City Council Communication

Department: Community Development Case #SAV-20-006 Applicant: Jerrid Jefferis 1030 Wright Road Bay #1 Council Bluffs, IA 51503 Property Owner: Shoppes at Manawa, LLC 19900 Custer Lane Council Bluffs, IA 51503 Brandy Fisher 8947 North Dinino Court Waddell, AZ 85355	Resolution of Intent No. _____ Resolution to Dispose No. _____	Resolution of Intent: 08/24/2020 Resolution to Dispose: 09/14/2020 Planning Commission: 08/11/2020

Subject/Title

Request: Public hearing on the request of Jerrid Jefferis, representing Shoppes at Manawa LLC, to vacate and dispose of Michigan Avenue right-of-way abutting properties legally described as Lots 39 through 52, Raymona Subdivision.

Location: East of property address as 1030 Wright Road, Council Bluffs, Iowa 51503

Background/Discussion

The Community Development Department has received an application from Jerrid Jefferis, representing Shoppes at Manawa, LLC, requesting to vacate and dispose of Michigan Avenue right-of-way abutting properties legally described as Lots 39 through 52, Raymona Subdivision. The subject Michigan Avenue right-of-way measures 35 feet wide by 280 feet in length and is unimproved. The applicant has requested this vacation so that they can utilize the vacated right-of-way area to develop new contractor shop buildings on property they own at the northwest corner of the intersection of South 9th Street and Wright Road, legally described as Lots 46 through 52, and Lots 69 through 75, Raymona Subdivision.

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 Michigan Avenue right-of-way, as follows:

   North – Undeveloped land owned by Shoppes at Manawa, LLC (legally described as being part of Lots 20-22, and all of Lots 39 through 42, Raymona Subdivision), and Brandy K. Fisher (legally described as part of Lots 16 through 18, and all of Lots 43 through 45, Raymona Subdivision).

   South – Undeveloped land owned by Shoppes at Manawa, LLC (legally described as Lots 46 through 52, and Lots 69 through 75, Raymona Subdivision).

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 purchase the portion of Michigan Avenue 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*. The subject Michigan Avenue right-of-way abuts three parcels of land which are comprised of multiple existing lots of record. All three parcels have access to either Veterans Memorial Highway, South 9th Street, Wright Road, or a combination thereof. However, since these parcels contain individually platted lots of record the proposed vacation request presents a situation where several of these lots (Lots 39 through 44, and Lots 47 through 52, Raymona Subdivision) will become "land locked" if the vacation is approved. In order to prevent this type of situation from occurring the abutting land owners must replat their existing lots of record along with their portions of Michigan Avenue, if vacated, into new parcels of land. The replat would need to occur concurrent with the City selling the right-of-way to the adjacent landowners. The abutting landowners could partner together and have one final plat created that shows each individual property owner re-plating their landholdings into a new parcel, or each abutting owner can pursue their own replat separately. As part of the replat the adjacent property owners could also work together and establish cross access easements for vehicular traffic over the vacated right-of-way, and stormwater management.

   The Community Development Department has advised each abutting property owner of the need to replat their properties if this vacation request is approved. The applicant has started the process of preparing a final plat to consolidate their landholdings and portions of Michigan Avenue right-of-way into two larger parcels of land. Ms. Brandy Fisher has agreed to replat her lots into one parcel of land and is currently weighing her options on how best to proceed with the replat.

3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way*. The proposed request will eliminate a dead-end right-of-way as the Westerly 320 feet of Michigan Avenue was previously vacated and disposed of by City Council in September 1990 by Ordinance No. 4958.

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:

   - Council Bluffs Permits and Inspections Division stated they have no comments for the vacation request.
   - Council Bluffs Fire Department stated they have no comments for the vacation request.
   - Council Bluffs Public Works stated they have no issues with the vacation request and confirmed there are no existing sanitary and/or storm sewer utilities within said Michigan Avenue right-of-way.
   - Council Bluffs Parks and Recreations Department stated they have no comments for the vacation request.
   - Council Bluffs Water Works stated they have an existing water main within the subject Michigan Avenue right-of-way and that an easement must be reserved for maintenance purposes.
   - MidAmerican Energy stated they have no utilities in the subject Michigan Avenue right-of-way.
   - Cox Communication stated they have no issues or concerns with the vacation request.

6. *To maintain appropriate right-of-way width to ensure that an adequate pedestrian and vehicular circulation system is retained.* The subject right-of-way is unimproved and not being used for pedestrian and/or vehicular circulation.

7. *To discourage the vacation of a portion of an existing alley, street or other right-of-way.* As previously stated, the Westerly 320 feet of Michigan Avenue was vacated and disposed of by City Council in September 1990

by Ordinance No. 4958. This request is to vacate and dispose of the remaining 280 feet of Michigan Avenue right-of-way.

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 the proposed vacation. The following responses were received:

    - Shoppes at Manawa, LLC stated they are in favor of the vacation request and are willing to purchase the portion of Michigan Avenue right-of-way that abuts their property for the sum of $1,325.00.
    - Brandy Fisher stated she is in favor of the vacation request and is willing to purchase the portion of Michigan Avenue that abuts her property for the sum of $345.00.

Recommendation

The Community Development Department recommends approval to vacate and dispose of Michigan Avenue right-of-way abutting properties legally described as Lots 39 through 52, Raymona Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, subject to the following conditions:

1. An easement shall be retained over the subject right-of-way for utility access and maintenance purposes;
2. All portions of the subject right-of-way shall be disposed of to an abutting property owner(s); and
3. The vacation shall not become effective and deeds for the vacated Michigan Avenue right-of-way shall not be granted until such time each abutting property owner receives final plat approval from the City to replat their existing lots of record along with their portion of vacated Michigan Avenue right-of-way into new parcels of land.

Public Hearing

Staff speaker for the request:

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 Michigan Avenue right-of-way abutting properties legally described as Lots 39 through 52, Raymona Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, subject to the following conditions:

1. An easement shall be retained over the subject right-of-way for utility access and maintenance purposes;
2. All portions of the subject right-of-way shall be disposed of to an abutting property owner(s); and
3. The vacation shall not become effective and deeds for the vacated Michigan Avenue right-of-way shall not be granted until such time each abutting property owner receives final plat approval from the City to replat their existing lots of record along with their portion of vacated Michigan Avenue right-of-way into new parcels of land.

VOTE: AYE 10 NAY 0 ABSTAIN 0 ABSENT 1 VACANT 0 Motion: Carried

Attachments Attachment A: Location and Zoning Map
Prepared by: Christopher Gibbons, AICP, Planning Manager, Community Development Department