City Council Communication

Department: Community Development CASE #SAV-24-003 Applicant: Parker Smith 903 High Street Council Bluffs, IA 51503	Reso. of Intent No. _____ Reso. to Dispose No. _____	Resolution of Intent: 1/27/2025 Resolution to Dispose: 2/10/2025 Planning Commission: 1/14/2025

Subject/Title

Request: Public hearing on the request of Parker Smith to vacate and dispose of a 14' x 173' section of 9th Avenue right-of-way being legally described as the south 14 feet of 9th Avenue right-of-way lying north of and adjacent to Lot 1, Block 2, Park Addition, City of Council Bluffs, Pottawattamie County, Iowa.

Location: Immediately north of 903 High Street

Background

The Community Development Department has received a request from Parker Smith to vacate and dispose of the south 14 feet of 9th Avenue right-of-way lying north of and adjacent to Lot 1, Block 2, Park Addition, Council Bluffs, Pottawattamie County, Iowa, as shown in Attachment 'A'. The subject right-of-way measures 14 feet in width and 173 feet in length. The applicant owns the adjacent property at 903 High Street, immediately south of public right-of-way that serves as the trailhead into Fairmount Park. The applicant has poured a parking pad which partially encroaches into the adjacent right-of-way. In an effort to resolve this matter, the City's Parks and Recreation and Legal Departments have recommended the applicant pursue vacating the 14' section of right-of-way adjacent to their property which serves no public purpose due to the change in topography (see images below).



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: Unimproved 9th Avenue right-of-way/trailhead into City-owned Fairmount Park
South: Residential property owned by Parker Smith (applicant)
East: City-owned Fairmount Park
West: High Street right-of-way

The abutting property owner was mailed a petition 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. Their response is noted in Item J below.

B. To ensure that no property owner is deprived of required and reasonable access.
The applicant owns the only adjacent parcel (903 High Street) which has direct frontage on High Street and has vehicular access from a shared rear driveway off of 10th Avenue. The subject right-of-way is unimproved and is not utilized by any adjacent property for access purposes. Access for the adjacent property will not be affected by the proposed vacation. The request is necessary to ensure that a recently installed parking pad is located on private property; however, if the vacation is denied, it will have no effect on required and reasonable access to the property.

C. To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way.
The subject request is to vacate a portion of unimproved, dead-end 9th Avenue right-of-way that sits at a higher grade than the Fairmount Park trailhead and serves no public purpose.

D. To reduce or eliminate hazardous and dangerous traffic conditions.
The subject right-of-way is not improved 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 Parks and Recreation Department has been working with the property owner on resolving the matter of the paved parking pad on public right-of-way and has deemed the subject vacation area to be of no purpose to the City's trailhead into Fairmount Park.
- The Council Bluffs Public Works Department stated they have no comment on the request.
- The Council Bluffs Police Department stated they have no comments or objections to the request.
- The Council Bluffs Fire Department stated they have no comment on 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 an unimproved portion of right-of-way that serves no public purpose.

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.
The applicant is the only property owner abutting the subject right-of-way and is eligible to receive the portion of the right-of-way adjacent to their property in consideration of $393.30. The applicant's signed petition has not been received as of the date of this report.

Recommendation

The Community Development Department recommends approval of the request of Parker Smith to vacate and dispose of a 14' x 173' section of 9th Avenue right-of-way being legally described as the south 14 feet of 9th Avenue right-of-way lying north of and adjacent to Lot 1, Block 2, Park Addition, City of Council Bluffs, Pottawattamie County, Iowa.

Public Hearing

Staff speakers for the request:

1. Haley Weber, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor: None

Speakers against: None

The Planning Commission recommended approval of the request of Parker Smith to vacate and dispose of a 14' x 173' section of 9th Avenue right-of-way being legally described as the south 14 feet of 9th Avenue right-of-way lying north of and adjacent to Lot 1, Block 2, Park Addition, City of Council Bluffs, Pottawattamie County, Iowa.

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

Attachments

Attachment A: Survey
Attachment B: Location/Zoning Map

Prepared by: Haley Weber, Planner, Community Development Department