Council Communication

Department: Community Development Case #SAV-18-005 Applicant: T&A Real Estate, LLC P. O. Box 590 Harlan, IA 51537	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 T&A Real Estate, represented by Daniel P. Fischer, to vacate and dispose of a section of 11th Avenue extending from the east right-of-way line of South 7th Street to the west right-of-way line of the South Expressway. The section of right-of-way is platted as a part of Riddle's Subdivision, and is adjacent to Lots 10 and 11, Block 11, Riddle's Subdivision, and Lots 16 and 17, Block 14, Riddles Subdivision.

Location: Between 1025 South 7th Street and 1107 South 7th Street.

Background

The Community Development Department has received an application from T&A Real Estate, represented by Daniel P. Fischer, to vacate and dispose of a section of 11th Avenue that is located between South 7th Street and the South Expressway (see Attachment A). If vacated, the applicant intends to acquire their portion of the right-of-way to better suit the needs of a business that intends to locate in the building that is addressed as 1025 South 7th Street. The subject right-of-way previously held train tracks which have been removed. The subject section of 11th Avenue has never been developed for passenger vehicular traffic.

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:
   North – Commercial building owned by T&A Real Estate, LLC (1025 South 7th Street)
   South – Commercial buildings owned by the Lloyd and Janice Oxley Trusts (1107 South 7th Street)

   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*.
   Abutting property owners have access to South 7th Street, and will maintain their reasonable access. The vacation of this right-of-way, along with the vacation of a portion of the eastern half of the right-of-way of 11th Avenue in the same block (Case #SAV-17-002) there will be one property, owned by Joseph and Michelle Bates and legally described as the Eastern 29 feet of Lot 7, the vacated alley adjacent to the north, and the western half of the vacated alley adjacent to the west, all in Block 11, Riddles Subdivision. The

property will still be connected to city right-of-way associated with the South Expressway, but there will be no road frontage as the South Expressway is elevated. It appears that access to this site has come from neighboring property owners, as there has never been roadway access to the site.

3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way*. This request is to vacate this right-of-way will create a section of right-of-way that is adjacent to the South Expressway, but will not be connected to any road frontage.

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 do not support the vacation of this section of right-of-way, as future South Expressway construction projects could be affected by this 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 and access 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 right-of-way of 11th Avenue on the western side of the South Expressway.

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:
    - A representative of T-A Real Estate, LLC, stated they are in favor of the vacation, and willing to acquire their portion of the right-of-way.
    - A representative of the Lloyd and Janice Oxley Trusts stated they are in favor of the vacation, but not willing to acquire their portion of the right-of-way.

Recommendation

The Community Development Department recommends **denial** of the request to vacate and dispose of an the section of 11th Avenue that is located between South 7th Street and the South Expressway, based on the request of the Public Works Department.

Public Hearing

Speakers in favor:
1. Andy Sunday, 1025 South 7th Street, Council Bluffs, IA 51501
2. Roger Sandau, 650 Simms Avenue, Council Bluffs, IA 51503
3. Michelle Gates, 14017 Overland Trail, Council Bluffs, IA 51503

Speakers against: None

Planning Commission Recommendation

The Planning Commission recommends approvals to vacate and dispose of that part of 11th Avenue lying west of the west right-of-line of the South Expressway and east of the east right-of-way line of South 7th Street abutting Blocks 11 and 14, Riddles Subdivision, subject to the City providing access to property legally described as being the East 29 feet of Lot 7, Block 11, Riddles Subdivision and West ½ of the vacated alley adjacent.

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