



Roll Call Number

Agenda Item Number

21

Date November 6, 2023

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM RALLY CAP PROPERTIES, LLC (OWNER), REPRESENTED BY RYAN FRANCOIS (OFFICER), FOR VACATION OF THE SOUTHERNMOST 100 LINEAL FEET OF A NORTH/SOUTH ALLEY RIGHT-OF-WAY IN THE VICINITY OF 601 24TH STREET, WHICH IS WITHIN THE BLOCK BOUNDED BY HIGH STREET TO THE SOUTH AND WOODLAND AVENUE TO THE NORTH

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on October 19, 2023, its members voted 13-0 to recommend **APPROVAL** of a request from Rally Cap Properties, LLC (owner), represented by Ryan Francois (officer), for vacation of the southernmost 100 lineal feet of a north/south alley right-of-way in the vicinity of 601 24th Street, which is within the block bounded by High Street to the south and Woodland Avenue to the north, to allow the vacated area to be maintained for private use, 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.

MOVED by _____ to receive and file the attached communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division.

SECOND BY _____.

APPROVED AS TO FORM:

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

(ROWV-2023-000014)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
VOSS				
WESTERGAARD				
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.

City Clerk

Date November 6, 2023

Agenda Item 21

Roll Call # _____

October 31, 2023

Communication from the City Plan and Zoning Commission advising that at their October 19, 2023 meeting, the following action was taken regarding a request from Rally Cap Properties, LLC (owner), represented by Ryan Francois (officer), for vacation of the southernmost 100 lineal feet of a north/south alley right-of-way in the vicinity of 601 24th Street, which is within the block bounded by High Street to the south and Woodland Avenue to the north, to allow the vacated area to be maintained for private use.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows.

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus	X				
Leah Rudolphi	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 vacation of undeveloped alley Right-of-Way, subject to the following conditions:

1. Reservation of easements for any existing utilities until such time that they are abandoned or relocated.
2. Any future use of the land must comply with all applicable regulations of the Planning and Design and the Zoning Ordinances.

3. Any use of the land for a “Community and Urban Garden” or other “Temporary Use” shall only occur if the Zoning Board of Adjustment grants a Conditional Use Approval for such use.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

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

1. Reservation of easements for any existing utilities until such time that they are abandoned or relocated.
2. Any future use of the land must comply with all applicable regulations of the Planning and Design and the Zoning Ordinances.
3. Any use of the land for a “Community and Urban Garden” or other “Temporary Use” shall only occur if the Zoning Board of Adjustment grants a Conditional Use Approval for such use.

STAFF REPORT TO THE PLANNING COMMISSION

1. **Purpose of Request:** The requested vacation of undeveloped alley Right-of-Way would potentially allow the applicant to use the Right-of-Way in common with the properties that they own to the east and west (601 24th Street and 602 23rd Street). The applicant has been using these properties for a “Community and Urban Garden” and other events.
2. **Size of Site:** Approximately 1,400 square feet (14 feet by 100 feet).
3. **Existing Zoning (site):** “N5” Neighborhood District.
4. **Existing Land Use (site):** Undeveloped alley that is overgrown with voluntary trees.
5. **Adjacent Land Use and Zoning:**
North – “N5”; Use is public alley Right-of-Way and one-household dwellings.
East – “N5”, Uses are one-household dwellings.
West – “N5”; Use is an undeveloped parcel.
South – “PUD”; Uses are Woodland Avenue, rowhomes that are under construction, and a mixed-use structure.
6. **General Neighborhood/Area Land Uses:** The subject undeveloped alley Right-of-way and adjoining properties are located in a low-density residential area north of Woodland Avenue.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Woodland Heights Organization neighborhood. All neighborhood associations were notified of the

public hearing by emailing of the Preliminary Agenda on September 29, 2023 and the Final Agenda on October 13, 2023. Additionally, separate notifications of the hearing for this specific item were mailed on October 9, 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 Woodland Heights Organization neighborhood notices were mailed to Cameron Gale.

8. **Relevant Zoning History:** On September 5, 2019, the Commission recommended approval to rezone the adjoining properties located at 601 24th Street and 602 23rd Street from “R1-60” One-Family Low-Density Residential District to “R-3” Multiple-Family Residential District to allow for development of up to 7 units of 3-story rowhouse dwellings. On November 18, 2019, by Roll Call No. 19-1665, the City Council approved the withdrawal of the request to rezone the property located at 601 24th Street and 602 23rd Street from “R1-60” One-Family Low-Density Residential District to “R-3” Multiple-Family Residential District to allow for development of up to 7 units of 3-story rowhouse dwellings.

On June 28, 2023, the City’s Zoning Enforcement Division issued a notice of violation to the applicant for using the adjoining property at 601 24th Street for a Community and Urban Garden and for outdoor storage without any necessary approvals.

On October 25, 2023, the City’s Zoning Board of Adjustment will hold a public hearing on appeals that would allow “use of the property for a Community and Urban Garden with on-site retail sales and for seasonal events, such as but not limited to, potluck dinners, pop-up markets with local artists/vendors, workshops on various topics (such as traditional craft, self-sufficiency, and gardening/nature), acoustic music shows, puppet performances, yoga and wellness sessions, and private dinners. Activities throughout the year are anticipated and are to be held between 5PM to 9PM Monday through Thursday, and between 10AM to 10PM Friday through Sunday. No fence is proposed around the community garden. The applicant is also proposing installation of 2.5-foot by 5-foot (12.5 square feet), 9-foot tall monument sign within 25 feet of a front property line, where the base of the monument sign would be 2 feet tall. (Note: The existing alley right-of-way that bisects the site can only be used in conjunction with the proposed uses if it is vacated and conveyed or leased for such use.)”

9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Low Density Residential.
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 requested segment of north/south alley is not developed for any access to adjoining properties. While the northern portion of the north/south alley right-of-way is used for access, the terrain makes it unlikely that the existing developed portion of alley could be extended south to Woodland Avenue. ay.
- 2. Utilities:** There are not any identified public utilities within the subject area. Should any utilities be identified, easements shall be provided until such time that they are abandoned or relocated.
- 3. Municipal Code and Building Code:** Any development of the requested Right-of-Way and/or adjoining properties must comply with all applicable regulations of the Planning and Design and the Zoning Ordinances.
- 4. Community and Urban Garden:** The requested vacation would allow the applicant to continue to use the alley right-of-way in conjunction with the adjoining properties as a "Community and Urban Garden" or other "Temporary Use", only if the City's Zoning Board of Adjustment grants a Conditional Use Approval for such use.

SUMMARY OF DISCUSSION

Abby Chungath advised that item #6 could be considered under the consent agenda. No one was present or requested to speak.

Emily Webb made a motion to move item #6 to the consent agenda.
Motion carried 13-0

COMMISSION ACTION:

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

1. Reservation of easements for any existing utilities until such time that they are abandoned or relocated.
2. Any future use of the land must comply with all applicable regulations of the Planning and Design and the Zoning Ordinances.
3. Any use of the land for a "Community and Urban Garden" or other "Temporary Use" shall only occur if the Zoning Board of Adjustment grants a Conditional Use Approval for such use.

THE VOTE: 13-0

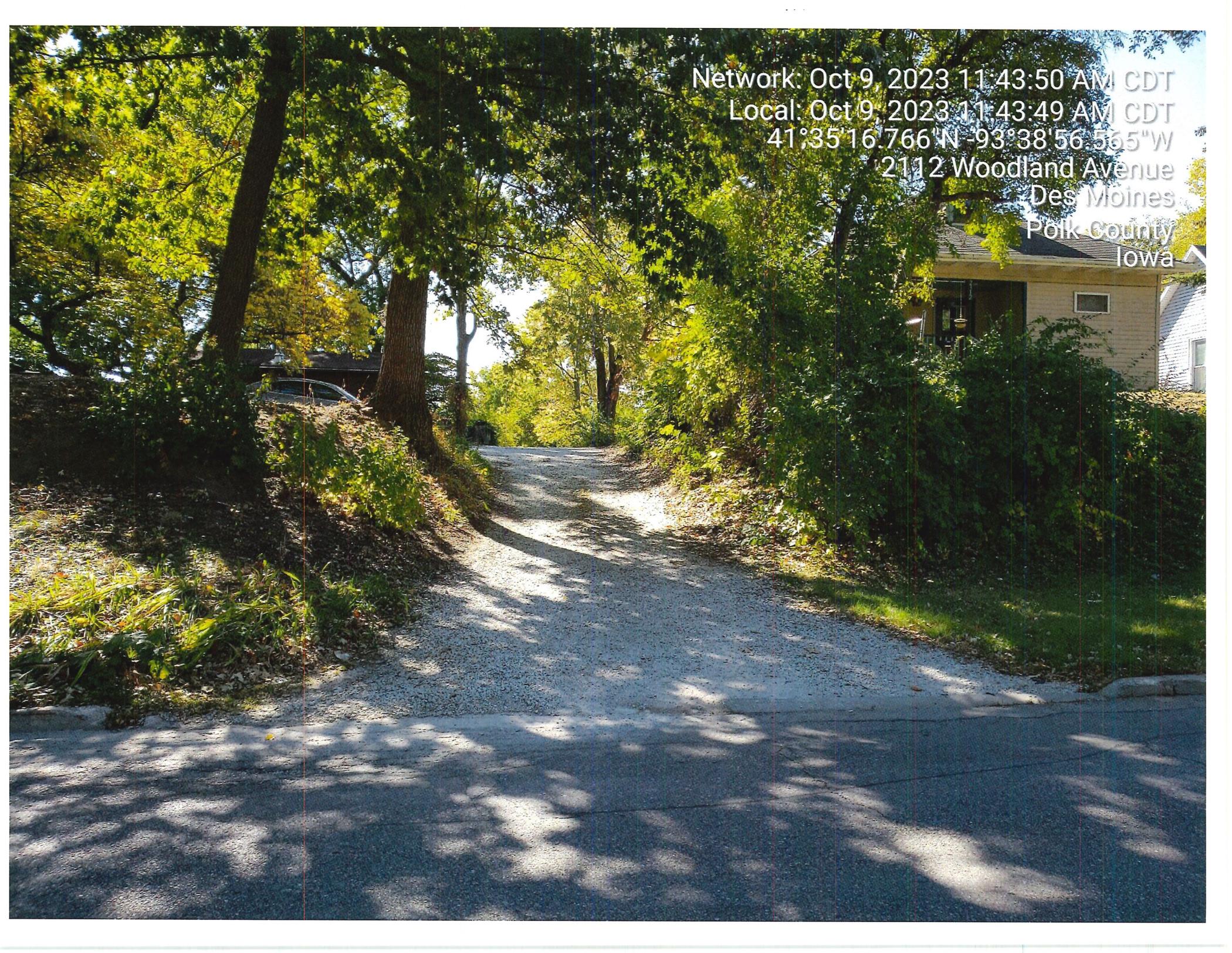
Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jason Van Essen".

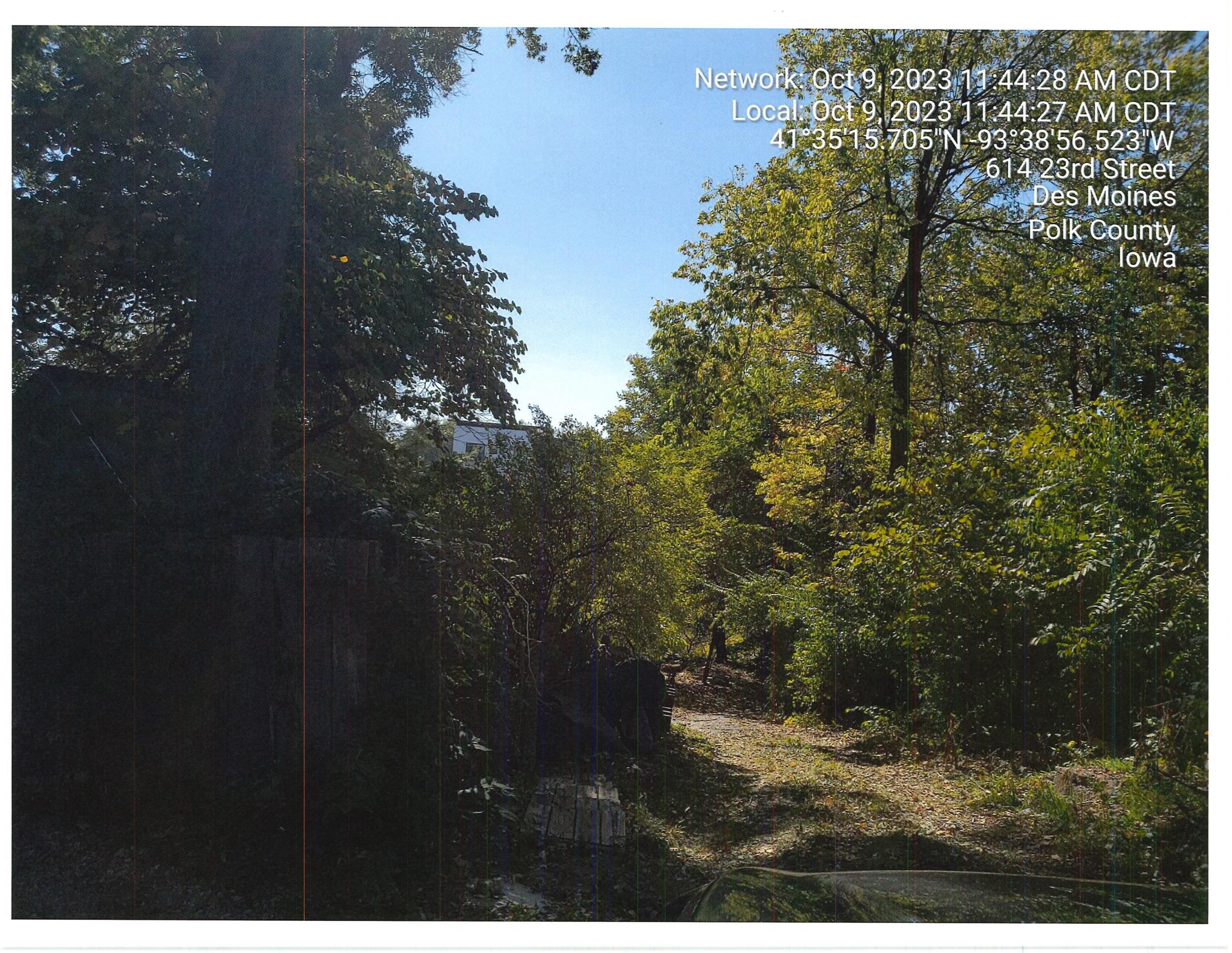
Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

Network: Oct 9, 2023 11:43:50 AM CDT
Local: Oct 9, 2023 11:43:49 AM CDT
41°35'16.766"N -93°38'56.565"W
2112 Woodland Avenue
Des Moines
Polk County
Iowa



Network: Oct 9, 2023 11:44:28 AM CDT
Local: Oct 9, 2023 11:44:27 AM CDT
41°35'15.705"N -93°38'56.523"W
614 23rd Street
Des Moines
Polk County
Iowa



Network: Oct 9, 2023 11:47:20 AM CDT

Local: Oct 9, 2023 11:47:18 AM CDT

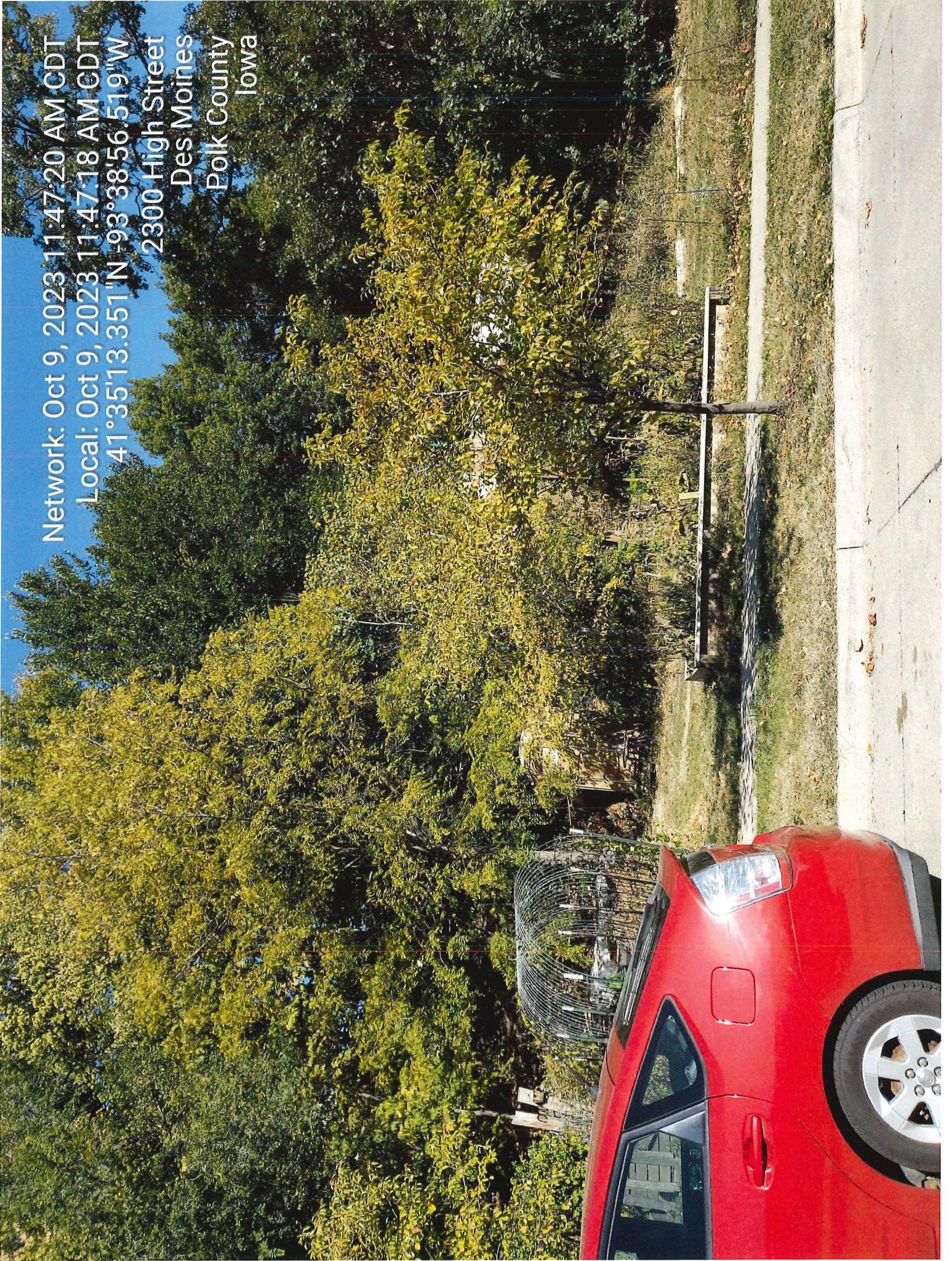
41°35'13.351"N -93°38'56.519"W

2300 High Street

Des Moines

Polk County

Iowa



Network: Oct 9, 2023 11:46:27 AM CDT

Local: Oct 9, 2023 11:46:27 AM CDT

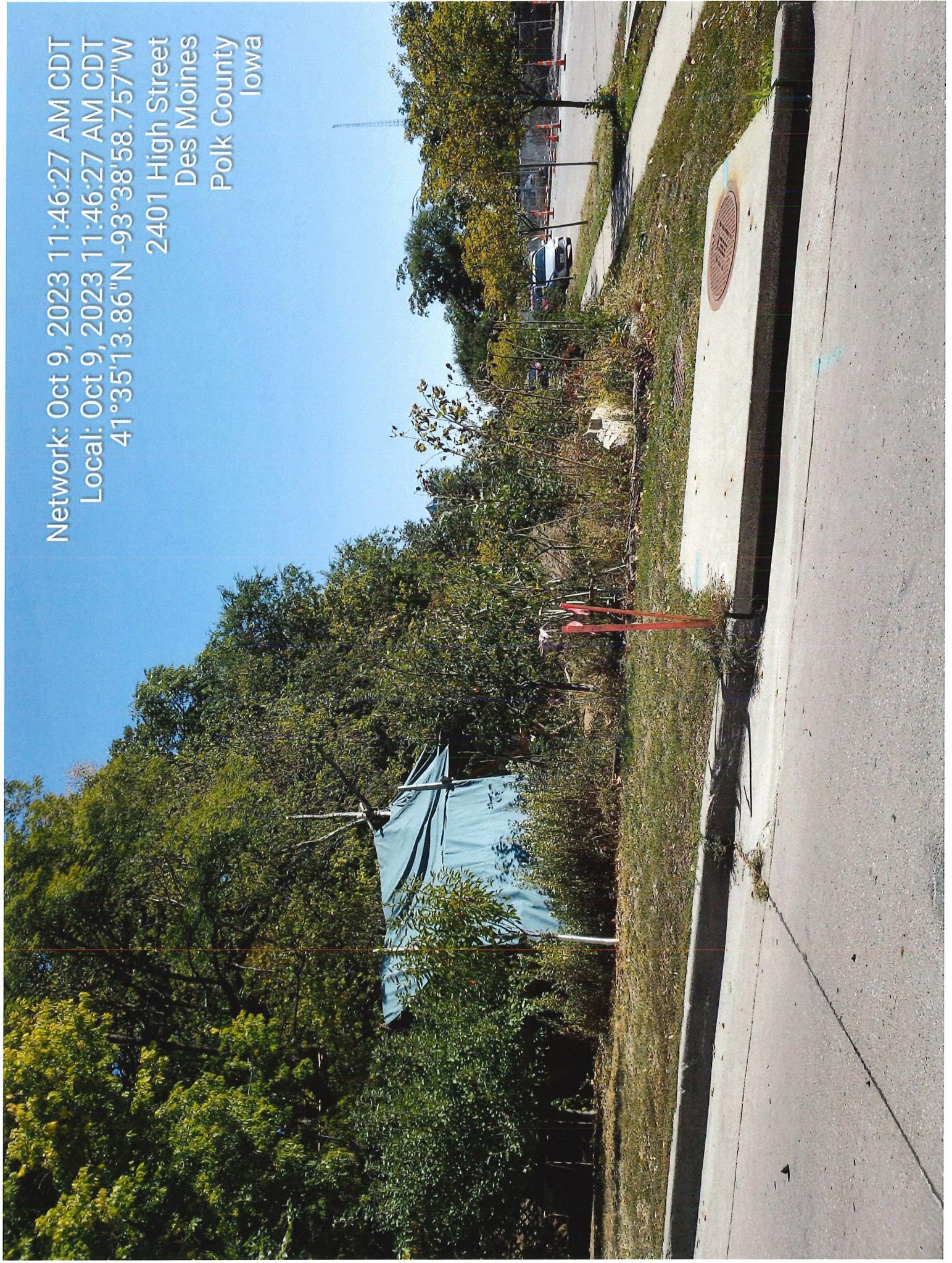
41°35'13.86"N -93°38'58.757"W

2401 High Street

Des Moines

Polk County

Iowa



From: [William Callahan](#)
To: [Chakraborty, Sreyoshi](#)
Subject: Woodland Realm
Date: Tuesday, October 17, 2023 8:44:48 PM

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.

Sreyoshi Chakraborty,

I am writing to express my support for Ryan Francois and his beautiful garden, The Woodland Realm.

I have lived here on High Street for over 12 years and have known Ryan nearly as long. His work with Rally Cap Properties on homes in the area has been great. Ryan is a thoughtful and hard working friend, neighbor, and member of this vibrant community.

I have watched with great pleasure as a simple neighborhood garden evolved into The Woodland Realm. It adds charm and beauty to a lovely walkable area already being enhanced by multiple projects over the last several years. I support his request of a variance for the unused alley right-of-way, and his desire to continue with the operation that lends so much character to our wonderful neighborhood.

Thank you for your time and consideration.

Kim Callahan
2701 High Street

From: [Phil Kreznor](#)
To: [Chakraborty, Sreyoshi](#)
Cc: [Ryan Francois](#)
Subject: 10/19 P&Z Public hearing #7, Rally Cap Alley Vacation
Date: Wednesday, October 18, 2023 7:31:51 AM

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.

To City Staff and the Planning & Zoning Commission regarding 10/19 P&Z Public Hearing #7 on the Vacation of Alley to Rally Cap Properties:

I am Phil Kreznor, Woodland Heights Neighborhood resident, living at 808 25th Street.

I am fully in support of the city vacating this alley for private use by property owners. I attended a great event at the Woodland Realm earlier this year. At the event, I had a chance to explore the space, enjoy its natural beauty (in an urban setting), and partake in a community experience. Part of the natural wonder of this space is its unusual and extreme topography. North from High Street, the plats are rather level, until suddenly shooting uphill with a very steep slope. I was shocked to learn there is actually an alley right of way in this space. I cannot imagine trying to drive my car up it because of the steep slope.

Because this topography makes typical alley uses nearly impossible, and because here is an opportunity to get some more land into private use and onto the tax rolls, and because I believe the highest and best use of the land would be Rally Cap and the other homeowner, I support the alley vacation.

Thanks, - Phil

Phil Kreznor
808 25th St. 50312
515-770-6497

From: [Paul Spong](#)
To: [Chakraborty, Sreyoshi](#)
Subject: [EXTERNAL]601 and 602 23rd St,
Date: Wednesday, October 18, 2023 8:42:17 AM

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.

Re:

Meeting Sept. 19. I am in favor of the alley right away between the The Realm and 602 23rd St. be vacated and conveyed to those property owners. I am a frequent walker in the area and enjoy the natural quality of the site. The nearby Ingersol Ave. area is such a busy area, the naturalness of The Realm is a definite counter point and asset to the community.

Barbara Jo Spong 515 276 2597
2900 Woodland Ave.

From: [Mitch Coluzzi](#)
To: [Chakraborty, Sreyoshi](#); [Dunn-Young, Frank A.](#)
Subject: Woodland Realm Endorsement
Date: Thursday, October 19, 2023 9:44:20 AM

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.

Hey there friends -

I own the property at **2406 Woodland Ave.** Unfortunately, as far as I know we did not receive a voting card (we are within radius, it's entirely possible my staff missed it).

Regardless, I wanted to voice our support for Ryan's Woodland Realm vision. As a neighbor (formerly living at 2421 High), I have witnessed from afar their community engagement with past events and believe this offers only positives for the neighborhood.

1) for the Planning and Zoning Commission, regarding vacation & conveyance of unused alley right-of-way -- **I support this request**

2) for the Zoning Board of Adjustment, regarding conditional approval of onsite sales/events, variance of perimeter fence requirement, and signage details -- **I support this request**

Cheers,
Mitch



Mitch Coluzzi | Catalyzer
Sell Now Iowa
[c] 515-316-4012
Licensed to sell Real Estate in Iowa
Real Broker, LLC | Des Moines, Iowa
[Website](#) • [Facebook](#) • [Instagram](#)

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From: [WHO Woodland Heights Organization](#)
To: [Chakraborty, Sreyoshi](#)
Cc: [Catherine Porter](#)
Subject: Woodland Heights Support on ROWV-2023-000014
Date: Wednesday, October 18, 2023 12:21:09 PM

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.

Hi Sreyoshi,

At last night's Woodland Heights Organization neighborhood meeting, we agreed unanimously to **support** the request from Rally Cap Properties, LLC (Ryan Francois), for the vacation of the southernmost 100 lineal feet of the north/south alley right-of-way in the vicinity of 601 24th Street.

I'm not certain we will be able to have a representative live at the P&Z hearing tomorrow evening, but I hope our support can be presented to the Commission.

Thank you!
Cameron

--

Woodland Heights Organization
Cameron Gale (he/him), President, 515-314-9961
Catherine Porter (she/her), Vice President and Secretary, 515-326-0456

Item: ROWV-2023-000014 Date: 10/16/23

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request

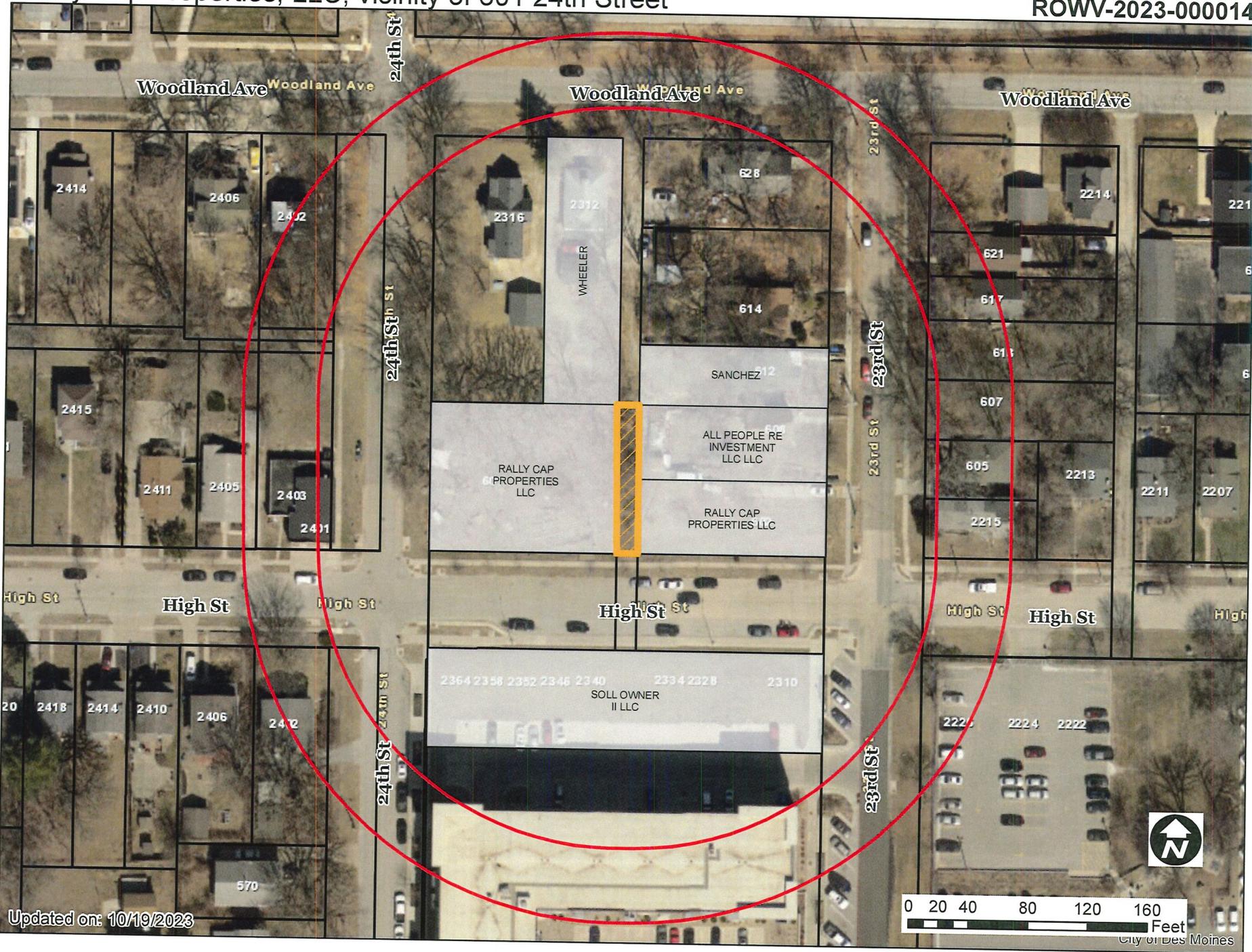
Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
OCT 19 2023

Titleholder Signature: Ryan Francois

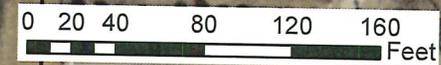
Name/Business: Rally Cap Properties

Impacted Address: 601 24th & 602 23rd

Comments: _____



Updated on: 10/19/2023



1 inch = 83 feet

21