Council Communication

Department: Community Development Case #SAV-18-013 Property Owner: John Kilnoski 1403 McPherson Avenue Council Bluffs, IA 51503 Applicant: Larry Hansen P.O. Box 492 Council Bluffs, IA 51502	Resolution of Intent No. _____ Resolution to Dispose No. _____	City Council: 09/24/18 Planning Commission: 09/11/18 Set Public Hearing: 09/24/18 Public Hearing: 10/8/18

Subject/Title

Request: Public hearing on the request of Larry Hanson to vacate and dispose of a 66' x 252' section of unimproved 26th Avenue right-of-way, located between Blocks 54 and 59, Railroad Addition and west of South 13th Street right-of-way.
Location: South of property addressed at 2532 South 13th Street.

Background

The Community Development Department has received an application from Larry Hansen, representing John Kilnoski, to vacate and dispose of an unimproved section of 26th Avenue located West of South 13th Street. The applicant wishes to vacate this section of right-of-way to allow him additional land area to develop the property directly south of the proposal with single family dwellings.

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 property owners with land that abuts the subject right-of-way. The owners of these properties are as follows:
   North – Residential property owned by Paul and Lynda Lewis
   South – Undeveloped property owned by John Kilnoski

   All abutting property owners were mailed petitions asking if they are in favor of/opposed to and/or willing to/not willing to acquire the portion of the alley 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 adjacent properties have frontage on to South 13th Street. The property to the north, addressed as 2532 South 13th Street, appears to have a driveway on the subject right-of-way that is used to access accessory structures in the rear yard. The property owner has indicated they are not willing to acquire their portion of right-of-way, and may need to find other means of accessing the accessory structures behind their house.

The Community Development Department has contacted the applicant and made them aware that the proposed vacation request will restrict access to the accessory structures on property addressed as 2532 S. 13th Street. Through these discussions, the applicant has agreed that as part of the final platting process they will dedicate the land where the existing driveway is located to this property owner. The Community Development Department supports this approach by the applicant and recommends that the right-of-way not be disposed of until the applicant has an approved final plat. This will insure that the property owner at 2532 S. 13th Street can maintain access to their accessory structures.

3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way.* This request will not create a dead-end right-of-way, as the request is to vacate the entirety of the 26th Avenue right-of-way between South 13th Street and the levee right-of-way of Indian Creek.

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 noted there are utilities in the right-of-way of South 13th Street, and stated that the levee right-of-way shall not be infringed upon.
   - The Fire Marshall stated he has no comments.
   - The Permits and Inspections Division stated they have no comments.
   - Council Bluffs Water Works stated they have no utilities in the subject alleyway.
   - MidAmerican Energy noted there are overhead utilities in the subject 26th Avenue right-of-way serving the home addressed as 2532 S. 13th Street, and stated they have no objections to the proposed vacation, provided that the existing utility easements remain.

   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.* The request is to vacate the entire 26th Avenue right-of-way between South 13th Street and the Indian Creek levee.

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:
    - John Kilnoski stated he is in favor of the request and willing to acquire the portion of right-of-way adjacent to his property.
    - Paul and Lynda Lewis stated they are in favor of the request, though not willing to acquire the portion of right-of-way adjacent to their property.

    Based on the information above, the entirety of the right-of-way will be offered to John Kilnoski or his successors in interest for $6,596.00.

Recommendation

The Community Development Department recommends approval to vacate and dispose of a 66' x 252' section of unimproved 26th Avenue right-of-way, located between Blocks 54 and 59, Railroad Addition, and lying West of South 13th Street, based on reasons stated above, and subject to the following conditions:

1. The vacation shall not be finalized until a final plat is approved by the City Council for the subject 26th Avenue right-of-way and the adjacent properties to the south.
2. The applicant shall dedicate the northerly portion of the subject 26th Avenue right-of-way to the property owner located at 2532 S. 13th Street in order to insure access is provided to their accessory structures. This dedication shall occur as part of the final plat of the subject 26th Avenue right-of-way and the adjacent properties to the south.

Public Hearing

Speakers in favor: None.

Speakers against: None.

Planning Commission Recommendation

The Planning Commission recommends The Community Development Department recommends approval to vacate and dispose of a 66' x 252' section of unimproved 26th Avenue right-of-way, located between Blocks 54 and 59, Railroad Addition, and lying West of South 13th Street, based on reasons stated above, and subject to the following conditions:

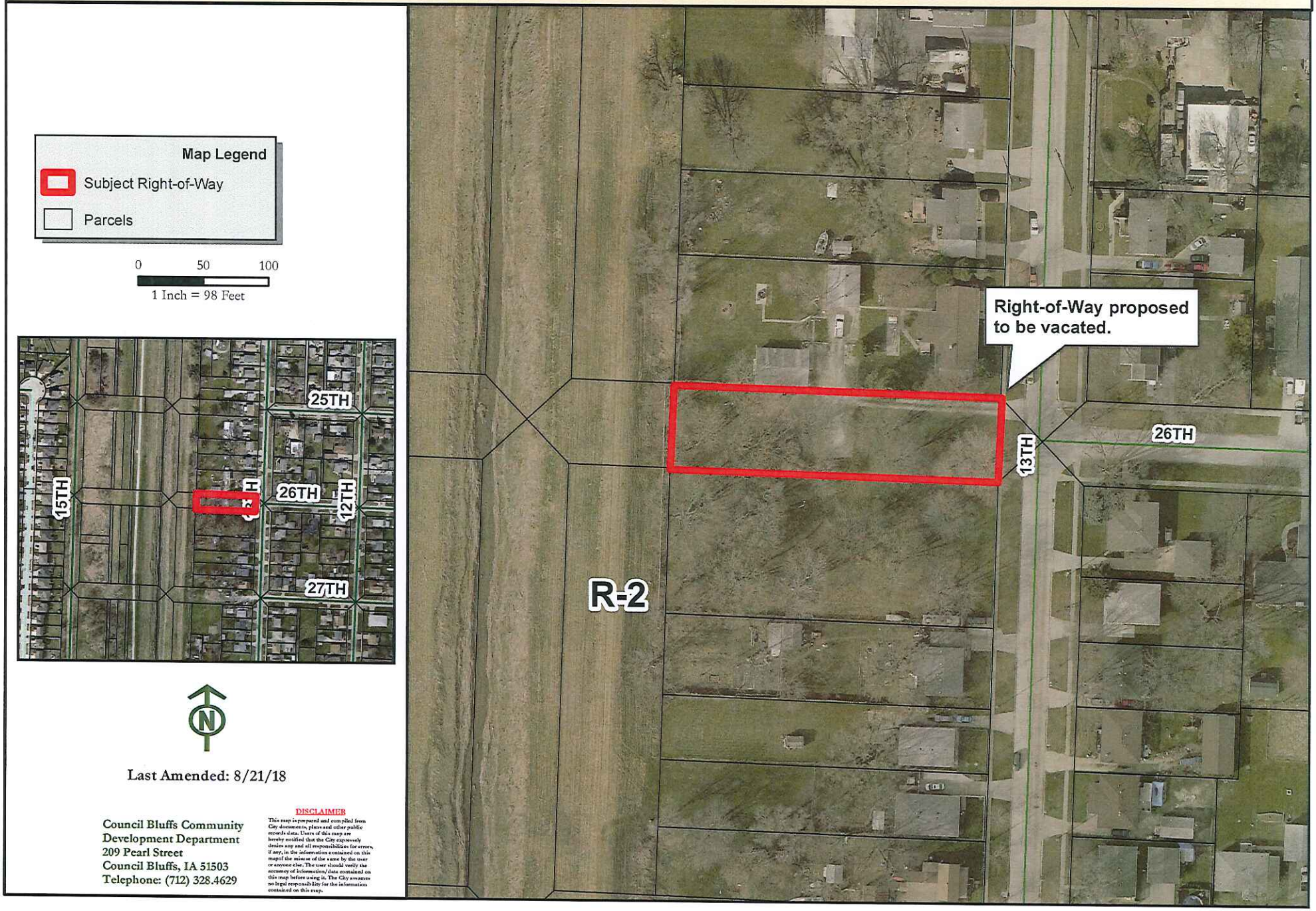
1. The vacation shall not be finalized until a final plat is approved by the City Council for the subject 26th Avenue right-of-way and the adjacent properties to the south.
2. The applicant shall dedicate the northerly portion of the subject 26th Avenue right-of-way to the property owner located at 2532 S. 13th Street in order to insure access is provided to their accessory structures. This dedication shall occur as part of the final plat of the subject 26th Avenue right-of-way and the adjacent properties to the south.

VOTE: AYE 6 NAY 0 ABSTAIN 1 ABSENT 0 VACANT 4 Motion: Carried

Attachment A – Location and Zoning Map
Attachment B – Site Photos

Prepared By: Chris Meeks, Planner, Community Development Department

CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION
CASE #SAV-18-013 LOCATION AND ZONING MAP



Last Amended: 8/21/18

Council Bluffs Community Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 328.4629

DISCLAIMER

This map is prepared and compiled from City documents, plans and other public records data. Users of this map are hereby notified that the City expressly denies any and all responsibilities for errors, if any, in the information contained on this map/ the misuse of the same by the user or anyone else. The user should verify the accuracy of information/data contained on this map before using it. The City assumes no legal responsibility for the information contained on this map.

Attachment B:

Site Photos



Aerial photo of subject right-of-way (highlighted in red)

Google Street View photo of subject right-of-way.

