

★ Roll Call Number

Agenda Item Number

20-0516

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Date March 23, 2020

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF ALLEY RIGHT-OF-WAY AND PORTIONS OF 26TH 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 INTERESTS THEREIN 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 25th Street and 26th 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 26th Street; and
3. Adjoining subsurface rights in the south 2 feet of University Avenue and the east 4 feet of 26th 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 25th Street and 26th 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 27th 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.

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 the following portions of street and alley right-of-way adjoining 2530 University Avenue, Des Moines, Iowa:
 1. Adjoining north/south alley between 25th Street and 26th 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 26th Street; and
 3. Adjoining subsurface rights in the south 2 feet of University Avenue and the east 4 feet of 26th Street;

legally described as follows:

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

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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., 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.).

2. The City Council of the City of Des Moines, Iowa, proposes to sell a portion of the vacated alley, a Permanent Easement for Building Setback, and a Non-Exclusive Permanent Easement for Ingress and Egress, as legally described and to the grantees and for the consideration identified below, subject to reservation of easements for utilities therein:

Grantee: Lutheran Church of Hope

Consideration: \$1,055.00

Legal Description:

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.

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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, 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 City Council of the City of Des Moines, Iowa, further proposes to sell 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, as legally described and to the grantee and for the consideration identified below, 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:

Grantee: ND Drake Multifamily, LLC

Consideration: \$25,988.00

Legal Description:

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 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

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(REFERENCE GROUND ELEVATION OF 186.25 FEET AT BUILDING ENTRANCE ON UNIVERSITY AVENUE), AND CONTAINING 52 SQUARE FEET.

AND

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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. That the meeting of the City Council at which the adoption of said ordinance, the sale and conveyance of such alley right-of-way and permanent easements, and acceptance of a Permanent Easement for Public Ingress and Egress are to be considered shall be April 20, 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.
5. 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.
6. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



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Moved by Gatto to adopt.

APPROVED AS TO FORM:

[Signature]

Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED [Signature] 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.

[Signature] City Clerk