City Council Communication

Department: Community Development CASE #SAV-25-001 Applicant(s): Parker Smith 724 Hazel Street Council Bluffs, IA 51503 Bill Somers 625 Lindberg Drive Council Bluffs, IA 51503	Reso. of Intent No. _____ Reso. to Dispose No. _____	Resolution of Intent: 3/25/2025 Resolution to Dispose: 4/7/2025 Planning Commission: 3/11/2025

Subject/Title

Request: Public hearing on the request of Parker Smith and Bill Somers to vacate and dispose of the Lindberg Drive right-of-way adjacent to the easterly 80 feet of Lot 9, Block 1, and the westerly 30 feet of Lot 1 and all of Lot 2, Block 3, Oak Grove Addition, City of Council Bluffs, Pottawattamie County, Iowa.

Location: Immediately south of 724 Hazel Street

Background

The Community Development Department has received a request from Parker Smith (representing 724 Hazel Street) and Bill Somers (representing 625 Lindberg Drive) to vacate and dispose of the Lindberg Drive right-of-way adjacent to the easterly 80 feet of Lot 9, Block 1, and the westerly 30 feet of Lot 1 and all of Lot 2, Block 3, Oak Grove Addition, City of Council Bluffs, Pottawattamie County, Iowa. The subject right-of-way measures approximately 60 feet in width and 80 feet in length.

The applicant at 724 Hazel (Parker Smith) previously brought forth a request to vacate only the north half of the subject right-of-way to incorporate additional land area into their property for off-street parking purposes. Said request was originally scheduled for the February 11, 2025 Planning Commission meeting, with a staff recommendation of denial due to creation of a substandard segment of right-of-way. The applicant requested to postpone the public hearing to revise the request to include the entire width of Lindberg Drive right-of-way, as described above. Vacating the entire portion of Lindberg Drive right-of-way would result in Lot 2, Block 3, Oak Grove Addition (the west 50 feet of 625 Lindberg Drive) to become landlocked. The applicants intend to submit a subsequent final plat request to combine the acquired portions of right-of-way and existing lots into two lots of record so that all lots maintain access following the proposed vacation.

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 Parker Smith (applicant)
South: Residential property owned by John S. and Ramona C. Crookham Trust (applicant, represented by Bill Somers)
East: Lindberg Drive and Hazel Street
West: Formerly vacated Lindberg Drive (Case #SAV-19-005)

The abutting property owners were 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 property (625 Lindberg Drive) to the south of the proposed vacation area is comprised of two existing lots of record (Lots 1 and 2, Block 3, Oak Grove Addition). Lot 2, Block 3, Oak Grove Addition only has access off the subject portion of Lindberg Drive to be vacated and would therefore become landlocked if the vacation were to be approved. The Community Development Department recommends that the vacation not become effective until such time a final plat is executed to replat the property at 625 Lindberg into one lot of record so that all lots continue to have access following the proposed vacation. The property at 724 Hazel Street will continue to have access off Hazel Street.

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 an unimproved, dead-end section of Lindberg Drive right-of-way.

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 Council Bluffs Public Works Department stated an easement shall be retained over the existing sanitary sewer line located within the subject right-of-way.
- 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.
- MidAmerican Energy stated they operate overhead electric distribution facilities that appear to be within, adjacent, or overhanging the section of Lindberg Drive right-of-way to be vacated. MidAmerican Energy's acceptance of the revised request to vacate and dispose is contingent upon the establishment of a permanent and perpetual utility easement to provide and ensure reasonable access to their facilities within the area to be vacated.
- Black Hills Energy stated they have no concerns with the request.
- Cox Communications stated they have no objections to the request.

F. To maintain appropriate right-of-way width to ensure that an adequate pedestrian and vehicular circulation system is retained. The subject right-of-way dead-ends into private property to the west and is not improved. Vacating the subject right-of-way would have no impact on pedestrian or vehicular circulation.

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 Lindberg Drive right-of-way which dead-ends into private property.

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 two property owners with land that abuts the subject right-of-way. 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 $381.42. The applicant at 724 Hazel Street has indicated that they are in favor of the request and willing to acquire their portion of subject right-of-way for $381.42. The signed petition from 625 Lindberg has not been returned as of the date of this report.

Recommendation

The Community Development Department recommends approval of the request of Parker Smith and Bill Somers to vacate and dispose of the Lindberg Drive right-of-way adjacent to the easterly 80 feet of Lot 9, Block 1, and the westerly 30 feet of Lot 1 and all of Lot 2, Block 3, Oak Grove Addition, 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 subject right-of-way for utility access and maintenance purposes;
B. All portions of the subject right-of-way shall be disposed of to an abutting property owner(s); and
C. A final plat shall be executed to combine Lots 1 and 2, Block 3, Oak Grove Addition with the associated portion of right-of-way to create one lot of record.

Public Hearing

Staff speakers for the request:

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

Speakers in favor:

1. Parker Smith, 724 Hazel Street, Council Bluffs, IA 51503

Speakers against: None

The Planning Commission recommended approval of the request of Parker Smith and Bill Somers to vacate and dispose of the Lindberg Drive right-of-way adjacent to the easterly 80 feet of Lot 9, Block 1, and the westerly 30 feet of Lot 1 and all of Lot 2, Block 3, Oak Grove Addition, City of Council Bluffs, Pottawattamie County, Iowa, subject to the comments stated above and the following conditions:

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B. All portions of the subject right-of-way shall be disposed of to an abutting property owner(s); and
C. A final plat shall be executed to combine Lots 1 and 2, Block 3, Oak Grove Addition with the associated portion of right-of-way to create one lot of record.

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

Attachments

Attachment A: Location/Zoning Map
Attachment B: Site Photographs

Prepared by: Haley Weber, Planner, Community Development Department