



**Date** ..... October 23, 2023 .....

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF THE NORTH-SOUTH ALLEY RIGHT-OF-WAY LOCATED EAST OF AND ADJOINING 611 AND 625 SOUTHEAST 10<sup>TH</sup> STREET AND CONVEYANCE TO THIKRA NOORI AL MAHDAWI AND SALAH ABDULRAZZAK ABDULWAHAB FOR \$200.00**

**WHEREAS**, on October 2, 2023, by Roll Call No. 23-1315, 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 Thikra Noori Al Mahdawi for vacation of approximately 160 lineal feet of the north/south alleyway located in the vicinity of 1013 Scott Avenue, and bounded by Shaw Street to the south, Southeast 11<sup>th</sup> Street to the east, and Southeast 10<sup>th</sup> Street to the west, subject to the following conditions:

1. Reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Reservation of an easement for access to the Polk County owned parcel #040/00033-000-000 from the adjoining public street network.
3. Provision of a no-build easement for the benefit of the existing garage on the property at 625 SE 10<sup>th</sup> Street unless the owner of that property purchases an adjoining segment of the alley that is large enough to satisfy Building Code separation requirements. Should that owner purchase a segment of the alley then it must be joined with their existing lot to the satisfaction of the Permit and Development Administrator; and

**WHEREAS**, the owner of 625 SE 10<sup>th</sup> Street did not respond to the City Real Estate Division’s offer to purchase the segment of the alley adjoining his property; and

**WHEREAS**, Thikra Noori Al Mahdawi and Salah Abdulrazzak Abdulwahab, the owners of 1013 Scott Avenue, Des Moines, Iowa, have offered to the City of Des Moines (“City”) the purchase price of \$200.00 for the purchase of the portion of vacated north-south alley right-of-way located south of and adjoining 1013 Scott Avenue, and east of and adjoining 611 and 625 Southeast 10<sup>th</sup> Street (hereinafter “Property”), for assemblage with their adjoining property, 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 reservation of an easement for access to the Polk County owned parcel #040/00033-000-000, and further subject to the reservation of a no-build easement; 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 Property.

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

.....  
**Date**..... October 23, 2023 .....

1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating approximately 160 lineal feet of the north/south alleyway located east of and adjoining 611 and 625 Southeast 10<sup>th</sup> Street, Des Moines, Iowa, legally described as follows:

**-EXCEPT** THE NORTH 120 FEET-, ALL OF THE NORTH/SOUTH ALLEY RIGHT OF WAY IN BLOCK 3, ALLEN’S SECOND ADDITION TO DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 3,200 SQUARE FEET.

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the portion of alley right-of-way, as legally described and to the grantee and for the consideration identified below, subject to reservation of easements therein:

Grantee: Thikra Noori Al Mahdawi and Salah Abdulrazzak Abdulwahab

Consideration: \$200.00

Legal Description:

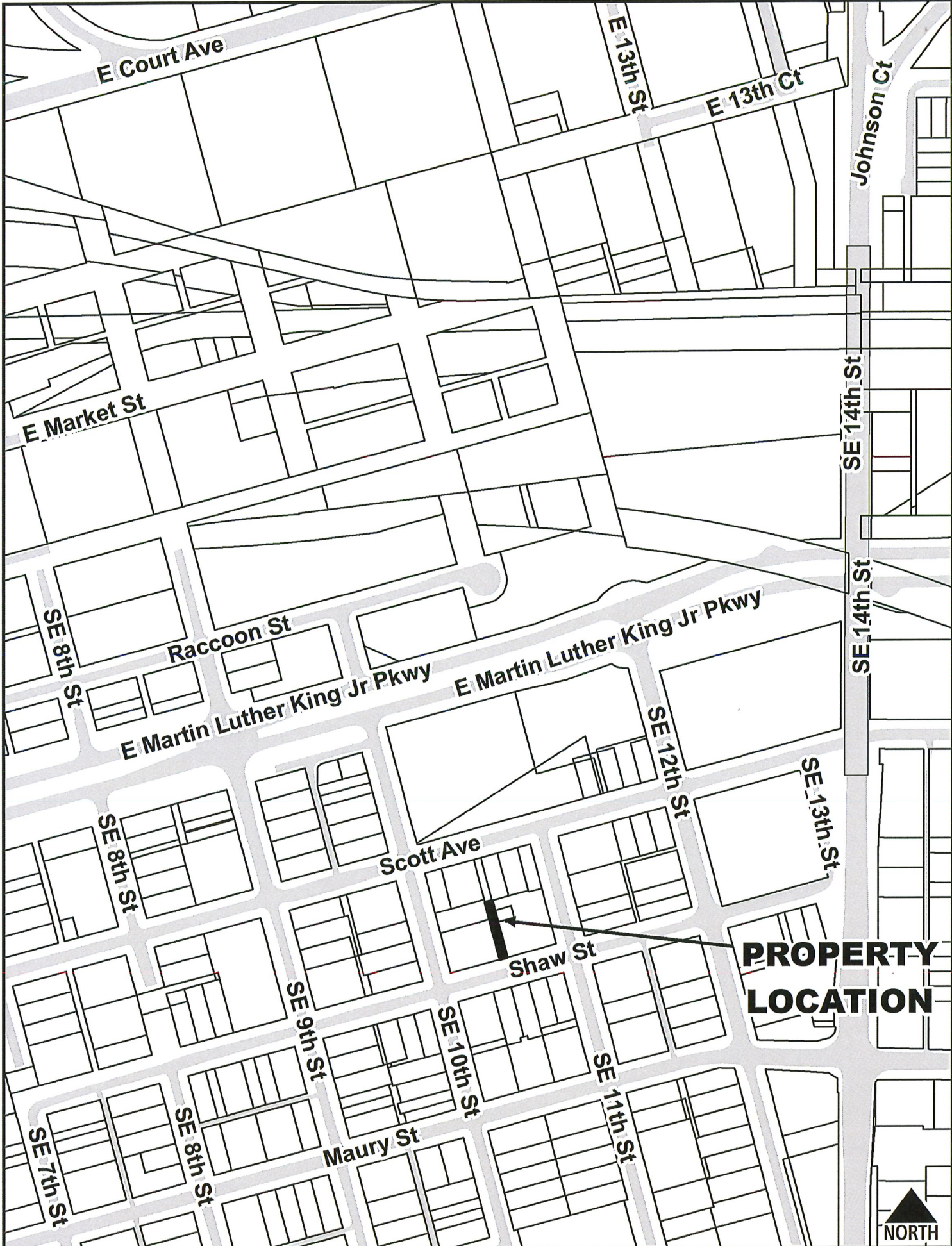
**-EXCEPT** THE NORTH 120 FEET-, ALL OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY IN BLOCK 3, ALLEN’S SECOND ADDITION TO DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 3,200 SQUARE FEET.

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 October 23, 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 public hearing. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

4. 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.

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





**PROPERTY  
LOCATION**



September 26, 2023

Communication from the City Plan and Zoning Commission advising that at their September 21, 2023 meeting, the following action was taken regarding a request from Thikra Madhawi (owner), for vacation of 160 lineal feet of the north/south alleyway located in the vicinity of 1013 Scott Avenue, and bounded by Shaw Street to the south, Southeast 11<sup>th</sup> Street to the east, and Southeast 10<sup>th</sup> Street to the west, to allow the vacated area to be assembled and maintained for private use.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 8-0 as follows.

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus	X				
Leah Rudolphi					X
Carol Maher	X				
Abby Chungath	X				
Kayla Berkson					X
Chris Draper					X
Todd Garner					X
Johnny Alcivar					X
Justyn Lewis	X				
Carolyn Jenison	X				
William Page	X				
Andrew Lorentzen	X				
Emily Webb					X
Katie Gillette					X
Rick Trower	X				

**APPROVAL** of the initiated vacation of Right-of-Way, subject to the following conditions:

1. Reservation of easements for any existing utilities.
2. Reservation of an easement for access to the Polk County owned parcel #040/00033-000-000 from the adjoining public street network.
3. Provision of a no-build easement for the benefit of the existing garage on the property at 625 SE 10<sup>th</sup> Street unless the owner of that property purchases an adjoining segment of the alley that is large enough to satisfy Building Code



separation requirements. Should that owner purchase a segment of the alley then it must be joined with their existing lot to the satisfaction of the Permit and Development Administrator.

### **STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval of the initiated vacation of Right-of-Way, subject to the following conditions:

1. Reservation of easements for any existing utilities.
2. Reservation of an easement for access to the Polk County owned parcel #040/00033-000-000 from the adjoining public street network.
3. Provision of a no-build easement for the benefit of the existing garage on the property at 625 SE 10<sup>th</sup> Street unless the owner of that property purchases an adjoining segment of the alley that is large enough to satisfy Building Code separation requirements. Should that owner purchase a segment of the alley then it must be joined with their existing lot to the satisfaction of the Permit and Development Administrator.

### **STAFF REPORT TO THE PLANNING COMMISSION**

1. **Purpose of Request:** The applicant owns the property at 1013 Scott Avenue. They are requesting the vacation of the southern portion of the north-south alley right-of-way south of their property and the previously vacated segment of alley right-of-way adjoining their property. In 2019, the applicant had previously requested the entirety of the alley right-of-way to be vacated. The southern portion of the alley ROW was not vacated to allow continued access to the Polk County owned parcel #040/00033-000-000.
2. **Size of Site:** Approximately 3,200 square feet (20 feet by 160 feet).
3. **Existing Zoning (site):** "ROW" Right-of-Way.
4. **Existing Land Use (site):** Public alley ROW that is undeveloped and overgrown with voluntary trees.
5. **Adjacent Land Use and Zoning:**
  - North** – "N3c"; Use is paved drive access for a one-household dwelling.
  - East** – "N3c", Uses are one-household dwellings.
  - West** – "N3c"; Uses are one-household dwellings.
  - South** – "N3c"; Uses are one-household dwellings.



6. **General Neighborhood/Area Land Uses:** The subject adjoining property and ROW are generally located in a low-density residential area of the Historic East Village Neighborhood south of Scott Avenue.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Historic East Village Neighborhood. All neighborhood associations were notified of the public hearing by emailing of the Preliminary Agenda on September 1, 2023 and the Final Agenda on September 15, 2023. Additionally, separate notifications of the hearing for this specific item were mailed on September 11, 2023 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property adjacent to the request right-of-way.

All agendas are mailed to the primary contact person designated to the City of Des Moines Neighborhood Services Department by the recognized neighborhood association. The Historic East Village Neighborhood notices were mailed to Luke Dickens.

8. **Relevant Zoning History:** On April 8, 2019, the City Council initiated the vacation of the alley Right-Of-Way (ROW) at the request of the property owner at 1013 Scott Avenue. That owner has requested the entire width of ROW adjoining their property be conveyed to them.

On May 2, 2019, the Commission recommended denial of the request.

On May 20, 2019, by Roll Call No. 19-0793, the City Council approved the vacation of the northern portion of the north-south alley right-of-way located west of and adjoining 1013 Scott Avenue.

9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Low-Medium Density.
10. **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.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **Access:** The segment of north/south alley is not developed for any access to adjoining properties. Polk County owns a 33-foot by 46.67-foot parcel adjoining the alley ROW on the east. This parcel is otherwise surrounded by the parcel at 1020 Shaw Street. Communication with the Polk County Public Works Real Estate office has determined that the County has not been able to sell the parcel to the adjoining owner. So, an access easement to that parcel will also have to be reserved with any vacation of the initiated ROW.
2. **Utilities:** There are not any identified public utilities within the subject area. Should any exist in place, the City must reserve easements for any public utilities.





3. **Building Code:** The existing detached garage at 625 SE 10<sup>th</sup> Street is built to the rear property line. The building code allows ROW to satisfy building separation requirements. Once the alley is vacated it no longer satisfies this requirement. Therefore, a no-build easement must be provided unless the owner of that property purchases their half of the alley. If they purchase their half, then they will need to combine it with their existing parcel or enter into a lot tie agreement. This would keep the properties from being sold separately.

### **SUMMARY OF DISCUSSION**

Bert Drost presented staff report and recommendation.

Rick Trower asked for the meaning of a no-build easement.

Bert Drost stated building code requires any building to be at least 5-feet from a property line for fire code purposes. This would ensure no other buildings get built too close to the existing shed.

Thikra Madhawi, 1013 Scott Avenue stated this is her second time requesting vacation of the alley with the first time being in 2019. She's requesting to purchase the alley, along with the portion that belongs to Polk County, so she can maintain the area that has been overgrown.

Francis Boggus asked if she disagrees with any of the 3 conditions in the staff recommendation.

Thikra Madhawi stated she agrees with the recommendation.

Abby Chungath stated the recommendation tonight is to determine whether the alley is needed for public purposes. The commission doesn't decide who gets to purchase the alley.

Jason Van Essen stated vacation of an alleyway is a 2-step process. First, the commission needs to determine if the alley is needed for public purposes, if it's not, the City Council can then vacate it and sale it. This commission is charged with the decision of the alley being needed for public purposes.

Carol Maher asked if this commission would make recommendations for the property owned by Polk County.

Abby Chungath stated Polk County would handle that request, not the City.

### **CHAIRPERSON OPENED THE PUBLIC HEARING**

No one was present or requested to speak.

### **CHAIRPERSON CLOSED THE PUBLIC HEARING**



**COMMISSION ACTION:**

Francis Boggus made a motion for approval of the initiated vacation of Right-of-Way, subject to the following conditions:

1. Reservation of easements for any existing utilities.
2. Reservation of an easement for access to the Polk County owned parcel #040/00033-000-000 from the adjoining public street network.
3. Provision of a no-build easement for the benefit of the existing garage on the property at 625 SE 10<sup>th</sup> Street unless the owner of that property purchases an adjoining segment of the alley that is large enough to satisfy Building Code separation requirements. Should that owner purchase a segment of the alley then it must be joined with their existing lot to the satisfaction of the Permit and Development Administrator.

**THE VOTE: 8-0**

Respectfully submitted,



Jason Van Essen, AICP  
Planning & Urban Design Administrator

JMV:tjh





27

# Thikra Madhawi, vicinity of 1013 Scott Avenue

ROWV-2023-000009



Updated on: 9/5/2023

City of Des Moines



Network: Sep 21, 2023 10:27:53 AM CDT  
Local: Sep 21, 2023 10:27:51 AM CDT  
41°34'58.405"N -93°36'1.871"W  
1012 Scott Avenue  
Des Moines  
Polk County  
Iowa





Network: Sep 21, 2023 10:28:02 AM CDT  
Local: Sep 21, 2023 10:28:00 AM CDT  
41°34'58.251"N -93°36'2.523"W  
1012 Scott Avenue  
Des Moines  
Polk County  
Iowa





Network: Sep 21, 2023 10:28:56 AM CDT  
Local: Sep 21, 2023 10:28:53 AM CDT  
41°34'54.887"N -93°36'1.072"W  
1020 Shaw Street  
Des Moines  
Polk County  
Iowa





27

**From:** [Bret Vandelune](#)  
**To:** [Dostart, Katherine E.](#)  
**Cc:** [Rachelle A. Martin](#)  
**Subject:** RE: Vicinity of 1013 Scott Avenue Right of Way Vacation Request  
**Date:** Thursday, September 14, 2023 11:13:51 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Katherine,

Thanks for the direct contact. We got the letter notice in the mail yesterday as well but sometimes those go to the incorrect person.

As for the request. It seems odd that the alleyway would not be vacated to one or both of the directly adjacent property owners. As for our tax sale parcel we will reach out to try to sell it to the relatively new owner at 1020 Shaw St as the adjacent owner. The previous owner could not acquire it because they had been delinquent in their property taxes according to notes in our real estate files.

Thanks,

Bret Vandelune  
Planning and Development Manager  
Polk County Public Works  
5885 NE 14th Street  
Des Moines, IA 50313  
P 515.286.2290  
[bret.vandelune@polkcountyiowa.gov](mailto:bret.vandelune@polkcountyiowa.gov)



**From:** Dostart, Katherine E. <KEDostart@dmgov.org>  
**Sent:** Wednesday, September 13, 2023 2:59 PM  
**To:** Bret Vandelune <Bret.Vandelune@polkcountyiowa.gov>  
**Subject:** Vicinity of 1013 Scott Avenue Right of Way Vacation Request

You don't often get email from [kedostart@dmgov.org](mailto:kedostart@dmgov.org). [Learn why this is important](#)

Hi Bret,



