motion for approval of the requested vacations subject to the following conditions:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Provision of bolsters or planters to both sides of the 3-foot by 3.5-foot proposed vacation into the public right-of-way on University Avenue as approved by the Planning Administrator.

Motion passed: 8-0

Respectfully submitted,



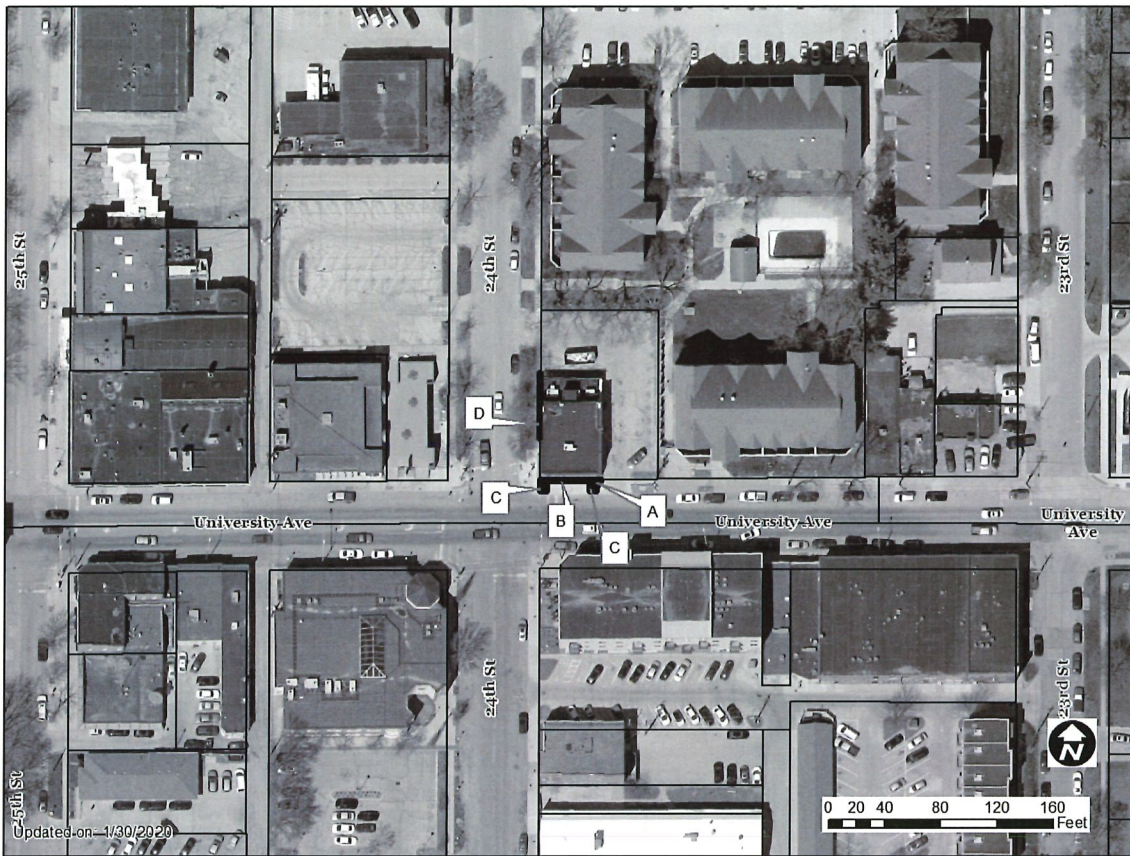
Erik Lundy, AICP
Senior City Planner

EML:tjh
Attachments

Neighborhood Development Corporation (owner) represented by Abbey Gilroy (officer) for property at 2331 University Avenue.		File # 11-2020-1.01		
Description of Action	Vacation of the following segments of Right-Of-Way: A) A 3-foot by 3.5-foot segment of University Avenue to allow for an exterior door swing. B) A 43.73-foot by 0.40-foot segment of University Avenue to accommodate existing building encroachment. C) Two 7.5-foot by 5-foot segments of University Avenue air rights to allow for canopies. D) A 46.77-foot by 0.90-foot segment of 24th Street to allow for existing building encroachment.			
PlanDSM Future Land Use	Current: Neighborhood Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"MX2" Mixed Use District.			
Proposed Zoning District	N/A.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Outside Area (200 feet)				
Within Subject Property	2	0		
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Neighborhood Development Corporation, 2331 University Avenue

11-2020-1.01



1 inch = 81 feet



15

Item: 11-2020-1.01 Date: 2-14-20

I (am) (am not) in favor of the request: DENNY ELWELL CO.

15

(Circle One) Print Name: Ben Liggett

RECEIVED COMMUNITY DEVELOPMENT
Signature: [Signature]

FEB 18 2020 Address: 2300 University Ave, Tuscaloosa, AL

Reason for opposing or approving this request may be listed below:

No issues noted in letter.

Item: 11-2020-1.01 Date: _____

I (am) (am not) in favor of the request: CARPENTER (AND GRAVE) NEIGHBORHOOD ASSOC.

(Circle One) Print Name: ROBERT GIEBER

RECEIVED COMMUNITY DEVELOPMENT
Signature: [Signature]

FEB 18 2020 Address: 2315 CARPENTER AVE

Reason for opposing or approving this request may be listed below:

The company is a good anchor for the neighborhood. I recommend approval.