



Roll Call Number

19-0133

Agenda Item Number

24A

Date January 28, 2019

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF 27TH STREET AND UNIVERSITY AVENUE RIGHT-OF-WAY ADJOINING 2650 UNIVERSITY AVENUE, AND OF THE NORTH-SOUTH ALLEY RIGHT-OF-WAY BETWEEN 26TH STREET AND 27TH STREET FROM UNIVERSITY AVENUE TO A POINT 329 FEET TO THE SOUTH AND CONVEYANCE OF SAID ALLEY AND A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY AND A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT TO NELSON DEVELOPMENT 1, LLC FOR \$37,226.00 AND ACCEPTANCE OF A PERMANENT EASEMENT FOR PUBLIC INGRESS AND EGRESS

WHEREAS, on December 17, 2018, by Roll Call No. 18-2062, 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 Nelson Development 1, LLC, owner of property at 2650 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 as part of any conveyance and until such time that they are abandoned or relocated, and further subject to provision of a minimum 20-foot wide public access easement to ensure vehicles are able to drive in between the northern terminus of the remaining segment of north/south alley and both 26th Street and 27th Street:

- (1) North/south alley between 26th Street and 27th Street running from University Avenue to a point 329 feet to the south;
- (2) Air rights within the adjoining south 1.5 feet of University Avenue and the east 1.0 feet of 27 Street; and
- (3) Subsurface rights within the adjoining south 3.0 feet of University Avenue and the adjoining east 3.0 feet of 27th Street; and

WHEREAS, Nelson Development 1, LLC, owner of property at 2650 University Avenue, has offered to the City of Des Moines ("City") the purchase price of \$37,266.00 for the purchase of the vacated north/south alley right-of-way between 26th Street and 27th Street running from University Avenue to a point 329 feet to the south, and a Permanent Easement for Air Space Above City-owned Property, and a Permanent Easement for Subsurface Building Encroachment in portions of vacated 27th Street and vacated University Avenue, all adjoining 2650 University Avenue, Des Moines, Iowa (hereinafter "Property"), for assemblage with the adjoining property for hotel development, 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, 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 Nelson Development 1, LLC granting City a Permanent Easement for Public Ingress and Egress to ensure vehicles are able to drive in between the northern terminus of the remaining segment of north/south alley and both 26th Street and 27th Street, and the City will not be inconvenienced by the vacation and sale of said Property.

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



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1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the following portions of street and alley right-of-way adjoining 2650 University Avenue, Des Moines, Iowa:

- (1) North/south alley between 26th Street and 27th Street running from University Avenue to a point 329 feet to the south;
- (2) Air rights within the adjoining south 1.5 feet of University Avenue and the east 1.0 feet of 27 Street; and
- (3) Subsurface rights within the adjoining south 3.0 feet of University Avenue and the adjoining east 3.0 feet of 27th Street;

legally described as follows:

Alley

-EXCEPT THE NORTH 7 FEET-, ALL THE NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 1 THROUGH 7, DRAKE UNIVERSITY'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 4,606 SQUARE FEET.

Air Rights Easement 1

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 AND A PART OF VACATED 27TH STREET RIGHT-OF-WAY LYING WESTERLY OF LOTS 35 AND 36, EXCEPT THE NORTH 7.00 FEET OF LOT 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:

AREA "A"

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH 7.00 FEET OF SAID LOT 36; THENCE SOUTH 00° 05' 53" EAST ALONG THE EAST RIGHT-OF-WAY LINE OF SAID 27TH STREET, 65.00 FEET; THENCE SOUTH 89° 54' 07" WEST, 1.00 FEET; THENCE NORTH 00° 05' 53" WEST, 66.49 FEET; THENCE NORTH 89° 12' 10" EAST, 2.98 FEET; THENCE SOUTH 00° 47' 50" EAST, 1.50 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 89° 12' 10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 2.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 69 S.F. LYING BETWEEN ELEVATIONS 198.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON 27TH STREET)



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COMMENCING AT THE SOUTHWEST 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 UNIVERSITY AVENUE, 77.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 47' 50" WEST, 1.50 FEET; THENCE NORTH 89° 12' 10" EAST, 3.00 FEET; THENCE SOUTH 00° 47' 50" EAST, 1.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH 89° 12' 10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F. LYING BETWEEN ELEVATIONS 198.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE)

AND

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AND

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COMMENCING AT THE SOUTHWEST 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 UNIVERSITY AVENUE, 178.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 47' 50" WEST, 1.50 FEET; THENCE NORTH 89° 12' 10" EAST, 3.00 FEET; THENCE SOUTH 00° 47' 50" EAST, 1.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH 89° 12' 10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F. LYING BETWEEN ELEVATIONS 198.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE)

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COMMENCING AT THE SOUTHWEST 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 UNIVERSITY AVENUE, 200.50 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 47' 50" WEST, 1.50 FEET; THENCE NORTH 89° 12' 10" EAST, 3.00 FEET; THENCE SOUTH 00° 47' 50" EAST, 1.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH 89° 12' 10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F. LYING BETWEEN ELEVATIONS 198.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE)

AND

AREA "T"

COMMENCING AT THE SOUTHWEST 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 UNIVERSITY AVENUE, 231.50 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 47' 50" WEST, 1.50 FEET; THENCE NORTH 89° 12' 10" EAST, 3.00 FEET; THENCE SOUTH 00° 47' 50" EAST, 1.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH 89° 12' 10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F. LYING BETWEEN ELEVATIONS 198.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE).

Air Rights Easement 2

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, BEING A PART OF DRAKE UNIVERSITY'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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COMMENCING AT THE SOUTHWEST 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 UNIVERSITY AVENUE, 2.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 47' 50" WEST, 1.50 FEET; THENCE NORTH 89° 12' 10" EAST, 75.00 FEET; THENCE SOUTH 00° 47' 50" EAST, 1.50 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 89° 12' 10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 75.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 112 S.F. LYING BETWEEN ELEVATIONS 245.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE)



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AND

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COMMENCING AT THE SOUTHWEST 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 UNIVERSITY AVENUE, 203.50 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 47' 50" WEST, 1.50 FEET; THENCE NORTH 89° 12' 10" EAST, 28.00 FEET; THENCE SOUTH 00° 47' 50" EAST, 1.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH 89° 12' 10" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE, 28.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 42 S.F. LYING BETWEEN ELEVATIONS 245.00 AND 247.50 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 188.00 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE).

Subsurface Easement

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 AND A PART OF VACATED 27TH STREET RIGHT-OF-WAY LYING WESTERLY OF LOTS 35 AND 36, EXCEPT THE NORTH 7.00 FEET OF LOT 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:

BEGINNING AT THE SOUTHWEST OF CORNER OF THE NORTH 7.00 FEET OF SAID LOT 36; THENCE SOUTH 00°05'53" EAST ALONG THE EAST RIGHT-OF-WAY LINE OF SAID 27TH STREET, 66.04 FEET; THENCE SOUTH 89°54'07" WEST, 3.00 FEET; THENCE NORTH 00°05'53" WEST, 69.00 FEET; THENCE NORTH 89°12'10" EAST, 238.00 FEET; THENCE SOUTH 00°47'50" EAST, 3.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SAID UNIVERSITY AVENUE; THENCE SOUTH 89°12'10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 235.04 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.02 ACRES (912 S.F.).



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- 2. The City Council of the City of Des Moines, Iowa, further proposes to sell the vacated alley right-of-way, and a Permanent Easement for Air Space Above City-owned Property, and a Permanent Easement for Subsurface Building Encroachment, as legally described and to the grantees and for the consideration identified below, subject to reservation of easements for utilities therein and further subject to Grantee granting City a 20-foot wide Permanent Easement for Public Ingress and Egress to ensure vehicles are able to drive in between the northern terminus of the remaining segment of north/south alley and both-26th Street and 27th Street:

Grantee: Nelson Development 1, LLC

Consideration: \$37,226.00

Legal Description:

Alley

-EXCEPT THE NORTH 7 FEET-, ALL THE VACATED NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 1 THROUGH 7, DRAKE UNIVERSITY'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 4,606 SQUARE FEET.

Air Rights Easement 1

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Air Rights Easement 2

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, BEING A PART OF DRAKE UNIVERSITY'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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Subsurface Easement

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OF-WAY LINE, 235.04 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.02 ACRES (912 S.F.).

PUBLIC INGRESS AND EGRESS EASEMENT:

THE SOUTH 20 FEET OF LOTS 7 AND 30, AND ALL OF THE VACATED NORTH-SOUTH ALLEY LYING WEST OF THE SOUTH 20 FEET OF SAID LOT 7, ALL IN DRAKE UNIVERSITY'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 5,080 SQUARE FEET.

- 3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such excess alley right-of-way and permanent easements and acceptance of a Permanent Easement for Public Ingress and Egress are to be considered shall be February 11, 2019, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, 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 Gatto to adopt.

APPROVED AS TO FORM:

[Signature of Lisa A. Wieland]

Lisa A. Wieland, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and TOTAL.

MOTION CARRIED APPROVED

[Signature of J.M. Frankhu Cowrie] Mayor

CERTIFICATE

I, DIANE RAUH, 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.

[Signature of Diane Rauh]

City Clerk