

Date April 20, 2020

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF ALLEY RIGHT-OF-WAY AND PORTIONS OF 26<sup>TH</sup> STREET AND UNIVERSITY AVENUE RIGHT-OF-WAY ADJOINING 2530 UNIVERSITY AVENUE AND CONVEYANCE OF CERTAIN FEE AND EASEMENT INTERESTS TO ND DRAKE MULTIFAMILY, LLC FOR \$25,988.00; AND CONVEYANCE OF CERTAIN FEE AND EASEMENT INTRESTS TO LUTHERAN CHURCH OF HOPE FOR \$1,055.00; AND ACCEPTANCE OF A PERMANENT EASEMENT FOR PUBLIC INGRESS AND EGRESS**

**WHEREAS**, on January 27, 2020, by Roll Call No. 20-0140, 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 ND Drake Multifamily, LLC, owner of property at 2530 University Avenue, to vacate the following portions of street and alley rights-of-way, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to the reservation of any necessary easements to allow public access to the remaining alley right-of-way from 26th Street; subject to the provision that any construction on the proposed vacated right-of-way shall be in accordance with all administrative comments from Traffic and Transportation as part of the Site Plan review; and further subject to the conveyance of all necessary alley right-of-way and easement rights to Lutheran Church of Hope, owner of 2500 University Avenue:

1. Adjoining north/south alley between 25<sup>th</sup> Street and 26<sup>th</sup> Street from University Avenue to point 281 feet to the south;
2. Adjoining air rights in a 4-foot by 13-foot segment to the south side of University Avenue and a 2-foot by 28-foot segment to the east side of 26<sup>th</sup> Street; and
3. Adjoining subsurface rights in the south 2 feet of University Avenue and the east 4 feet of 26<sup>th</sup> Street; and

**WHEREAS**, ND Drake Multifamily, LLC, owner of property at 2530 University Avenue, has offered to the City of Des Moines (“City”) the purchase price of \$25,988.00 for the purchase of a portion of the vacated north/south alley right-of-way between 25<sup>th</sup> Street and 26<sup>th</sup> Street from University Avenue to a point 281 feet to the south, a Permanent Easement for Air Space Above City-owned Property, and a Permanent Easement for Subsurface Building Encroachment in portions of vacated 27<sup>th</sup> Street and vacated University Avenue, all adjoining 2530 University Avenue, Des Moines, Iowa, for assemblage with the adjoining property for development with a 4-story mixed use building, which includes building footings, and architectural element encroachments, which price reflects the fair market value of the Property as determined by the City’s Real Estate Division; and

**WHEREAS**, Lutheran Church of Hope, owner of property at 2500 University Avenue, has offered to the City the purchase price of \$1,055.00 for the purchase of the portion of the vacated north/south alley right-of-way adjoining 2500 University Avenue, Des Moines, Iowa, in order to eliminate an existing building encroachment into the alley, which price reflects the fair market value of the Property as determined by the City’s Real Estate Division; and

**WHEREAS**, prior to closing on the conveyance to ND Drake Multifamily, LLC, the City of Des Moines shall convey the portion of vacated alley, a Permanent Easement for Building Setback, and a Non-

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Exclusive Permanent Easement for Ingress and Egress to Lutheran Church of Hope; in order to satisfy the fourth City Plan and Zoning Commission vacation condition; and

**WHEREAS**, prior to closing on the conveyance to ND Drake Multifamily, LLC, ND Drake Multifamily, LLC must deliver City with a fully executed Permanent Easement for Building Maintenance and a fully executed Permanent Easement for Subsurface Building Encroachment by and between ND Drake Multifamily, LLC as Grantor and Lutheran Church of Hope as Grantee, which shall allow Lutheran Church of Hope to access the western exterior of the church building in order to perform repairs and maintenance as necessary, and to access the existing fats, oils and grease (“FOG”) discharge interceptor located below the alley in order to operate, repair and maintain said FOG interceptor; and

**WHEREAS**, the City has no known current or anticipated public need for the property proposed to be vacated and conveyed, subject to reservation of easements therein and further subject to ND Drake Multifamily, LLC granting City a Permanent Easement for Public Ingress and Egress, and the City will not be inconvenienced by the vacation and sale of said Property.

**WHEREAS**, on March 23, 2020, by Roll Call No. 20-0516, 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 April 20, 2020, 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 (1) the north/south alley between 25<sup>th</sup> Street and 26<sup>th</sup> Street from University Avenue to point 281 feet to the south; (2) the air rights in a 4-foot by 13-foot segment to the south side of University Avenue and a 2-foot by 28-foot segment to the east side of 26<sup>th</sup> Street; and (3) the subsurface rights in the south 2 feet of University Avenue and the east 4 feet of 26<sup>th</sup> Street, all adjoining 2530 University Avenue, Des Moines, Iowa; subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to the reservation of any necessary easements to allow public access to the remaining alley right-of-way from 26<sup>th</sup> Street; subject to the provision that any construction on the proposed vacated right-of-way shall be in accordance with all administrative comments from Traffic and Transportation as part of the Site Plan review; and further subject to the conveyance of all necessary alley right-of-way and easement rights to Lutheran Church of Hope, owner of 2500 University Avenue, 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 (1) the north/south alley between 25<sup>th</sup> Street and 26<sup>th</sup> Street

Date April 20, 2020

from University Avenue to point 281 feet to the south; (2) the air rights in a 4-foot by 13-foot segment to the south side of University Avenue and a 2-foot by 28-foot segment to the east side of 26<sup>th</sup> Street; and (3) the subsurface rights in the south 2 feet of University Avenue and the east 4 feet of 26<sup>th</sup> Street, all adjoining 2530 University Avenue, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the street and alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said street and alley right-of-way, legally described as follows, and said vacation is hereby approved:

Alley

THE NORTH/SOUTH ALLEY LYING EAST OF AND ADJOINING LOTS 38-44 EXCEPT THE NORTH 7.00 FEET OF SAID NORTH/SOUTH ALLEY, DRAKE UNIVERSITY'S SECOND ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING 0.12 ACRES (5,259 S.F.).

Air Rights Easement

AREA "A"

A PART OF THE UNIVERSITY AVENUE RIGHT-OF-WAY, BEING THE EAST 13.00 FEET OF THE WEST 44.00 FEET OF THE SOUTH 4.00 FEET OF THE NORTH 7.00 FEET OF LOT 44 AND BEING A PART OF DRAKE UNIVERSITY'S SECOND ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND LYING BETWEEN ELEVATIONS 197.75 AND 226.35 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 186.25 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE), AND CONTAINING 52 SQUARE FEET.

AND

AREA "B"

A PART OF THE 26TH STREET RIGHT-OF-WAY, BEING A PART OF THE SUBDIVISION OF LOTS 2 AND 4 OF THE OFFICIAL PLAT OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALSO BEING THE EAST 2.00 FEET LYING ADJACENT TO THE SOUTH 28.00 FEET OF LOT 43, DRAKE UNIVERSITY'S SECOND ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND LYING BETWEEN ELEVATIONS 198.55 AND 200.55 FEET CITY OF DES MOINES DATUM (REFERENCE GROUND ELEVATION OF 186.25 FEET AT BUILDING ENTRANCE ON 26TH STREET), AND CONTAINING 56 SQUARE FEET.

Subsurface Easement

A PART OF THE UNIVERSITY AVENUE RIGHT-OF-WAY, BEING THE SOUTH 2.00 FEET OF THE NORTH 7.00 FEET OF LOT 44, DRAKE UNIVERSITY'S SECOND ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, AND A PART OF THE VACATED 26TH STREET RIGHT-OF-WAY, BEING A PART OF THE SUBDIVISION OF LOTS 2 AND 4 OF THE OFFICIAL PLAT OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M.,

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**Date** ..... April 20, 2020 .....

ALSO BEING THE EASTERLY 4.00 FEET LYING WESTERLY OF LOT 43 AND LOT 44 OF SAID DRAKE UNIVERSITY'S SECOND ADDITION, EXCEPT THE NORTH 5.00 FEET THEREOF, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING 0.01 ACRES (619 S.F.).

3. The proposed sale of a portion of the vacated alley, a Permanent Easement for Building Setback, and a Non-Exclusive Permanent Easement for Ingress and Egress to Lutheran Church of Hope for \$1,055.00, legally described as follows, is hereby approved:

Alley

THE EAST 0.75 FEET OF THE SOUTH 148 FEET OF THE NORTH 192 FEET OF THE ALLEY LYING WEST OF AND ADJACENT TO LOTS 1 THROUGH 5 DRAKE UNIVERSITY'S SECOND ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, CITY OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING 111 SQUARE FEET.

Building Setback Easement:

THE EAST 8.6 FEET OF THE SOUTH 185.2 FEET OF THE NORTH 192.2 FEET OF THE VACATED NORTH/SOUTH ALLEY LYING WEST OF AND ADJOINING LOTS 1 THROUGH 5, DRAKE UNIVERSITY'S SECOND ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPT THE EAST 0.75 FEET OF THE SOUTH 148.0 FEET OF THE NORTH 192.0 FEET THEREOF, AND CONTAINING 0.03 ACRES (1,484 S.F.).

Ingress-Egress Easement:

THE EAST 6.0 FEET OF THE SOUTH 230.0 FEET OF THE NORTH 237.0 FEET OF THE VACATED NORTH/SOUTH ALLEY LYING WEST OF AND ADJOINING LOTS 1 THROUGH 5, DRAKE UNIVERSITY'S SECOND ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPT THE EAST 0.75 FEET OF THE SOUTH 148.0 FEET OF THE NORTH 192.0 FEET THEREOF, CONTAINING 0.03 ACRES (1,269 S.F.).

3. The proposed sale of a portion of the vacated alley right-of-way, a Permanent Easement for Air Space Above City-owned Property, and a Permanent Easement for Subsurface Building Encroachment, to ND Drake Multifamily, LLC for \$25,988.00, subject to reservation of easements for utilities therein; subject to Grantee granting City a Permanent Easement for Public Ingress and Egress; and further subject to the provision that any construction on the proposed vacated right-of-way shall be in accordance with all administrative comments from Traffic and Transportation as part of the Site Plan review, legally described as follows, is hereby approved:

Alley

THE VACATED NORTH/SOUTH ALLEY LYING EAST OF AND ADJOINING LOTS 38-44 EXCEPT THE NORTH 7.00 FEET OF SAID NORTH/SOUTH ALLEY, DRAKE UNIVERSITY'S SECOND ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPT THE EAST

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0.75 FEET OF THE SOUTH 148.0 FEET OF THE NORTH 192.0 FEET THEREOF, CONTAINING 0.12 ACRES (5,148 S.F.).

Air Rights Easement  
AREA "A"

A PART OF THE VACATED UNIVERSITY AVENUE RIGHT-OF-WAY, BEING THE EAST 13.00 FEET OF THE WEST 44.00 FEET OF THE SOUTH 4.00 FEET OF THE NORTH 7.00 FEET OF LOT 44 AND BEING A PART OF DRAKE UNIVERSITY'S SECOND ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND LYING BETWEEN ELEVATIONS 197.75 AND 226.35 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 186.25 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE), AND CONTAINING 52 SQUARE FEET.

AND

AREA "B"

A PART OF THE VACATED 26TH STREET RIGHT-OF-WAY, BEING A PART OF THE SUBDIVISION OF LOTS 2 AND 4 OF THE OFFICIAL PLAT OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALSO BEING THE EAST 2.00 FEET LYING ADJACENT TO THE SOUTH 28.00 FEET OF LOT 43, DRAKE UNIVERSITY'S SECOND ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND LYING BETWEEN ELEVATIONS 198.55 AND 200.55 FEET CITY OF DES MOINES DATUM (REFERENCE GROUND ELEVATION OF 186.25 FEET AT BUILDING ENTRANCE ON 26TH STREET), AND CONTAINING 56 SQUARE FEET.

Subsurface Easement

A PART OF THE VACATED UNIVERSITY AVENUE RIGHT-OF-WAY, BEING THE SOUTH 2.00 FEET OF THE NORTH 7.00 FEET OF LOT 44, DRAKE UNIVERSITY'S SECOND ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, AND A PART OF THE VACATED 26TH STREET RIGHT-OF-WAY, BEING A PART OF THE SUBDIVISION OF LOTS 2 AND 4 OF THE OFFICIAL PLAT OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALSO BEING THE EASTERLY 4.00 FEET LYING WESTERLY OF LOT 43 AND LOT 44 OF SAID DRAKE UNIVERSITY'S SECOND ADDITION, EXCEPT THE NORTH 5.00 FEET THEREOF, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING 0.01 ACRES (619 S.F.).

4. The proposed acceptance of a Permanent Easement for Public Ingress and Egress from ND Drake Multifamily, LLC is hereby approved.
  
5. The Mayor is authorized and directed to sign the Offer to Purchase, the Quit Claim Deeds, the Permanent Easement for Air Space Above City-owned Property, the Permanent Easement for Subsurface Building Encroachment, the Permanent Easement for Building Setback, the Non-Exclusive Permanent Easement for Ingress and Egress, and the acceptance of the Permanent Easement for Public Ingress and



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Egress for the conveyances as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

6. 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 Deeds, the Permanent Easement for Air Space Above City-owned Property, the Permanent Easement for Subsurface Building Encroachment, the Permanent Easement for Building Setback, the Non-Exclusive Permanent Easement for Ingress and Egress, and the acceptance of the Permanent Easement for Public Ingress and Egress, 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.

7. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deeds, the Permanent Easement for Air Space Above City-owned Property, the Permanent Easement for Subsurface Building Encroachment, the Permanent Easement for Building Setback, the Non-Exclusive Permanent Easement for Ingress and Egress, and the acceptance of the Permanent Easement for Public Ingress and Egress, 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.

8. 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 Deeds, the Permanent Easement for Air Space Above City-owned Property, the Permanent Easement for Subsurface Building Encroachment, the Permanent Easement for Building Setback, the Non-Exclusive Permanent Easement for Ingress and Egress, and the acceptance of the Permanent Easement for Public Ingress and Egress, and a copy of the other documents to the grantees.

9. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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Date April 20, 2020

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

  
 Lisa A. Wieland, Assistant City Attorney

*psw*

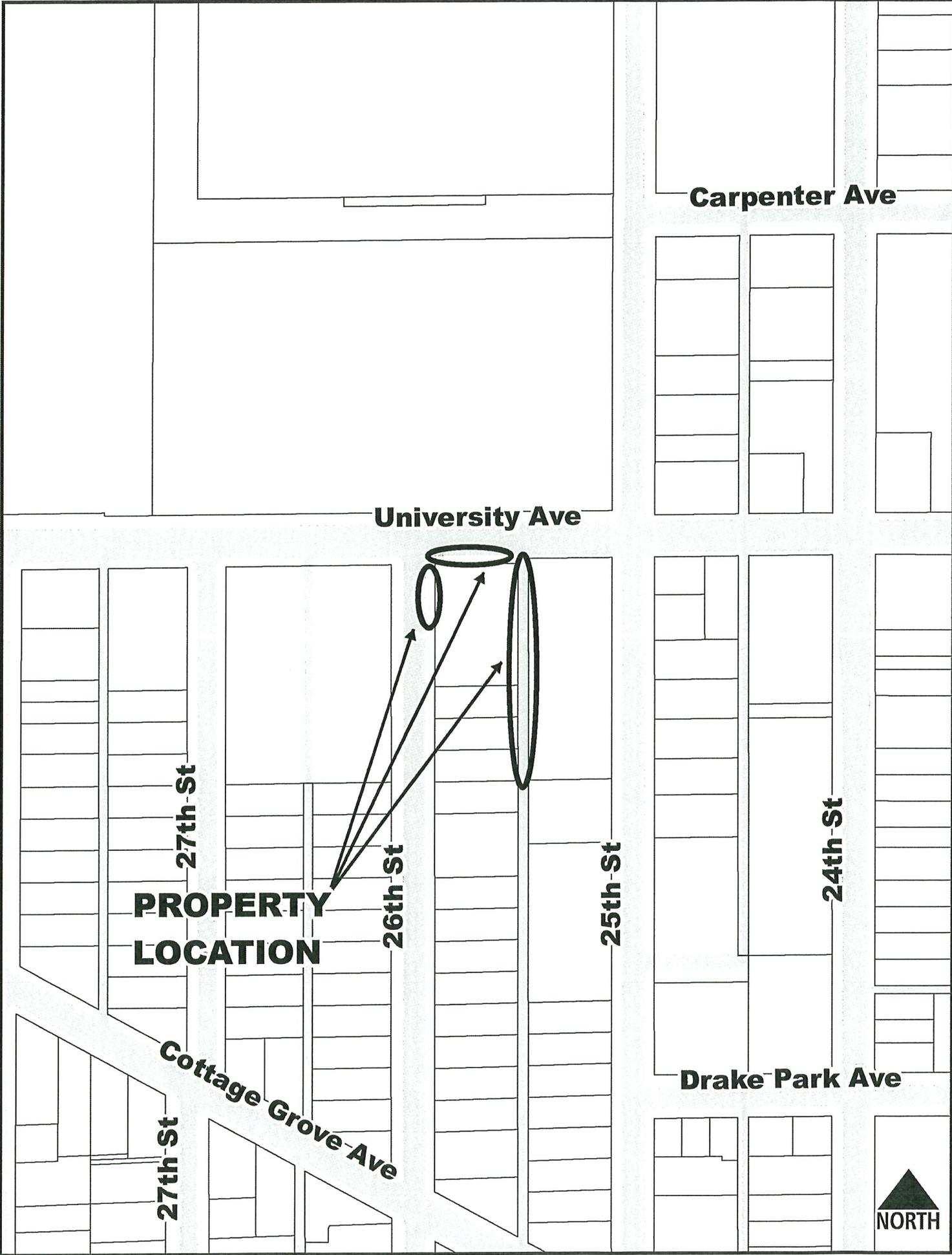
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**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





January 21, 2020

Date April 20, 2020  
 Agenda Item 42  
 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 January 16, 2020 meeting, the following action was taken regarding a request from ND Drake Multifamily, LLC (owner) represented by Michael Nelson (officer) for vacation of the following: 1) Adjoining north/south alley between 25<sup>th</sup> Street and 26<sup>th</sup> Street from University Avenue to a point 281 feet to the south, 2) Adjoining air rights in a 4-foot by 13-foot segment to the south side of University Avenue and a 2-foot by 28-foot segment to the east side of 26<sup>th</sup> Street and 3) Adjoining subsurface rights in the south 2 feet of University Avenue and the east 4 feet of 26<sup>th</sup> Street.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 13-0 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 necessary easements to allow public access to the alley from 26<sup>th</sup> Street.
2. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

3. Any construction on the proposed vacations shall be in accordance with all administrative comments from Traffic and Transportation as part of the Site Plan review. (11-2019-1.30)

### Written Responses

0 in Favor

0 in opposition

## **RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval of the requested vacations subject to the following conditions:

1. Reservation of any necessary easements to allow public access to the alley from 26<sup>th</sup> Street.
2. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
3. Any construction on the proposed vacations shall be in accordance with all administrative comments from Traffic and Transportation as part of the Site Plan review.

## **STAFF REPORT TO THE PLANNING COMMISSION**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The proposed rezoning would allow construction of a 4-story mixed-use development on the proposed site. The mixed-use development is proposed to consist of 136 residential units (65 micro, 43 studios, 12 one-bedroom, and 16 two-bedroom) and 6,000 square feet of commercial space. The proposed vacations would facilitate the development of the site.
2. **Size of Site:** 47,372 square feet (1.1 acre).
3. **Existing Zoning (site):** "MX1" Mixed Use District and "N5" Neighborhood District.  
  
**MX1** is intended for the mixed-use, neighborhood-scale nodes and corridors within the city, where daily uses are accessible by walking from surrounding neighborhoods.  
  
**N5** is intended to preserve the scale and character of neighborhoods developed with a mix of bungalow and two-story houses, predominantly in the Victorian Revival, and Arts and Crafts styles pursuant to House D building type.
4. **Existing Land Use (site):** The site consists of vacant land, a small metal structure, and public alley right-of-way.

## 5. Adjacent Land Use and Zoning:

**North** – “P2”; Use includes Drake University.

**South** – “N5”; Uses include single- and multiple-household residential.

**East** – “P2”; Use includes First Christian Church and parking lot.

**West** – “MX1”; Use includes a development under construction as a new hotel.

**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. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on December 27, 2019 and by mailing of the Final Agenda on January 10, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on December 27, 2019 (20 days prior to public hearing) and January 6, 2020 (10 days prior to public hearing) to the Downtown Des Moines Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

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 28<sup>th</sup> Street, 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 the 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.

Taking into the consideration of the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **PlanDSM Creating Our Tomorrow:** The applicant is requesting that the future land use designation for the property at 1157 26th Street to be amended from “Low-Medium Density Residential” to “Neighborhood Mixed Use”. Plan DSM describes these designations as follows:

*Low-Medium Density Residential: Areas developed with a mix of single family, duplex and small multi-family units up to 12 units per net acre.*

*Neighborhood Mixed Use: Small scale mixed use development typically located at the intersection 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.*

Staff believes it is appropriate to amend this subject property from Low-Medium Density Residential to Neighborhood Mixed Use as the proposed development indicates details that allow transition from University Avenue to the mix of single-household and multiple-household units within the neighborhood.

2. **Site Plan Requirements:** Any development would require compliance with all applicable site plan requirements. Applicable requirements include stormwater management, landscaping, and screening of adjoining residential properties. Any grading is subject to an approved grading permit and soil erosion control plan, as well as a Stormwater Pollution Protection Plan (SWPPP) approved by the Iowa DNR. Tree removal and mitigation calculations must be submitted with any site plan in accordance with Section 42-550 of the Municipal Code.
3. **Utilities:** While no utilities have been identified within the requested ROW, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
4. **Alley System:** The subject north/south alley right-of-way provides access to one-household and multiple-household units between University Avenue and Cottage Grove Avenue and is accessed from both streets. The proposed vacation would impact the ability to provide adequate access to the properties with vehicular access via this alley. The provided site sketch indicates that the developer intends to keep access open to the alley south of the proposed development to Cottage Grove Avenue and via a new paved driveway from 26<sup>th</sup> Street. Staff recommends approval of the requested vacations subject to reservation of any necessary easements to allow public access to the alley from 26<sup>th</sup> Street.
5. **Streets/Sidewalk:** There are no structures or individual property owners that would be impacted by the proposed vacation and restricted access. Any future use of the property is subject to compliance with zoning, site plan, and building regulations.
6. **Parking:** Staff notes that the currently proposed number of parking spaces is not compliant with the zoning Ordinance. Staff recommends rezoning of the property to MX2 (already a part of this request) and discussions with the city’s engineering staff on how to achieve compliance.



Staff additionally notes that the proposed driveway from the parking lot to University Avenue does not include a pedestrian walkway and only two feet are available to provide that space. Staff notes that it is very likely even without a designated pedestrian walkway, pedestrians would still use this access regardless of provided safety measures. Staff recommends discussions with the city's engineering staff regarding appropriate design elements to facilitate safe use of this space by pedestrians.

## **SUMMARY OF DISCUSSION**

Jacqueline Easley 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 vacations subject to the following conditions:

1. Reservation of any necessary easements to allow public access to the alley from 26<sup>th</sup> Street.
2. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
3. Any construction on the proposed vacations shall be in accordance with all administrative comments from Traffic and Transportation as part of the Site Plan review.

Motion passed: 13-0

Respectfully submitted,

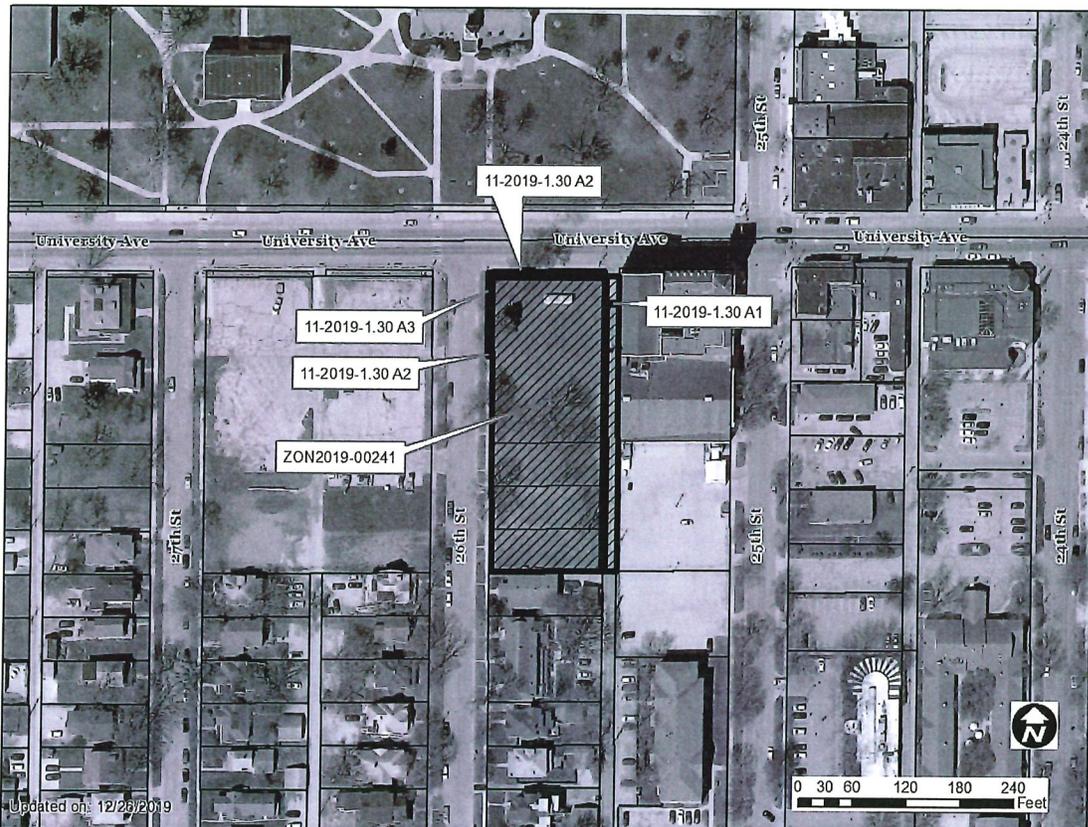


Erik Lundy, AICP  
Senior City Planner

EML:tjh  
Attachments

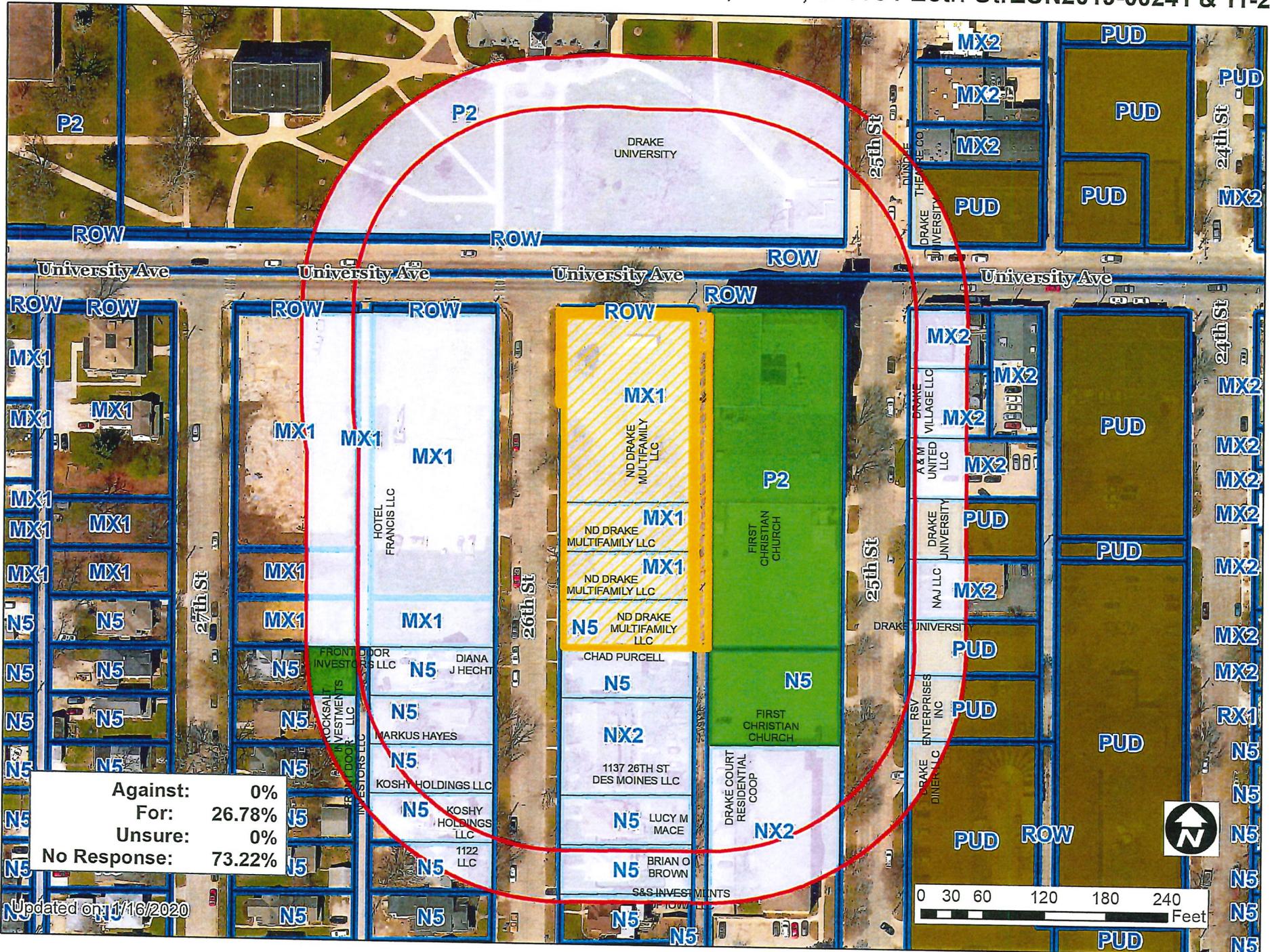
Request from ND Drake Multifamily, LLC (owner) represented by Michael Nelson (officer) for property located at 2530 University Avenue and 1157, 1159, & 1161 26th Street.		File #		
		11-2019-1.30		
Description of Action	Vacation of the following: 1) Adjoining north/south alley between 25th Street and 26th Street from University Avenue to a point 281 feet to the south. 2) Adjoining air rights in a 4-foot by 13-foot segment to the south side of University Avenue and a 2-foot by 28-foot segment to the east side of 26th Street. 3) Adjoining subsurface rights in the south 2 feet of University Avenue and the east 4 feet of 26th Street.			
PlanDSM Future Land Use	Current: Neighborhood Mixed Use and Low-Medium Density Residential. Proposed: Neighborhood Mixed Use.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"MX1" Mixed Use District and "N5" Neighborhood District.			
Proposed Zoning District	"MX2" Mixed Use District.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Outside Area (200 feet)	0	0		
Within Subject Property				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

ND Drake Multifamily, LLC, 2530 University Ave. and 1157, 1159, & 1161 26th St.ZON2019-00241 & 11-2019-1.30



1 inch = 123 feet

ND Drake Multifamily, LLC, 2530 University Ave. and 1157, 1159, & 1161 26th St. ZON2019-00241 & 11-2019-1.30



Against:	0%
For:	26.78%
Unsure:	0%
No Response:	73.22%

Updated on 1/16/2020

1 inch = 122 feet

47

Item ZON2019-00241 & 11-2019-1.30 Date 1-9-2020 42

(am)  (am not) in favor of the request.

RECEIVED  
COMMUNITY DEVELOPMENT  
JAN 13 2020

Print Name Suzanne Start, minister  
Signature [Signature]  
Address 2500 University Ave 50311

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item ZON2019-00241 & 11-2019-1.30 Date 1/8/2020

(am)  (am not) in favor of the request.

(Circle One)  
RECEIVED  
COMMUNITY DEVELOPMENT  
JAN 14 2020

Print Name Front Door Investors  
Ross L. Peterson mgr.  
Signature Ross L Peterson  
Address 1151-27th St. DM, IA

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

In Favor only if off-street parking  
is adequate for apartments and  
retail.  
\_\_\_\_\_  
\_\_\_\_\_