City Council Communication

Department: Community Development Case #SAV-20-003 Applicant(s)/Property Owner(s): John M. and Susan L. McKinley 1615 Henry Street Council Bluffs, IA 51503	Resolution of Intent No. _____ Resolution to Dispose No. _____	Planning Commission: 4/14/2020 Set Public Hearing: 5/4/2020 Public Hearing: 5/18/2020

Subject/Title

Request: Public hearing on the request of John M. and Susan L. McKinley to vacate and dispose of the east/west alley platted in Block 1, Mynster Place, City of Council Bluffs, Pottawattamie County, Iowa.

Location: 1615 Henry Street and 124 Elliott Street

Background/Discussion

The Community Development Department has received an application from John M. and Susan L. McKinley to vacate and dispose of the east/west alley platted in Block 1, Mynster Place, City of Council Bluffs, Pottawattamie County, Iowa, and located east of Henry Street right-of-way. The subject right-of-way is unimproved and measures approximately 15 feet in width by 261 feet in length. The applicant owns property north of the subject alleyway addressed as 1615 Henry Street and legally described as Lots 6 through 8 and Lots 15 through 17, all in Block 1, Mynster Place, along with the vacated north/south alley adjacent; as well as property to the south of the subject alleyway, legally described as Lot 4, except the East 20 feet, and Lot 5, Block 1, Mynster Place. The purpose of this request is to allow the applicants to combine their land holdings, currently transected by the subject city-owned alleyway, into one parcel for taxation purposes.

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*.
   The property owners with land that abuts the subject alleyway are as follows:

   North – Residential property owned by John M. and Susan L. McKinley (1615 Henry Street)
   South – Vacant lot owned by John M. and Susan L. McKinley
   Residential property owned by Michael E. and Virginia M. Burgett (124 Elliott Street)

   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 Henry Street or Elliott Street. However, one existing lot of record owned by the applicant—Lot 17, Block 1, Mynster Place—only has access via the subject alleyway. The Community Development Department finds that the requested alley vacation would not deprive the property owner from reasonable access since the subject alley is unimproved and does not provide Lot 17 direct access to a public street. Additionally, Lot 17 shares a parcel number with other lots of record with direct access to Henry Street right-of-way, thus it currently has reasonable access to a public street. Any request from the applicants or any future property owner to un-combine the parcel created from the applicants'

land holdings and the subject alleyway that would result in Lot 17 losing reasonable access to a public street would not be supported by the City of Council Bluffs unless it goes through the platting process.

3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way*.
This request will eliminate a dead-end alleyway, as the request is to vacate the entirety of the east/west alley platted in Block 1, Mynster Place, which currently dead ends at Lot A, Block 2, S.W. Besley's Subdivision.

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 Public Works Department stated they have no comments on the request.
   - The Fire Department stated they have no comments on the request.
   - Council Bluffs Water Works stated they have no public facilities located within the subject alleyway to be vacated.
   - MidAmerican Energy Company stated they have no conflicts with the request.

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 east/west alley platted in Block 1, Mynster Place.

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 M. and Susan L. McKinley stated they are in favor of the request and are willing to acquire the portion of the east/west alley adjacent to their property.
    - There has been no reply from Michael E. and Virginia M. Burgett 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/west alley platted in Block 1, Mynster Place, City of Council Bluffs, Pottawattamie County, Iowa and located east of Henry Street right-of-way, subject to the following conditions:

1. All portions of the subject alley shall be disposed of to an abutting property owner(s); and
2. Any request from the applicants or any future property owner to un-combine the parcel created from the applicants' land holdings and the subject alleyway that would result in Lot 17, Block 1, Mynster Place losing

reasonable access to publically dedicated right-of-way would not be supported by the City of Council Bluffs unless a final plat is executed to create lots of record that have access to a City right-of-way.

Public Hearing

Staff speaker for the requests:

1. Christopher Gibbons, Planning Manager, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor: None

Speakers against: None

Planning Commission Recommendation

The Planning Commission recommended approval to vacate and dispose of the east/west alley platted in Block 1, Mynster Place, City of Council Bluffs, Pottawattamie County, Iowa and located east of Henry Street right-of-way, subject to the following conditions:

1. All portions of the subject alley shall be disposed of to an abutting property owner(s); and
2. Any request from the applicants or any future property owner to un-combine the parcel created from the applicants' land holdings and the subject alleyway that would result in Lot 17, Block 1, Mynster Place losing reasonable access to publically dedicated right-of-way would not be supported by the City of Council Bluffs unless a final plat is executed to create lots of record that have access to a City right-of-way.

VOTE: AYE 9 NAY 0 ABSTAIN 0 ABSENT 2 VACANT 0 Motion: Carried

Attachments

Attachment A: Location and Zoning Map

Prepared by: Moises Monrroy, Planner, Community Development Department