

Date August 19, 2019

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**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF THE
NORTH-SOUTH ALLEY RIGHT-OF-WAY LOCATED NORTH OF 816 SHAW STREET
BETWEEN SOUTHEAST 8TH STREET AND SOUTHEAST 9TH STREET AND
CONVEYANCE TO RICHARD A. ANDERSON AND LINDA K. CASAS FOR \$150.00**

WHEREAS, on May 16, 2019, the Plan and Zoning Commission voted to recommend approval of a request from Linda Casas and Richard Anderson to vacate the north/south alley between southeast 8th Street and Southeast 9th Street from Scott Avenue on the north to the vacated east/west alley on the south, adjoining Polk County District/Parcel No. 040/01409-002-000, to allow for assemblage and fencing with the adjoining property, subject to the following conditions:

- (1) Reservation of any necessary easements for any existing utilities in place until such time they are abandoned or relocated; and
- (2) All parcels in the vicinity owned by the applicant must be combined and recorded with Polk County; and

WHEREAS, Richard A. Anderson and Linda K. Casas, owners of 816 Shaw Street and Polk County District/Parcel No. 040/01409-002-000, have offered to the City of Des Moines ("City") the purchase price of \$150.00 for the purchase of the vacated north/south alley right-of-way between southeast 8th Street and Southeast 9th Street from Scott Avenue on the north to the vacated east/west alley on the south, Des Moines, Iowa (hereinafter "Property"), to allow for assemblage and fencing with their adjoining property, which price reflects the fair market value of the Property as determined by the City's Real Estate Division; and

WHEREAS, the City has no known current or anticipated public need for the Property proposed to be sold, subject to reservation of easements therein, and the City will not be inconvenienced by the vacation and sale of said Property; and

WHEREAS, on August 5, 2019, by Roll Call No. 19-1209, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Property be set for hearing on August 19, 2019, 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 north/south alley right-of-way between southeast 8th Street and Southeast 9th Street from Scott Avenue on the north to the vacated east/west alley on the south, Des Moines, Iowa, was given to all necessary parties 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.



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Date August 19, 2019

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 and conveyance of the north/south alley right-of-way between southeast 8th Street and Southeast 9th Street from Scott Avenue on the north to the vacated east/west alley on the south, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said right-of-way, legally described as follows, and said vacation is hereby approved:

ALL OF THE NORTH/SOUTH ALLEY RIGHT OF WAY IN BLOCK 52, TOWN OF DE MOINE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 10 IN SAID BLOCK 52; THENCE SOUTHEASTERLY ALONG THE WESTERLY LINE OF LOTS 10 AND 9 IN SAID BLOCK 52, TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO THE SOUTHEAST CORNER OF LOT 2 IN SAID BLOCK 52; THENCE NORTHWESTERLY ALONG THE EASTERLY LINE OF LOTS 2 AND 1 IN SAID BLOCK 52, TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE NORTHEASTERLY ALONG A STRAIGHT LINE TO THE POINT OF BEGINNING; AND CONTAINING APPROXIMATELY 0.05 ACRES (2,240 SQUARE FEET).

3. The proposed sale of such vacated right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements for utilities therein and further subject to the Grantee combining and recording with Polk County all of the contiguous parcels in the vicinity that are owned by the Grantee, is hereby approved:

Grantee: Richard A. Anderson and Linda K. Casas

Consideration: \$150.00

Legal Description: ALL OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY IN BLOCK 52, TOWN OF DE MOINE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 10 IN SAID BLOCK 52; THENCE SOUTHEASTERLY ALONG THE WESTERLY LINE OF LOTS 10 AND 9 IN SAID BLOCK 52, TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO THE SOUTHEAST CORNER OF LOT 2 IN SAID BLOCK 52; THENCE NORTHWESTERLY ALONG THE EASTERLY LINE OF LOTS 2 AND 1 IN SAID BLOCK 52, TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE NORTHEASTERLY ALONG A STRAIGHT LINE TO THE POINT OF BEGINNING; AND CONTAINING APPROXIMATELY 0.05 ACRES (2,240 SQUARE FEET).

4. 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.

**Roll Call Number****Agenda Item Number**

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5. 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, 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.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed, 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.

7. 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 a copy of the other documents to the grantee.

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

Moved by _____ to adopt.

APPROVED AS TO FORM:



Lisa A. Wieland, Assistant City Attorney

Paul

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED
APPROVED

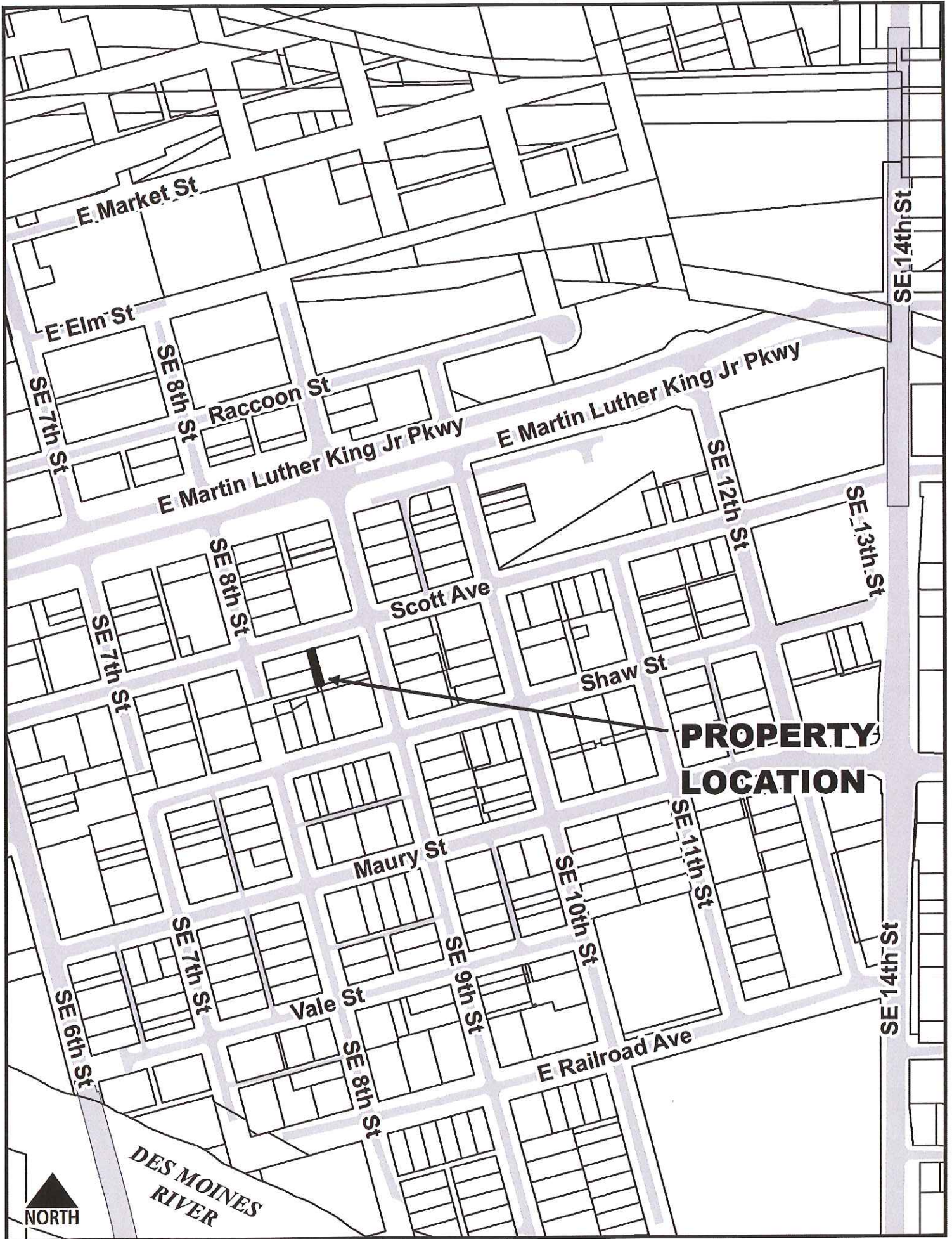
Mayor

CERTIFICATE

I, DIANE RAUH, 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.

City Clerk



**PROPERTY
LOCATION**



DES MOINES
RIVER

Linda Casas and Richard Anderson, 827 Scott Avenue

11-2019-1.08



1 Inch = 86 feet

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May 14, 2019 12:55

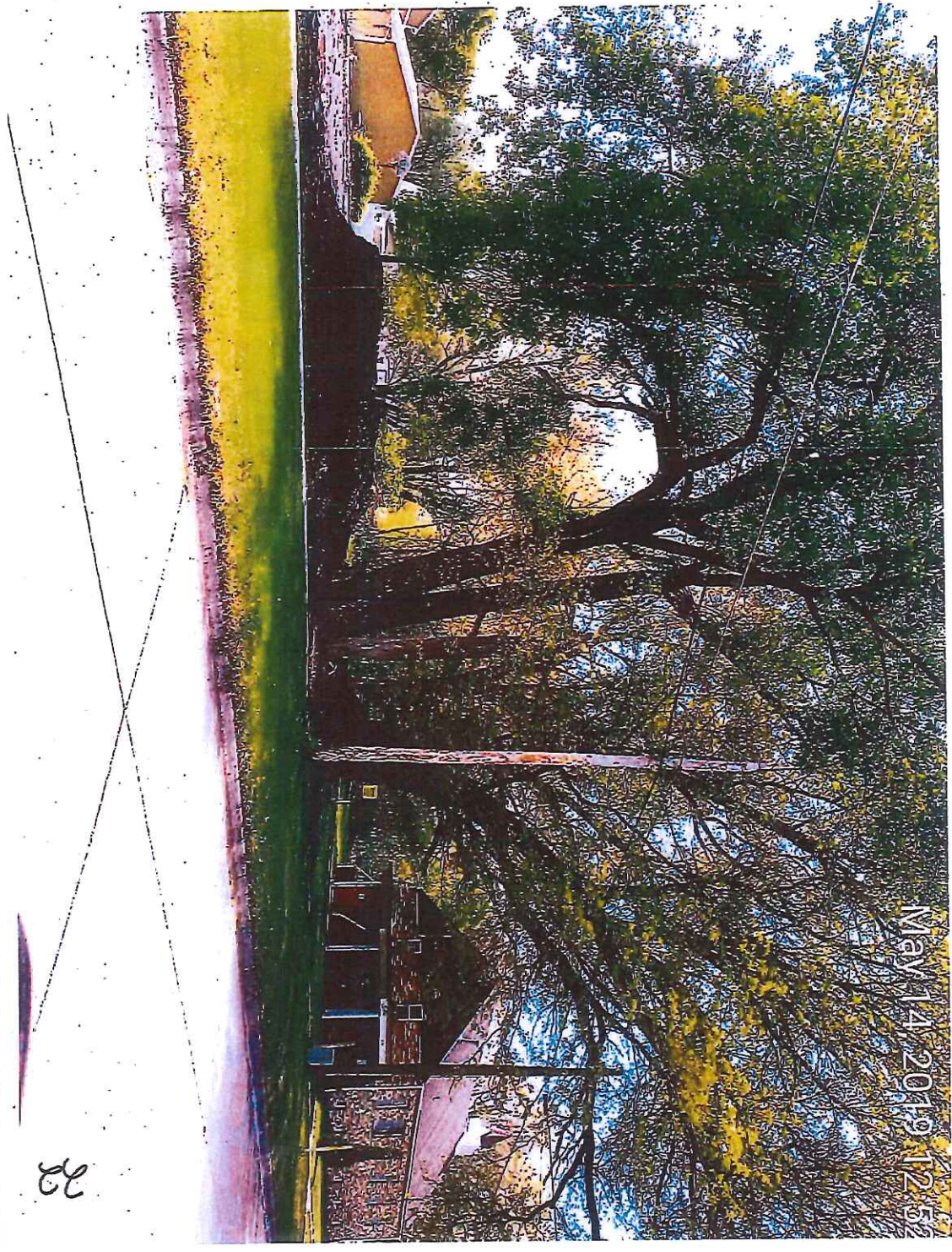


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May 14, 2019 12:51

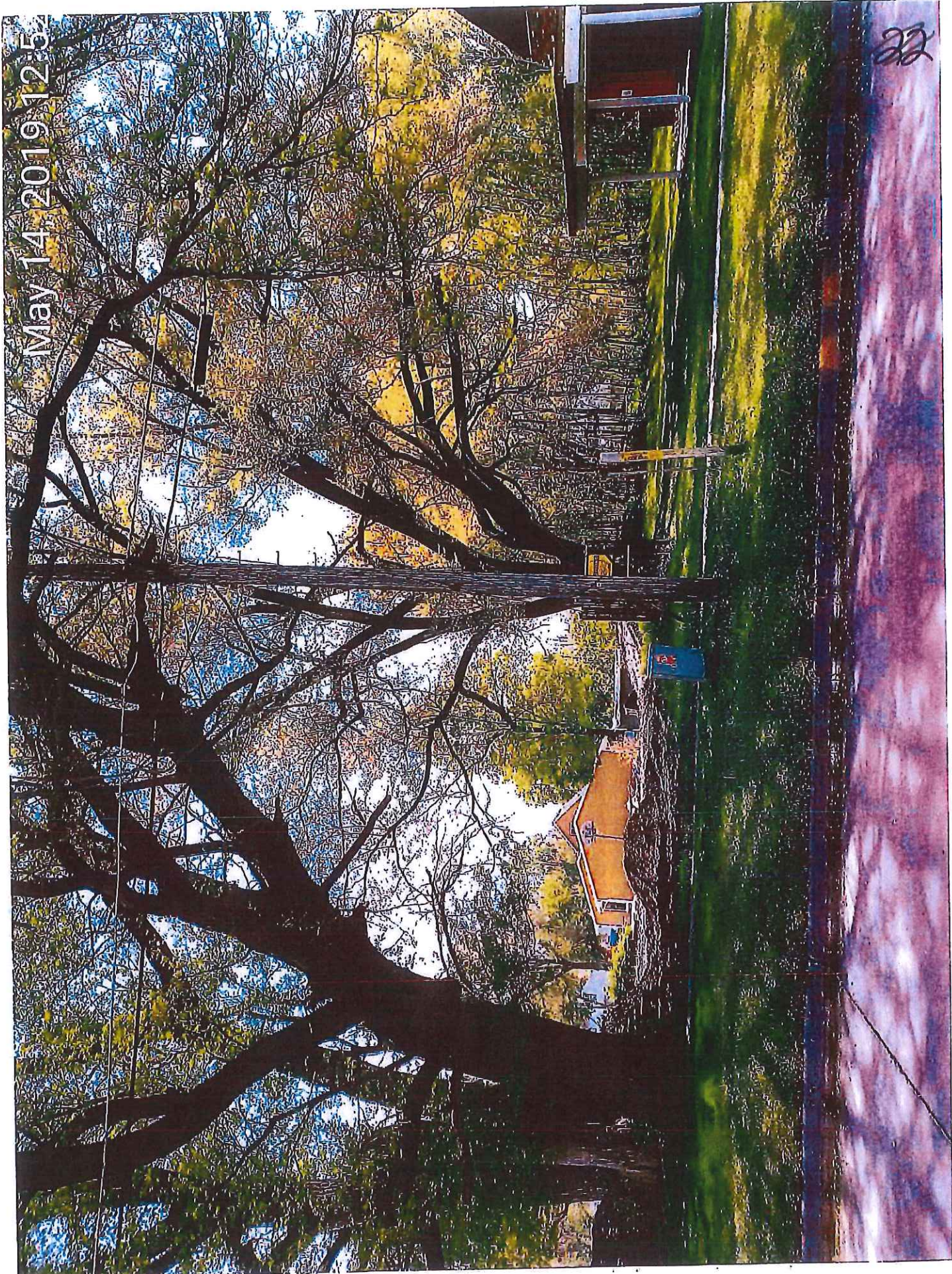


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May 14, 2019 12:52



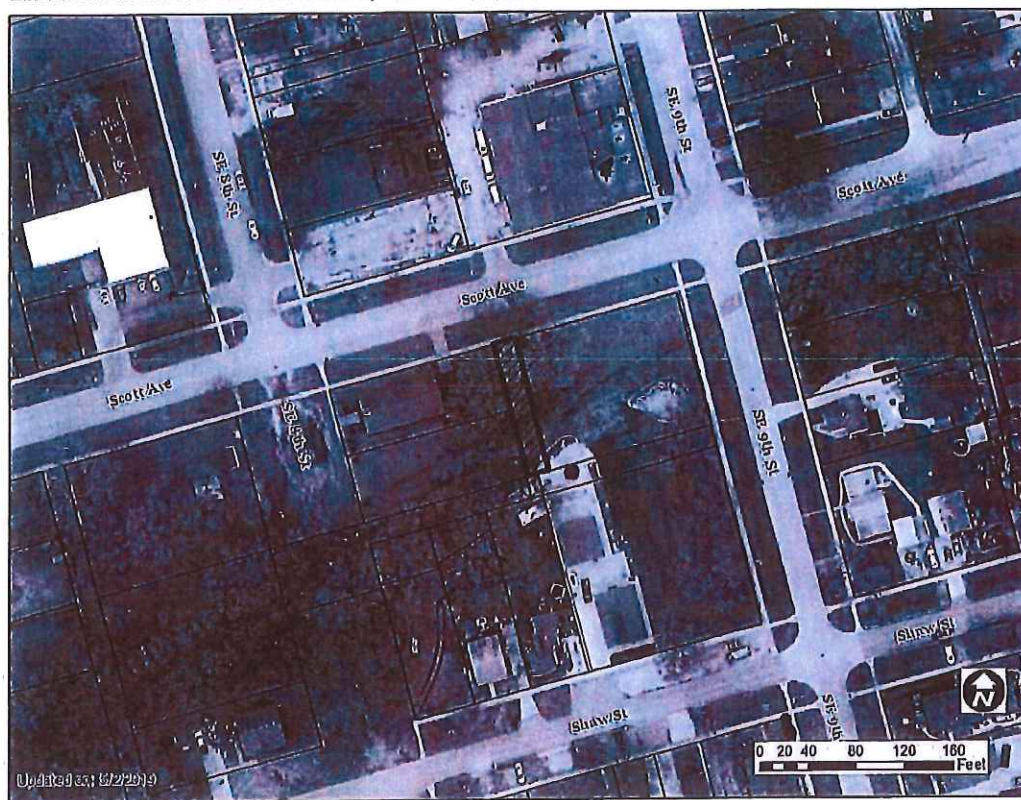
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Linda Casas and Richard Anderson (owners), 827 Scott Avenue.		File #		
		11-2019-1.08		
Description of Action	Vacation of the north/south alley between Southeast 8th Street and Southeast 9th Street from Scott Avenue to the vacated east/west alley.			
PlanDSM Future Land Use	Current: Low-Medium Density Residential. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"R-2A" General Residential District, "GGP" Gambling Games Prohibition District, "D-O" Downtown Overlay District and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	N/A.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Subject Property	0	0		
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Linda Casas and Richard Anderson, 827 Scott Avenue

11-2019-1.08



1 inch = 80 feet

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Date June 3, 2019
 Agenda Item 32
 Roll Call # _____

May 28, 2019

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their May 16, 2019 meeting, the following action was taken regarding a request from Linda Casas and Richard Anderson (owners), 827 Scott Avenue, for vacation of the north/south alley between Southeast 8th Street and Southeast 9th Street from Scott Avenue to the vacated east/west alley.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles				X
David Courard-Hauri	X			
Jacqueline Easley				X
Jann Freed	X			
John "Jack" Hilmes	X			
Lisa Howard				X
Carolyn Jenison	X			
Greg Jones				X
William Page	X			
Mike Simonson	X			
Rocky Sposato				X
Steve Wallace	X			
Greg Wattier	X			
Emily Webb	X			

RECOMMEND APPROVAL of the requested vacation, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.
2. All parcels owned by the applicant must be combined and recorded with Polk County. (11-2019-1.08)

Written Responses

0 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.
2. All parcels owned by the applicant must be combined and recorded with Polk County.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is interested in acquiring the subject right-of-way. The proposed vacation would allow the applicant to construct a fence in a straight line along the length of their property between Scott Avenue and Shaw Street. The applicant has requested the entire width of right-of-way adjoining their property be conveyed to them.
2. **Size of Site:** 2,240 square feet (20 feet by 112 feet).
3. **Existing Zoning (site):** "R-2A" General Residential District, "R1-60" One-Family Low-Density Residential District, "D-O" Downtown Overlay District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Signs Overlay District.
4. **Existing Land Use (site):** Undeveloped alley right-of-way.
5. **Adjacent Land Use and Zoning:**
 - North – "R-2A"; Use is Scott Avenue right-of-way.
 - South – "R-2A" & "R1-60"; Uses are undeveloped alley right-of-way and single-family dwellings.
 - East – "R-2A"; Use is single-family dwelling.
 - West – "R-2A"; Uses are religious assembly and undeveloped land.
6. **General Neighborhood/Area Land Uses:** The subject right-of-way is generally located in a low-density residential area south of Scott Avenue, north of Shaw Street, and between Southeast 9th Street and the undeveloped right-of-way for Southeast 8th Street.
7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Historic East Village Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on April 26, 2019. Additionally, separate

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notifications of the hearing for this specific item were mailed on May 6, 2019 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property adjacent to the requested right-of-way vacation and to the Historic East Village Neighborhood Association. A Final Agenda was mailed to all the recognized neighborhood associations on May 10, 2019.

All agendas and notices are mailed to the primary contact designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Historic East Village Neighborhood notices were mailed to Taylor Frame, P.O. Box 93904, Des Moines, IA 50393.

8. Relevant Zoning History: None.

9. 2020 Community Character Land Use Plan Designation: Low-Medium Density Residential.

Applicable Regulations: The Commission, considering the criteria set forth in Chapter 18B of the Iowa Code, reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

SUMMARY OF DISCUSSION

Jann Freed asked if any member of the audience or the commission desired to speak regarding the item. None were present or requested to speak.


COMMISSION ACTION:

Mike Simonson made a motion for approval of the requested vacation, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.
2. All parcels owned by the applicant must be combined and recorded with Polk County.

Motion passed: 9-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments