City Council Communication

Department: Community Development Case #SAV-23-002 Applicant: Monte Froelich d/b/a 1700 Council Bluffs, LP & Almond Opportunity, LLC 129 N. 10th Street, Suite 313 Lincoln, NE 68508	Resolution of Intent: Resolution to Dispose:	Set Public Hearing: 5/22/2023 Public Hearing: 6/12/2023 Planning Commission: 5/9/2023

Subject/Title

Request: Public hearing on the request of Monte Froehlich d/b/a 1700 Council Bluffs, LP to vacate and dispose of 16th Avenue right-of-way lying south of Lots 7-12, Block 36, Fleming and Davis Addition, City of Council Bluffs, Pottawattamie County, Iowa.

Location: 16th Avenue right-of-way located between South 17th Street and Project IceCap (1720 16th Avenue)

Background/Discussion

The Community Development Department has received an application from Monte Froehlich d/b/a 1700 Council Bluffs, LP to vacate and dispose of 16th Avenue right-of-way, lying west of South 17th Street, and abutting properties legally described as Lots 7 through 12, Block 36, Fleming and Davis Addition, City of Council Bluffs, Pottawattamie County, Iowa. The subject alley measures approximately 81' x 181' and is not improved to current City standards. The applicant owns all property to the north/south of the subject 16th Avenue right-of-way and has requested said street vacation in order to create a secured secondary truck entrance for their new cold storage facility at 1720 16th Avenue (see Attachments A & B).

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:

1. *To provide due process and citizen participation in the application and review process for vacations.* The applicant owns all land to the north/south that abuts the subject 16th Avenue 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 are willing/not willing to acquire the subject alley, if vacated. The response to this petition is summarized in Comment #10 below.

2. *To ensure that no property owner is deprived of required and reasonable access*. The applicant owns all land to the north/south that abuts the subject 16th Avenue right-of-way. Additionally, the applicant has entered into a purchase agreement to acquire an existing 16' x 508' strip of undeveloped land from the Union Pacific Railroad, which lies between the west right-of-way line of said 16th Avenue and their easterly property line. Said 16' x 508' strip of land is also accessible from 15th Avenue. No abutting property owner will deprived of required or reasonable access if the subject 16th Avenue right-of-way is vacated.

3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way*. The subject 16th Avenue right-of-way is a dead-end street that terminates at an existing 16'x 508' parcel of land owned by the Union Pacific Railroad. If approved, the proposed vacation will result in 16th Avenue terminating at the westerly right-of-way line of South 17th Street.

4. *To reduce or eliminate hazardous and dangerous traffic conditions*. Not applicable

5. *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:
   - Council Bluffs Public Works Department stated the applicant confirmed the sanitary and storm sewers located in the subject 16th Avenue right-of-way are private and will be maintained by IceCap, upon the street vacation being approved. Additionally, Council Bluffs Public Works stated the proposed vacation is acceptable and the applicant must reconstruct the intersection pavement and storm sewer inlets, at the intersection of 16th Avenue and South 17th, as per their approved construction permits.
   - Council Bluffs Water Works stated they have water infrastructure located on the easterly 72 feet of the subject 16th Avenue right-of-way and requested an easement. The applicant stated they have no objection to this easement request and has prepared a survey exhibit that shows the area and legal description of Council Bluffs Water Works infrastructure within said 16th Avenue right-of-way area. Said easement exhibit is shown in Attachment 'C' and will be included as part of the resolution to dispose of the subject 16th Avenue right-of-way to the applicant.
   - Black Hills Energy stated they have no concerns with the proposed vacation.
   - MidAmerican Energy stated they have electrical lines within the northerly 15' of the subject 16th Avenue right-of-way area and requested an easement. The applicant stated they have no objection to this easement request and has prepared a survey exhibit that shows the area and legal description of MidAmerican Energy's infrastructure within said 16th Avenue right-of-way area. Said easement exhibit is shown in Attachment 'D' and will be included as part of the resolution to dispose of the subject 16th Avenue right-of-way to the applicant.
   - Lumen/CenturyLink stated they have no utilities within the subject 16th Street area.

6. *To maintain appropriate right-of-way width to ensure that an adequate pedestrian and vehicular circulation system is retained.* Not applicable.

7. *To discourage the vacation of a portion of an existing alley, street or other right-of-way.* The request is to vacate a portion of 16th Avenue right-of-way, lying west of South 17th Street, which dead-ends into private property. The subject right-of-way is not improved to current City standards and functions as a private driveway into the applicant's cold storage facility at 1720 16th Avenue.

8. *To assist in the implementation of the goals and objectives of the Comprehensive Plan.* The proposed request does not conflict with the goals and objectives stated in the Comprehensive Plan, as the vacation will remove an unimproved section of 16th Avenue right-of-way from the City's street inventory and will facilitate economic development activity in an industrially zoned area of the City.

9. *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.

10. *To establish an equitable price for surplus public property.* The applicant owns all property to the abutting north/south of the subject 16th Avenue vacation area. The City mailed the applicant a petition asking if they are favor of/opposed to the vacation request, and if they are willing/unwilling to acquire said 16th Avenue

right-of-way section for a total cost of $6,020.00. The applicant signed and mailed the petition back to the City stating they are in favor of the street vacation and are willing to acquire it for the price stated above.

Recommendation

The Community Development Department recommends approval of the request to vacate and dispose of 16th Avenue right-of-way lying south of property legally described as Lots 7-12, Block 36, Fleming and Davis Addition, City of Council Bluffs, Pottawattamie County, Iowa subject to all comments stated above and the following conditions:

1. The applicant shall combine their landholdings that abut the subject 16th Avenue right-of-way into one parcel of land, either through an administrative combination with Pottawattamie County or a minor subdivision, final plat, after purchasing said right-of-way from the City of Council Bluffs; and
2. An easement shall be retained over portions of the subject 16th Avenue right-of-way where existing infrastructure for Council Bluffs Water Works and Mid-American Energy are located in accordance with area defined and legally described in Attachments 'C' and 'D'.

Public Hearing

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

Speakers in favor: None

Speakers against: None

The City Planning Commission recommended approval of the request to vacate and dispose of 16th Avenue right-of-way lying south of property legally described as Lots 7-12, Block 36, Fleming and Davis Addition, City of Council Bluffs, Pottawattamie County, Iowa, as per staff's recommendation.

VOTE: AYE – Bass, Hutcheson, Knauss, Opperman, Rater, Rew, Stroebele, and Van Houten. NAY - None ABSTAIN – None. ABSENT – Bailey. VACANT - Two Motion: Carried.

Attachments

Attachment A: Location map
Attachment B: IceCap site plan
Attachment C: Easement exhibit for Council Bluffs Water Works infrastructure
Attachment D: Easement exhibit for MidAmerican Energy's infrastructure

Prepared by: Christopher N. Gibbons, AICP, Planning Manager