**City Council Communication**

| | | |
|---|---|---|
| Department:<br>Community Development<br><br>Case #SAV-19-007<br><br>Property Owner/Applicant:<br>Kathy and Wayne Goff<br>2037 23rd Avenue<br>Council Bluffs, IA 51501 | Resolution of Intent No. _____<br><br>Resolution to Dispose No. _____ | Planning Commission: 10/8/19<br><br>Set Public Hearing: 10/21/19<br><br>Public Hearing: 11/4/19 |

**Subject/Title**

**Request**: Public hearing on the request of Kathy and Wayne Goff to vacate and dispose of the East north/south alley platted in Block 20, Howard's Addition.

**Location:** West of South 10th Street, between 18th Avenue and 19th Avenue.

**Background/Discussion**

The Community Development Department has received an application from Kathy and Wayne Goff to vacate and dispose of the East north/south alley platted in Block 20, Howard's Addition. The subject alley is unimproved and measures 12 feet in width by 284 feet in length. A city trail, formerly part of Wabash Railroad, transects the subject alleyway. The applicants own property directly west of the subject alley, legally described as Lots 10, 11, 21 and 22, except railroad right-of-way, all in Block 20, Howard's Addition. If vacated, the applicants intend to acquire the portion adjoining their property to maintain control over mowing and landscaping.

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 eight property owners with land that abuts the subject alleyway. The owners of these properties are as follows:

   West – Residential property owned by Kathy and Wayne Goff (1018 19th Avenue)
   Trail owned by the City of Council Bluffs
   East – Residential property owned by Kenneth W. and Angela D. Leathers (1800 South 10th Street)
   Residential property owned by Jason D. Bliley (1808 South 10th Street)
   Residential property owned by Jason H. Clayton (1816 South 10th Street)
   Residential property owned by Elmer L. Jr. and Tracie L. Pruett (1822 South 10th Street)
   Residential property owned by Amy Vance Properties LLC (1826 South 10th Street)
   Vacant lot owned by Thomas E. and Lanette L. Flood
   Trail owned by the City of Council Bluffs

   All abutting property owners were mailed petitions asking if they are in favor of/opposed to the vacation request and if they were willing to/not willing to acquire the portion of the alley adjacent to 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 properties have frontage on either 19th Avenue or South 10th Street, except the property at 1808 South 10th Street. The city trail transects the parcel, depriving it from frontage on South 10th Street. While the subject alley is adjacent to this parcel, it is unimproved and provides no access to a public street. Thus, the parcel is effectively landlocked regardless whether the subject alley is vacated. A driveway located in the city-owned trail currently provides access to the parcel from South 10th Street. Mr. Bliley can continue to use the

driveway to access his property and has the option to retain an ingress/egress easement over the portion of the trail which transects his property.

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 alley from 18th Avenue to 19th Avenue.

4. *To reduce or eliminate hazardous and dangerous traffic conditions*.
The subject alley 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:

- The Fire Department stated they have no comments on the request.
- The Police Department stated they have no objections to the request.
- The Public Works Department stated they have no infrastructure within the alley. They also stated that if the alley is vacated, the Maintenance and Operations Division will remove the alley return at 19th Avenue and pour curb as soon as the vacation is executed.
- Council Bluffs Water Works stated they have no water main or appurtenances in the subject alleyway.
- MidAmerican Energy Company stated they no objection to the request provided an easement is retained to provide access to maintain the two existing distribution poles and associated overhead electric facilities on the south end of the north/south alley.
- Cox Communications stated they have cable lines on MidAmerican Energy's poles, therefore an easement would have to be retained to allow for maintenance of said cable lines.

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 entirety of the subject north/south alley.

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. 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:

- Kathy and Wayne Goff stated they are in favor of the request and are willing to acquire the portion of the East north/south alley adjacent to their property.
- Kenneth W. and Angela D. Leathers stated they are in favor of the request and are willing to acquire the portion of the East north/south alley adjacent to their property.
- Jason D. Bliley stated he is in favor of the request and are willing to acquire the portion of the East north/south alley adjacent to his property.

- Jason H. Clayton stated he is favor of the request and are willing to acquire the portion of the East north/south alley adjacent to his property.
- Amy Vance Properties LLC stated they are in favor of the request and are willing to acquire the portion of the East north/south alley adjacent to their property.
- There has been no reply from Elmer L. Jr. and Tracie L. Pruett or Thomas E. and Lanette L. Flood regarding the vacation request at the time this staff report was mailed out.

**Recommendation**

The Community Development Department recommends approval to vacate and dispose of the East north/south alley platted in Block 20, Howard's Addition, subject to an easement being be retained over the subject alleyway for utility access and maintenance purposes and all portions of the alleyway being be disposed of to an abutting property owner(s).

**Public Hearing**

Staff speaker on behalf of request:

1. Moises Monnroy, Planner, Community Development Department, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503.

Speakers in favor: None

Speakers against: None

**Planning Commission Recommendation**

The Planning Commission recommends approval to vacate and dispose of the East north/south alley platted in Block 20, Howard's Addition, subject to an easement being be retained over the subject alleyway for utility access and maintenance purposes and all portions of the alleyway being be disposed of to an abutting property owner(s).

VOTE: AYE 8 NAY 0 ABSTAIN 0 ABSENT 3 VACANT 0 Motion: Carried

**Attachments**

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

Prepared by: Moises Monrroy, Planner, Community Development Department