City Council Communication

Department: Community Development CASE #SAV-23-006 Applicant/Property Owner: Jose Lorenzo Perez Cruz 1400 14th Avenue Council Bluffs, IA 51501	Reso. of Intent No. _____ Reso. to Dispose No. _____	Resolution of Intent: 1/8/24 Resolution to Dispose: 1/22/24 Planning Commission: 12/12/23

Subject/Title

Request: Public hearing on the request of Jose Lorenzo Perez Cruz, to vacate and dispose of the unimproved east/west alley located in Block 25, Fleming and Davis' Addition, and Block 'G,' Riddle Subdivision, City of Council Bluffs, Pottawattamie County, Iowa.

Location: The northwest corner of the intersection of 14th Avenue and Indian Creek

Background

The Community Development Department has received a request from Jose Lorenzo Perez Cruz to vacate and dispose of the unimproved east/west alley located in Block 25, Fleming and Davis' Addition, and Block 'G,' Riddle Subdivision, City of Council Bluffs, Pottawattamie County, Iowa. The easterly 74.56 feet of the subject alley is approximately 20 feet in width and the westerly 224.25 feet is approximately 16 feet in width. A location/zoning map is included as Attachment 'A.' The applicant owns properties legally described as Lots 1-4, Block 'G,' Riddle Subdivision, and Lots 4-14, Fleming and Davis' Addition and intends to develop these properties, including the proposed vacated alleyway, with a contractor yard. The future site plan is included as Attachment 'B.'

On August 25, 2003, the City Council amended the adopted *Policy and Procedures for Alley, Street and Right-of-way Vacations.* The objectives of the amended Policy are as follows:

A. *To provide due process and citizen participation in the application and review process for vacations*. Property owners with land that abuts the subject alley are as follows:

North and South – Undeveloped property owned by Jose Lorenzo Perez Cruz (applicant) and property owned by Chicago Northwestern Railroad

All abutting property owners were mailed petitions asking if they are in favor of/opposed to the vacation request and if they were willing to/not willing to acquire the portion of the alley adjacent to their property, if vacated. Responses to the petitions are summarized in Item I below.

B. *To ensure that no property owner is deprived of required and reasonable access*.
The subject alley abuts five parcels of land, which are comprised of multiple existing lots of record. The applicant shall execute an administrative parcel combination with Pottawattamie County to consolidate their three parcels and portions of vacated alley into one parcel, which will have access off 14th Avenue. The southerly property owned by the Chicago Northwestern Railroad will continue to have access of 14th Avenue to the south and the unimproved City right-of-way to the west. The northerly property

owned by the Chicago Northwestern Railroad will continue to have access off the unimproved City right-of-way to the north and west.

C. To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way.
Vacating the unimproved subject alley would not create any new dead end as it is bounded on the west by the railroad and on the east by Indian Creek.

D. To reduce or eliminate hazardous and dangerous traffic conditions.
The subject alley is unimproved and is not used for vehicular and/or pedestrian traffic circulation.

E. To protect all existing and proposed public utilities located in the right-of-way and to maintain necessary utility easements.
All City Departments and utilities were notified of the request. The following responses were received:

Council Bluffs Public Works Department stated they do not have any infrastructure in the alley and do not oppose the vacation.

Council Bluffs Fire Department stated they have no comments regarding the request.

Council Bluffs Police Department stated they have no concerns or comments regarding the request.

MidAmerican Energy stated that they currently operate a double-circuit high voltage overhead transmission line along the railroad right-of-way, which is located along the western edge of the subject alley. A 60-foot wide private easement exists across the former C, R, I, & P Railroad, which shall remain in effect for any new development in the area by present or future property owners.

Note: Based on MidAmerican Energy's comment above, an easement shall be retained over the north half of the westerly 90 feet and over the south half of the westerly 60 feet of the east/west alley located in Block 25, Fleming and Davis' Addition, City of Council Bluffs, Pottawattamie County, Iowa, and as shown in Attachment 'C,' for utility access and maintenance purposes.

Council Bluffs Water Works stated that the applicant has been informed that a main extension would be required to bring water to the site.

Black Hills Energy stated they have no concerns regarding the request.

F. To maintain appropriate right-of-way width to ensure that an adequate pedestrian and vehicular circulation system is retained. Not applicable.

G. To discourage the vacation of a portion of an existing alley, street or other right-of-way.
The subject request is to vacate the entirety of the unimproved east/west alley.

H. To assist in the implementation of the goals and objectives of the Comprehensive Plan.
The request is consistent with the local access and circulation objectives stated in Chapter 6, Transportation of the Bluffs Tomorrow: 2030 Plan (comprehensive plan).

I. To reduce the City's maintenance liability on previously vacated right-of-way parcels from public improvement projects and various lots acquired through delinquent taxes or assessments. Not applicable.

To establish an equitable price for surplus public property. There are two property owners with land that abuts the subject alley. Both abutting property owners were notified of the vacation request. Each abutting property owner is eligible to receive their portion of the alley in consideration of the vacation application fee, which has already been paid. The following response was received:

1. Jose Lorenzo Perez Cruz stated he is in favor of the request and is willing to acquire the portion of the east/west alley adjacent to his property.

Recommendation

The Community Development Department recommends approval of the request to vacate and dispose of the unimproved east/west alley located in Block 25, Fleming and Davis' Addition, and Block 'G,' Riddle Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, subject to the comments stated above and the following conditions:

A. An easement shall be retained over the north half of the westerly 90 feet and over the south half of the westerly 60 feet of the east/west alley located in Block 25, Fleming and Davis' Addition, City of Council Bluffs, Pottawattamie County, Iowa, and as shown in Attachment 'C,' for utility access and maintenance purposes.

B. All portions of the subject alley shall be disposed of to an abutting property owner(s).

C. The applicant shall execute an administrative parcel combination with Pottawattamie County to consolidate their three parcels and portions of vacated alley into one parcel.

Public Hearing

Staff speaker for the request:
1. Haley Weber, Planner, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor: None

Speakers against: None

The City Planning Commission recommended approval of the request by Jose Lorenzo Perez Cruz to vacate and dispose of the unimproved east/west alley located in Block 25, Fleming and Davis' Addition, and Block 'G,' Riddle Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, subject to the comments stated above and the following conditions:

A. An easement shall be retained over the north half of the westerly 90 feet and over the south half of the westerly 60 feet of the east/west alley located in Block 25, Fleming and Davis' Addition, City of Council Bluffs, Pottawattamie County, Iowa, and as shown in Attachment 'C,' for utility access and maintenance purposes.

B. All portions of the subject alley shall be disposed of to an abutting property owner(s).

C. The applicant shall execute an administrative parcel combination with Pottawattamie County to consolidate their three parcels and portions of vacated alley into one parcel.

VOTE: AYE – Bass, Bailey, Hutcheson, Knauss, Rater, Rew, Stroebele, Van Houten, and Watson. NAY – None. ABSTAIN – None. ABSENT – Opperman. VACANT - One Motion: Carried.

Attachments

Attachment A: Location/Zoning Map
Attachment B: Future Site Plan
Attachment C: Easement Exhibit

Prepared by: Haley Weber, Planner, Community Development Department