



**Roll Call Number**

25-0033

**Agenda Item Number**

22

**Date** January 13, 2025

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**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AIR RIGHTS OVER A PORTION OF CARPENTER AVENUE RIGHT-OF-WAY ADJOINING 1900 CARPENTER AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO POLK COUNTY, IOWA FOR \$1.00**

**WHEREAS**, Polk County, Iowa (“Polk County”) the owner of 1900 Carpenter Avenue, has requested that the City of Des Moines, Iowa (“City”) vacate air rights over a portion of Carpenter Avenue right-of-way adjoining 1900 Carpenter Avenue, which request was not presented to the City’s Plan and Zoning Commission for review and has instead been determined by the City Traffic Engineer to have no significant impact upon the public use of the right-of-way, in accordance with Municipal Code 102-286(b); and

**WHEREAS**, Polk County has requested the City convey a Permanent Easement for Air Space Above City-Owned Property (“Easement”) in the vacated right-of-way to Polk County in accordance with Iowa Code Section 364.7(3) for the public purpose of rectifying a roof overhang encroachment on the Polk County Human Services Building; 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, as follows:

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating air rights within a portion of Carpenter Avenue right-of-way adjoining 1900 Carpenter Avenue, more specifically described as follows:

ALL OF THE AIR SPACE FOR THAT PART OF THE CARPENTER AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND NORTH OF THE SOUTH LINE OF THE NORTH 35.00 FEET OF LOT A AND THE SOUTH LINE OF THE NORTH 10.00 FEET OF LOT 28 OF THE OFFICIAL PLAT OF LOT 21 OF THE OFFICIAL PLAT OF SECTION 33-79-24, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 10.00 FEET OF LOT 51 OF SAID OFFICIAL PLAT OF LOT 21; THENCE NORTH 89°48'28" EAST ALONG THE SOUTH LINE OF CARPENTER AVENUE RIGHT-OF-WAY, 142.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 0°11'32" WEST, 4.00 FEET; THENCE NORTH 89°48'28" EAST, 94.50 FEET; THENCE SOUTH 0°11'32" EAST, 4.00 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH 89°48'28" WEST ALONG SAID SOUTH RIGHT OF WAY LINE, 94.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 378 S.F. WHICH IS BELOW A



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PLANE ELEVATION OF 172.00 FEET CITY OF DES MOINES DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 159.00 FEET CITY OF DES MOINES DATUM. THE GROUND ELEVATION WITHIN SAID DESCRIPTION IS APPROXIMATELY 149.20 FEET CITY OF DES MOINES DATUM.

2. That, if the City Council first decides to vacate the above described right-of-way, the City of Des Moines proposes to convey a Permanent Easement for Air Space Above City-Owned Property in such vacated right-of-way, as legally described below, to Polk County, Iowa in accordance with Iowa Code Section 364.7(3) for the public purpose of rectifying the roof overhang encroachment of the Polk County Human Services Department Building, as consideration for acquisition of said easement interest::

PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY

ALL OF THE AIR SPACE FOR THAT PART OF THE VACATED CARPENTER AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND NORTH OF THE SOUTH LINE OF THE NORTH 35.00 FEET OF LOT A AND THE SOUTH LINE OF THE NORTH 10.00 FEET OF LOT 28 OF THE OFFICIAL PLAT OF LOT 21 OF THE OFFICIAL PLAT OF SECTION 33-79-24, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH 10.00 FEET OF LOT 51 OF SAID OFFICIAL PLAT OF LOT 21; THENCE NORTH 89°48'28" EAST ALONG THE SOUTH LINE OF CARPENTER AVENUE RIGHT-OF-WAY, 142.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 0°11'32" WEST, 4.00 FEET; THENCE NORTH 89°48'28" EAST, 94.50 FEET; THENCE SOUTH 0°11'32" EAST, 4.00 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH 89°48'28" WEST ALONG SAID SOUTH RIGHT OF WAY LINE, 94.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 378 S.F. WHICH IS BELOW A PLANE ELEVATION OF 172.00 FEET CITY OF DES MOINES DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 159.00 FEET CITY OF DES MOINES DATUM. THE GROUND ELEVATION WITHIN SAID DESCRIPTION IS APPROXIMATELY 149.20 FEET CITY OF DES MOINES DATUM.

- 3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easement interest is to be considered shall be on January 27, 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.
- 4. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with §362.3 of the Iowa Code.
- 5. There will be no proceeds associated with the conveyance of this easement.



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Moved by Gatto to adopt. Second by Mendelbaum.

APPROVED AS TO FORM:

/s/ Chas M. Cahill
Chas M. Cahill, Assistant City Attorney

Table with columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include BOESEN, SIMONSON, VOSS, COLEMAN, WESTERGAARD, MANDELBAUM, GATTO, and a summary row for TOY with 7 yeas.

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.
Signature of Laura Baumgartner
Laura Baumgartner, City Clerk