

Date October 19, 2020

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A SEGMENT OF UNIVERSITY AVENUE RIGHT-OF-WAY ADJOINING 2650 UNIVERSITY AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT – DOOR SWING TO HOTEL FRANCIS, LLC FOR \$100.00

WHEREAS, on September 14, 2020, by Roll Call No. 20-1437, 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 to vacate a 4-foot by 4-foot segment of the south edge of University Avenue right-of-way adjoining 2650 University Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and further subject to the provision of bollards or planters on both sides of the 4-foot by 4-foot proposed vacation into the public right-of-way on University Avenue as approved by the Planning Administrator; and

WHEREAS, following the above referenced Plan and Zoning Commission meeting, the vacation area was surveyed and reduced to a 4-foot by 2.8-foot segment of University Avenue right-of-way; and

WHEREAS, Hotel Francis, LLC, the owner of 2650 University Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$100.00 for the purchase of a Permanent Easement for Building Encroachment – Door Swing in the 4-foot by 2.8-foot segment of the south edge of University Avenue right-of-way adjoining 2650 University Avenue to allow for a door swing and landing for emergency egress only from a restaurant tenant space within the hotel building, which price reflects the fair market value of the easement interest as determined by the City’s Real Estate Division; and

WHEREAS, there is no known current or future public need for the street right-of-way proposed to be vacated, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and further subject to the provision of bollards or planters on both sides of the 4-foot by 2.8-foot proposed vacation into the public right-of-way on University Avenue as approved by the Planning Administrator, and the City will not be inconvenienced by the vacation and sale of a Permanent Easement for Building Encroachment – Door Swing 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 a 4-foot by 2.8-foot segment of the south edge of University Avenue right-of-way adjoining 2650 University Avenue, legally described as follows:

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, ALL BEING A PART OF DRAKE UNIVERSITY'S

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ADDITION TO THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST OF 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 SAID UNIVERSITY AVENUE, 122.19 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°47'45" WEST, 2.80 FEET; THENCE NORTH 89°12'10" EAST, 4.00 FEET; THENCE SOUTH 00°47'45" EAST, 2.80 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 89°12'10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 11 SQUARE FEET. PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

- 2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Building Encroachment – Door Swing in the 4-foot by 2.8-foot segment of the south edge of University Avenue right-of-way adjoining 2650 University Avenue, as legally described and to the grantee and for the consideration identified below, subject to reservation of easements therein, and further subject to the provision of bollards or planters on both sides of the 4-foot by 2.8-foot proposed encroachment as approved by the Planning Administrator:

Grantee: Hotel Francis, LLC
Consideration: \$100.00
Legal Description:

A PART OF VACATED 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, 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:

COMMENCING AT THE SOUTHWEST OF 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 SAID UNIVERSITY AVENUE, 122.19 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°47'45" WEST, 2.80 FEET; THENCE NORTH 89°12'10" EAST, 4.00 FEET; THENCE SOUTH 00°47'45" EAST, 2.80 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 89°12'10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 11 SQUARE FEET. PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

- 3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such Permanent Easement for Building Encroachment – Door Swing is to be considered shall be on November 9, 2020, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. Given Mayor Cownie’s March 17, 2020 Proclamation, as amended prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor’s June 25, 2020 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during

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the COVID19 outbreak and the City Manager's decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic public access to the meeting location as set forth below. To participate in the electronic meeting, access is available telephonically (details below):

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/s/94455567318?pwd=eS9USnErWTFpZkFLVERaRmlBYXB4Zz09>

Passcode: 277478

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 720 928 9299 or 833 548 0276 (Toll Free) or 877 853 5257 (Toll Free)

Webinar ID: 944 5556 7318

International numbers available: <https://dmgov-org.zoom.us/j/kzfspbRwY>

Persons interested in the proposal will be given the opportunity to express their views at that hearing. In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. November 5, 2020 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

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.

 **Roll Call Number**

Agenda Item Number

20

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Moved by _____ to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

ASW

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

MOTION CARRIED APPROVED

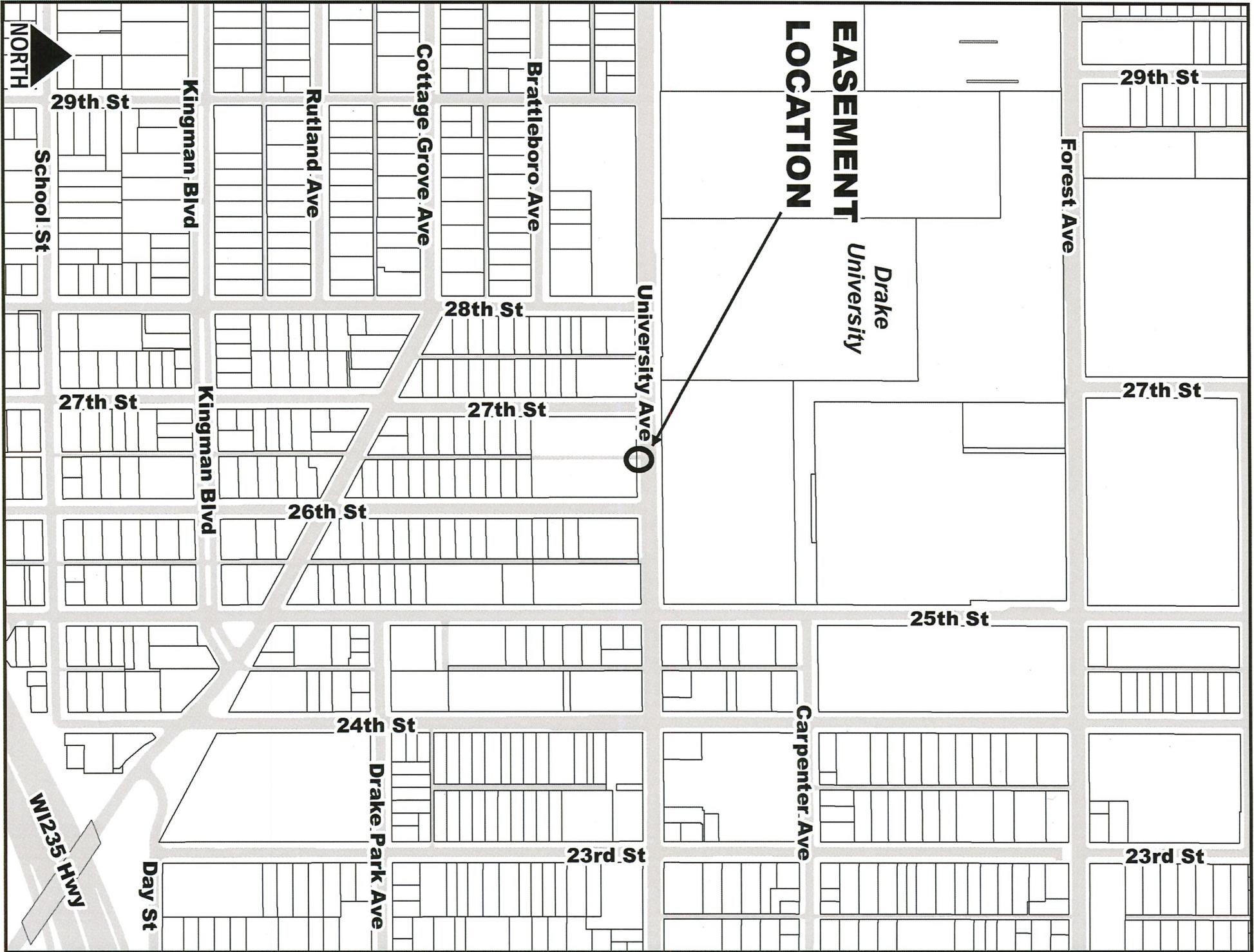
Mayor

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



**EASEMENT
LOCATION**

*Drake
University*

NORTH

September 8, 2020

Date October 19, 2020

Agenda Item 20

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 August 20, 2020 meeting, the following action was taken regarding a request from Hotel Francis, LLC (owner), represented by Michael Nelson (officer), for vacation of a 4-foot by 4-foot segment of the south edge of University Avenue adjoining property at 2650 University Avenue, to allow for a door swing and landing for emergency egress only from a restaurant tenant space within the hotel building.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson			X	
Jann Freed	X			
Johnny Alcivar	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 vacation 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 bollards or planters to both sides of the 4-foot by 4-foot proposed vacation into the public right-of-way on University Avenue as approved by the Planning Administrator. (11-2020-1.08)

Written Responses

2 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation 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 bollards or planters to both sides of the 4-foot by 4-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 use of the addressed property as a restaurant space within mixed use building.
2. **Size of Site:** 16 square feet) for the addressed property.
3. **Existing Zoning (site):** "MX2" Mixed Use District. The "MX2" District 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 affected area consists of sidewalk within the public Right-Of-Way (ROW) of University Avenue between 26th Street and 27th Street.
5. **Adjacent Land Use and Zoning:**

North – "P2"; Use is Drake University's campus.

South – "N5", Use is a recently constructed hotel development.

East – "MX2"; Use is a mixed-use building under construction.

West – "MX1"; 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 in the Drake Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on July 31, 2020 and by mailing of the Final Agenda on August 14, 2020. Additionally, separate notifications of the hearing for this specific

item were mailed on August 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 ROW.

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 Lori Calhoun, 2808 Cottage Grove 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 ROW, 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 4-foot by 4-foot proposed vacation to allow for an exterior door swing would be onto the sidewalk in the public ROW on University Avenue. Staff feels that bollards or planters as approved by the Planning Administrator and Traffic Engineering would ensure public safety of pedestrians utilizing the subject sidewalk.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Emily Webb made a motion for approval of the requested vacation 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 bollards or planters to both sides of the 4-foot by 4-foot proposed vacation into the public right-of-way on University Avenue as approved by the Planning Administrator.

Motion passed: 11-0-1

Respectfully submitted,



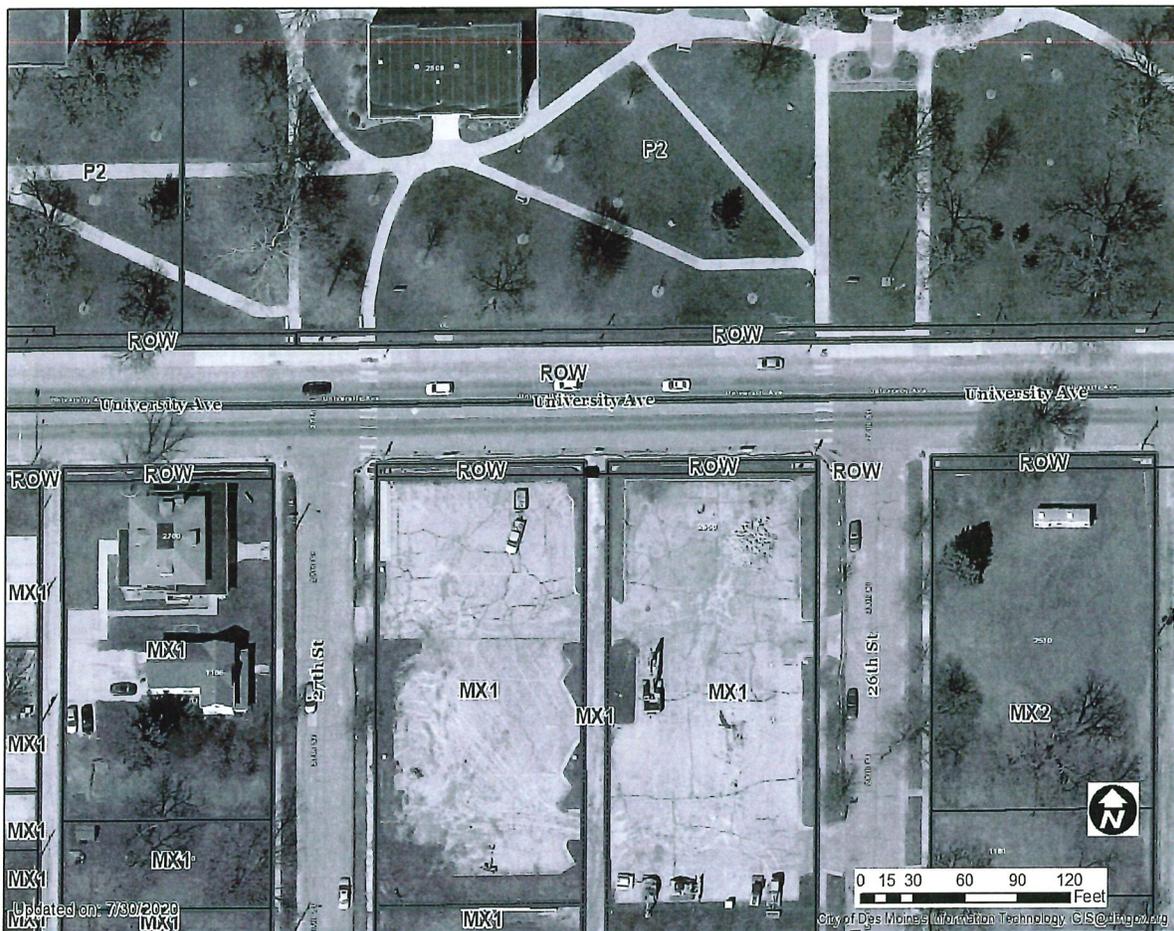
Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

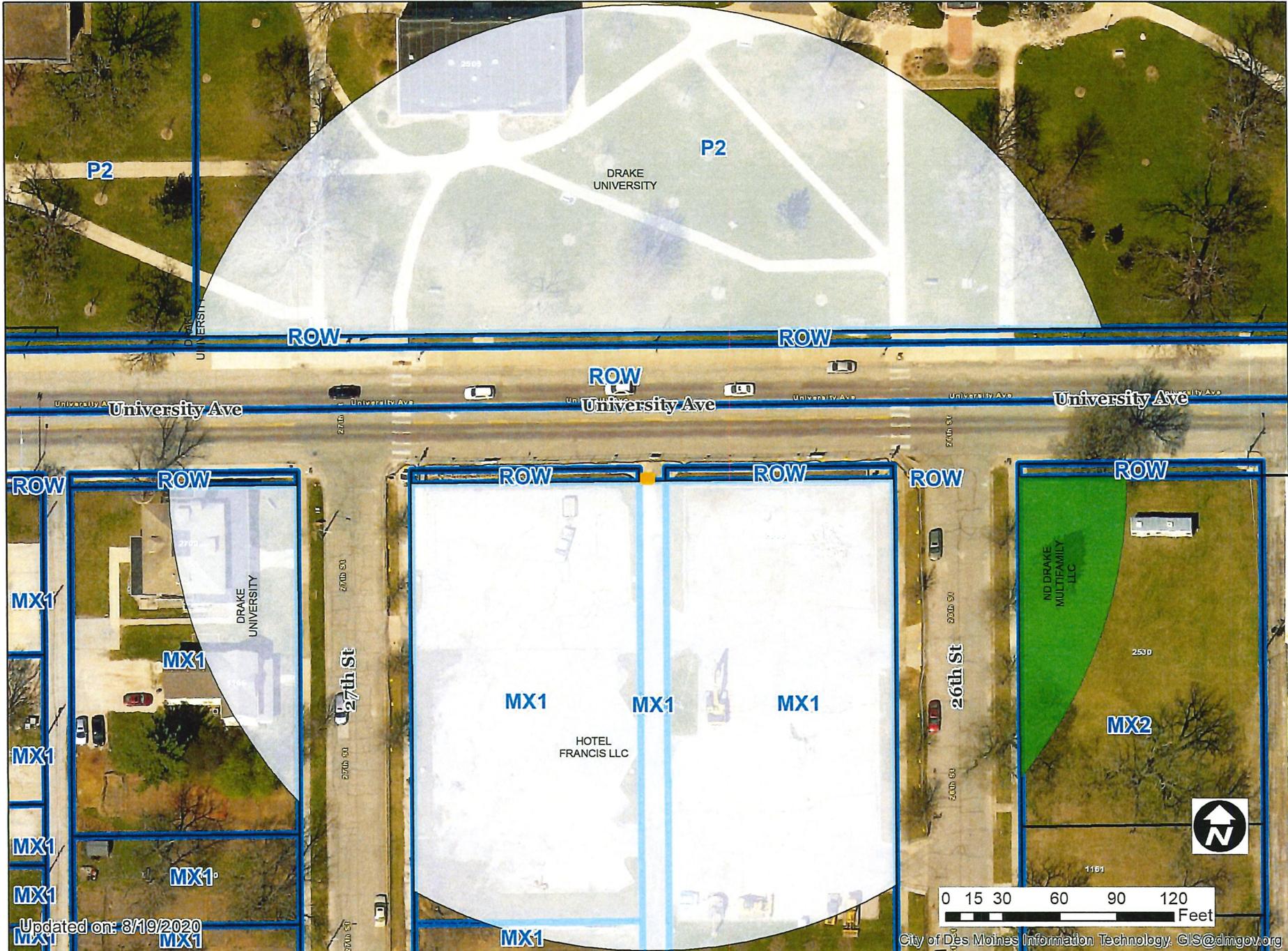
Request from Hotel Francis, LLC (owner), represented by Michael Nelson (officer) for property located at 2650 University Avenue.				File #	
				11-2020-1.08	
Description of Action	Vacation of a 4-foot by 4-foot segment of the south edge of University Avenue adjoining property at 2650 University Avenue, to allow for a door swing and landing for emergency egress only from a restaurant tenant space within the hotel building.				
PlanDSM Future Land Use	Current: Neighborhood Mixed Use. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"MX1" Mixed Use District.				
Proposed Zoning District	N/A				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)	2	0			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Hotel Francis, LLC, 2650 University Avenue

11-2020-1.08



1 inch = 68 feet



Updated on: 8/19/2020

1 inch = 68 feet

20

11-2020-1.08

Item: _____ Date: 08/13/20

I (am) (am not) in favor of the request:

(Circle One)

RECEIVED Print Name: ALEXANDER GRBURICH
COMMUNITY DEVELOPMENT

AUG 19 2020 Signature: _____

Address: 2530 UNIVERSITY

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

NICE, VALUE-ADDING PROJECT THAT WILL
BE GREAT FOR THE CITY

11-2020-1.08

Item: _____ Date: 08/13/20

I (am) (am not) in favor of the request:

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

Print Name: ALEXANDER GRBURICH

AUG 19 2020 Signature: _____

Address: 2650 UNIVERSITY

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

GREAT NEW RETAIL SPACE FOR THIS AREA

Aug 19, 2020 14:11

