Council Communication

Department: Community Development Case #SAV-18-006 Applicant: Robert Howe 121 Norton Avenue Council Bluffs, IA 51501	Resolution of Intent No. _____ Resolution to Dispose No. _____	City Council: 05/21/18 Planning Commission: 05/08/18 Set Public Hearing: 05/21/18 Public Hearing: 06/11/18

Subject/Title

Request: Public hearing on the request of Robert Howe, represented by Richard Howe, to vacate and dispose of a section of undeveloped alleyway extending north from Hammer Avenue. The section of right-of-way is platted as a part of Babbitt Place Subdivision, and is adjacent to Lots D and E, Babbitt's Place.

Location: West of 1302 East Washington Avenue.

Background

The Community Development Department has received an application from Robert Howe, represented by Richard Howe, to vacate and dispose of a section of north/south alleyway that is located north of Hammer Avenue, and west of East Washington Street. If vacated, the applicant intends to acquire their portion of the alleyway to use as access to their undeveloped land to the west. The subject alleyway has never been developed, and dead-ends approximately 48.52 feet north of the northern right-of-way line of Hammer Avenue.

The following attachments have been included for reference:
Attachment A: Location and Zoning Map
Attachment B: Site Photos

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*.
   There are two separate parcels of land which abut the subject right-of-way, which are owned by the following parties:
   West – Undeveloped and unaddressed land that is owned by Robert and Corrine Howe.
   East – Single Family Dwelling owned by Austin and Elizabeth Diehm (1302 East Washington Ave)

   All abutting property owners were mailed petitions asking if they are in favor of/opposed to and/or willing to/not willing to purchase the portion of the right-of-way that abuts their property, if vacated. Responses to these petitions are summarized in Comment #10 below.

2. *To ensure that no property owner is deprived of required and reasonable access*.
   Both abutting property owners have frontage on to publically dedicated right-of-way. While the subject alleyway is used as an access point to Hammer Avenue from the land owned by the applicant, they would retain that access point if the right-of-way is vacated.

3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way*.
   This request is to vacate the entirety of the right-of-way, and would be eliminating and existing dead-end alley.

4. *To reduce or eliminate hazardous and dangerous traffic conditions*. The subject right-of-way is unimproved and is not used for vehicular and/or pedestrian traffic.

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:
   - Public Works Department stated they are not opposed to the proposed vacation.
   - The Fire Department stated they have no comments.
   - The Council Bluffs Building Division stated they have no comments.
   - Council Bluffs Water Works stated they have no utilities in the subject alleyway.
   - MidAmerican Energy stated they have no objections to the proposed vacation, with the condition that a utility easement remain over the former right-of-way.

   Based on the information above, if vacated, a utility easement over said right-of-way will be retained.

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.* This request is to vacate the entirety of the alleyway.

8. *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).

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.* All abutting property owners were notified about this vacation request. The following responses were received:
    - Robert Howe stated he is favor of the request and are willing to acquire his portion of the alleyway.
    - Austin and Elizabeth Diehm stated they are in favor of the request, and are willing to acquire their portion of the alleyway.

Recommendation

The Community Development Department recommends approval of the request to vacate and dispose of a section of undeveloped alleyway extending north from Hammer Avenue that is platted as a part of Babbitt Place Subdivision, and is adjacent to Lots D and E, Babbitt's Place Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, with Robert Howe (the owner of Lot D, Babbitt Place) acquiring the Western ½ of the vacated alleyway, and Austin and Elizabeth Diehm (the owners of Lot E, Babbitt Place) acquiring the Eastern ½ of the vacated alleyway. The approval is subject to the following conditions:

1. A permanent utilities easement will be maintained over the entirety of the former right-of-way.

Public Hearing

Speakers in favor:

1. Robert Howe, 121 Norton Avenue, Council Bluffs, IA 51503

Speakers against: None

Planning Commission Recommendation

The Planning Commission recommends approval of the request to vacate and dispose of a section of undeveloped alleyway extending north from Hammer Avenue that is platted as a part of Babbitt Place Subdivision, and is adjacent to Lots D and E, Babbitt's Place Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, with Robert Howe (the owner of Lot D, Babbitt Place) acquiring the Western ½ of the vacated alleyway, and Austin and Elizabeth Diehm (the owners of Lot E, Babbitt Place) acquiring the Eastern ½ of the vacated alleyway. The approval is subject to the following conditions:

1. A permanent utilities easement will be maintained over the entirety of the former right-of-way.

VOTE: AYE 7 NAY 0 ABSTAIN 0 ABSENT 0 VACANT 4 Motion: Carried

Attachment A – Right-of-way vacation map
Attachment B – Site Photos

Prepared By: Chris Meeks, Planner, Community Development Department