

★ Roll Call Number

24-0057

Agenda Item Number

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Date January 8, 2024

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF APPROXIMATELY 180 FEET OF THE NORTH-SOUTH ALLEY RIGHT-OF-WAY EXTENDING FROM CARPENTER AVENUE BETWEEN 24TH STREET AND 25TH 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 24th Street and 25th 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 24th 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 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.

WHEREAS, on December 18, 2023, by Roll Call No. 23-1761, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the alley right-of-way and the acceptance of the Permanent Easement for Public Ingress and Egress be set for hearing on January 8, 2023, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate and convey the alley right-of-way 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 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:



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1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of the alley right-of-way, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the north-south alley right-of-way extending south from Carpenter Avenue between 24th Street and 25th Street a distance of approximately 180 feet, legally described as follows, and said vacation is hereby approved, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated:

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 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 sale of such vacated alley right-of-way, as legally described below, to the grantee and for the consideration identified below, be and is hereby approved, 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 24th 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.

4. That the Permanent Easement for Public Ingress and Egress from Merge, LLC to the City of Des Moines, Iowa, legally described as follows, be and is hereby approved and accepted:



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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

5. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
6. The City Clerk is authorized and directed to attest and certify that the within and foregoing Permanent Easement for Public Ingress and Egress was duly approved and accepted by the City Council of said City of Des Moines by Resolution.
7. 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 Quit Claim Deed and the Permanent Easement for Public Ingress and Egress 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.
8. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed and the Permanent Easement for Public Ingress and Egress, 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.
9. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and copies of the other documents to the grantee.
10. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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Moved by Coleman to adopt. Second by Westergaard

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	6			

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.

Connie Boeser Mayor

Laura Baumgartner
Laura Baumgartner, City Clerk