City Council Communication

Department: Community Development Department Case #MIS-18-003 Applicant: Jennie Edmundson Memorial Hospital c/o Steve Baumert 933 E. Pierce Street Council Bluffs, IA 51503 Representative: Olsson Associates c/o Kellen Heideman 2111 South 67th Street, Ste. 200 Omaha, NE 68106	Resolution of Intent No. _____ Resolution to Dispose No._____	City Council: 7/09/2018 Public Hearing: 7/23/2018

Subject/Title

Request for the release of perpetual and permanent utility easements located across vacated alleys abutting Lots 1 through 10, Block 4, Hagg's First Addition; Lots 1 through 8, Huber and Walter Terrace, Lots 1 through 6, Block 5, Extension of Hagg's Addition, Lots 1 and 14, Block 6, Extension of Hagg's Addition; and across vacated Thomas Street right-of-way lying between Blocks 5 & 6, Extension of Hagg's Addition, City of Council Bluffs, Pottawattamie County, Iowa.

Location: North of Nicholas Street and South of Ridge Street, lying between East Broadway Street/East Kanesville Boulevard and East Pierce Street

Background/Discussion

On May 21, 2018, the Council Bluffs City Council approved Resolution No. 18-161, which granted final plat approval for a one-lot commercial subdivision to be known as Jennie Edmundson Addition (see Case #SUB-18-009). Included in the subdivision are three vacated alleys and two vacated right-of-way sections (Kimball Avenue and Thomas Street) which have perpetual and permanent utility easements located across them. The applicant, Jennie Edmundson Hospital, has requested these utilities easements be released, except for the easement over vacated Kimball Avenue, so that they can move forward with executing their final plat for the Jennie Edmundson Addition as well as finalize the design/layout of their new medical office building on this property. The easements to be released are as follows:

1. The perpetual and permanent utility easement across the vacated alley abutting Lots 1 through 10, Block 4, Hagg's First Addition which were established by Resolution No. 18-17 on January 22, 2018 (See Attachment B);
2. The perpetual and permanent utility easements across the vacated alleys abutting Lots 1 through 8, Huber & Walters Terrace, Lots 1 through 6, Block 5, Extension of Hagg's Addition, Lot 1 and Lot 14, Block 6, Extension of Hagg's Addition and across the vacated Thomas Street right-of-way abutting Lot 3, Block 5, Extension of Hagg's Addition and Lot 1, Block 6, Extension of Hagg's Addition, which were established by Ordinance No. 5038 on July 8, 1991 (see Attachment C); and;
3. The perpetual and permanent utility easements across that portion of vacated Thomas Street right-of-way abutting part of Lot 14, Block 6, Extention of Hagg's Addition and part of Lot 4, Block 5, Extension of Hagg's Addition, which were established by Ordinance No. 3909 on May 18, 1970 (see Attachment D).

Comments

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

1. Council Bluffs Fire Department stated they have no comments for the request.
2. The Community Development Department has received authorizations to release interest in the easement(s) from: Black Hills Energy and Cox Communications (see Attachments E & F).
3. Council Bluffs Water Works stated they have no utilities within the subject vacated alleys/right-of-way and are not opposed to releasing the easements. The Council Bluffs Water Works Board is scheduled to approve the authorization to release interest in the easement(s) at their July 17, 2018 meeting. The signed release form will then be returned to the Community Development Department for record keeping purposes.
4. Council Bluffs Public Works Department provided the following comments:
    a. There is a sanitary sewer line within the vacated Thomas Street right-of-way and is protected by a utility easement. The line can be moved or abandoned to accommodate their proposed medical office building.
    b. If the sanitary sewer line is to be abandoned it should be determined whether or not there is anything connected to the line. If there is nothing connected to the line it can be abandoned and the utility easement released.
    c. If the line is to be used for the office building it can be relocated and become a private lateral and the easement can be released.
5. Century Link stated they have telecommunication utilities located within the vacated alley in Block 4, Hagg's First Addition and will release their interest in the easement once the applicant pays the cost to relocate their utility lines.
6. Mid-American Energy Company stated they have overhead utilities in the vacated alley in Block 4, Hagg's First Addition. Mid-American Energy has requested the applicant provide them with an updated site plan for their medical office project so that they can determine where their overhead lines can be relocated, and if any new easements are necessary.

Recommendation

The Community Development Department recommends approval to release perpetual and permanent easements granted for utility purposes across previously vacated alley abutting Lots 1 through 10, Block 4, Hagg's First Addition, Lots 1 through 8, Huber & Walters Terrace, Lots 1 through 6, Block 5, Extension of Hagg's Addition and Lots 1 and 14, Block 6, Extension of Hagg's Addition along with the previously vacated Thomas Street right-of-way abutting Blocks 5 & 6, Extension of Hagg's Addition, all in the City of Council Bluffs, Pottawattamie County, Iowa, subject to the following condition:

1. The release of the perpetual and permanent utility easements across said vacated alleys and Thomas Street right-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 – Jennie Edmundson Addition – Utility Easement Release Exhibit
Attachment B - Copy of Resolution No. 18-17, approved on January 22, 2018
Attachment C – Copy of Ordinance No. 5038, approved on July 8, 1991
Attachment D – Copy of Ordinance No. 3909. Approved on May 18, 1970
Attachment E – Signed authorization form to release utility easements from Black Hills Energy
Attachment F - Signed authorization form to release utility easements from Cox Communications

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

JENNIE EDMUNDSON ADDITION

LOT 1

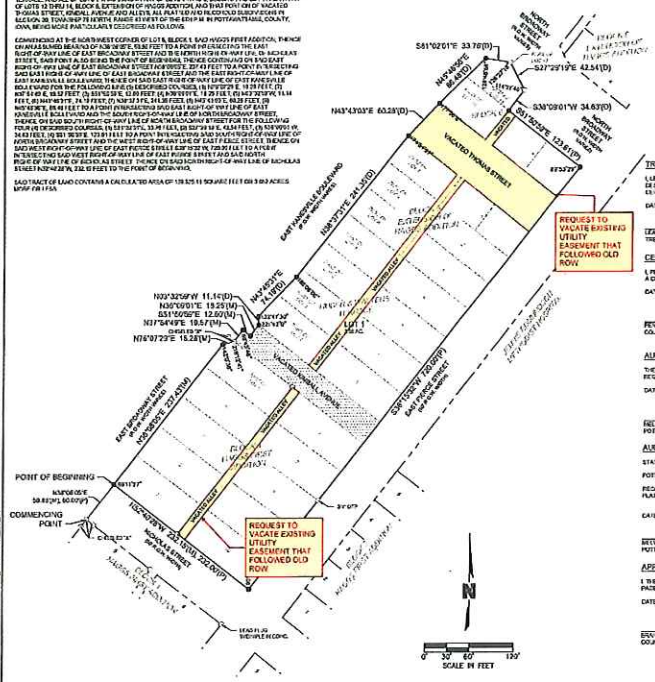
A REPLAT OF LOTS 1 THRU 10, BLOCK 4, HAGGS FIRST ADDITION, AND LOTS 1 THRU 8, HUBER & WALTERS TERRACE, AND LOTS 1 THRU 6, BLOCK 5, AND LOTS 1, 12 THRU 14, BLOCK 6, EXTENSION OF HAGGS ADDITION TOGETHER WITH VACATED THOMAS STREET, KIMBALL AVENUE AND ALLEYS, ALL PLATTED AND RECORDED SUBDIVISIONS LOCATED IN THE WEST HALF OF SECTION 30, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 6TH P.M., POTTAWATTAMIE COUNTY, IOWA

LEGAL DESCRIPTION

A TRACT OF LAND CONTAINING ALL OF LOTS 1 THRU 4 & 8 THRU 10 AND A PART OF LOT 5, BLOCK 4, HAGGS FIRST ADDITION, AND ALL OF LOTS 5 & 6, & 7 AND A PART OF LOTS 1 THRU 4, & HUBER & WALTERS TERRACE, AND ALL OF LOTS 1 THRU 3 AND A PART OF LOTS 4 THRU 6, BLOCK 5, AND LOT 1 AND A PART OF LOTS 12 THRU 14, BLOCK 6, EXTENSION OF HAGGS ADDITION, AND THAT PORTION OF VACATED THOMAS STREET, KIMBALL AVENUE AND ALLEYS, ALL PLATTED AND RECORDED SUBDIVISIONS IN SECTION 30, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 6TH P.M. IN POTTAWATTAMIE COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 6, BLOCK 1, SAID HAGGS FIRST ADDITION; THENCE ON AN ASSUMED BEARING OF N36°08'03"E, 55.82 FEET TO A POINT INTERSECTING THE EAST RIGHT-OF-WAY LINE OF EAST BROADWAY STREET AND TO BE IN NORTH RIGHT-OF-WAY LINE OF NICHOLAS STREET, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUING ON SAID EAST RIGHT-OF-WAY LINE OF EAST BROADWAY STREET N36°08'03"E, 237.43 FEET TO A POINT INTERSECTING SAID EAST RIGHT-OF-WAY LINE OF EAST BROADWAY STREET AND THE EAST RIGHT-OF-WAY LINE OF EAST KANESVILLE BOULEVARD; THENCE ON SAID EAST RIGHT-OF-WAY LINE OF EAST KANESVILLE BOULEVARD THE FOLLOWING (9) DESCRIBED COURSES: (1) N37°37'57"E, 18.29 FEET; (2) N43°51'49"E, 18.58 FEET; (3) S51°02'01"E, 33.70 FEET; (4) N43°43'03"E, 60.28 FEET; (5) N37°37'57"E, 241.36 FEET; (6) N52°22'03"W, 11.14 FEET; (7) N37°37'57"E, 24.19 FEET; (8) N52°37'15"E, 241.36 FEET; (9) N43°43'03"E, 89.48 FEET TO A POINT INTERSECTING SAID EAST RIGHT-OF-WAY LINE OF EAST KANESVILLE BOULEVARD AND THE SOUTH RIGHT-OF-WAY LINE OF NORTH BROADWAY STREET; THENCE ON SAID SOUTH RIGHT-OF-WAY LINE OF NORTH BROADWAY STREET FOR THE FOLLOWING (4) DESCRIBED COURSES: (1) S51°02'01"E, 33.70 FEET; (2) S52°22'19"E, 42.54 FEET; (3) S51°02'01"E, 60.00 FEET; (4) S37°37'57"W, 1231.81 FEET TO A POINT INTERSECTING SAID SOUTH RIGHT-OF-WAY LINE OF NORTH BROADWAY STREET AND THE WEST RIGHT-OF-WAY LINE OF EAST PIERCE STREET; THENCE ON SAID WEST RIGHT-OF-WAY LINE OF EAST PIERCE STREET S37°37'57"W, 728.91 FEET TO A POINT INTERSECTING SAID WEST RIGHT-OF-WAY LINE OF EAST PIERCE STREET AND SAID NORTH RIGHT-OF-WAY LINE OF NICHOLAS STREET; THENCE ON SAID NORTH RIGHT-OF-WAY LINE OF NICHOLAS STREET N52°46'28"W, 232.10 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS A CALCULATED AREA OF 1,019,575.11 SQUARE FEET OR 23.40 ACRES MORE OR LESS.



NOTES

1. ALL ANGLES ARE 90° UNLESS OTHERWISE NOTED.

LEGEND

- ● SET 5/8" REBAR W/CAP L.S. 17413
- ○ FOUND 5/8" REBAR (UNLESS NOTED OTHERWISE)
- (M) MEASURED DISTANCE
- (D) DEEDED DISTANCE
- (P) PLATTED DISTANCE
- (R) RECORDED MEASUREMENT
- BOUNDARY LINE
- PROPERTY LINE
- EXISTING PROPERTY LINE
- EXISTING/ REPLATTED PROPERTY LINE
- VACATED STREET OR ALLEY

TREASURER'S CERTIFICATE OF TAXES AND SPECIAL ASSESSMENTS

I, LEA VOSS, TREASURER OF POTTAWATTAMIE COUNTY, IOWA, DO HEREBY CERTIFY THAT THE LAND DESCRIBED IN THE ATTACHED AND FOREGOING LEGAL DESCRIPTIONS IS FREE FROM CERTIFIED TAXES AND CERTIFIED SPECIAL ASSESSMENTS.

DATED THIS _____ DAY OF _____, 2018

LEA VOSS
TREASURER, POTTAWATTAMIE COUNTY, IOWA

CERTIFICATE OF COUNTY ASSESSOR

I, PENNY RAHLFS HEREBY CERTIFY THAT ON THE ___ DAY OF _____, 2018 A COPY OF THIS PLAT WAS FILED IN THE COUNTY ASSESSOR'S OFFICE

DATED THIS _____ DAY OF _____, 2018

PENNY RAHLFS
COUNTY ASSESSOR

AUDITOR'S APPROVAL OF SUBDIVISION NAME OR TITLE

THE COUNTY AUDITOR HEREBY ACCEPTS AND APPROVES THE NAME OR TITLE OF SAID SUBDIVISION PLAT AS REQUIRED BY IOWA CODE SECTION 354.6(2)

DATED THIS _____ DAY OF _____, 2018

MELVYN HOUSER
POTTAWATTAMIE COUNTY AUDITOR

AUDITOR CERTIFICATE OF RECORDING

STATE OF IOWA } SS
POTTAWATTAMIE COUNTY }

DOCKET NO. _____ FILED FOR RECORDED THIS _____ DAY OF _____, 2018 AT _____ O'CLOCK ___ M. RECORDED IN PLAT BOOK ___, PAGES ___ AND DELIVERED TO THE COUNTY AUDITOR OF POTTAWATTAMIE COUNTY, IOWA.

DATED _____, 2018

MELVYN HOUSER
POTTAWATTAMIE COUNTY AUDITOR

APPROVAL OF COUNCIL BLUFFS COMMUNITY DEVELOPMENT DEPARTMENT

I, THE UNDERSIGNED COUNCIL BLUFFS COMMUNITY DEVELOPMENT DIRECTOR, APPROVE THE FINAL PLAT OF PAGE SUBDIVISION.

DATED THIS _____ DAY OF _____, 2018.

BRANDON GARRETT
COUNCIL BLUFFS COMMUNITY DEVELOPMENT DIRECTOR

APPROVAL BY COUNCIL BLUFFS CITY COUNCIL

CITY COUNCIL RESOLUTION NO. _____

RESOLUTION ACCEPTING AND APPROVING THE PLAT OF JENNIE EDMUNDSON ADDITION, AN ADDITION TO COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

NOW THEREFORE BE, AND IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, IOWA, THAT SAID PLAT OF JENNIE EDMUNDSON ADDITION, AN ADDITION TO COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA AS HERETO ATTACHED AND FORWARD PART OF THIS RESOLUTION BE, AND THE SAME HEREBY IS, ACCEPTED AND APPROVED.

PASSED _____ THE HONORABLE MATTHEW J. WALSH, MAYOR

APPROVED _____ ATTEST: JODI QUAKENBUSH, CITY CLERK

STATE OF IOWA } SS
POTTAWATTAMIE COUNTY }

I, JODI QUAKENBUSH, CLERK OF THE CITY OF COUNCIL BLUFFS, IOWA, DO HEREBY CERTIFY THAT THE FOREGOING IS A FULL, TRUE AND CORRECT COPY OF A RESOLUTION ACCEPTING AND APPROVING THE PLAT OF PAGE SUBDIVISION, AN ADDITION TO COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, WHICH SAID RESOLUTION WAS ADOPTED BY THE CITY COUNCIL OF SAID CITY ON THE ___ DAY OF _____, 2018 AND APPROVED BY THE MAYOR OF SAID CITY ON SAID DATE AS ALL FULL, TRUE AND CORRECTED AS THE SAME APPEARS ON RECORD IN THE OFFICE OF SAID CITY CLERK.

DATED THIS _____ DAY OF _____, 2018.

THE HONORABLE MATTHEW J. WALSH, MAYOR

ATTEST: JODI QUAKENBUSH, CITY CLERK

DEDICATION

JENNIE EDMUNDSON, WIDOW (A), AS THE OWNER OF THE REAL ESTATE DESCRIBED IN THE ATTACHED LEGAL DESCRIPTION, HAVE IN THE PURSUANCE OF THE LAW CAUSED SAID DESCRIBED REAL ESTATE, TO BE SURVEYED, STAKED AND PLATTED INTO LOTS AND STREETS, AS IS PARTICULARLY SHOWN AND SET FORTH IN THE ATTACHED PLAT AND SAID CERTIFICATE OF TERRY L. ROTHAUSL, A LICENSED SURVEYOR HAVING SURVEYED AND PLATTED THE REAL ESTATE TO BE KNOWN AS JENNIE EDMUNDSON ADDITION, LOT 1, AN ADDITION TO COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, AND THAT THE SAME IS PREPARED WITH MY FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE AS OWNER AND PROPRIETOR THEREOF.

SIGNED AT THE CITY OF COUNCIL BLUFFS, IOWA, THIS ___ DAY OF _____, 2018

BY _____

NAME _____ TITLE _____

ACKNOWLEDGEMENT OF NOTARIES

STATE OF IOWA } SS
COUNTY OF _____ }

ON THIS _____ DAY OF _____, 2018 BEFORE ME, A NOTARY PUBLIC, DULY COMMISSIONED AND QUALIFIED IN SAID COUNTY AND STATE, PERSONALLY APPEARED _____ AND _____, TO ME PERSONALLY KNOWN TO BE THE IDENTICAL PERSON WHO EXECUTED THE ABOVE INSTRUMENT AS ATTORNEY IN FACT FOR JENNIE EDMUNDSON, WIDOW (A), AND HE ACKNOWLEDGED THE SIGNING OF THE SAME TO BE HIS VOLUNTARY ACT AND DEED AND THE VOLUNTARY ACT AND DEED OF SAID CORPORATION.

WITNESS MY HAND AND OFFICIAL SEAL, THE DATE LAST AFORESAID

NOTARY PUBLIC

SURVEYOR'S CERTIFICATION

I, TERRY L. ROTHAUSL, DO HEREBY CERTIFY THAT I HAVE MADE A BOUNDARY SURVEY OF THE SUBDIVISION HEREIN AND THAT PERMANENT MONUMENTS AS NOTED HEREON HAVE BEEN PLACED ON THE BOUNDARY OF THE PLAT AND AT ALL CORNERS, ANGLE POINTS, AND ENDS OF ALL CURVES ON THE BOUNDARY AND ON THE LOTS IN THE SUBDIVISION TO BE KNOWN AS JENNIE EDMUNDSON ADDITION, LOT 1, BEING A REPLAT OF LOTS 1 THRU 10, BLOCK 4, HAGGS FIRST ADDITION, AND LOTS 1 THRU 8, HUBER & WALTERS TERRACE, AND LOTS 1 THRU 6, BLOCK 5, AND LOTS 1, 12 THRU 14, BLOCK 6, EXTENSION OF HAGGS ADDITION TOGETHER WITH VACATED THOMAS STREET, KIMBALL AVENUE AND ALLEYS, ALL PLATTED AND RECORDED SUBDIVISIONS LOCATED IN THE WEST HALF OF SECTION 30, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 6TH P.M., POTTAWATTAMIE COUNTY, IOWA.

TERRY L. ROTHAUSL
IOWA L.S. 17413 — DATE

LICENSED LAND SURVEYOR — TERRY ROTHAUSL — 17413 — IOWA

OLSSON ASSOCIATES
2111 Ave 25th Street, Suite 200
Council Bluffs, IA 51501
TEL 402.341.1116
FAX 402.341.5895
www.olssonassociates.com

REV. NO.	DATE	REVISIONS

FINAL PLAT
JENNIE EDMUNDSON ADDITION
LOT 1
COUNCIL BLUFFS, IA
2018

drawn by:	ETG
checked by:	MJS
approved by:	TLR
QA/QC by:	MJS
project no.:	017-3020
drawing no.:	
date:	04.09.18

SHEET
1 of 1

ATTACHMENT A

DWG: F:\2017\1098---4000\017---3020\100-Design\300-Survey\Plat\FP_JE_PLAT - JENNIE EDMUNDSON.dwg
DATE: Apr 16, 2018 - 8:24am
XREFS: TOPO_BOTHAUSL_LS.dwg
USER: dhastings

8513505
Tx:4958664

2018-00980
RECORDER MARK BRANDENBURG
POTTAWATTAMIE COUNTY, IA
FILE TIME: 01/25/2018 10:59:06 AM

RECORDING FEE	30.00
AUDITOR FEE	5.00
RMA FEE	1.00
ECM FEE	1.00

C R FEE $30.00 RMA $1.00

A FEE $5.00 ECOM $1.00

T TAX $_____

Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 - Phone: 328-4616
Prepared by: Community Development Dept., Co. Bluffs, IA 51503 - Phone: 328-4629

RESOLUTION NO. 18-17

A RESOLUTION TO VACATE AND DISPOSE OF THE EASTERLY/WESTERLY ALLEY FROM THE NORTH RIGHT-OF-WAY LINE OF NICHOLAS STREET TO THE SOUTH RIGHT-OF-WAY LINE OF KIMBALL AVENUE, AS WAS PLATTED AS PART OF BLOCK 4, HAGG'S 1ST ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: The easterly/westerly alley located in Block 4, Hagg's 1st Addition, City of Council Bluffs, Pottawattamie County, Iowa is of no benefit to the public and should be vacated; and

WHEREAS, the subject 11th Avenue right-of-way measures 12' x 249' more or less and is unimproved but does have known utilities located within in it; and

WHEREAS, pursuant to Iowa Code Section 354.23, the City Council declares its intent to dispose of this City right-of-way by conveying and quitclaiming all of its right, title, and interest in it to the abutting property owner(s); and

WHEREAS, this conveyance is subject to the reservation of a permanent and perpetual utilities easement of way in favor of the City of Council Bluffs, for the maintenance of any and all utilities equipment presently in place, and for such reconstruction, re-emplacement and repair thereof which said City and its licensees and/or franchise grantees may in the future deem necessary and proper, and for the removal of any improvements emplaced thereon by the grantees, or their successors or assigns, necessitated by the reconstruction, re-emplacement, or repair of such utilities, such removal to be at the sole expense of grantees or their successors or assigns and without cost to the City, its licensees and/or franchise grantees, and without obligation to repair or replace such improvements, and subject to any and all other easements and right-of-way of record and those not of record.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the above-described city right-of-way is hereby vacated and conveyed as follows:

ATTACHMENT B

Jennie Edmundson Memorial Hospital and all successors in interest: The North ½ of the vacated alleyway abutting the North 11 feet of Lot 4, Block 4, Hagg's First Addition; and the South ½ of the vacated alleyway abutting Lot 5, Block 4, Hagg's First Addition; and Lot 8, Block 4, Hagg's First Addition; and

Loess Hill Properties LLC and all successors in interest: The North ½ of the vacated alleyway abutting Lots 1, 2, 3, and the South 39 feet of Lot 4, Block 4, Hagg's First Addition; and the South ½ of the vacated alleyway abutting Lots 6, 7, 9, and 10, Block 4, Hagg's First Addition.

BE IT FURTHER RESOLVED

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute a City deed conveying the City's interest in the above-described right-of-way; and

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED
AND
APPROVED: January 22, 2018

Matthew J. Walsh, Mayor

ATTEST:
Jodi Quakenbush, City Clerk

STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

On this 22nd day of January, 2018, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Matthew J. Walsh and Jodi Quakenbush, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Matthew J. Walsh and said Jodi Quakenbush, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

ALLISON HEAD
Commission Number 804392
MY COMMISSION EXPIRES
5.16.20

Notary Public in and for said State

Planning Case #SAV-17-007

COMPARED Fee 15.- 907 Return to: City Clerk 209 Pearl

ORDINANCE NO. 5038

AN ORDINANCE to vacate Thomas Street (except that portion previously vacated by Ordinance No. 3909), the alley abutting Lots 1-8, Huber and Walter Terrace, and Lots 1-6, Block 5, Haggs Extension, and that portion of the alley in Block 6, Haggs Extension, abutting Lots 1 and 14.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That City-owned right-of-way located in Council Bluffs, Pottawattamie County, Iowa, generally described as Thomas Street (except that portion previously vacated by Ordinance No. 3909), the alley abutting Lots 1-8, Huber and Walter Terrace, and Lots 1-6, Block 5, Haggs Extension, and that portion of the alley in Block 6, Haggs Extension, abutting Lots 1 and 14, be and the same is hereby vacated.

SECTION 2. That this City Council does hereby declare its intent and proposal to dispose of the above described city right-of-way by selling same to the abutting property owner.

SECTION 3. That the Mayor and City Clerk be and are hereby authorized, empowered and directed to execute a city deed conveying the city's interest in said property described above to the abutting property owner, subject to retaining utility easements and abandonment of existing sanitary and storm sewers.

SECTION 4. Repealer. That all other ordinances, rules and regulations, or portions thereof, in conflict herewith, be and the same are hereby repealed.

SECTION 5. Effective date. That this ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

1-391
1-396

PASSED AND APPROVED July 8, 1991

Thomas P. Hanafan
THOMAS P. HANAFAN Mayor

Attest: Olga Arellano-Anderson
OLGA ARELLANO-ANDERSON City Clerk

FIRST CONSIDERATION: June 10, 1991
SECOND CONSIDERATION: June 24, 1991
PUBLIC HEARING: June 24, 1991
THIRD CONSIDERATION: July 8, 1991

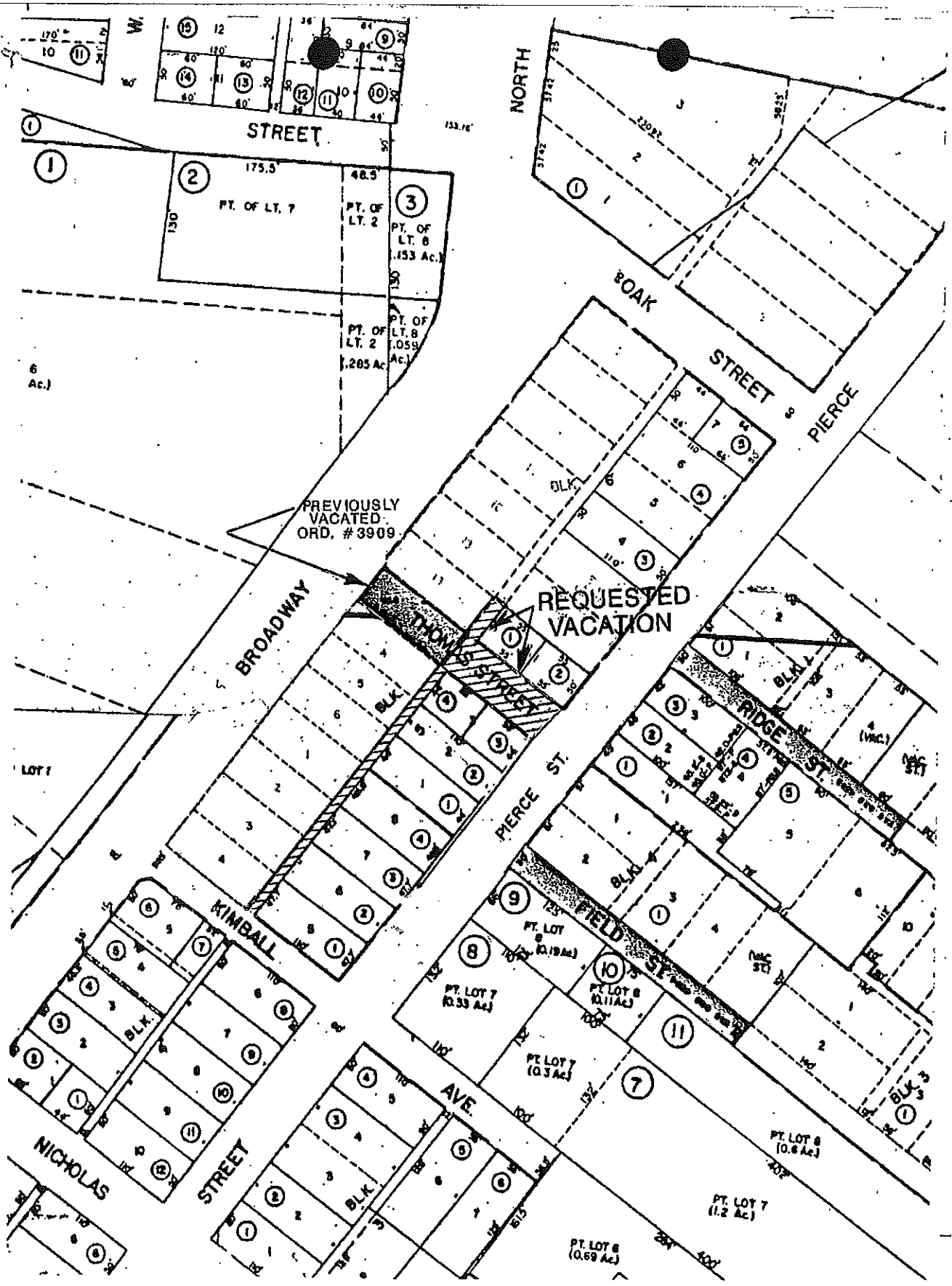
Planning Case No. SAV-91-008

STATE OF IOWA, Pottawattamie County
Filed for record the 22 day of July
1991 at 11:15 o'clock A M and recorded
in book 92 page 1973
John Sciortino Recorder
By

5-C

92 1973

ATTACHMENT C



CASE #SAV-91-008

5-C

92 1974

COMPARED

Passed to 2nd Reading 4-20-70 Passed to 3rd 5-4-70

Public Hearing 5-18-70 8 P.M.

Returned to City Clerk 5-19-70

Fee 15.00

COMPARED

4-A

908

209 Record

May 18, 1970

CITY ORDINANCE NUMBER 3909

AN ORDINANCE to vacate that portion of the Southerly Half of Thomas Street which abuts Lot 4 in Block 5, Hagg's Extension, and that portion of the Northerly Half of Thomas Street which abuts Lot 14 in Block 6, Hagg's Extension, in Council Bluffs, Iowa; providing for the conveyance thereof to the Board of Park Commissioners of the City of Council Bluffs, Iowa, under the terms and conditions hereinafter set forth; and repealing all other Ordinances, Rules and Regulations, or portions thereof, in conflict herewith.

WHEREAS, the Board of Park Commissioners of the City of Council Bluffs, Iowa has requested the vacation and conveyance of the above-described portions of Thomas Street for purposes of beautification; and

WHEREAS, the request of said Board has been referred to the City's Planning Commission and after study and public hearing held by said Commission the request for such vacation and conveyance has been approved by said Commission and its written recommendation has been filed with this City Council in accordance with the determination reached by said Commission; and

WHEREAS, after study and consideration, and being otherwise fully advised in the matter, this City Council has determined that the best interests of the City will be served by the vacation and conveyance of said portion of Thomas Street, as aforesaid:

NOW, THEREFORE, BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the portion of the Southerly Half of Thomas Street which abuts Lot 4 in Block 5, Hagg's Extension, and the portion of the Northerly Half of Thomas Street which abuts Lot 14 in Block 6, Hagg's Extension, in Council Bluffs, Iowa, be and the same is hereby vacated.

SECTION 2. That the property vacated by this Ordinance shall be subject always to a permanent and perpetual easement of way being granted to and reserved in the City of Council Bluffs, Iowa and its licensees and/or franchise grantees, for the maintenance of any and all public utilities equipment presently in place, and for such reconstruction, re-emplacement and repair thereof which said City and its licensees and/or franchise grantees may in the future deem necessary, advisable and proper.

STATE OF IOWA, Pottawattamie County
Filed for record the 22 day of July
1970 at 11:20 o'clock A.M. and recorded
in book 92 page 1976
John Sgiortino
Recorder
By

ATTACHMENT D

92 1976

COMPARED

SECTION 3. That following the final passage, approval and publication of this Ordinance, and upon payment of the sum of $1.00 in consideration therefor, the Mayor and City Clerk are hereby authorized, empowered and directed to execute and deliver a Quit Claim Deed conveying the property herein vacated to the Board of Park Commissioners of the City of Council Bluffs, Iowa, said conveyance to be made pursuant to the terms and conditions herein prescribed.

SECTION 4. That all Ordinances, Rules and Regulations, or portions thereof, in confliot herewith, are hereby repealed.

SECTION 5. That this Ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

Passed and Approved May 18, 1970

Kenneth G. Jensen
Kenneth G. Jensen Mayor

Attest: Elmer F. Westphal
Elmer F. Westphal City Clerk

RELEASE OF A PERMANENT AND PERPETUAL EASEMENTS GRANTED FOR UTILITY PURPOSES ACROSS THE PREVIOUSLY VACATED ALLEYS ABUTTING LOTS 1 THROUGH 10, BLOCK 4, HAGG'S FIRST ADDITION, LOTS 1 THROUGH 8, HUBER & WALTERS TERRACE, LOTS 1 THROUGH 6, BLOCK 5, EXTENSION OF HAGG'S ADDITION AND LOTS 1 AND 14, BLOCK 6, EXTENSION OF HAGG'S ADDITION ALONG WITH VACATED THOMAS STREET RIGHT-OF-WAY ABUTTING BLOCKS 5 & 6, EXTENSION OF HAGG'S ADDITION, ALL IN THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, north/south alley abutting Lots 1 through 4, part of Lot 5, and Lots 6 through 10, Block 4, Hagg's First Addition was vacated by Resolution No. 18-17 on January 22, 2018 and retained a permanent and perpetual easement for utility purposes; and

WHEREAS, that portion of Thomas Street right-of-way abutting part of Lot 14, Block 6, Extension of Hagg's Addition and part of Lot 4, Block 5, Extension of Hagg's Addition was vacated by Ordinance No. 3909 on May 18, 1970 and retained a permanent and perpetual easement for utility purposes; and

WHEREAS, that portion of Thomas Street right-of-way abutting Lot 3, Block 5, Extension of Hagg's Addition and Lot 1, Block 6, Extension of Hagg's Addition along with the alleys abutting Lots 1 through 8, Huber and Walter Terrace, Lots 1 through 6, Block 5, Extension of Hagg's Addition along with north/south alley abutting Lots 1 and 14, Block 6, Extension of Hagg's Addition were vacated by Ordinance No. 5038 on July 8, 1991 and retained a permanent and perpetual easement for utility purposes; and

WHEREAS, Black Hills Energy is a Utility this easement was reserved for; and

WHEREAS, I am an authorized representative of said Utility and by placing my signature below I do hereby support the grant of the release of said easement described above.

Dated this 1st, day of June 2018.

Signature

Utility Planner 2

Title

Black Hills Energy

Organization

ATTACHMENT E

RELEASE OF A PERMANENT AND PERPETUAL EASEMENTS GRANTED FOR UTILITY PURPOSES ACROSS THE PREVIOUSLY VACATED ALLEYS ABUTTING LOTS 1 THROUGH 10, BLOCK 4, HAGG'S FIRST ADDITION, LOTS 1 THROUGH 8, HUBER & WALTERS TERRACE, LOTS 1 THROUGH 6, BLOCK 5, EXTENSION OF HAGG'S ADDITION AND LOTS 1 AND 14, BLOCK 6, EXTENSION OF HAGG'S ADDITION ALONG WITH VACATED THOMAS STREET RIGHT-OF-WAY ABUTTING BLOCKS 5 & 6, EXTENSION OF HAGG'S ADDITION, ALL IN THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, north/south alley abutting Lots 1 through 4, part of Lot 5, and Lots 6 through 10, Block 4, Hagg's First Addition was vacated by Resolution No. 18-17 on January 22, 2018 and retained a permanent and perpetual easement for utility purposes; and

WHEREAS, that portion of Thomas Street right-of-way abutting part of Lot 14, Block 6, Extension of Hagg's Addition and part of Lot 4, Block 5, Extension of Hagg's Addition was vacated by Ordinance No. 3909 on May 18, 1970 and retained a permanent and perpetual easement for utility purposes; and

WHEREAS, that portion of Thomas Street right-of-way abutting Lot 3, Block 5, Extension of Hagg's Addition and Lot 1, Block 6, Extension of Hagg's Addition along with the alleys abutting Lots 1 through 8, Huber and Walter Terrace, Lots 1 through 6, Block 5, Extension of Hagg's Addition along with north/south alley abutting Lots 1 and 14, Block 6, Extension of Hagg's Addition were vacated by Ordinance No. 5038 on July 8, 1991 and retained a permanent and perpetual easement for utility purposes; and

WHEREAS, Cox Communications, is a Utility this easement was reserved for; and

WHEREAS, I am an authorized representative of said Utility and by placing my signature below I do hereby support the grant of the release of said easement described above.

Dated this 5th, day of June 2018.

Timothy Ehlen
Signature

ROW Agent
Title

Cox Communications
Organization

ATTACHMENT F