City Council Communication

Department: Community Development	Resolution of Intent No. _____	Resolution of Intent: 08/24/2020
Case #SAV-20-007	Resolution to Dispose No. _____	Resolution to Dispose: 09/14/2020
Applicant: Gibbs Rental and Sales Attn: Gary Gibbs 904 N. 16th Street Council Bluffs, IA 51501		Planning Commission: 08/11/2020

Subject/Title

Public hearing on the request of Gibbs Rental, LTD to vacate and dispose of the east/west alley abutting properties legally described as Lots 305 through 313 and Lots 332 through 340, all in Belmont Addition.

Location: North of 904 N. 16th Street.

Background

The Community Development Department has received an application from Gibbs Rental and Sales, represented by Gary Gibbs, to vacate and dispose of an unimproved east/west alleyway as described above. The applicant has proposed to vacate the alley in order to maintain the property to each adjacent property owner's standards, and to keep the area clear of trash and other debris. Currently, there are paved aprons at each end of the alleyway where it abuts the adjacent streets, but no other paving.

The following attachments have been included for reference:
Attachment A: Location and Zoning Map
Attachment B: August 27, 2020 Letter from Gibbs Rental

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 five separate property owners with land that abuts the subject right-of-way. The owners of these properties are as follows:
   North – The Council Bluffs Community School District (entranceway to the Gale Wickersham Athletic Complex)
   South – Gibbs Rental LTD (904 N 16th Street)
   Gerard A Sabatka Trust (1620 Avenue I)
   Heather L. Hieb (1626 Avenue I)
   Jerry and Timothy Baxter (1634 Avenue I)

   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 North 16th Street, Avenue I, or North 17th Street. Many of the homes have detached garages, though none of which are accessed through the subject alleyway. 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 proposal is to vacate the entirety of the east west alleyway. No dead-end alley or other right-of-way

will be created as a result of this request.

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 and Permits and Inspections Division stated that the building located at 904 N. 16th Street (Gibbs Rental and Sales) utilizes the full width of the alleyway for a reduction in the required fire rating of the northern exterior walls, which was permitted at the time of construction. If the alleyway were to be vacated, Gibbs Rental and Sales would need to acquire the entire width of the alleyway, or the northernmost walls would need to be upgraded to a minimum of a one hour fire rating.
   - The Council Bluffs Parks Department stated they have no comments.
   - Council Bluffs Water Works stated they have no utilities in the subject alleyway, and have no comments in regards to the vacation.
   - MidAmerican Energy stated they are in opposition of the request to vacate the alleyway because they have overhead electric distribution facilities within the alleyway which must remain clear and accessible. MEC stated these facilities supply electric service to multiple customers in the immediate area.
   - CenturyLink Communications stated they are in opposition of the request to vacate the alleyway as they have aerial fiber cable and underground facilities in the alleyway.
   - Cox Communications stated they have an aerial network through the alleyway which would need to be relocated, or an easement would need to be retained over the subject alleyway.

   Based on the information above, if vacated, a utility easement over said right-of-way must be retained, though two utility providers have specifically requested that the request for the vacation of the subject alleyway be denied.

6. *To maintain appropriate right-of-way width to ensure that an adequate pedestrian and vehicular circulation system is retained.* 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.

8. *To assist in the implementation of the goals and objectives of the Comprehensive Plan.* The request has no impact on 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:
    - Gibbs Rental and Sales LTD, the owners of the property addressed as 904 N. 16th Street, submitted

an application form and petition indicating they are in favor of the vacation and are willing to acquire the portion of the alleyway adjacent to their property.

- The Gerald A Sabatka Trust, owner of the property addressed as 1620 Avenue I, submitted an application indicating they are in favor of the vacation and are willing to acquire the portion of the alleyway adjacent to their property.
- Heather L. Hieb, owner of the property addressed as 1626 Avenue I, submitted an application indicating she is in favor of the vacation and is willing to acquire the portion of the alleyway adjacent to her property.
- Jerry and Timothy Baxter, owners of the property addressed as 1634 Avenue I, submitted an application form and petition indicating they are in favor of the vacation and are willing to acquire the portion of the alleyway adjacent to their property.
- No response was received from the Council Bluffs Community School District, owners of the property legally described as Lots 305-313, Belmont Addition.

Recommendation

The Community Development Department recommends **denial** of the request to vacate and dispose of the east/west alley abutting properties legally described as Lots 305 through 313 and Lots 332 through 340, all in Belmont Addition based on the objection of the Council Bluffs Fire Marshal, Council Bluffs Permits and Inspection Division, and utility providers, as stated above.

Public Hearing

Staff speaker for the request:

1. Christopher Meeks, Planner, City of Council Bluffs, IA 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor:

1. John Gibbs, 904 N. 16th Street, Council Bluffs, IA 51501
2. Andrew Gibbs, 904 N. 16th Street, Council Bluffs, IA 51501

Speakers against: None

Planning Commission Recommendation

The Planning Commission recommended **denial** of the request to vacate and dispose of the east/west alley abutting properties legally described as Lots 305 through 313 and Lots 332 through 340, all in Belmont Addition based on the objection of the Council Bluffs Fire Marshal, Council Bluffs Permits and Inspection Division, and utility providers, based on reasons stated above.

VOTE: AYE 9 NAY 1 ABSTAIN 0 ABSENT 1 VACANT 0 Motion: Carried

Attachment A – Location and Zoning Map
Attachment B – August 27, 2020 Letter from Gibbs Rental

Prepared By: Chris Meeks, Planner, Community Development Department