

★ Roll Call Number

23-1761

Agenda Item Number

29

Date December 18, 2023

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF APPROXIMATELY 180 FEET OF THE NORTH-SOUTH ALLEY RIGHT-OF-WAY EXTENDING SOUTH FROM CARPENTER AVENUE BETWEEN 24<sup>TH</sup> STREET AND 25<sup>TH</sup> STREET AND CONVEYANCE TO MERGE, LLC FOR \$23,200, AND ACCEPTANCE OF A PERMANENT EASEMENT FOR PUBLIC INGRESS AND EGRESS**

**WHEREAS**, on July 17 2023, by Roll Call No. 23-0991, the City Council of the City of Des Moines, Iowa voted to receive and file the communication from the Plan and Zoning Commission recommending the approval of a request from Merge, LLC for vacation of 180 lineal feet of the north/south alleyway in the vicinity of 1227 25th Street, bounded by Carpenter Avenue to the north, 24th Street to the east, and 25th Street to the west to allow the vacated area to be assemble for a mixed-use development, subject to the reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense; and

**WHEREAS**, Merge, LLC, an Iowa limited liability company, has offered to the City of Des Moines ("City") the purchase price of \$23,200 for the purchase of the vacated north-south alley right-of-way extending from Carpenter Avenue between 24<sup>th</sup> Street and 25<sup>th</sup> Street a distance of approximately 180 feet, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated, and further subject to Merge, LLC conveying to the City of Des Moines a Permanent Easement for Public Ingress and Egress over and across a portion of its property extending one-way west from 24<sup>th</sup> Street, which price reflects the fair market value of the City Property as determined by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need or benefit for the right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said alley right-of-way.

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

1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the north-south alley right-of-way extending from Carpenter Avenue between 24<sup>th</sup> Street and 25<sup>th</sup> Street a distance of approximately 180 feet, legally described as follows, subject to the reservation of easements therein:

ALL THAT PORTION OF A 16 FOOT WIDE PUBLIC ALLEY RIGHT-OF-WAY ADJOINING LOTS 39, 40, 41, 58, 59 AND 60, ALL IN UNIVERSITY PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 58; THENCE S89°16'06"E, 16.13 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF CARPENTER AVENUE; THENCE S00°12'21"W, 179.54 FEET ALONG THE WEST LINE OF SAID LOTS 41, 40, AND 39; THENCE S89°24'36"W, 16.12 FEET TO THE SOUTHEAST CORNER OF SAID LOT 60; THENCE



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N00°12'10"E, 179.91 FEET ALONG THE EAST LINE OF SAID LOTS 60, 59 AND 58 TO THE POINT OF BEGINNING. INCLUDES 2,898 SQUARE FEET.

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the vacated alley right-of-way, as legally described and to the grantee and for the consideration identified below, subject to reservation of easements therein, and further subject to Merge, LLC conveying to the City of Des Moines a Permanent Easement for Public Ingress and Egress over and across a portion of its property extending one-way west from 24<sup>th</sup> Street:

Grantee: Merge, LLC

Consideration: \$23,200

Legal Description:

ALL THAT PORTION OF A VACATED 16 FOOT WIDE PUBLIC ALLEY RIGHT-OF-WAY ADJOINING LOTS 39, 40, 41, 58, 59 AND 60, ALL IN UNIVERSITY PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 58; THENCE S89°16'06"E, 16.13 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF CARPENTER AVENUE; THENCE S00°12'21"W, 179.54 FEET ALONG THE WEST LINE OF SAID LOTS 41, 40, AND 39; THENCE S89°24'36"W, 16.12 FEET TO THE SOUTHEAST CORNER OF SAID LOT 60; THENCE N00°12'10"E, 179.91 FEET ALONG THE EAST LINE OF SAID LOTS 60, 59 AND 58 TO THE POINT OF BEGINNING. INCLUDES 2,898 SQUARE FEET.

3. The City Council of the City of Des Moines, Iowa, further proposes to accept from Merge, LLC a Permanent Easement for Public Ingress and Egress, legally described as follows:

THAT PART OF LOT 39 AND LOT 40, AND ALSO THAT PART OF THE 16 FOOT WIDE VACATED ALLEY, ADJACENT TO SAID LOTS, ALL IN UNIVERSITY PLACE, AN OFFICIAL PLAT, CITY OF DES MOINES, POLK COUNTY, IOWA, AND BEING MORE PARTICULARLY DESCRIBED:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTH 40 FEET OF SAID LOT 40; THENCE S00°10'23"W, 30.92 FEET ALONG THE WEST RIGHT-OF-WAY LINE OF 24TH STREET TO THE POINT OF BEGINNING; THENCE CONTINUING S00°10'23"W, 15.00 FEET ALONG THE SAID WEST RIGHT-OF-WAY LINE OF 24TH STREET; THENCE N89°51'07"W, 128.29 FEET; THENCE S00°12'10"W, 55.50 FEET; THENCE S89°24'36"W, 15.00 FEET TO THE SOUTHEAST CORNER OF LOT 60 OF SAID UNIVERSITY PLACE; THENCE N00°12'10"E, 70.70 FEET ALONG THE WEST LINE OF SAID VACATED ALLEY; THENCE S89°51'07"E, 143.28 FEET TO THE POINT OF BEGINNING. INCLUDES 2,983 SQUARE FEET.

4. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way, and the acceptance of the Permanent Easement for Public Ingress and Egress is to be considered shall be on January 8, 2023, 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. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the

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public hearing. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

5. 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.

6. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Gatto to adopt. Second by Boesen.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL (7 yeas).

MOTION CARRIED APPROVED
J. M. Frankin Cownie Mayor

CERTIFICATE

I, Laura Baumgartner, 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.

Laura Baumgartner
Laura Baumgartner, City Clerk