

★ Roll Call Number

19-0793

Agenda Item Number

20A

Date May 20, 2019

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF THE NORTH-SOUTH ALLEY RIGHT-OF-WAY LOCATED WEST OF AND ADJOINING 1013 SCOTT AVENUE AND CONVEYANCE TO THIKRA NOORI AL MAHDAWI AND SALAH ABDULRAZZAK ABDULWAHAB FOR \$150.00**

**WHEREAS**, on May 2, 2019 the Plan and Zoning Commission voted to recommend denial of a City-initiated request to vacate the north/south alley right-of-way located in the vicinity of 1013 Scott Avenue, between Southeast 10<sup>th</sup> Street and Southeast 11<sup>th</sup> Street from Scott Avenue to Shaw Street, to allow the alley to provide a paved driveway to access a proposed garage upon the rear yard area of 1013 Scott Avenue; and

**WHEREAS**, said recommendation was based upon the determination by the Commission that said north/south alley is currently required for public vehicular access; and

**WHEREAS**, the City Plan and Zoning Commission further recommended, as part of the 9-2 vote of its members to recommend denial, that in the event that the City Council decides to vacate said north/south alley right-of-way, that such vacation would be subject to the following conditions:

- (1) Reservation of easements for any existing utilities; and
- (2) Reservation of a 16-foot wide easement, running the full length of the vacated north/south alley, to provide vehicular access from the adjoining public street network to 1003 Scott Avenue and to Polk County District/Parcel No. #040/00033-000-000.

**WHEREAS**, Thikra Noori Al Mahdawi and Salah Abdulrazzak Abdulwahab, owners of 1013 Scott Avenue, have asked that the City Council of the City of Des Moines move forward with the vacation and conveyance of only that portion of the north-south alley right-of-way that adjoins their property at 1013 Scott Avenue, Des Moines, Iowa to allow the alley to provide a paved driveway to access a proposed garage upon the rear yard area; and

**WHEREAS**, after further review by City staff, if only the portion of the alley adjoining 1013 Scott Avenue is vacated and conveyed, the property at 1003 Scott Avenue would not be affected, as it currently maintains vehicular access directly from Scott Avenue and does not currently use the alley for vehicular access; and

**WHEREAS**, if only the portion of the alley adjoining 1013 Scott Avenue is vacated and conveyed, Polk County's property located at District/Parcel No. 040/00033-000-000 will continue to have legal access to the alley from Shaw Street; and

**WHEREAS**, based on further City staff review, the City Plan and Zoning Commission's condition No. 2 above is not needed if only that adjoining portion of the alley is vacated and conveyed to the owners of 1013 Scott Avenue; and

**WHEREAS**, Thikra Noori Al Mahdawi and Salah Abdulrazzak Abdulwahab, have further offered to the City of Des Moines ("City") the purchase price of \$150.00 for the purchase of that portion of vacated alley right-of-way way located west of and adjoining 1013 Scott Avenue, Des Moines, Iowa (hereinafter "Property"), to allow for assemblage with their adjoining property for development of a paved driveway

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access to access a proposed garage upon the rear yard area, 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.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the north-south alley right-of-way located west of and adjoining 1013 Scott Avenue, Des Moines, Iowa, legally described as follows:

A PART 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 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 10 IN SAID BLOCK 3; THENCE SOUTHEASTERLY ALONG THE EASTERLY LINE OF SAID VACATED NORTH/SOUTH ALLEY RIGHT OF WAY, A DISTANCE OF 120 FEET; THENCE SOUTHWESTERLY ALONG A LINE THAT IS PARALLEL WITH THE SOUTHWESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 10, TO THE WESTERLY LINE OF SAID VACATED NORTH/SOUTH ALLEY RIGHT OF WAY; THENCE NORTHWESTERLY ALONG SAID WESTERLY VACATED RIGHT OF WAY LINE, TO THE NORTHEAST CORNER OF LOT 1 IN SAID BLOCK 3; THENCE NORTHEASTERLY ALONG A STRAIGHT LINE TO THE POINT OF BEGINNING, AND CONTAINING APROXIMATELY 2,400 SQUARE FEET.

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

Grantee: Thikra Noori Al Mahdawi and Salah Abdulrazzak Abdulwahab

Consideration: \$150.00

Legal Description: A PART 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 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 10 IN SAID BLOCK 3; THENCE SOUTHEASTERLY ALONG THE EASTERLY LINE OF SAID VACATED NORTH/SOUTH ALLEY RIGHT OF WAY, A DISTANCE OF 120 FEET; THENCE SOUTHWESTERLY ALONG A LINE THAT IS PARALLEL WITH THE SOUTHWESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 10, TO THE WESTERLY LINE OF SAID VACATED NORTH/SOUTH ALLEY RIGHT OF WAY; THENCE NORTHWESTERLY ALONG SAID WESTERLY VACATED RIGHT OF WAY LINE, TO THE NORTHEAST CORNER OF LOT 1 IN SAID BLOCK 3; THENCE NORTHEASTERLY ALONG A STRAIGHT LINE TO THE POINT OF BEGINNING, AND CONTAINING APROXIAMATELY 2,400 SQUARE FEET.

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3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such alley right-of-way is to be considered shall be June 3, 2019, 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 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.

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Ann DiDonato

Ann DiDonato, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

**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.

T. M. Franklin Cownie Mayor

Diane Rauh City Clerk