

Date May 19, 2025

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SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SUBSURFACE RIGHTS WITHIN A PORTION OF CARPENTER AVENUE RIGHT-OF-WAY ADJOINING 2400 CARPENTER AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO VALO APARTMENTS LLC FOR \$30.00

WHEREAS, on December 18, 2023, by Roll Call No. 23-1758 the City Council of the City of Des Moines, Iowa received and filed a recommendation from the City Plan and Zoning Commission to approve a request from Merge, LLC to vacate subsurface rights within a portion of Carpenter Avenue right-of-way adjoining 2400 Carpenter Avenue, Des Moines, Iowa (“Property”) to allow for the encroachment of proposed building footings, subject to the reservation of easements for all existing utilities until such time as they are abandoned or relocated at the applicant’s expense; and

WHEREAS, Merge, LLC has transferred said Property to Valo Apartments LLC; and

WHEREAS, Valo Apartments LLC has offered to the City the purchase price of \$30.00 for the purchase of a Permanent Easement for Subsurface Building Encroachment on City-Owned Property (“Easement”) under, through and across a portion of Carpenter Avenue right-of-way adjoining 2400 Carpenter Avenue, Des Moines, Iowa (hereinafter “Easement Area”) for the purpose of constructing, operating, maintaining and repairing footings for a building being constructed on the property, which price reflects the fair market value of the Easement 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, and the City will not be inconvenienced by the vacation of said property and the conveyance of the Easement in such vacated right-of-way.

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 subsurface rights within a portion of Carpenter Avenue right-of-way adjoining 2400 Carpenter Avenue, Des Moines, Iowa, legally described as follows:

A TRACT OF LAND LYING WITHIN THE CARPENTER AVENUE RIGHT-OF-WAY THAT IS ADJOINING LOT 41 OF UNIVERSITY PLACE, AN OFFICIAL PLAT, CITY OF DES MOINES, POLK COUNTY, IOWA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 41; THENCE S89°19'23”W, 63.05 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID CARPENTER AVENUE TO THE POINT OF BEGINNING, THE NEXT 4 CALLS



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ARE ALONG LINES PARALLEL OR PERPENDICULAR TO SAID SOUTH RIGHT-OF-WAY LINE OF CARPENTER AVENUE; THENCE N00°40'37"W, 0.50 FEET; THENCE S89°19'23"W, 33.00 FEET; THENCE S00°40'37"E, 0.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE N89°19'23"E, 33.00 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING. SAID TRACT CONTAINS 16.5 SQUARE FEET.

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Subsurface Building Encroachment on City-Owned Property in such vacated right-of-way, as legally described below, to Valo Apartments LLC for \$30.00, subject to any and all easements, restrictions and covenants of record:

A TRACT OF LAND LYING WITHIN THE VACATED PORTION OF CARPENTER AVENUE RIGHT-OF-WAY THAT IS ADJOINING LOT 41 OF UNIVERSITY PLACE, AN OFFICIAL PLAT, CITY OF DES MOINES, POLK COUNTY, IOWA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 41; THENCE S89°19'23"W, 63.05 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID CARPENTER AVENUE TO THE POINT OF BEGINNING, THE NEXT 4 CALLS ARE ALONG LINES PARALLEL OR PERPENDICULAR TO SAID SOUTH RIGHT-OF-WAY LINE OF CARPENTER AVENUE; THENCE N00°40'37"W, 0.50 FEET; THENCE S89°19'23"W, 33.00 FEET; THENCE S00°40'37"E, 0.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE N89°19'23"E, 33.00 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING. SAID TRACT CONTAINS 16.5 SQUARE FEET.

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on June 9, 2025, 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 public hearing. Persons interested in the proposal will be given the opportunity to express their views at that hearing.
4. 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.
5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

 **Roll Call Number**

Agenda Item Number

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Moved by _____ to adopt. Second by _____

APPROVED AS TO FORM:

/s/ Grant Hyland

Grant Hyland, Assistant City Attorney

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

MOTION CARRIED

APPROVED

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, City Clerk

