City Council Communication

Department: Community Development CASES #SUB-23-014 and #SAV-23-007 Applicant: Union Development Holdings LLC 409 Massachusetts Avenue Suite 300 Indianapolis, IN 46204 Property Owner: G&A Properties LLC c/o Gregory S. Poor 526 Crescent Drive Crescent, IA 51526 Engineer/Surveyor: Eric Cannon Snyder & Associates, Inc. 2727 SW Snyder Boulevard Ankeny, IA 50023	Resolution No. _____ Reso. of Intent No. _____ Reso. to Dispose No. _____	CASE #SAV-23-007 Resolution of Intent: 1/8/24 Resolution to Dispose: 1/22/24 CASE #SUB-23-014: 2/12/24 Planning Commission: 12/12/2023

Subject/Title

Request: Combined public hearings on the requests of Union Development Holdings LLC for final plat approval of a two-lot subdivision to be known as Union at Bluffs Run, legally described as being a replat of Lots 1-24, inclusive, Block 38, Railroad Addition to the City of Council Bluffs, Pottawattamie County, Iowa together with all vacated alleys lying within Block 38, Railroad Addition and Lots 1-24, inclusive, Block 39, Railroad Addition to the City of Council Bluffs, Pottawattamie County, Iowa together with all vacated alleys lying within Block 39, Railroad Addition and Lots 1 through 24 in Block 65, in Railroad Addition to the City of Council Bluffs, Pottawattamie County, Iowa together with both north/south alleys in Block 65, Railroad Addition and that point of South 20th Street extending from 26th Avenue to 27th Avenue and abutting Blocks 65 & 66, Railroad Addition, City of Council Bluffs, Pottawattamie County, Iowa and Lots 1, 4, 5, 6, 7, 8, 9 and 10, Beacon Place 2, City of Council Bluffs, Pottawattamie County, Iowa and all of the 26th Avenue right-of-way lying west of 19th Street and east of the West line of vacated 20th Street extended northerly to the South line of Lot 1, Beacon Place 2, City of Council Bluffs, Pottawattamie County, Iowa and all of the 25th Avenue right-of-way lying east of 21st Street and west of the East right-of-way line of 20th Street and all of the 20th Street right-of-way lying north of 25th Avenue and south of the South line of Lot 7 of Beacon Place Subdivision, and all of the 21st Street right-of-way lying north of 25th Avenue and south of 24th Avenue and the South 27.57 feet of the 24th Avenue right-of-way lying east of the West right-of-way line of 21st Street and west of the West line of Lot 7, Beacon Place Subdivision, all in the City of Council Bluffs, Pottawattamie County, Iowa; **AND** to vacate and dispose of the South 27.57 feet of 24th Avenue right-of-way lying east of the West right-of-way line of 21st Street and west of the West line of Lot 7, Beacon Place Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, that part of 25th Avenue right-of-way lying east of South 21st Street and west of the East right-of-way line of South 20th Street, that part of 26th Avenue right-of-way lying west of South 19th Street and east of the West line of vacated 20th Street extended northerly to the South line of Lot 1, Beacon Place 2, City of Council Bluffs, Pottawattamie County, Iowa, that part of South 20th Street right-of-way lying north of 25th Avenue and south of the South line of Lot 7 of Beacon Place Subdivision, and that part of South 21st Street right-of-way lying between 24th Avenue and 25th Avenue.

Location: Undeveloped land lying north of 27th Avenue and west of South 19th Street.

Background

The Community Development Department has received the following requests from Union Development Holdings LLC:

A. **CASE #SUB-23-014**: Final plat approval of a two-lot subdivision to be known as Union at Bluffs Run, legally described as being a replat of Lots 1-24, inclusive, Block 38, Railroad Addition to the City of Council Bluffs, Pottawattamie County, Iowa together with all vacated alleys lying within Block 38, Railroad Addition and Lots 1-24, inclusive, Block 39, Railroad Addition to the City of Council Bluffs, Pottawattamie County, Iowa together with all vacated alleys lying within Block 39, Railroad Addition and Lots 1 through 24 in Block 65, in Railroad Addition to the City of Council Bluffs, Pottawattamie County, Iowa together with both north/south alleys in Block 65, Railroad Addition and that point of South 20th Street extending from 26th Avenue to 27th Avenue and abutting Blocks 65 & 66, Railroad Addition, City of Council Bluffs, Pottawattamie County, Iowa and Lots 1, 4, 5, 6, 7, 8, 9 and 10, Beacon Place 2, City of Council Bluffs, Pottawattamie County, Iowa and all of the 26th Avenue right-of-way lying west of 19th Street and east of the West line of vacated 20th Street extended northerly to the South line of Lot 1, Beacon Place 2, City of Council Bluffs, Pottawattamie County, Iowa and all of the 25th Avenue right-of-way lying east of 21st Street and west of the East right-of-way line of 20th Street and all of the 20th Street right-of-way lying north of 25th Avenue and south of the South line of Lot 7 of Beacon Place Subdivision, and all of the 21st Street right-of-way lying north of 25th Avenue and south of 24th Avenue and the South 27.57 feet of the 24th Avenue right-of-way lying east of the West right-of-way line of 21st Street and west of the West line of Lot 7, Beacon Place Subdivision, all in the City of Council Bluffs, Pottawattamie County, Iowa. The proposed subdivision is comprised of 16.66 acres, more or less, of land.

B. **CASE #SAV-23-007**: Vacate and dispose of the following public right-of-way:

- The South 27.57 feet of 24th Avenue right-of-way lying east of the West right-of-way line of 21st Street and west of the West line of Lot 7, Beacon Place Subdivision, City of Council Bluffs, Pottawattamie County, Iowa;
- That part of 25th Avenue right-of-way lying east of South 21st Street and west of the East right-of-way line of South 20th Street;
- That part of 26th Avenue right-of-way lying west of South 19th Street and east of the West line of vacated 20th Street extended northerly to the South line of Lot 1, Beacon Place 2, City of Council Bluffs, Pottawattamie County, Iowa;
- That part of South 20th Street right-of-way lying north of 25th Avenue and south of the South line of Lot 7 of Beacon Place Subdivision; and
- That part of South 21st Street right-of-way lying between 24th Avenue and 25th Avenue.

The purpose of the proposed subdivision is to consolidate property legally described above into two parcels of land for future multifamily residential development. The developer is currently in negotiations to acquire the subject property from the current owner, Gregory Poor. The right-of-way vacation requests identified above are intended to facilitate the proposed development. The developer will submit a request to append a PR/Planned Residential Overlay and adopt the associated development plan onto the subject property for the proposed multifamily development at a later date.

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The proposed subdivision is comprised of 16.66 acres, more or less, of land, and will consist of two residential lots. Improvements to existing public rights-of-way (27th Avenue and South 22nd Street) will be required to ensure

both lots have direct access onto a public road. Utility extensions (e.g., sanitary/storm sewers, water, gas, electric, etc.) will be required to service the proposed subdivision.

Comments

A. The proposed subdivision is currently zoned R-3/Low Density Multifamily Residential District. The future land use plan of the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) designates the subject property as Low Density Residential. The proposed subdivision is generally consistent with the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan), as well as the purpose and intent of Title 14: Subdivisions and Title 15: Zoning of the Council Bluffs Municipal Code.

B. The minimum lot area for a 'multifamily dwelling' in an R-3 District is 7,500 square feet, as per Section 15.10.050, Site Development Regulations, R-3/Low Density Multifamily Residential District, of the Council Bluffs Municipal Code (Zoning Ordinance). Proposed Lots 1 and 2 will contain 10.62 acres and 6.04 acres, respectively, in land area and thus exceed minimum lot size requirements in the R-3 District.

C. Both lots will have direct frontage onto a public right-of-way. Proposed Lot 1 will be accessed primarily at the intersection of South 19th Street and 25th Avenue. Lot 1 will also have direct frontage onto 27th Avenue. Proposed Lot 2 will have direct frontage onto South 22nd Street. Improvements to 27th Avenue and South 22nd Street will be required at time of development. The developer also intends to retain a 60-foot wide access easement on Lot 1 that extends from the intersection of South 19th Street and 25th Avenue in order to provide access onto Lot 2.

D. No new rights-of-way are proposed to be dedicated to the City as part of this subdivision. However, improvements to 27th Avenue and South 22nd Street will be required at time of development.

E. All development activity within this subdivision shall comply with the standards set forth in the planned residential development plan to be adopted for the multifamily residential project proposed by the developer.

F. Sanitary sewer and storm sewer utilities are available to service proposed Lot 1. A water main extension will be required to provide service to said Lot 1. Public water, sanitary sewer and storm sewer utilities will need to be extended to service proposed Lot 2. All costs to construct, remove and/or relocate any utilities for the proposed subdivision shall be the responsibility of the developer and not the City.

G. All utilities (electric, cable and communication facilities, etc.) shall be installed underground. All costs to construct, remove and/or relocate any utilities in this subdivision shall be the responsibility of the developer, and not the City.

H. Sidewalk installation along the frontage(s) of each proposed lot shall be completed prior to issuance of the first Certificate of Occupancy on each lot, at no cost to the City.

I. Multiple rights-of-way were vacated as part of the platting of Beacon Place 2, including all north/south alleys in Blocks 37, 47, and 48, Railroad Addition, all of South 20th Street right-of-way lying between 25th Avenue and 26th Avenue, and all of 25th Avenue lying between South 19th Street and South 20th Street, for a total sum of $18,130.00. As per Resolution No. 14-242, that sum would be forgiven upon completion of a multifamily project on Lot 1, Beacon Place 2. The developer is requesting that a similar condition be placed on the approval of the right-of-way vacation request associated with the proposed subdivision (see Case #SAV-23-007).

J. As per Resolution No. 98-79, no utility easements were retained over the vacated north/south alleys in Blocks 38 and 39, Railroad Addition due to the lack of public utilities in said vacated alleys.

K. As per Resolution No. 14-268, no utility easements were retained over the vacated north/south alleys in Block 65, Railroad Addition and that vacated portion of South 20th Street lying between 26th Avenue and 27th Avenue due to the lack of public utilities in said vacated rights-of-way.

L. The Council Bluffs Public Works Department provided the following comments:

1. The plat appears to be complete as per previous discussions between the Public Works Department and the developer.

2. Improvements to 27th Avenue will be required at time of development. A phase approach will be acceptable.

3. Future improvements to South 22nd Street will be required at time of development of proposed Lot 2.

M. The Council Bluffs Fire Department stated that they have no comments on the request.

N. The Council Bluffs Police Department stated that they have no comments on the request.

O. Council Bluffs Water Works stated that they have no utilities in the area.

P. MidAmerican Energy stated that they have no conflict with the request provided required easements are provided through the replatting process and as required by MidAmerican Energy to serve the development. They also stated that the developer or their agents should contact MidAmerican Energy directly to discuss the project scope and timeline, as well as begin the process of identifying the costs associated with relocating any existing facilities supplying electric service to the development.

Q. The following technical corrections shall be made to the plat prior to being executed:

1. Revise "…TOGETHER WITH BOTH NORTH/SOUTH ALLEYS IN BLOCK 65, RAILROAD ADDITION LOCATED BETWEEN 26TH AND 27TH AVENUES, SOUTH 19TH AND SOUTH 20TH STREET AND THAT POINT OF…" to "…TOGETHER WITH BOTH NORTH/SOUTH ALLEYS IN BLOCK 65, RAILROAD ADDITION AND THAT POINT OF…" on the legal description.

2. Revise "…A DISTANCE OF 329.60 FEET TO THE NORTHWEST CORNER OF SAID LOT 1 AND THE NORTHWEST CORNER OF BLOCK 47 OF SAID RAILROAD ADDITION; THENCE…" to "…A DISTANCE OF 329.60 FEET TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE…" on the metes and bounds description.

3. Revise "CITY DEED RESERVATION OF PERMANENT & PERPETUAL UTILITIES EASEMENT (INST. NO 2016-02506)" to "RESOLUTION NO. 14-268 VACATING N/S ALLEYS IN BLOCK 65, RAILROAD ADDITION AND S 20TH ST ROW LYING BETWEEN 26TH AVE AND 27TH AVE (INST. NO 2014-13443)" on the plat map exhibit.

Note: As per Resolution No. 14-268, no utility easements were retained over the vacated north/south alleys in Block 65, Railroad Addition and that vacated portion of South 20th Street lying between 26th Avenue and 27th Avenue due to the lack of public utilities in said vacated rights-of-way. The City deed that conveyed said rights-of-way to Gregory Poor erroneously noted that the deed was subject to the reservation of a permanent and perpetual utility easement in favor of the City of Council Bluffs for utility maintenance purposes. The Council Bluffs Legal Department will prepare a corrected City deed that eliminates any mention of the reservation of a utility easement over the vacated rights-of-way.

4. The plat map exhibit shall be revised to replace the label 'L3' with the appropriate course bearing distance (i.e., S00°30'29"W 110.33').

5. The plat map exhibit shall be revised to replace the label 'L4' with the appropriate course bearing distance (i.e., S89°24'33"E 99.97').

6. The plat map exhibit shall be revised to replace any references to Blocks 20, 37, 47, and 48, Railroad Addition, including labels and lot lines, with the appropriate lot layout for Beacon Place Subdivision and Beacon Place 2.

7. The plat map exhibit shall be revised to illustrate the shared rear property line between Lots 11 and 24, Block 38, Railroad Addition.

8. The plat map exhibit shall be revised to illustrate the shared rear property line between Lots 12 and 23, Block 38, Railroad Addition.

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All rights-of-way proposed to be vacated are unimproved and are not used for vehicular/pedestrian traffic. The purpose of this request is to allow the developer to consolidate the subject rights-of-way into the proposed subdivision in order to facilitate future multifamily residential development.

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.
Gregory Poor is the sole property owner with land that abuts the subject rights-of-way. Mr. Poor was mailed two petitions (the first petition was addressed to him personally; the second petition was addressed to a company owned by Mr. Poor, G-A Properties LLC) asking if he was in favor of/opposed to the vacation request and if he was willing to/not willing to acquire the subject rights-of-way, if vacated. His responses can be found in Comment #10 below.

B. To ensure that no property owner is deprived of required and reasonable access.
The proposed vacation will not deprive any property of required and reasonable access.

C. To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way.
This request will eliminate several existing dead-end rights-of-way. The proposed vacation will create an additional dead-end right-of-way (26th Avenue). However, the improved section of 26th Avenue terminates at the intersection with South 19th Street. At that point, 26th Avenue continues westerly but is unimproved and not used for vehicular and/or pedestrian traffic. As such, the creation of a dead-end will not have any adverse impact on the surrounding area.

D. To reduce or eliminate hazardous and dangerous traffic conditions.
The subject rights-of-way are unimproved and are not used for vehicular and/or pedestrian traffic.

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:

1. The Council Bluffs Public Works Department stated that they have no comment on the request.

2. The Council Bluffs Fire Department stated that they have no comments on the request.

3. The Council Bluffs Police Department stated that they have no comments on the request.

4. Council Bluffs Water Works stated that they have no utilities in the area.

5. MidAmerican Energy stated that they have no conflict with the request.

Since there are no public utilities located in any of the subject rights-of-way, no utility easements will need to be retained.

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.
This request includes the partial vacation of several rights-of-way. Since all rights-of-way proposed to be vacated are unimproved and are not used for vehicular and/or pedestrian traffic, the proposed partial vacations will not have an adverse impact on the surrounding area.

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.

J. To establish an equitable price for surplus public property.
Mr. Poor was notified of the vacation request. His responses are included below:

1. Mr. Poor stated he is in favor of the request and is willing to acquire the portion of right-of-way adjacent to his property for the sum of $20,604.50.

2. Mr. Poor, on behalf of G-A Properties LLC, stated they are in favor of the request and are willing to acquire the portion of right-of-way adjacent to their property for the sum of $22,415.33.

Recommendation

The Community Development Department recommends the following:

A. Final plat approval of a two-lot subdivision to be known as Union at Bluffs Run, legally described above, subject to the comments stated above and the following conditions:

1) The final plat shall be recorded within 90 days of City Council approval or the plat will become null and void unless an extension has been requested and granted by the Community Development Department Director.

2) Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements.

3) All utilities shall be installed underground. Any costs to construct, remove and/or relocate any utilities shall be the responsibility of the applicant and/or developer, and not the City.

4) Sidewalk installation along the frontage(s) of each proposed lot shall be completed prior to issuance of the first Certificate of Occupancy on each lot, at no cost to the City.

5) All comments and technical corrections stated in case staff report shall be addressed on the final plat prior to execution of the document.

B. Approval of the request to vacate and dispose of the public rights-of-way identified above, subject to the comments stated above and the following condition:

1) The purchase price shall be $20,604.50 (Gregory Poor) and $22,415.33 (G-A Properties LLC), with the total sum being forgiven by the City of Council Bluffs upon issuance of a Certificate of Occupancy for a completed multifamily residential structure on Lot 1, Union at Bluffs Run.

Public Hearing

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

Speakers in favor:
1. Elizabeth Hunter, Synder and Associates, 231 Bennett Avenue, Council Bluffs, IA 51503
2. Camille Hawk, 11240 Davenport Street, Omaha, NE 68154

Speakers against: None

The City Planning Commission recommended the following:

A. Final plat approval of a two-lot subdivision to be known as Union at Bluffs Run, legally described above, subject to the comments stated above and the following conditions:

1. The final plat shall be recorded within 90 days of City Council approval or the plat will become null and void unless an extension has been requested and granted by the Community Development Department Director.

2. Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements.

3. All utilities shall be installed underground. Any costs to construct, remove and/or relocate any utilities shall be the responsibility of the applicant and/or developer, and not the City.

4. Sidewalk installation along the frontage(s) of each proposed lot shall be completed prior to issuance of the first Certificate of Occupancy on each lot, at no cost to the City.

5. All comments and technical corrections stated in case staff report shall be addressed on the final plat prior to execution of the document.

B. Approval of the request to vacate and dispose of the public rights-of-way legally described above, subject to the comments stated above and the following condition:

1. The purchase price shall be $20,604.50 (Gregory Poor) and $22,415.33 (G-A Properties, LLC), with the total sum being forgiven by the City of Council Bluffs upon issuance of a Certificate of Occupancy for a completed multi-family residential structure on Lot 1, Union at Bluffs Run.

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: Letter of Intent
Attachment C: ALTA/NSPS Land Title Survey
Attachment D: Union at Bluffs Run Final Plat
Attachment E: Right-of-Way Vacation Plat Exhibit

Prepared by: Moises Monrroy, Planner, Community Development Department