City Council Communication

Department: Community Development Case #MIS-24-002 Applicant: Garrett Rich Phillip Lewis Engineering 23620 Interstate 30 Bryant, AR 72022	Resolution of Intent No. _____ Resolution to Dispose No._____	Reso. of Intent: 6/10/2024 Reso. to Dispose: 6/24/2024

Subject/Title

Request: Release the permanent and perpetual easements across the previously vacated section of South 23rd Street and two previously vacated north/south alleys legally described as being portions of Lot 3, Railroad Addition Replat 1, City of Council Bluffs, Pottawattamie County, Iowa

Location: Immediately east of 2711 S. 24th Street

Background/Discussion

The Community Development Department has received a request from Phillip Lewis Engineering to release the following permanent and perpetual utility easements, as identified in Attachment 'A':

A. A 12-foot wide utility easement over the easterly vacated north/south alley in Lot 3, Railroad Addition Replat 1, vacated by Ordinance No. 3836 on June 18, 1968;
B. A 12-foot wide utility easement over the westerly vacated north/south alley in Lot 3, Railroad Addition Replat 1, vacated by Ordinance No. 3836 on June 18, 1968; and
C. A 66-foot wide utility easement over vacated S. 23rd Street, located in Lot 3, Railroad Addition Replat 1, vacated by Ordinance No. 4249 on June 26, 1978.

A location/zoning map is included as Attachment 'B.'

At the time of the above vacations, the City reserved permanent and perpetual easements to allow utility providers access to their infrastructure. The subject property was replatted in 2015 and at that time it was discussed vacating the subject easements. However, due to the exact location of the easements being unknown, the subject easements were not released.

The applicants have conducted an ALTA survey (see Attachment 'C') identifying the easement locations on the subject property and have prepared legal descriptions for said easements. At this time, the applicants are requesting approval from the City to release the recorded easements over the previously vacated alleys and S. 23rd Street to allow for construction of a new service center building for Camping World. Part of the process to release any permanent and perpetual utility easement is for the City to receive consent from all local utility providers. On May 21, 2024, the Council Bluffs Community Development Department officially notified all local utility providers of the subject requests. Included in the notification was a petition for each utility provider to sign and return back to the City which acknowledges their consent to release said easements. To date, the Community Development Department has received the following responses:

- Cox Communications returned the signed petition on May 28, 2024 acknowledging their support to release the subject easements.
- Council Bluffs Water Works stated they have no infrastructure within the subject easements and the request will go before their Board on June 18, 2024 for approval.
- MidAmerican Energy stated they have underground three-phase electric distribution facilities

and equipment along portions of the perimeter of the property that are covered by the standard utility easement language included in the Railroad Addition Replat 1 final plat and asked staff to confirm that the subject release request will not impact said easements. Staff confirmed that the standard utility easements on the Railroad Addition Replat 1 will remain in place and will not be removed as a result of the subject request.

- The Council Bluffs Public Works Department stated they do not have any infrastructure within the requested release of easements area and are not opposed to the request.

City staff will continue to work with the remaining local utility providers to obtain their formal consent to release the subject easements. The release of the perpetual and permanent utility easements shall become effective once all local utility providers submit their signed petition form, which releases their interest(s) in said utility easement, to the City of Council Bluffs.

Recommendation

The Community Development Department recommends approval to release the permanent and perpetual easements across the previously vacated section of South 23rd Street and two previously vacated north/south alleys legally described as being portions of Lot 3, Railroad Addition Replat 1, City of Council Bluffs, Pottawattamie County, Iowa, subject to the following condition:

A. The release of the perpetual and permanent utility easements shall become effective once all local utility providers submit their signed petition form, which releases their interest(s) in said utility easement, to the City of Council Bluffs.

Attachments

Attachment A: Easement Exhibits
Attachment B: Location/zoning map
Attachment C: ALTA Survey

Prepared by: Haley Weber