City Council Communication

Department: Community Development CASES #ZC-20-012, #CP-20-002 and #SAV-20-004 Applicant/Property Owner: YMCA of Greater Omaha c/o Matt Chadek 430 South 20th Street Omaha, NE 68102 Representative: Jon McCarville Leo A Daly 8600 Indian Hills Drive Omaha, NE 68114	Ordinance No. _____ Reso. of Intent No. _____ Reso. to Dispose No. _____	**CASE #ZC-20-012** 1st Consideration: 11/23/2020 2nd Consideration: 12/14/2020 3rd Consideration: 01/11/2021 **CASE #SAV-20-004** Resolution of Intent: 11/23/2020 Resolution to Dispose: 12/14/2020 **CASE #CP-20-002** Public hearing: 12/14/2020 Planning Commission: 11/10/2020

Subject/Title

Request: Combined public hearings on the requests of YMCA of Greater Omaha to rezone properties legally described as Lots 6 through 11, Baughn's Subdivision of Lot 8, Original Plat of Council Bluffs, Pottawattamie County, Iowa, **EXCEPT** East Kanesville Boulevard right-of-way, from R-3/Low Density Multifamily Residential District to A-P/Administrative-Professional District; to amend the Bluffs Tomorrow: 2030 Plan by reclassifying said properties from 'Low Density Residential' to 'Local Commercial'; and to vacate and dispose of Baughn Street right-of-way lying between Harmony Street and East Kanesville Boulevard.

Location: West of 235 Harmony Street

Background

The Community Development Department has received applications from YMCA of Greater Omaha, represented by Jon McCarville, for the following requests:

1. To rezone properties legally described as Lots 6 through 11, Baughn's Subdivision of Lot 8, Original Plat of Council Bluffs, Pottawattamie County, Iowa, **EXCEPT** East Kanesville Boulevard right-of-way, from R-3/Low Density Multifamily Residential District to A-P/Administrative-Professional District;
2. To amend the Bluffs Tomorrow: 2030 Plan by reclassifying said properties from Low Density Residential to Local Commercial; and
3. To vacate and dispose of Baughn Street right-of-way lying between Harmony Street and East Kanesville Boulevard.

The YMCA of Greater Omaha is proposing to expand the Charles E. Lakin YMCA campus in Council Bluffs, located at 235 Harmony Street, to accommodate additional recreational amenities, including a sports court, an outdoor pavilion, a playground, a walking path and natural landing, as well as to increase the amount of off-street parking for the site (see Attachment 'C'). The applicant purchased the properties included in the proposed rezoning—the former site of St. Patrick's Catholic Church—in 2019 with this intent. In order to combine said properties with the existing YMCA site and create one continuous campus, the applicant is requesting to vacate the portion of Baughn Street right-of-way lying between Harmony Street and East Kanesville Boulevard, which

currently separates these properties. The applicant is requesting the proposed rezoning and comprehensive plan amendment for consistency purposes.

CASES #ZC-20-012 & #CP-20-002

The subject properties are currently zoned R-3/Low Density Multifamily Residential District. Previous land uses include St. Patrick's Catholic Church and Rectory, as well as single-family dwellings. The Charles E. Lakin YMCA is zoned A-P/Administrative-Professional District. The applicant is requesting the proposed rezoning for zoning and development consistency purposes as it will ensure the entirety of the expanded YMCA campus is located within the same zoning district.

Land Use and Zoning – The following zoning and land uses surround the subject property:

North: Residential properties that are zoned R-3/Low Density Multifamily Residential District.
South: Residential properties, a parking lot, several drive-in/fast-food restaurants and the Kanesville Tabernacle, all of which are zoned C-3/Commercial District.
East: Charles E. Lakin YMCA and CHI Health Mercy hospital, which are both zoned A-P/Administrative-Professional District.
West: Residential properties that are zoned R-3/Low Density Multifamily Residential District.

The future land use plan of the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) designates the subject properties as Low Density Residential. The purpose of the proposed comprehensive plan amendment to Local Commercial is to ensure the future land use classification of the subject properties is consistent with the future land use classification of the current YMCA site, which is designated as Local Commercial.

All City Departments and local utilities were notified of the proposed rezoning. The following comments were received:

- Mid-American Energy stated they were not opposed to the proposed rezoning.

Public notices were mailed to all property owners within 200 feet of the request. The following comments were received:

- Brenda Dollen, owner of 201 Benton Street, contacted the Community Development Department and had an inquiry regarding on-street parking along Harmony Street.
- Marcia and Tom Bouska, owners of 218 Harmony Street, contacted the Community Development and stated they are aware of the YMCA's need for additional parking. They also stated that the vacation of Baughn Street will increase traffic on Harmony Street. They request that parking be limited to one side of Harmony Street (see Attachment 'F').

Discussion

1. The A-P district is intended and designed to provide, in certain areas in the city, for the development of institutional public/semi-public uses that are arranged in a campus-style setting, with heavy public traffic volumes and multiple frontages, such as the Charles E. Lakin YMCA.
2. If approved, the proposed rezoning will provide one consistent zoning classification for the expanded YMCA campus.
3. As part of the YMCA expansion project, the applicant shall be required to replat the subject properties, the current YMCA site, and the portion of Baughn Street right-of-way proposed to be vacated into two lots of record.
   a. The YMCA of Greater Omaha owns the properties proposed to be rezoned; however, they do not own 235 Harmony Street. Said parcel is owned by Alegent Health-Bergan Mercy Health System. The applicant has a zero cost land-lease agreement with Alegent Health-Bergan Mercy to operate the Charles E. Lakin YMCA. The first lot will be owned by the YMCA of Greater Omaha and the other lot will be owned by Alegent Health-Bergan Mercy. Both YMCA and Alegent Health-Bergan Mercy shall be

signatories on the plat, and each shall prepare separate attorney's opinion of title for the land they respectively own within the subdivision plat boundary.

b. Said two-lot subdivision shall be subject to the approval of the proposed vacation of Baughn Street right-of-way (see Case #SAV-20-004 below).

4. The expanded YMCA campus will contain 182,144.6 square feet (4.18 acres), more or less, in area, which exceeds the minimum lot size requirements in the A-P/Administrative-Professional District.
5. The Charles E. Lakin YMCA, along with the proposed outdoor recreational amenities, is considered a 'commercial recreation (indoor and outdoor)' establishment. 'Commercial recreation (indoor and outdoor)' is a conditional use in the A-P District. The applicant shall obtain a conditional use permit (CUP) from the Zoning Board of Adjustment as part of the YMCA expansion project. Both YMCA and Alegent Health-Bergan Mercy shall be signatories on the CUP application.
6. The Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) designates the subject properties as Low Density Residential. The proposed comprehensive plan amendment to Local Commercial would ensure the future land use classification of the subject properties is consistent with the future land use classification of the current YMCA site, as well as with the proposed rezoning to the A-P District and the 'commercial recreation (indoor and outdoor)' land uses.
7. Adequate utilities (e.g., water, sanitary sewer, electric, etc.) are available to accommodate the uses permitted in the A-P District.

CASE #SAV-20-004

The portion of Baughn Street proposed to be vacated is improved and is used for vehicular and pedestrian circulation. It measures approximately 55 feet in width by 284.03 feet in length. The applicant intends to vacate the subject right-of-way as part of the Charles E. Lakin YMCA expansion project.

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 right-of-way. The owners of these properties are as follows:

   West: Six vacant properties, including the former site of St. Patrick's Catholic Church, owned by the YMCA of Greater Omaha.
   East: Charles E. Lakin YMCA, owned by Alegent Health-Bergan Mercy Health System (235 Harmony Street).

   Both 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 right-of-way 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*.
   Lots 7 through 10, Baughn's Subdivision of Lot 8, Original Plat of Council Bluffs, will be landlocked if subject right-of-way is vacated. Additionally, the west entrance to the Charles E. Lakin YMCA is located on Baughn Street. However, the existing facility can also be accessed through Harmony Street on the north. If Baughn Street is vacated, a final plat consisting of said Baughn Street right-of-way, the properties proposed to be rezoned and the current YMCA site shall be executed to ensure all platted lots of record have direct access to a publically dedicated right-of-way, to establish rights of ingress/egress and circulation between properties and to allow the applicant and Alegent Health-Bergan Mercy to retain shared access easements between the two parcels. As shown on the conceptual plan (see Attachment 'C'), the expanded

YMCA campus will be accessed through Harmony Street, thus no property owner will be deprived of required and reasonable access.

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 Baughn Street from Harmony Street to East Kanesville Boulevard.

4. *To reduce or eliminate hazardous and dangerous traffic conditions*.
Not applicable.

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:

   a. The Public Works Departments had the following comments:
      i. The Public Works Department reconstructed Baughn Street and Harmony Street in coordination with construction of the new YMCA facility. This work was completed just over three years ago. The cost to the City for the segment to be vacated was approximately $300,000.
      ii. If the vacation of Baughn Street proceeds forward, Public Works will require an easement to remain over the entire width of the subject right-of-way to accommodate the infrastructure that is currently in place. The easement would be restricted as follows:

         A. ERECTION OF STRUCTURES PROHIBITED: Grantor shall not erect any structure over or within the Easement Area without obtaining the prior written consent of the City Engineer, provided however grantor shall have the right to place and maintain a surfaced roadway over and within the Easement Area.
         B. CHANGE OF GRADE PROHIBITED: Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City Engineer.
         C. RIGHT OF ACCESS: City shall have the right of access to the Easement Area and have all right of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described.
         D. REMOVAL AND REPLACEMENT: The cost of removal and replacement of any unauthorized improvement or structures within the Easement Area, necessitated by the exercise of the rights under this easement, shall be borne by the Grantor or their successors or assigns.
         E. SURFACE RESTORATION: City's liability to restore the surface within the Easement Area shall be limited only to grading and seeding, and replacement of grantors surfaced roadway.
         F. DUTY TO REPAIR: City agrees that any drain tile, drive or access way, fence, or yard or other improvements outside of the Easement Area which may be damaged as a result of any entry made through an exercise of the City's right of access shall be repaired at no expense to Grantor.
         G. EASEMENT RUNS WITH LAND: This easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.

      iii. The Community Development Department has indicated that the ground that the YMCA has acquired will require a conditional use permit for the proposed commercial recreation (indoor and outdoor) activities. As part of that permit, Public Works will require stormwater to be managed to control quantity and quality, as per City Code.
   b. MidAmerican Energy Company stated they are not opposed to the proposed vacation. They also stated that there are a pair of existing MEC owned wood lighting poles—the northerly pole supports a City streetlight and the pole to the south supports an MEC area floodlight leased to illuminate the front of the church—and two spans of overhead conductor along the west side of the Baughn Street right-of-way to be vacated that would be in conflict with the proposed redevelopment and need to be removed. They also

noted that there are existing overhead electric distribution facilities along the south side of the Harmony Street right-of-way and down the alley between Baughn Street and Benton Street that appear to be outside the area to be vacated that must remain in service and accessible. They recommend that the applicant should contact MidAmerican Energy directly to identify any requirements and costs associated with relocating electric facilities or extending new service within the development area.

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 Baughn Street right-of-way lying between Harmony Street and East Kanesville Boulevard

8. *To assist in the implementation of the goals and objectives of the Comprehensive Plan.*
   The subject right-of-way is a local street that provides vehicular circulation between Harmony Street and East Kanesville Boulevard. However, both Benton Street—located west of Baughn Street—and Frank Street—which bounds the current YMCA site to the east—provide circulation between Harmony Street and East Kanesville Boulevard. Therefore, the proposed vacation of Baughn Street will not negatively impact vehicular circulation in this area of the city. The request is generally 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:

    a. The YMCA of Greater Omaha stated they are in favor of the request and are willing to acquire the portion of Baughn Street right-of-way adjacent to their properties for the total sum of $2,095.40.
    b. There has been no reply from Alegent Health-Bergan Mercy Health System regarding the vacation request.

Recommendation

The Community Development Department recommends the following:

1. Approval of the request to rezone property to rezone properties legally described as Lots 6 through 11, Baughn's Subdivision of Lot 8, Original Plat of Council Bluffs, Pottawattamie County, Iowa, **EXCEPT** East Kanesville Boulevard right-of-way, from R-3/Low Density Multifamily Residential District to A-P/Administrative-Professional District, based on the reasons stated above.
2. Approval of the request to amend the Bluffs Tomorrow: 2030 Plan by reclassifying properties legally described as Lots 6 through 11, Baughn's Subdivision of Lot 8, Original Plat of Council Bluffs, Pottawattamie County, Iowa, **EXCEPT** East Kanesville Boulevard right-of-way, from Low Density Residential to Local Commercial, based on the reasons stated above.
3. Approval of the request to vacate and dispose of Baughn Street right-of-way lying between Harmony Street and East Kanesville Boulevard, effective at the time of and subject to the following conditions:
   a. An easement shall be retained over the subject right-of-way for utility access and maintenance purposes;
   b. All portions of the subject right-of-way shall be disposed of to an abutting property owner(s);

c. A final plat consisting of the subject right-of-way, the properties proposed to be rezoned and the current YMCA site shall be executed by the City to create new platted lots of record with direct access to a publically dedicated right-of-way; and
d. A conditional use permit shall be obtained from the Zoning Board of Adjustment for the commercial recreation (indoor and outdoor) activities proposed as part of the expansion project.

Public Hearing

Staff speakers for the request:
1. Moises Monrroy, Planner, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA
2. Christopher Gibbons, Planning Manager, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA

Speakers in favor:
1. Leo McIntosh, Charles E. Lakin YMCA, 235 Harmony Street, Council Bluffs, IA 51503
2. Chris Rochleau, Charles E. Lakin YMCA, 1425 9th Avenue, Council Bluffs, IA 51501

Speakers against:
1. Sheryl Garst, The 712 Initiative, 1228 South Main Street, Council Bluffs, IA 51503
2. Patricia Murphy, Preserve Council Bluffs, 333 Willow Avenue, Council Bluffs, IA 51503
3. Anthony Beraldi, 238 Harmony Street, Council Bluffs, IA 51503
4. Ken Freudenburg, Lincoln-Fairview Neighborhood Association, 510 Oakland Avenue, Council Bluffs, IA 51503
5. Linda Emge, 244 Harmony Street, Council Bluffs, IA 51503
6. Deb Petersen, 215 South Main Street, Council Bluffs, IA 51503
7. Amanda Scott, 220 Harmony Street, Council Bluffs, IA 51503

Planning Commission Recommendation

Note: The reasons stated below are a summary of statements made by the voting majority of the City Planning Commission, as interpreted and condensed by the Community Development Department, and do not represent the entire Planning Commission as some did not make any comments and/or voted in the minority. The Planning Commission's official discussion and vote can be heard on the recorded meeting minutes located in the Community Development Department. This summary of statements was requested by City Council and is not intended to misrepresent the intent of the City Planning Commission or its individual members. Any misinterpretation of language, intent, or emphasis is not intended.

The Planning Commission recommended denial of all three requests, based on the following reasons:
1. Most right-of-way vacation requests involve streets and alleys that are unimproved and/or not utilized for traffic circulation. The applicant's request would result in vacating a fully improved roadway which is utilized by the neighborhood for on-street parking and traffic circulation. Approval of this request would also be disruptive to the traffic patterns in this area of the City.
2. The proposed rezoning and future land use plan amendment results in a fundamental change to the City's zoning map and Bluffs Tomorrow: 2030 Comprehensive Plan. The request by the applicant to expand their parking lot and construct an outdoor amenity area for the YMCA campus does not justify such a fundamental change to the City's zoning map and future land use plan of the Bluffs Tomorrow: 2030 Plan.

VOTE: AYE - Halm, Holm, Rew, Scott, Stroebele and Van Houten, and VanHouten
NAY - Bass, Danielsen, Haner and Rater ABSTAIN - None ABSENT - Hutcheson VACANT - None
Motion: Carried.

Attachments

Attachment A: Location/Zoning Map
Attachment B: Letter of Intent

Attachment C: Site Conceptual Plan
Attachment D: Plat of Survey (Rezoning Exhibit)
Attachment E: Plat of Survey (Street, Alley and Right-of-Way Vacation Exhibit)
Attachment F: Letter from Bouska

The following exhibits were presented to the Planning Commission at the 11/10/2020 public hearing:
Exhibit A: Letter from the Historical Society of Pottawattamie County
Exhibit B: Neighborhood comments from survey conducted by the 712 Initiative
Exhibit C: Letter from Lincoln-Fairview Neighborhood Association to YMCA
Exhibit D: Alternative Parking Conceptual Plan by the 712 Initiative

Prepared by: Moises Monrroy, Planner, Community Development Department