



**Roll Call Number**

**Agenda Item Number**

14A

**Date** March 22, 2021

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM URBAN CAMPUS APARTMENTS LLLP FOR VACATION OF AIR AND SUBSURFACE RIGHTS WITHIN 6<sup>TH</sup> AVENUE ADJOINING 1230 6<sup>TH</sup> AVENUE**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on March 4, 2021, its members voted 10-0 to recommend **APPROVAL** of a request from Urban Campus Apartments LLLP (owner), represented by Jack Hatch (partner), to vacate air and subsurface rights within the west three feet of 6<sup>th</sup> Avenue adjoining 1230 6<sup>th</sup> Avenue, to allow for encroachment of building structural footings and roof overhang elements for the “6<sup>th</sup> Avenue Flats” building being developed on said adjoining property.

**MOVED** by \_\_\_\_\_ to receive and file the attached communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:

/s/ Glenna K. Frank  
Glenna K. Frank, Assistant City Attorney

(11-2021-1.03)

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

MOTION CARRIED APPROVED

**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.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



Date March 22, 2021

Agenda Item 14A

Roll Call # \_\_\_\_\_

March 16, 2021

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their March 3, 2021 meeting, the following action was taken regarding a request from Urban Campus Apartments, LLLP (owner) represented by Jack Hatch (partner) for vacation of the air and subsurface rights within the west 3 feet of 6<sup>th</sup> Avenue adjoining the property located at 1230 6<sup>th</sup> Avenue to allow for encroachment of building footings and building overhangs.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 10-0 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

**APPROVAL** of the requested Right-Of-Way vacation.

(11-2021-1.03)

Written Responses

0 in Favor

0 in opposition

## STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested Right-Of-Way vacation.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is in the process of developing a 5-story Storefront Type building “6<sup>th</sup> Avenue Flats” for 36 Household Living use and 6 Live/Work use units. The design of the building as conditionally approved would require vacation of subsurface rights for structural footings and air rights for roof overhang elements.
2. **Size of Site:** The area requested for vacation is 615 square feet. The adjoining site is 23,522 square feet (0.54 acres).
3. **Existing Zoning (site):** “MX2” Mixed Use District.
4. **Existing Land Use (site):** Street Right-Of-Way (ROW).
5. **Adjacent Land Use and Zoning:**
  - North** – “MX1”; Uses are Shelter, Temporary and Business/Professional Offices. (Bethel Mission).
  - South** – “Top Value Legacy PUD”, Uses are drive-through Restaurant (McDonald’s).
  - East** – “MX2”; Uses are 8-unit Household Living dwelling (The New Lawn) and Medical Offices (Blood Plasma Center).
  - West** – “N5” & “N5-2”; Uses are One- and Two-Household Living dwellings.
6. **General Neighborhood/Area Land Uses:** The subject ROW is located along the 6<sup>th</sup> Avenue corridor about a block north of the University Avenue corridor. This segment of 6<sup>th</sup> Avenue contains a mix of commercial uses and mixed-densities of Household Living dwellings.
7. **Applicable Recognized Neighborhood(s):** The subject ROW is in the River Bend Neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on February 12, 2021 and by mailing of the Final Agenda on February 26, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on February 22, 2021 (10 days prior) to the applicable neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public Right-of-Way. The River Bend Association mailings were sent to Chris Chiaramonte, 409 Franklin Avenue, Des Moines, IA 50314.

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

9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Neighborhood Mixed-Use within a Community Node.

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 there is a Des Moines Water Works water line and a City of Des Moines sanitary sewer subsurface main identified within 6<sup>th</sup> Avenue in this location, they are not in proximity to the ROW subsurface in question. Because the proposed building improvements are to encroach into the airspace and subsurface areas, easements would not be reserved for any existing utilities.

2. **Traffic/Access:** The requested vacations would not negatively impact access to private properties or to vehicle and pedestrian traffic patterns. It would allow for the 6<sup>th</sup> Avenue corridor streetscape project implementation.

3. **Planning and Design Ordinance:** Construction of the “6<sup>th</sup> Avenue Flats” development must comply with all applicable Building Code and Planning and Design regulations contained the Chapter 135 Planning and Design.

## SUMMARY OF DISCUSSION

Dory Briles asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

## COMMISSION ACTION:

Jann Freed made a motion for approval of the requested Right-Of-Way vacation.

Motion passed: 10-0

Respectfully submitted,



Jason Van Essen, AICP  
Planning & Urban Design Administrator

JMV:tjh

Request from Urban Campus Apartments LLLP (owner) represented by Jack Hatch (partner) for property located at 1230 6 <sup>th</sup> Avenue.				File # 11-2021-1.03	
Description of Action	Vacation of the air and subsurface rights within the west 3 feet of 6 <sup>th</sup> Avenue adjoining the subject property to allow for encroachment of building footings and building overhang.				
PlanDSM Future Land Use	Current: Neighborhood Mixed Use within a Community Node. 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)	0	0			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Urban Campus Apartments LLLP, 1230 6th Avenue

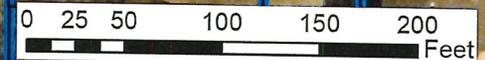
11-2021-1.03



1 inch = 94 feet



Updated on: 3/3/2021



1 inch = 94 feet

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