City Council Communication

Department: Community Development Case #SAV-16-001 Applicant: James R. Huff 3204 Avenue K Council Bluffs, IA 51501	Resolution of Intent No. _____ Resolution to Dispose No. _____	Resolution of Intent: 5/22/2023 Resolution to Dispose: 6/12/2023 Planning Commission: 05/09/2023

Subject

Request: Public hearing on the request of James R. Huff to vacate and dispose of the east/west alley abutting Lots 1 through 11, Block 5, Bensons 1st Addition, and the vacated North 32nd Street adjacent to Lot 1, Block 5, and Lot 12, Block 4, Bensons 1st Addition, all in the City of Council Bluffs, Pottawattamie County, Iowa.

Location: 3204 Avenue K

Background

The Community Development Department has received applications from James R. Huff for the following requests:

A. **CASE #SAV-16-001**: Vacate and dispose of the east/west alley abutting Lots 1 through 11, Block 5, Bensons 1st Addition, and the vacated North 32nd Street adjacent to Lot 1, Block 5, and Lot 12, Block 4, Bensons 1st Addition;
B. **CASE #SUB-23-006 *(Reviewed by City Council)***: Final plat approval of a one-lot subdivision to be known as Huff-Sales Subdivision, being a replat of properties legally described in Attachment 'A'; and
C. **CASE #MIS-23-003 *(Reviewed by City Council)***: Release of a portion of the west half of the permanent and perpetual utility easement over the vacated North 32nd Street right-of-way, as legally described in Attachment 'B'.

The applicant initially brought forth the subject vacation request in 2016; however, the request did not complete the public hearing process through City Council at that time for reasons unknown. The applicant owns property at 3204 Avenue 'K', the east half of the vacated North 32nd Street, and the vacant 1.53 acre parcel north of 3204 Avenue 'K'. The 1.53 acre parcel is separated from the applicant's other two properties by an existing unimproved east/west alley. The purpose of the subject request is to complete the vacation process started in 2016, of the subject east/west alley (Case #SAV-16-001) so that the applicant can combine all three of their properties into one lot of record (Case #SUB-23-006 – see Attachment 'A'). The applicant intends to construct an addition to their existing residential dwelling on the property at a later date.

Additionally, when North 32nd Street was vacated on April 11, 2016 via Resolution No. 16-83, a permanent and perpetual utility easement was retained over the entirety of the vacated right-of-way. The applicant has submitted a request to release a portion of said easement to allow for the aforementioned residential addition (Case #MIS-23-003 – See Attachment 'B'). A zoning/location map is included with this report as Attachment 'C'.

The Council Bluffs City Planning Commission is tasked with making a recommendation on the subject vacation request (Case #SAV-16-001), with City Council reviewing the final plat and release of easements requests.

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*. There are ten (10) property owners with land that abuts the subject right-of-way. The owners of these properties are as follows:
    1. Northgate Residential Townhomes LLC (3131 Avenue L)
    2. Huff and Sales-Huff Family Trust (3204 Avenue K, the east half of vacated N. 32nd Street, and the 1.53 acre parcel to the north)
    3. Georgina Elizabeth Olivieri Schulte (3206 Avenue K)
    4. Patricia McCoy (3208 Avenue K)
    5. Jeanette Figgins (3210 Avenue K)
    6. Tracy Busse (3212 Avenue K)
    7. Sandra Marr (3214 Avenue K)
    8. Danny and Patricia Bates (3236 Avenue K)
    9. Richard and Rosemary Moore (3240 Avenue K)
    10. Linda L. Gwennap (3244 Avenue K)

    All abutting property owners were mailed petitions asking if they are in favor or/opposed to the vacation request and if they are willing/not willing to acquire the portion of the subject alley adjacent to their property, if vacated. Responses to these petitions are summarized in comment #10 below.

B. *To ensure that no property owner is deprived of required and reasonable access*. The 1.53 acre parcel north of the subject right-of-way, owned by the applicant, will be landlocked if the proposed vacation is approved. Therefore, a final plat shall be executed to combine the residential properties owned by the applicant along Avenue 'K' with the 1.53 acre parcel and portion of the vacated alleyway to create one lot of record, upon approval of the subject request. The applicant has submitted an application for a final plat and release of easements request to combine all three properties into a single lot of record (Cases #SUB-23-006 and #MIS-23-003). All other properties abutting the subject right-of-way will continue to have access to an improved public street.

C. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way*. The subject alleyway currently dead-ends into Interstate-29 right-of-way to the west; therefore, the vacation will not create nor eliminate an existing dead-end alley.

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

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 local utility providers were notified of the proposed vacation request. The following responses were received:

    1. The Council Bluffs Public Works Department noted they have facilities in the general area, but have no conflicts with the vacation request.
    2. The Council Bluffs Fire Department stated they have no comments regarding the request.
    3. The Council Bluffs Parks and Recreation Department stated they have no comments regarding the request.
    4. Council Bluffs Water Works stated they need to maintain easement rights to at least the west 50 feet of the alley to access a 24" transmission main at the western edge of the alleyway.
    5. MidAmerican Energy stated they have overhead electric facilities in the east section of the alley that abuts the north end of the vacated North 32nd Street right-of-way that must remain readily accessible. The Community Development Department and MidAmerican Energy

discussed a 66'x6' easement along the easterly portion of the subject alley for access and maintenance purposes. This easement would be in addition to the easement retained over the northerly 10-feet of the vacated North 32nd Street right-of-way, this easement area would be 66'x16'. MidAmerican Energy has confirmed that said easement(s) would suffice for their access and maintenance needs.

The Community Development Department contacted the applicant and informed them of the proposed 66'x6' easement; the applicant had no comments or concerns regarding said easement.

6. Black Hills Energy stated they have no concerns regarding 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 alley is not improved and currently dead-ends into Interstate-29 right-of-way to the west.

H. *To assist in the implementation of the goals and objectives of the Comprehensive Plan.* The request is consistent with 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 consistent with the adopted policy.* All abutting property owners were mailed petitions asking if they are in favor of/opposed to the vacation request and if they are willing/not willing to acquire the portion of the subject alley adjacent to their property, if vacated. Each abutting property owner is eligible to receive their portion of the alley at no cost. The following responses were received:

1. Huff and Sales-Huff Family Trust stated they are in favor of the request and are willing to acquire the portion of alley adjacent to their properties at no cost and has agreed to acquire all portions of the subject alley where the City has not received signed petitions from the neighboring property owner.
2. Danny and Patricia Bates stated they are in favor of the request and are not willing to acquire the portion of alley adjacent to their property at 3236 Avenue K.
3. Northgate Residential Townhomes LLC stated they are indifferent to the request and are not willing to acquire the portion of alley adjacent to their property at 3131 Avenue L.
4. Tracy L. Busse stated they are opposed to the request and are willing to acquire the portion of alley adjacent to their property at 3212 Avenue K at no cost.
5. Richard and Rosemary Moore stated they are in favor of the request and are not willing to acquire the portion of alley adjacent to their property at 3240 Avenue K at no cost.
6. Jeanette Figgins stated they are in favor of the request and are not willing to acquire the portion of alley adjacent to their property at 3210 Avenue K at no cost.
7. Patricia A. McCoy stated they are opposed to the request and are not willing to acquire the portion of alley adjacent to their property at no cost. *(Response provided through previous correspondence with the City.)*
8. Linda L. Gwennap stated they are in favor of the request and are willing to acquire the portion of alley adjacent to their property at 3244 Avenue K. *(Response provided through previous correspondence with the City.)*

9. Georgina Elizabeth Oliverieri Schulte stated they are in favor of the request and are willing to acquire the portion of alley adjacent to their property at no cost. *(Response provided through previous correspondence with the City.)*

The Community Development Department has not received signed petitions from the following property owner:

1. Sandra Marr (3214 Avenue K).

Therefore, it is assumed that the above listed property owner does not want to acquire their portion of the subject alleyway. The Community Development Department recommends that the applicant be allowed to acquire this portion of the alleyway that is unclaimed by Ms. Marr so that there are no remnant pieces of unclaimed alley.

Recommendation

The Community Development Department recommends approval of the request to vacate and dispose the east/west alley abutting Lots 1 through 11, and the vacated N. 32nd Street adjacent to Lot 1, Block 5, and Lot 12, Block 4, Bensons 1st 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 westerly 50-feet and the easterly 66-feet of the subject east/west alley 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). The applicant shall be allowed to acquire all portions of the subject east/west alley where the City has not received signed petitions from the adjacent property owner(s) or where the owners have declined to acquire their portion thereof.
C. A final plat shall be executed to combine all landholdings owned by the applicant with the acquired portions of the subject alley to create one lot of record.

Public Hearing

Staff speaker for the request:

1. Haley Weber, Planner, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503
2. 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 the east/west alley abutting Lots 1 through 11, and the vacated N. 32nd Street adjacent to Lot 1, Block 5, and Lot 12, Block 4, Bensons 1st 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.

Attachment
Attachment A: Proposed Final Plat Attachment B: Release of Easements Exhibit Attachment C: Location/zoning map
Prepared By: Haley Weber, Planner