

.....
Date May 9, 2022

SET HEARING FOR VACATION OF STREET RIGHT-OF-WAY LOCATED AT THE INTERSECTION OF COTTAGE GROVE AVENUE, KINGMAN BOULEVARD AND 25TH STREET AND LEASE TO DRAKE NEIGHBORHOOD ASSOCIATION FOR \$1000

WHEREAS, on June 8, 2020, by Roll Call No. 20-0901, the City Council of the City of Des Moines, Iowa voted to receive and file the recommendation from the City Plan and Zoning Commission to approve a request from the Drake Neighborhood Association, represented by Lori Calhoun (officer), to vacate a triangular segment of street right-of-way in the vicinity of the 2400 block of Cottage Grove at the intersection of Cottage Grove Avenue on the northeast, Kingman Boulevard on the south and 25th Street on the west, (hereinafter “Property”) subject to the following:

- (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; and
- (2) Any construction on the proposed vacation shall be in accordance with all administrative comments as part of a Site Plan review; and

WHEREAS, the City’s Real Estate Division has negotiated a Lease Agreement (“Agreement”) with Drake Neighborhood Association, P.O. Box 41128, Des Moines, Iowa, an Iowa non-profit corporation, for the purpose of installing and maintaining a monument sign, a memorial garden with swing, plantings and other decorative elements, and associated landscaping, which Agreement will include, among other terms, the following:

- a twenty (20) year lease term;
- an annual lease payment of Fifty Dollars (\$50.00), which amount reflects the fair market value of the leased area as currently estimated by the City’s Real Estate Division;
- termination by either party for any reason upon thirty (30) days written notice to the other party; and

WHEREAS, there is no known current or future public need or benefit for the Property proposed to be leased, and the City will not be inconvenienced by the lease of said Property.

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

1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a triangular segment of street right-of-way in the vicinity of the 2400 block of Cottage Grove at the intersection of Cottage Grove Avenue on the northeast, Kingman Boulevard on the south and 25th Street on the west, legally described as follows:

Legal Description: A PART OF LOT 188, UNIVERSITY LAND CO.'S FIRST ADDITION TO DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEAST CORNER OF LOT 189 OF SAID UNIVERSITY LAND

.....
Date May 9, 2022.....

CO.'S FIRST ADDITION TO DES MOINES; THENCE SOUTH 19' 41" EAST ALONG THE EAST LINE OF SAID LOT 189, A DISTANCE OF 38.23 FEET; THENCE NORTH 40' 19" EAST, 67.84 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 56°58'12" EAST,63.50 FEET; THENCE SOUTH 10°01'48" WEST,8.08 FEET; THENCE SOUTH 60° 04'32" WEST,60.00 FEET; THENCE NORTH 00° 08'06" EAST, 72.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.05 ACRES (2,119 S.F.).

2. The City Council of the City of Des Moines, Iowa, further proposes to lease the vacated triangular segment of street right-of-way, as legally described and to the Lessee and for the consideration identified below, for a term of twenty years, subject to reservation of easements therein:

Lessee: Drake Neighborhood Association

Consideration: \$1,000.00 (to be paid in annual payments of \$50.00)

Legal Description: A PART OF LOT 188, UNIVERSITY LAND COMPANY'S FIRST ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 189 OF SAID UNIVERSITY LAND COMPANY'S FIRST ADDITION TO THE CITY OF DES MOINES; THENCE SOUTH 0° 19' 41" EAST ALONG THE EAST LINE OF SAID LOT 189, A DISTANCE OF 38.23 FEET; THENCE NORTH 89° 40' 19" EAST, 67.84 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 56° 58' 12" EAST, 63.50 FEET; THENCE SOUTH 10° 01' 48" WEST, 8.08 FEET; THENCE SOUTH 60° 04' 32" WEST, 60.00 FEET; THENCE NORTH 00° 08' 06" EAST, 72.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.05 ACRES (2,119 S.F.).

3. A public hearing shall be held on May 23, 2022, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public 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. May 19, 2022 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

Please check the posted agenda in advance of the May 23, 2022 meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

4. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 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
30

Date May 9, 2022

Moved by _____ to adopt. Second by _____.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland
Lisa A. Wieland, Assistant City Attorney

02

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

CERTIFICATE

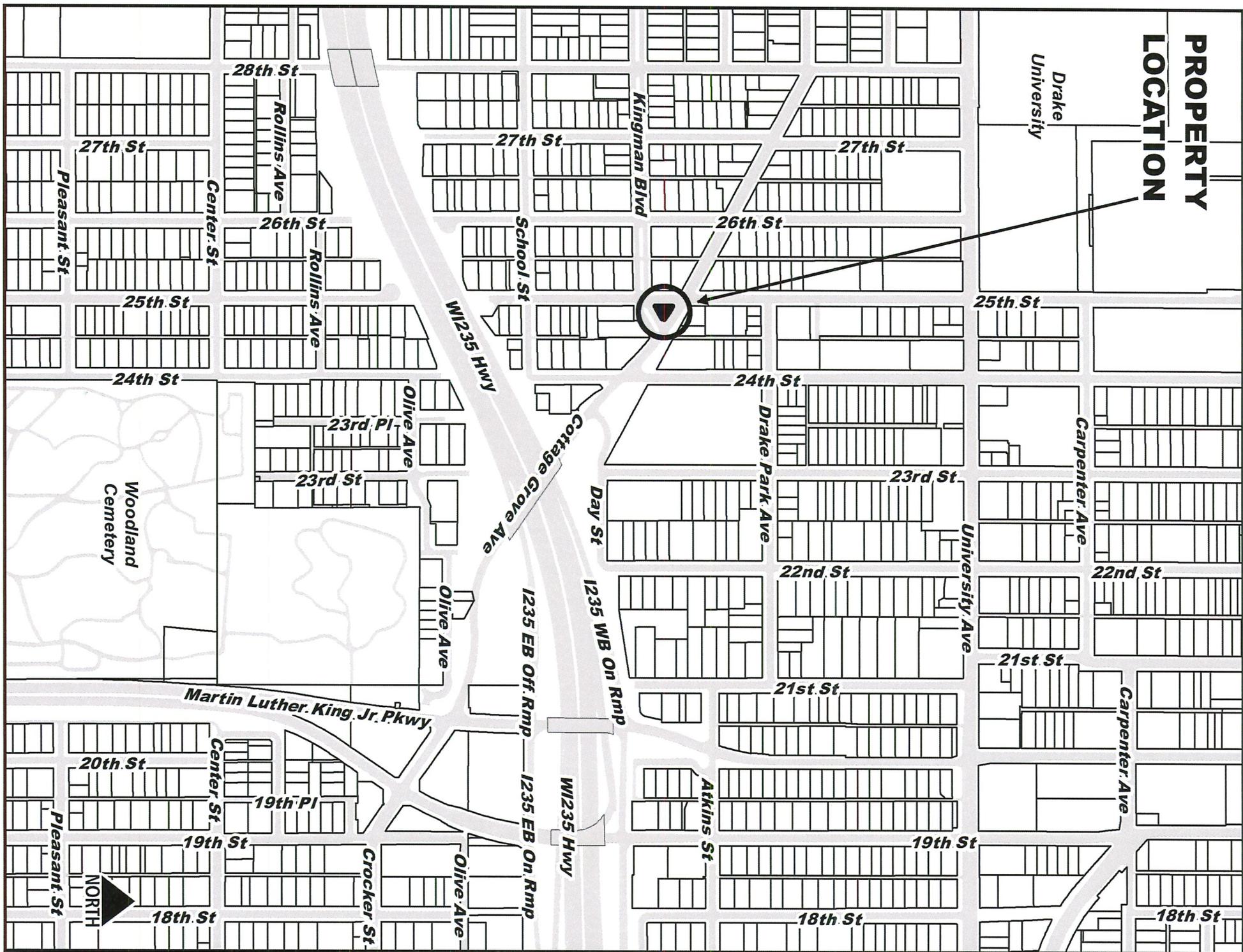
I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk

PROPERTY LOCATION



20

Date May 9, 2022
 Agenda Item 3D
 Roll Call # _____

June 2, 2020

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their May 21, 2020 meeting, the following action was taken regarding a request from Drake Neighborhood Association (applicant) represented by Lori Calhoun (officer) for vacation of a triangular segment of street Right-Of-Way in the vicinity of 2400 block of Cottage Grove Avenue circumscribed by the improved public streets of Cottage Grove Avenue on the northeast, Kingman Boulevard on the south and 25th Street on the west, and recommendation to assign a Park/Open Space designation on the PlanDSM Future Land Use Map and a "P1" Public/private Open Space District zoning map designation to the vacated land, to allow development of the open space with a garden, porch swing and neighborhood entrance sign.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 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 for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

2. Any construction on the proposed vacation shall be in accordance with all administrative comments as part of a Site Plan review.

RECOMMEND APPROVAL to designate the subject property as Park/Open Space on the PlanDSM Future Land Use Map and to designate the property as “P1” Public/Private Park district on the zoning map.

(11-2020-1.03)

Written Responses

2 in Favor

1 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 for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
2. Any construction on the proposed vacation shall be in accordance with all administrative comments as part of a Site Plan review.

Staff recommends approval of a recommendation to designate the subject property as Park/Open Space on the PlanDSM Future Land Use Map and to designate the property as “P1” Public/Private Park district on the zoning map.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation of right-of-way and assignment of future land use map and zoning map designations would allow the Drake Neighborhood Association to lease the subject property from the City of Des Moines and install a new neighborhood entrance sign and garden. The Neighborhood Association is also proposing to construct a porch swing in the open space.
2. **Size of Site:** Approximately 3,350 square feet (0.08 acre).
3. **Existing Zoning (site):** The subject right-of-way is beyond the centerline of any street that abuts any zoning district in the surrounding area. If vacated, a zoning district designation needs to be assigned to the subject property.
4. **Existing Land Use (site):** The site consists of an irregularly-shaped parcel of land within the intersection of the rights-of-way of Cottage Grove Avenue, Kingman Boulevard, and 25th Street.
5. **Adjacent Land Use and Zoning:**

North – “NX1”; Uses include Cottage Grove Avenue public right-of-way, one-household and multi-household uses.

South – “N5”; Uses include Kingman Boulevard public right-of-way and one-household uses.

East – “P2 & N5”; Uses include Cottage Grove Avenue public right-of-way, Cottage Grove Presbyterian Church, and one-household uses.

West – “N5, NX1 & MX1”; Uses include 25th Street public right-of-way, one-household and multi-household uses.

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

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 May 1, 2020 and by mailing of the Final Agenda on May 15, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on May 11, 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 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: No designation currently exists.

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.

Section 134-1.10.3 of the City Code states that zoning boundary lines are established by legal description or dimensions, property lines, recorded lot lines, the centerline of the abutting streets, alleys or roadways. The subject right-of-way is beyond the centerline of any street that abuts any zoning district in the surrounding area. If vacated, a zoning district needs to be assigned to the subject property. Therefore, the Plan and Zoning Commission should forward a recommendation to the City Council regarding the PlanDSM future land use designation and zoning district designation that should be assigned to the subject property.

If a "P" zoning district is assigned to subject property, the following criteria apply when considering any application for a Monument Sign per City Code Section 134-5.6.5:

- A. *Maximum Number and Area. The maximum number and area of all monument signs allowed in DX, MX, RX, CX, EX, I and P zoning districts may not exceed the limits established in Table 134-5.6-1 of this article.*

- B. *Maximum Height. Monument signs are subject to the following height limits, as measured from grade to the highest point on the sign:*
 - 1. *If located at or within 25 feet from the front lot line, the sign may not exceed eight feet in height.*
 - 2. *If located more than 25 feet from the front lot line, the sign may not exceed 15 feet in height.*

- C. *Sign Base*
 - 1. *The sign base must have a height of at least two feet or 25% of the overall sign height, whichever is greater.*
 - 2. *The sign base must be at least as wide as the sign face.*
 - 3. *The sign base must be solid and opaque, and constructed of brick, stone, concrete block, or similar permanent, durable material) complementing the exterior of the primary building on the lot.*

Table 134-5.6-1 would allow signage as follows:

134-5. SIGNS

Signs in DX, MX, RX, CX, EX, I and P Districts

TABLE 134-5.6-1. SIGNS IN DX, MX, RX, CX, EX, I AND P DISTRICTS									
	DX1	DX2 DXR	MX1 MX2	MX3	CX	RX	EX I	P	
PERMITTED SIGN TYPES									
Wall	●	●	●	●	●	●	●	●	
Monument	●	●	●	●	●	●	●	●	
Projecting	●	●	●	●	●	●	●	●	
Roof	●	●	—	—	●	—	●	—	
WALL SIGNS: MAXIMUM NUMBER AND AREA									
Maximum Number per Occupant	2	2	2	2	2	2	2	2	
Maximum Total Sign Area (sq. ft.)	2 per linear foot of building frontage for floors 1-3	1.25 per linear foot of building frontage for floors 1-3					2 per linear foot of building frontage for floors 1-3		
Maximum Area of Any Single Sign	200 sq. ft.	100 sq. ft.	100 sq. ft.	200 sq. ft.	200 sq. ft.	100 sq. ft.	200 sq. ft.	200 sq. ft.	
Other Regulations	See section 134-5.6.3 of this article								
MONUMENT SIGNS: MAXIMUM NUMBER, AREA AND HEIGHT									
Maximum Number per Street Frontage	1	1	1	1	1 per 250 linear feet of frontage	1	1 per 250 linear feet of frontage	1	
Maximum Sign Area (sq. ft.)	25	25	1 per linear foot of street frontage or 75 sq. ft., whichever is less	75	1 per linear foot of street frontage or 200 sq. ft., whichever is less	15	1 per linear foot of street frontage or 200 sq. ft., whichever is less	75	
Maximum Height (ft.)	8 if setback less than 25 feet from property line; 15 if setback at least 25 feet from property line								
PROJECTING SIGNS									
Maximum Number	May be used in lieu of wall signs or in addition to wall signs, but the total number of wall signs, projecting signs and roof signs may not exceed the maximum number of wall signs allowed in accordance with this table.								
Maximum Sign Area	Same as apply to wall signs								
Maximum Projection	May not project more than seven feet from the wall of the building to which they are attached.								
Minimum Vertical Clearance	Must be mounted to provide at least nine feet vertical clearance above the sidewalk, driveway or other ground surface beneath the sign.								
Other Regulations	See section 134-5.6.6 of this article								
AWNING AND CANOPY SIGNS									
Regulations	See section 134-5.6.7 of this article								
ROOF SIGNS									
Maximum Number	May be used in lieu of wall signs or in addition to wall signs in those districts that expressly allow roof signs, but the total number of wall signs, projecting signs and roof signs may not exceed the maximum number of wall signs allowed in accordance with this table.								
Maximum Sign Area	Same as apply to wall signs								
Maximum Height	Mounted height of a roof sign may not exceed eight feet. The combined height of a roof sign and the building upon which the sign is mounted may not exceed the maximum height limit of the subject zoning district or the subject building type.								
Other Regulations	See section 134-5.6.8 of this article								
ELECTRONIC AND MULTI-VISION DISPLAYS ON MONUMENT SIGNS									
Regulations	See section 134-5.7 of this article								

Table Notes: ● = Permitted, subject to compliance with all applicable regulations of this article | — = Prohibited

II. ADDITIONAL APPLICABLE INFORMATION

- 1. Utilities:** Storm sewer conduits and intakes are located along the southeastern edge and eastern point of the requested vacation in the Kingman Boulevard and Cottage Grove Avenue rights-of-way. The subject vacation does not appear to directly impact these utilities; however, any necessary easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

2. **City Property Lease:** Staff notes that a lease from the City Engineering Department is required to facilitate use of the subject property by the Drake Neighborhood Association. Staff notes that any lease would state that maintenance, improvements, and associated costs of the subject property would be the responsibility of the applicant during the duration of any lease.
3. **New Land Use Plan and Zoning Designations:** If the subject right-of-way is vacated, Staff believes that a Park/Open Space Future Land Use designation and a “P1” Public/Private Open Space zoning district designation is most appropriate for the subject property. The “P1” zoning designation would facilitate the plans of the Drake Neighborhood Association to install a porch swing structure and a neighborhood identification monument sign.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

John “Jack” Hilmes made a motion for approval of the requested vacations subject to the following conditions:

1. Reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
2. Any construction on the proposed vacation shall be in accordance with all administrative comments as part of a Site Plan review.

John “Jack” Hilmes made a motion for approval of a recommendation to designate the subject property as Park/Open Space on the PlanDSM Future Land Use Map and to designate the property as “P1” Public/Private Park district on the zoning map.

Motion passed: 12-0

Respectfully submitted,



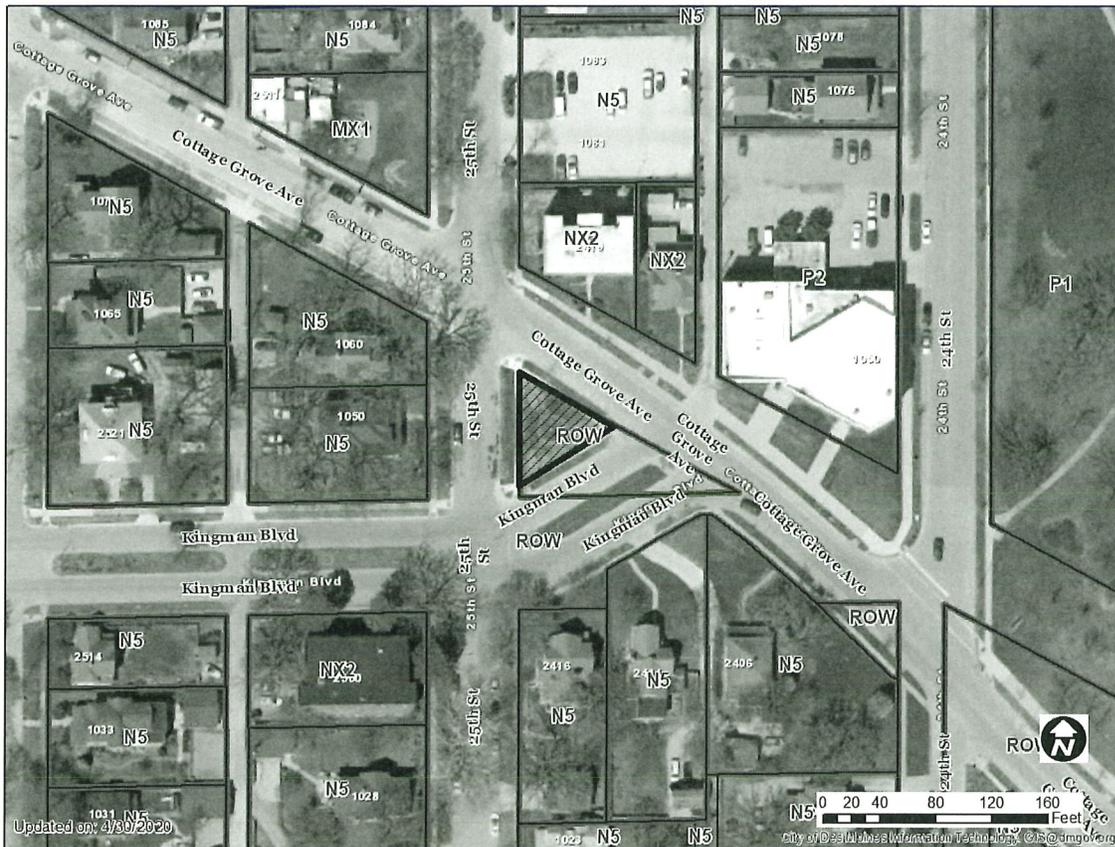
Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

Drake Neighborhood Association (applicant) represented by Lori Calhoun (officer) for Right-Of-Way in the vicinity of 2400 block of Cottage Grove Avenue.				File #	
				11-2020-1.03	
Description of Action	Vacation of a triangular segment of street Right-Of-Way circumscribed by the improved public streets of Cottage Grove Avenue on the northeast, Kingman Boulevard on the south and 25th Street on the west, and recommendation to assign a Park/Open Space designation on the PlanDSM Future Land Use Map and a "P1" Public/private Open Space District zoning map designation to the vacated land, to allow development of the open space with a garden, porch swing and neighborhood entrance sign.				
PlanDSM Future Land Use	Current: Medium Density Residential. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"N5" Neighborhood District.				
Proposed Zoning District	N/A.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)	2	1			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Drake Neighborhood Association, Vicinity of 2400 block of Cottage Grove

11-2020-1.03



1 inch = 80 feet

11-2020-1.03

Item: _____ Date: 5/13/20³⁰

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

STERLING
INVESTMENT

Print Name: David Barzen

RECEIVED
COMMUNITY DEVELOPMENT

Signature: David Barzen

MAY 18 2020

Address: 2415 Cottage Grove

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

Nice addition to the
neighborhood

11-2020-1.03

Item: _____ Date: 5/15/2020

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

RECEIVED
COMMUNITY DEVELOPMENT

Print Name: Jesse Reyes

MAY 18 2020

Signature: Jesse Reyes

Address: 1060 25th Street

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

11-2020-1.03

Item: _____ Date: _____

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

(Circle One)
RECEIVED
COMMUNITY DEVELOPMENT
MAY 18 2020

Print Name: Maria LaFrance

Signature: *Maria LaFrance*

Address: 2419 Cottage Grove Ave.

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

The apartment buildings at 2419 Cottage Grove
and 2500 Kingman need that space for parking.
Those residents needs are important, too!