City Planning Commission

Department: Community Development	Resolution of Intent No. _____	Planning Commission: 03/12/2019
Case #SAV-19-004	Resolution to Dispose No. _____	Set Public Hearing:
Applicant: Dean T. Jennings 523 6th Avenue Council Bluffs, IA 51503		Public Hearing:

Subject/Title

Request: Public hearing on the request of Dean Jennings to vacate and dispose of the east/west alley abutting Block 8, Jefferies Subdivision and Block 8, Hyatt's Subdivision and extending from the West line of Lot 3, Block 8, Jefferies Subdivision and West line of Lot 4, Block 8, Hyatt's Subdivision to the west line of Lot 17, Block 8, Jefferies Subdivision and Lot 10, Block 8, Hyatt's Subdivision.

Location: Abutting properties addressed as 523 6th Avenue and 612 South Main Street.

Background

The Community Development Department has received an application from Dean Jennings, to vacate and dispose of an unimproved east/west alleyway as described above. The applicant has proposed to vacate the alley in order to build a future garage addition and to maintain their property located at 523 6th Avenue. Currently, the only paving in the alley is a sidewalk leading to a side entrance of the Vocational Development Center, addressed as 612 South Main Street.

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

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 four separate property owners with land that abuts the subject right-of-way. The owners of these properties are as follows:
   North – A law office owned by the applicant (523 6th Avenue), and a parking lot owned by and used by the law office at 541 6th Avenue.
   South – The Vocational Development Center (612 South Main Street)

   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*.
   All abutting property owners have access to 6th Avenue or South Main Street. Access to the adjacent properties will not change as a result of this vacation.

3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way*.
   The vacation of the subject alleyway will turn the north/south alley located East of Lot 20, Block 8, Jefferis Subdivision into a dead-end alley. Said north/south alley currently functions as a dead-end, as the only exit point would be through the privately owned parking lot located South of 606 South Main Street. The dead-end alley in Block 8, Jefferis Subdivision will need to remain a public alleyway, as the properties addressed as 600 South Main Street and 604 South Main Street have doorways leading to the alley, and the property

addressed as 606 south Main Street has a garage that is accessed through the 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 have no facilities located within the alley and has no objections to the proposed vacation.
   - The Fire Marshall stated he has no comments.
   - Council Bluffs Water Works stated they have no utilities in the subject alleyway, and have no comments in regards to the vacation.
   - Cox Communications stated they have facilities in the subject alleyway, and stated that if vacated, an easement must remain.
   - MidAmerican Energy stated they have no objections to the proposed vacation, though they have existing overhead facilities, so a utility easement must 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.* The Vocational Development Center will maintain access to the sidewalk, which leads to their side door. Access will not change to any of the other properties.

7. *To discourage the vacation of a portion of an existing alley, street or other right-of-way.* This request is to vacate an entire east/west alley between Block 8, Hyatt's Subdivision and Block 8, Jefferis Subdivision.

8. *To assist in the implementation of the goals and objectives of the Comprehensive Plan.* The request has no impact local access and circulation, and is consistent with the 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. Each abutting property owner is eligible to receive their portion in consideration of the vacation application fee, which has already been paid. The following responses were received:
    - Dean T. Jennings, who owns the property addressed as 523 6th Avenue, stated he is in favor of the request and willing to acquire his portion of the alleyway.
    - A representative of Suzanne K. Winter, Michael J. Winter, who owns the parking lot East of the property addressed as 541 6th Avenue, stated he is in favor of the request and willing to acquire his portion of right-of-way.
    - A representative of the Vocational Development Center, Steve Hodapp, who own property addressed as 612 South Main Street, stated they are in favor of the request and willing to acquire their portion of right-of-way.

Recommendation

The Community Development Department recommends approval of the request to vacate and dispose of the east/west alley abutting Block 8, Jefferies Subdivision and Block 8, Hyatt's Subdivision and extending from the West line of Lot 3, Block 8, Jefferies Subdivision and West line of Lot 4, Block 8, Hyatt's Subdivision to the west line of Lot 17, Block 8, Jefferies Subdivision and Lot 10, Block 8, Hyatt's Subdivision. The approval is subject to the following conditions:

1. A permanent utility easement will be maintained over the entire alley
2. All abutting property owners shall acquire their portion of the vacated alley, as follows:
    a. Dean T. Jennings and all successors in interest: The North ½ of the vacated east/west alley abutting the East ½ of Lot 18, and all of Lots 19 and 20, Block 8, Jefferis Addition; and
    b. Suzanne K. Winter and all successors in interest: The North ½ of the vacated east/west alley abutting Lot 17 and the West ½ of Lot 18, Block 8, Jefferis Addition; and
    c. Vocational Development Center and all successors in interest: The South ½ of the vacated east/west alley abutting Lots 7 through 10, Block 8, Hyatt's Addition and the vacated north/south alley adjacent along with the North ½ of the vacated east/west alley abutting Lot 3, Block 8, Jefferies Subdivision.

Public Hearing

Staff speaker for the request:

1. Chris Meeks, Planner, Community Development Department, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA

Speakers in favor: None
Speakers against: None

Planning Commission Recommendation

The Planning Commission recommends approval of the request to vacate and dispose of the east/west alley abutting Block 8, Jefferies Subdivision and Block 8, Hyatt's Subdivision and extending from the West line of Lot 3, Block 8, Jefferies Subdivision and West line of Lot 4, Block 8, Hyatt's Subdivision to the west line of Lot 17, Block 8, Jefferies Subdivision and Lot 10, Block 8, Hyatt's Subdivision. The approval is subject to the following conditions:

2. A permanent utility easement will be maintained over the entire alley
3. All abutting property owners shall acquire their portion of the vacated alley, as follows:
    a. Dean T. Jennings and all successors in interest: The North ½ of the vacated east/west alley abutting the East ½ of Lot 18, and all of Lots 19 and 20, Block 8, Jefferis Addition; and
    b. Suzanne K. Winter and all successors in interest: The North ½ of the vacated east/west alley abutting Lot 17 and the West ½ of Lot 18, Block 8, Jefferis Addition; and
    c. Vocational Development Center and all successors in interest: The South ½ of the vacated east/west alley abutting Lots 7 through 10, Block 8, Hyatt's Addition and the vacated north/south alley adjacent along with the North ½ of the vacated east/west alley abutting Lot 3, Block 8, Jefferies Subdivision.

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

Attachment A – Location and Zoning Map

Prepared By: Chris Meeks, Planner, Community Development Department