



Roll Call Number

23-1558

Agenda Item Number

40

Date November 6, 2023

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HOLD 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 10TH 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 11th Street to the east, and Southeast 10th 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 10th 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 10th 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 10th 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 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 alley right-of-way.

WHEREAS, on October 23, 2023, by Roll Call No. 23-1425, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the street right-of-way be set for hearing on November 6, 2023, 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 alley right-of-way was given 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.

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 alley right-of-way, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of approximately 160 lineal feet of the north/south alleyway located in the vicinity of 1013 Scott Avenue, east of and adjoining 611 and 625 Southeast 10th Street, Des Moines, Iowa, legally described as follows, and said vacation is hereby approved, 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:

-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.

3. The proposed sale of such vacated alley right-of-way, as legally described below and to the grantees and for the consideration identified below and said conveyance is hereby approved, 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 easements shall be included in the quit claim deed from the City of Des Moines to the grantee:

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.

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

Moved by Gatto to adopt. Second by Boesen

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			

MOTION CARRIED APPROVED

Franklin Cownie 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.

Laura Baumgartner

Laura Baumgartner, City Clerk