City Council Communication (Updated)

Department: Community Development CASE #SAV-24-001 Applicant: Monte Wilson 732 Willow Avenue Council Bluffs, IA 51501	Reso. of Intent No. _____ Reso. to Dispose No. _____	Resolution of Intent: 6/24/24 Resolution to Dispose: 7/8/24 Planning Commission: 6/11/24

Subject/Title

Request: Public hearing on the request of Monte Wilson to vacate and dispose of the east/west alley abutting Lots 5 and 6, Block 2, Bayliss 2nd Addition, City of Council Bluffs, Pottawattamie County, Iowa

Location: Alley abutting properties commonly addressed as 129 S. 8th Street, 732 and 734 Willow Avenue

Background

Update: on Friday, June 28, 2024, the City of Council Bluffs was made aware by the Pottawattamie County Auditor's Office that the subject alley is a privately owned driveway for the benefit of all three abutting properties and is not a platted alley. This information was discovered in the deeds for the abutting properties. Since this is a privately owned driveway, the City of Council Bluffs will not complete the process to vacate and convey the alley to the adjacent landowners.

The Community Development Department has received a request from Monte Wilson to vacate and dispose of the east/west alley abutting Lots 5 and 6, Block 2, Bayliss 2nd Addition, City of Council Bluffs, Pottawattamie County, Iowa. The subject alleyway measures approximately 8 feet in width by 120 feet in length. The applicant owns the adjacent properties at 732 Willow Avenue and 129 S. 8th Street and is looking to vacate the dead-end alley to restrict public access for security purposes. The subject alleyway has been paved and is maintained by the adjacent property owners.

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 – Residential property owned by Council Bluffs Finance Inc. (129 S. 8th Street)
South –

- Residential property owned by Monte Wilson (732 Willow Avenue)
- Residential property owned by Richard and Jeanette Adams (734 Willow Avenue)

East – Residential property owned by Monte Wilson (732 Willow Avenue)

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 J below.

B. To ensure that no property owner is deprived of required and reasonable access.

The subject alley abuts three parcels of land, which are comprised of multiple existing lots of record. 129 S. 8th Street has access off S. 8th Street, 732 Willow Avenue has access off Willow Avenue, and 734 Willow Avenue has access off both S. 8th Street and Willow Avenue. All owners are interested in acquiring their portions of the subject alley, as summarized in Item J below. Therefore, an access easement shall be retained over the alley to ensure all owners have continued access.

C. To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way.

The subject request is vacate the entirety of the alley, which currently dead-ends into the adjacent property at 732 Willow Avenue.

D. To reduce or eliminate hazardous and dangerous traffic conditions.

The subject dead-end alley is utilized by the adjacent property owners to access the rear portions of their property and is not utilized for public 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:

- The Council Bluffs Public Works Department stated they are not opposed to the request.
- The Council Bluffs Police Department stated they have no comments or objections to the request.
- The Council Bluffs Parks and Recreation Department stated they have no comment on the request.
- Cox Communication stated they have no concerns regarding the request.
- Council Bluffs Water Works stated they have no comment on the request.
- Black Hills Energy stated they have no concerns regarding the request.
- MidAmerican Energy stated they have no conflict with 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 dead-end 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.

J. To establish an equitable price for surplus public property.

There are three property owners with land that abut the subject alley. All 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 responses have been received:

1. Monte Wilson stated he is in favor of the request and is willing to acquire the portion of alley adjacent to his property at 732 Willow Avenue.
2. Council Bluffs Finance Inc., represented by Monte Wilson, stated they are in favor of the request and are willing to acquire the portion of alley adjacent to their property at 129 South 8th Street.
3. Richard and Jeanette Adams stated they are in favor of the request and are willing to acquire the portion of alley adjacent to their property at 734 Willow Avenue.

Recommendation

The Community Development Department recommends withdrawing the resolution and cancelling the public hearing as the subject alley is a privately owned driveway for the benefit of all three abutting properties and not a platted alley. ~~approval of the request to vacate and dispose of the east/west alley abutting Lots 5 and 6, Block 2, Bayliss 2nd Addition, City of Council Bluffs, Pottawattamie County, Iowa, subject to the comments stated above and the following condition(s):~~

~~A. An access easement shall be retained over the subject alley; and~~

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

Public Hearing

Staff speakers for the request:
1. Christopher Gibbons, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor:
1. Monte Wilson, 732 Willow Avenue, Council Bluffs, IA 51501
2. Richard Adams, 734 Willow Avenue, Council Bluffs, IA 51501

Speakers against: None

The Planning Commission recommended approval to vacate and dispose of the east/west alley abutting Lots 5 and 6, Block 2, Bayliss 2nd Addition, City of Council Bluffs, Pottawattamie County, Iowa, subject to the comments stated above and the following condition(s):

A. An access easement shall be retained over the subject alley; and

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

VOTE: AYE – Hutcheson, Knauss, Freund, Rew, and Stroebele. NAY – None. ABSTAIN – VanHouten ABSENT – Rater and Watson. VACANT - Three Motion: Carried.

Attachments

Attachment A: Location/Zoning Map

Prepared by: Christopher N. Gibbons, Planning Manager, Community Development Department