

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A SEGMENT OF UNIVERSITY AVENUE RIGHT-OF-WAY ADJOINING 2650 UNIVERSITY AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT – DOOR SWING TO HOTEL FRANCIS, LLC FOR \$100.00**

**WHEREAS**, on September 14, 2020, by Roll Call No. 20-1437, 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 to vacate a 4-foot by 4-foot segment of the south edge of University Avenue right-of-way adjoining 2650 University Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and further subject to the provision of bollards or planters on both sides of the 4-foot by 4-foot proposed vacation into the public right-of-way on University Avenue as approved by the Planning Administrator; and

**WHEREAS**, following the above referenced Plan and Zoning Commission meeting, the vacation area was surveyed and reduced to a 4-foot by 2.8-foot segment of University Avenue right-of-way; and

**WHEREAS**, Hotel Francis, LLC, the owner of 2650 University Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$100.00 for the purchase of a Permanent Easement for Building Encroachment – Door Swing in the 4-foot by 2.8-foot segment of the south edge of University Avenue right-of-way adjoining 2650 University Avenue to allow for a door swing and landing for emergency egress only from a restaurant tenant space within the hotel building, which price reflects the fair market value of the easement interest as determined by the City’s Real Estate Division; and

**WHEREAS**, there is no known current or future public need for the street right-of-way proposed to be vacated, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and further subject to the provision of bollards or planters on both sides of the 4-foot by 2.8-foot proposed vacation 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 conveyance of a Permanent Easement for Building Encroachment – Door Swing within said Property.

**WHEREAS**, on October 19, 2020, by Roll Call No. 20-1656, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the street right-of-way and conveyance of the permanent easement be set for hearing on November 9, 2020, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to vacate a 4-foot by 2.8-foot segment of the south edge of University Avenue right-of-way adjoining 2650 University Avenue was given 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

Date November 9, 2020

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 of the 4-foot by 2.8-foot segment of the south edge of University Avenue right-of-way adjoining 2650 University Avenue, 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:

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, 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:  
 COMMENCING AT THE SOUTHWEST OF 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 SAID UNIVERSITY AVENUE, 122.19 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°47'45" WEST, 2.80 FEET; THENCE NORTH 89°12'10" EAST, 4.00 FEET; THENCE SOUTH 00°47'45" EAST, 2.80 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 89°12'10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 11 SQUARE FEET.  
 PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

3. The proposed conveyance of a Permanent Easement for Building Encroachment – Door Swing in such vacated street right-of-way, as legally described below and to the grantee and for the consideration identified below, subject to reservation of easements therein, and further subject to the provision of bollards or planters on both sides of the 4-foot by 2.8-foot proposed vacation into the public right-of-way on University Avenue as approved by the Planning Administrator, and said conveyance is hereby approved:

Grantee: Hotel Francis, LLC  
 Consideration: \$100.00  
 Legal Description:

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, 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:

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COMMENCING AT THE SOUTHWEST OF 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 SAID UNIVERSITY AVENUE, 122.19 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°47'45" WEST, 2.80 FEET; THENCE NORTH 89°12'10" EAST, 4.00 FEET; THENCE SOUTH 00°47'45" EAST, 2.80 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 89°12'10" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 11 SQUARE FEET.  
PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Building Encroachment – Door Swing for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Manager is authorized to sign any minor and non-substantial amendments to the purchase agreement is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.
6. 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 Building Encroachment – Door Swing, 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.
7. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Building Encroachment – Door Swing, 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.
8. 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 Building Encroachment – Door Swing and a copy of the other documents to the grantee.
9. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

★ Roll Call Number

201833

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Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

PSW

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

*T.M. Franckh 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