City Council Communication

Department: Community Development Case #MIS-22-005 Applicants: Eyman Investments, LLC 8506 S. 117th Street LaVista, NE 68128 TC Accommodator 274, LLC 8506 S. 117th Street LaVista, NE 68128	Resolution of Intent No. _____ Resolution to Dispose No._____	City Council: 9/26/2022 Public Hearing: 10/10/2022

Subject/Title

Request: Release a permanent and perpetual utility easement reserved over the southerly portion of vacated 45th Avenue, being legally described as a portion of Parcels 21219 and 21220 of the SE1/4 NE1/4, and a portion of NE1/4 SE1/4, all in Section 15-74-44, City of Council Bluffs, Pottawattamie County, Iowa.

Location: Lying west/southwest of property addressed as 4445 Gifford Road.

Background/Discussion

The Community Development Department has received a request from Eyman Investments, LLC and TC Accommodator 274, LLC to release a permanent and perpetual utility easement reserved over the southerly portion of vacated 45th Avenue, being legally described as a portion of Parcels 21219 and 21220 of the SE1/4 NE1/4, and a portion of NE1/4 SE1/4, all in Section 15-74-44, City of Council Bluffs, Pottawattamie County, Iowa, and being more particularly described on the 45th Avenue right-of-way vacation exhibit (see Attachments A & B). The City of Council Bluffs vacated and released their interest in said 45th Avenue right-of-way on October 11, 2021 via Resolution No. 21-293. At the time of vacation, the City reserved a permanent and perpetual easement to allow utility providers access to their infrastructure. CenturyLink/Lumen is currently the only known utility provider to have infrastructure within the subject right-of-way, and they have provided the applicants and the City a letter stating their underground fiber line is no longer needed and will be abandoned in place (see Attachment C). The applicants are requesting approval from the City to release the recorded easement over vacated 45th Avenue so they can move forward with re-platting their landholdings into a two-lot industrial subdivision to be known as Eyman Subdivision. Said subdivision is currently under review by the City and is scheduled for a public hearing by City Council on October 10, 2022 (Case #SUB-22-011).

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 September 8, 2022, the Council Bluffs Community Development Department officially notified all pertinent City Departments and local utility providers of the applicants' request to release the permanent and perpetual easement reserved over the subject vacated 45th Avenue right-of-way. 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 easement. To date, the Community Development Department has received responses from the Council Bluffs Public Works Department, Fire Department, and Permits/Inspections Division about the request. City staff will continue to work with the remaining local utility providers to obtain their formal consent to release said easement.

Recommendation

The Community Development Department recommends approval to release the permanent and perpetual utility easement reserved over the southerly portion of vacated 45th Avenue, being legally described as a portion of Parcels 21219 and 21220 of the SE1/4 NE1/4, and a portion of NE1/4 SE1/4, all in Section 15-74-44, City of Council Bluffs, Pottawattamie County, Iowa, and being more particularly described on Attachment 'B' of the case staff report, subject to the following condition:

1. The release of the perpetual and permanent utility easements across said vacated 45th Avenue right-of-way 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: Location/zoning map
Attachment B: Plat of survey for the subject vacated 45th Avenue right-of-way
Attachment C: Letter from CenturyLink/Lumen

Prepared by: Christopher N. Gibbons, AICP, Planning & Code Compliance Manager