



HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF 24TH STREET AND UNIVERSITY AVENUE RIGHT-OF-WAY ADJOINING 2331 UNIVERSITY AVENUE AND CONVEYANCE OF CERTAIN EASEMENT INTERESTS TO NEIGHBORHOOD DEVELOPMENT CORPORATION FOR \$343.00

WHEREAS, on March 9, 2020, by Roll Call No. 20-0420, 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 Neighborhood Development Corporation, owner of property at 2331 University Avenue, to vacate the following portions of street right-of-way, subject to the reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense; and further subject to the provision of bollards or planters on both sides of the 3-foot by 3.5-foot proposed door swing vacations into the public right-of-way on University Avenue as approved by the Planning Administrator:

- (1) Two 3-foot by 3.5-foot segments of University Avenue, to allow for an exterior door swings;
- (2) A 43.73-foot long by 0.40-foot segment of University Avenue to accommodate an existing building encroachment;
- (3) Two 7.5-foot by 5-foot segments of University Avenue air rights to allow for sign canopies; and A 46.77-foot by 0.90-foot segment of 24th Street to allow for an existing building encroachment; and

WHEREAS, Neighborhood Development Corporation, owner of property at 2331 University Avenue, has offered to the City of Des Moines ("City") the purchase price of \$343.00 for the purchase of a Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment – Door Swing, and a Permanent Easement for Building Encroachment in portions of the vacated University Avenue and 24th Street right-of-way adjoining 2331 University Avenue, Des Moines, Iowa (hereinafter "Property"), for the purpose of installing, operating, maintaining, or repairing sign canopies and door swings on the building at 2331 University Avenue, and for the purpose of mitigating an existing building encroachment into the right-of-way, 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: 1) the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at applicant's expense; and 2) the provision of bollards or planters on both sides of the 3-foot by 3.5-foot proposed door swing vacations 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 easements within said Property; and

WHEREAS, on April 20, 2020, by Roll Call No. 20-0616, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Property be set for hearing on May 4, 2020, at 5:00 p.m., in the MSC Board Room, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa; and



Date May 4, 2020

WHEREAS, due notice of said proposal to vacate (1) two 3-foot by 3.5-foot segments of University Avenue; (2) a 43.73-foot long by 0.40-foot segment of University Avenue; (3) two 7.5-foot by 5-foot segments of University Avenue air rights; and a 46.77-foot by 0.90-foot segment of 24th Street, all adjoining 2331 University Avenue, Des Moines, Iowa; subject to: 1) the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at applicant's expense; and 2) the provision of bollards or planters on both sides of the 3-foot by 3.5-foot proposed door swing vacations into the public right-of-way on University Avenue as approved by the Planning Administrator, was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

- 1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of (1) two 3-foot by 3.5-foot segments of University Avenue; (2) a 43.73-foot long by 0.40-foot segment of University Avenue; (3) two 7.5-foot by 5-foot segments of University Avenue air rights; and a 46.77-foot by 0.90-foot segment of 24th Street, all adjoining 2331 University Avenue, Des Moines, Iowa as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said street right-of-way, legally described as follows, and said vacation is hereby approved:

AIR RIGHTS ENCROACHMENT

Area #1

That part of University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southeast corner of said West 84.25 feet of Lot 34; thence South 89°(degrees) 33'(minutes) 45"(seconds) West (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 40.51 feet along the South line of said Lot 34 to the Point of Beginning; thence South 00°26'15" East, 7.50 feet; thence South 89°33'45" West, 5.00 feet; thence North 00°26'15" West, 7.50 feet to the South line of said Lot 34; thence North 89°33'45" East, 5.00 feet to the point of beginning.



Date May 4, 2020

Lying between elevations 183.76 feet and 189.76 feet, City of Des Moines Vertical Datum (reference ground level elevation of 174.26 feet, City of Des Moines Vertical Datum). Horizontally containing 37.50 square feet.

Area #2

That part of University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southeast corner of said West 84.25 feet of Lot 34; thence South 89°(degrees) 33'(minutes) 45"(seconds) West (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 79.15 feet along the South line of said Lot 34 to the Point of Beginning; thence South 00°26'15" East, 7.50 feet; thence South 89°33'45" West, 5.00 feet; thence North 00°26'15" West, 7.50 feet to the South line of said Lot 34; thence North 89°33'45" East, 5.00 feet to the point of beginning.

Lying between elevations 183.76 feet and 189.76 feet, City of Des Moines Vertical Datum (reference ground level elevation of 174.26 feet, City of Des Moines Vertical Datum). Horizontally containing 37.50 square feet.

DOOR SWING ENCROACHMENT:

That part of University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of said Lot 34; thence North 89°(degrees) 33'(minutes) 45"(seconds) East (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 38.90 feet along the South line of said Lot 34; thence South 00°01'16" West, 0.36 feet to the Point of Beginning; thence South 89°58'44" East, 3.50 feet; thence South 00°01'16" West, 3.00 feet; thence North 89°58'44" West, 3.50 feet; thence North 00°01'16" East, 3.00 feet to the point of beginning. Containing 10.50 square feet.

SURFACE ENCROACHMENT:

24th Street

That part of 24th Street right-of-way lying West of and adjoining the West 84.25 feet of Lots 33 and 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of said Lot 34; thence North 00°(degrees) 15'(minutes) 47"(seconds) East (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 24.39 feet along the West line of said Lot 34 to the Point of Beginning; thence North 00°01'56" East, 46.77 feet; thence South 89°44'13" East,



Date May 4, 2020

0.19 feet to the West line of said Lot 33; thence South 00°15'47" West, 46.77 feet along the West lines of said Lots 33 and 34 to the point of beginning. Containing 4.41 square feet.

University Avenue

That part of University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Beginning at the Southwest corner of said Lot 34; thence North 89°(degrees) 33'(minutes) 45"(seconds) East (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 43.73 feet along the South line of said Lot 34; thence South 00°26'15" East, 0.40 feet; thence North 89°58'44" West, 43.74 feet; thence North 00°15'47" East, 0.05 feet to the point of beginning. Containing 9.84 square feet.

3. The proposed sale of convey a Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment – Door Swing, and a Permanent Easement for Building Encroachment, as legally described and to the grantees and for the consideration identified below, subject to: 1) the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at applicant's expense; and 2) the provision of bollards or planters on both sides of the 3-foot by 3.5-foot proposed door swing vacations into the public right-of-way on University Avenue as approved by the City Planning Administrator, is hereby approved:

Grantee: Neighborhood Development Corporation

Consideration: \$343.00

Legal Description:

AIR RIGHTS EASEMENT

Area #1

That part of Vacated University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southeast corner of said West 84.25 feet of Lot 34; thence South 89°(degrees) 33'(minutes) 45"(seconds) West (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 40.51 feet along the South line of said Lot 34 to the Point of Beginning; thence South 00°26'15" East, 7.50 feet; thence South 89°33'45" West, 5.00 feet; thence North 00°26'15" West, 7.50 feet to the South line of said Lot 34; thence North 89°33'45" East, 5.00 feet to the point of beginning.

Lying between elevations 183.76 feet and 189.76 feet, City of Des Moines Vertical Datum (reference ground level elevation of 174.26 feet, City of Des Moines Vertical Datum). Horizontally containing 37.50 square feet.



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Area #2

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Lying between elevations 183.76 feet and 189.76 feet, City of Des Moines Vertical Datum (reference ground level elevation of 174.26 feet, City of Des Moines Vertical Datum). Horizontally containing 37.50 square feet.

DOOR SWING EASEMENT:

That part of Vacated University Avenue right-of-way lying South of and adjoining the West 84.25 feet of Lot 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

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SURFACE EASEMENT:

24th Street

That part of Vacated 24th Street right-of-way lying West of and adjoining the West 84.25 feet of Lots 33 and 34 in University Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of said Lot 34; thence North 00°(degrees) 15'(minutes) 47"(seconds) East (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 24.39 feet along the West line of said Lot 34 to the Point of Beginning; thence North 00°01'56" East, 46.77 feet; thence South 89°44'13" East, 0.19 feet to the West line of said Lot 33; thence South 00°15'47" West, 46.77 feet along the West lines of said Lots 33 and 34 to the point of beginning. Containing 4.41 square feet.

University Avenue



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Beginning at the Southwest corner of said Lot 34; thence North 89°(degrees) 33'(minutes) 45"(seconds) East (bearing assumed to match that Retracement Survey recorded in Book 17270 at Page 143 in the Office of the Polk County Recorder), 43.73 feet along the South line of said Lot 34; thence South 00°26'15" East, 0.40 feet; thence North 89°58'44" West, 43.74 feet; thence North 00°15'47" East, 0.05 feet to the point of beginning. Containing 9.84 square feet.

4. The Mayor is authorized and directed to sign the Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment – Door Swing, and a Permanent Easement for Building Encroachment for the conveyances as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment – Door Swing, and a Permanent Easement for Building Encroachment, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment – Door Swing, and a Permanent Easement for Building Encroachment, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment – Door Swing, and a Permanent Easement for Building Encroachment, and a copy of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



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Moved by Gray to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

PSW

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

J. M. Frankin Cownie 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.

P. Kay Cmelik City Clerk