City Council Communication

Department: Community Development Department Case #MIS-23-001 Applicant: Legacy Family Campus c/o/ Clarrissa Newman 1515 Avenue J Council Bluffs, IA 51501 Representative: Olsson Associates c/o Maegan Woolf 2111 South 67th Street, Ste. 200 Omaha, NE 68106	Resolution of Intent No. _____ Resolution to Dispose No._____	City Council: 2/13/2023 Public Hearing: 2/27/2023

Subject/Title

Request for the release of several permanent and perpetual utility easements across vacated alleys and streets located within Legacy Family Campus Subdivision Phase 1 and Legacy Family Campus Subdivision Phase 2, City of Council Bluffs, Pottawattamie County, Iowa.

Location: Lakin Human Services Campus

Background/Discussion

On December 19, 2022, the Council Bluffs City Council approved Resolution No. 22-329, which granted final plat approval for a four-lot subdivision to be known as the Legacy Family Campus Subdivision Phase 3 (see Case #SUB-22-015). Included in the subdivision are several vacated streets and alleys, which have permanent and perpetual utility easements reserved over them. The applicant, Legacy Family Campus, has requested these utility easements be released to the extent possible so they can move forward with executing their final plat for the Legacy Family Campus Phase 3 as well as clean up obsolete easements with buildings currently located within them. The easements included in the request are as follows:

A. The permanent and perpetual utility easement reserved over the vacated east/west alley between vacated Avenue I, Avenue J, North 14th Street, and vacated North 15th Street (labeled "alley #1" on Attachment 'A'), established by Resolution No. 07-245 (Attachment 'B') on June 11, 2007;
B. The permanent and perpetual utility easement reserved over vacated Avenue I right-of-way between North 14th Street and vacated North 15th Street, established by Resolution No. 07-245 on June 11, 2007;
C. The permanent and perpetual utility easement reserved over the vacated east/west alley between vacated Avenue H, vacated Avenue I, North 14th Street, and vacated North 15th Street (labeled "alley #2" on the Attachment 'A'), established by Resolution No. 07-245 on June 11, 2007;
D. The permanent and perpetual utility easement reserved over vacated Avenue H between North 14th Street and vacated North 15th Street, established by Resolution No. 07-245 on June 11, 2007; and
E. The permanent and perpetual utility easement reserved over vacated Avenue H between vacated North 15th Street and North 16th Street, established by Ordinance No. 4076 (Attachment 'C') on September 3, 1974.

Comments

The Community Development Department had the following comments:

A. Several of the subject easements exist over areas slated for development as part of the Legacy Family Campus Subdivision Phase 3. The final plat for this subdivision has been approved by the City Council, but the developer cannot record the plat due to the presence of these easements.
B. Some of the subject easements run across land with existing developments. These easements do not have utilities within them, but they should be released in order to eliminate obsolete public easements within the Legacy Family Campus.
C. All subject easements appear to be eligible for full release with the following exceptions:
    1. The easement over the vacated east/west alley between vacated Avenue I, Avenue J, North 14th Street, and vacated North 15th Street may have copper facilities within the eastern portion, according to utility maps supplied by Lumen. The map shows the copper facilities being located entirely under the parking lot area to the east of the Micah House Shelter. For this reason, only the portion of the easement that falls within the boundaries of Lot 2, Legacy Family Campus Subdivision Phase 2, should be released. The portion of the easement that runs over Lot 1, Legacy Family Campus Subdivision Phase 2, should remain as-is. Note: Lot 1 will become Outlot 'A' upon recording of the Legacy Family Campus Subdivision Phase 3 final plat.
    2. The vacated Avenue I right-of-way contains a City storm sewer pipe, so the easement cannot be fully released. This easement conflicts with both the existing Micah House Shelter on Lot 2, Legacy Family Campus Subdivision Phase 2, and the future early education center to be constructed on the proposed Lot 1, Legacy Family Campus Subdivision Phase 3. The portions of the easement that overlap the aforementioned lots should be released, while the rest of the easement remains as-is. The Public Works Department has indicated that releasing the easement in this manner is acceptable.
    3. The easement over vacated Avenue H between North 14th Street and vacated North 15th Street contains a fiber line owned by Lumen (see utility comments below). This easement runs over the proposed Lot 3, Legacy Family Campus Subdivision Phase 3, and must be fully released before the final plat may be recorded. The applicant should work with Lumen to relocate this fiber line, as Lumen will not sign a petition in favor of releasing the subject easements until the aforementioned fiber facilities are addressed. Once the fiber line has been relocated and Lumen has submitted a petition in support of easement release, this Avenue H easement may be fully released.

All City utility providers were notified of the proposed request and were specifically asked if they oppose the release of these easements. The following comments were received:

A. The **Public Works Department** stated they have a storm sewer pipe underneath the vacated Avenue I right-of-way which requires an easement. Public Works is in support of a partial release of this easement as well as full release of all other subject easements.
B. **Council Bluffs Water Works** supports full release of all subject easements and will bring a resolution indicating their support to the Board of Water Works Trustees on February 21, 2023.
C. **MidAmerican Energy** supports full release of the subject easements.
D. **Black Hills Energy** supports full release of the subject easements and noted that they have a natural gas trunk line within the vacated North 15th Street right-of-way (easement NOT under consideration for release).
E. **Lumen/CenturyLink** stated they have a fiber line within the easement over vacated Avenue H between North 14th Street and North 15th Street that conflicts with the applicant's request. The Legacy Family Campus will need to coordinate with Lumen to relocate this fiber line in order for Lumen to support release of the subject easements. There are also various copper lines within the Legacy Family Campus, one of which may fall within a portion of the easement over the northernmost vacated alley (Alley #1 in Attachment 'A'). This copper facility runs under an existing parking lot east of the Micah House Shelter. Other copper facilities within the Lakin Campus appear to fall under private easements to which the City is not an interested party. The Legacy Family Campus should coordinate with Lumen to ensure copper facilities are relocated as needed prior to

development. Finally, Lumen indicated they have overhead facilities that fall within the platted easement along North 14th Street. This easement is not included in the request, and facilities within it will not be affected.

F. **Cox Communications** supports full release of the subject easements.

Recommendation

The Community Development Department recommends approval to release permanent and perpetual easements granted for utility purposes across previously vacated alleys and streets in Legacy Family Campus Subdivision Phase 1 and Legacy Family Campus Subdivision Phase 2 as follows:

A. Release the portion of the permanent and perpetual utility easement reserved over the vacated east/west alley between vacated Avenue I, Avenue J, North 14th Street, and vacated North 15th Street that overlaps Lot 2, Legacy Family Campus Subdivision Phase 2;
B. Release the portions of the permanent and perpetual utility easement reserved over vacated Avenue I right-of-way between North 14th Street and vacated North 15th Street that overlap Lot 2, Legacy Family Campus Subdivision Phase 2, and the proposed Lot 1, Legacy Family Campus Subdivision Phase 3;
C. Fully release the permanent and perpetual utility easement reserved over the vacated east/west alley between vacated Avenue H, vacated Avenue I, North 14th Street, and vacated North 15th Street;
D. Fully release the permanent and perpetual utility easement reserved over vacated Avenue H between North 14th Street and vacated North 15th Street; and
E. Fully release the permanent and perpetual utility easement reserved over vacated Avenue H between vacated North 15th Street and North 16th Street;

subject to the following conditions:

A. The release of the perpetual and permanent utility easements across said vacated alleys and rights-of-way, as legally described above, shall become effective once all local utility providers submit a signed authorization form, which releases their interest(s) in said utility easements, to the City of Council Bluffs.

Attachments

Attachment A – Legacy Family Campus – Utility Easement Release Exhibit
Attachment B - Copy of Resolution No. 07-245, approved on June 11, 2007
Attachment C – Copy of Ordinance No. 4076, approved on September 3, 1974
Attachment D – Signed authorization form to release utility easements from Black Hills Energy
Attachment E – Signed authorization form to release utility easements from MidAmerican Energy
Attachment F – Signed authorization form to release utility easements from Cox Communications

Prepared by: Brandon Siracuse, Planner