City Council Communication

Department: Community Development CASES #SUB-21-010, SAV-21-003, and ZC-21-008 Applicant: Anderson Construction Company 3125 S. 11th Street Council Bluffs, IA 51501 Property Owners: City of Council Bluffs 209 Pearl Street Council Bluffs, IA 51503 Twin Cities Christian Church 4220 Gifford Rd Council Bluffs, IA 51501 Engineer/Surveyor: Snyder Engineering 1751 Madison Ave Council Bluffs, IA 51503	Resolution No. _____ Resolution No. _____ Ordinance No. _____	**CASE #ZC-21-008** 1st Consideration: 9/27/2021 2nd Consideration: 10/11/2021 3rd Consideration: 10/25/2021 **CASE #SUB-21-010** Public Hearing: 10/11/2021 **CASE #SAV-21-003** Resolution of Intent: 9/27/2021 Resolution to Vacate:10/11/2021 Planning Commission: 9/14/2021

Subject/Title

Requests: Combined public hearing on the request of Andersen Construction Company, represented by Mark Andersen, for 1) final plat approval of a one-lot minor industrial subdivision, to be known as the Mark Andersen – Twin City Church Subdivision, on property legally described as part of the NE1/4 NE1/4, Section 15, and part of the NW1/4 NW1/4, Section 14, all in Township 74 North, Range 44 West of the 5th Principal Meridian, Council Bluffs, Pottawattamie County, Iowa; 2) vacate and dispose of former Gifford Road right-of-way located on the property legally described above; and 3) rezone the proposed subdivision from split zoning A-2/Parks, Estates, and Agricultural District and I-2/General Industrial District to entirely I-2/General Industrial District.

Location: 4220 Gifford Road and City-owned property and right-of-way at the southwest corner of Gifford Road and US-275/Veterans Memorial Highway

Background

In August 2021, Andersen Construction Company (referred to herein as "applicant" or "developer"), represented by Mark Andersen, submitted an application to the Community Development Department of the City of Council Bluffs for final plat approval of a one-lot minor industrial subdivision, to be known as the Mark Andersen – Twin City Church Subdivision, on the land legally described above. Along with this application, the applicant submitted requests to vacate a section of right-of-way formerly containing Gifford

Road and to rezone the property currently occupied by Twin Cities Christian Church to allow for industrial development on the site. Specifically, the applicant proposes the following:

1) Case #SUB-21-010: Final plat approval of a one-lot minor industrial subdivision to be known as Mark Andersen – Twin City Church Subdivision. The subject properties and right-of-way (see Case #SAV-21-003) together contain 7.37 acres (more/less) located southwest of the intersection of Gifford Road and US-275/Veterans Memorial Highway (see Attachment B). The applicant is the contract purchaser of the parcel of land currently occupied by Twin Cities Christian Church, which plans to move to a new location. The applicant also has made an offer to purchase the city-owned property located between the old Gifford Road right-of-way and the relocated section of Gifford Road. These two lots and the former Gifford Road right-of-way (to be vacated, see Case #SAV-21-003) will be replatted into a single lot that the applicant plans to develop with a new industrial and/or commercial use. The applicant intends to remove all existing buildings and trees on the property and raise the elevation to the street level of Gifford Road. The applicant will also propose to remove wetlands that exist within the proposed subdivision.
2) Case #SAV-21-003: Vacate and dispose of former Gifford Road right-of-way located immediately south of US-275/Veterans Memorial Highway and extending south to the relocated section of Gifford Road.
3) Case #ZC-21-008: Rezone the land within the proposed subdivision (see Case #SUB-21-010), legally described above, from a split zoning designation of A-2/Parks, Estates, and Agricultural District and I-2/General Industrial District to entirely I-2/General Industrial District.

The following attachments are included within this report for reference purposes:
Attachment A: Letter of intent
Attachment B: Final subdivision plat
Attachment C: Gifford Road right-of-way plat of survey
Attachment D: Location/zoning map
Attachment E: Cox Communications facility map

CASE #SUB-21-010 (See Attachments B, C, and D)

The proposed Mark Andersen – Twin City Church subdivision is comprised of 7.37 acres (more/less) of land and contains one buildable lot (see Attachment B). The applicant intends the lot within the subdivision to be used for an industrial and/or commercial use in the future, although the exact type of business that will occupy the site has not yet been determined.

Comments

1. The proposed subdivision is split zoned I-2/General Industrial District and A-2/Parks, Estates, and Agricultural District. The applicant proposes to rezone the subdivision (see Attachment B for legal description) from the current split zoning to entirely I-2/General Industrial District (see Case #ZC-21-008). This would make the zoning consistent across the entire subdivision, and it would be consistent with the zoning of surrounding properties (all zoned for industrial use, see Attachment D).
2. The land use plan in the Bluffs Tomorrow: 2030 Comprehensive Plan designates the subject property as "office/industrial," a use intended for low-impact assembly or distribution activities complemented by employment-intensive, administrative, or professional office functions. The applicant's suggestion that the land be redeveloped for a warehouse or similar industrial use is generally consistent with this intent. The subdivision proposal demonstrates consistency with the Bluffs Tomorrow: 2030 Comprehensive Plan, as well as with the purpose and intent of Title 14: Subdivisions and Title 15: Zoning of the Council Bluffs Municipal Code.

3. The subdivision will consist of one lot, which will result from combining property currently occupied by Twin Cities Christian Church (4220 Gifford Road) with City-owned property (parcel # 744414101006) and right-of-way directly to the east. The land's intended use for an industrial and/or commercial use would be allowed in the I-2/General Industrial District.
4. Proposed Lot 1 will contain 7.37 acres, which exceeds the minimum lot size requirement set forth in CBMC Chapter 15.21 I-2/General Industrial District.
5. The applicant intends to raise the elevation of the lot to the level of Gifford Road and proposes to remove wetlands that exist on the lot in order to make development more feasible.
6. The subdivision is accessible via Gifford Road. An existing driveway provides access to 4220 Gifford Road, the property currently occupied by Twin Cities Christian Church. The same driveway and curb cut could be used to facilitate access to the new subdivision, or the developer could coordinate with Public Works to establish a new access point along Gifford Road.
7. Public water, sanitary sewer, and storm sewer facilities are available to service the proposed subdivision. All costs to construct, remove, and/or relocate any of these facilities for the proposed subdivision shall be the responsibility of the developer and not the City.
8. Utilities (electric, gas, cable and communication facilities, etc.) are available to service the subdivision. All costs to construct, remove, and/or relocate any utilities in the subdivision shall be the responsibility of the developer and not the City or utility providers.
9. Black Hills Energy stated that they have natural gas lines running through the former Gifford Road right-of-way and would need to retain an easement if the right-of-way is vacated and disposed of (see Case #SAV-21-003). Any cost to relocate these facilities shall be the responsibility of the developer and not the City or utility provider.
10. Cox Communications stated that they have cable lines attached to MidAmerican Energy poles that run through the property. These facilities will require an easement. Any cost to relocate or bury these facilities shall be the responsibility of the developer and not the City or utility providers.
11. The Permits and Inspections Division had no comments.
12. The Public Works Department stated that there is a sanitary sewer line stubbed into the old Gifford Road right-of-way from the north. This will require an easement, or the developer may remove or relocate it to the north property line at their own expense.
13. Council Bluffs Water Works (CBWW) stated that they have a substantial water transmission main in the old Gifford Road right-of-way and current City right-of-way. This transmission main is fed from the Council Point Purification Plant, and if it were to break it would need to be fixed quickly to ensure adequate fire protection and drinking water supply for the City. A main break in this location may also cause significant damage to any improvements made in the vacated right-of-way. Because of the crucial nature of this water main, CBWW has expressed a desire to enter into an agreement with the developer regarding specific access rights. Alternatively, CBWW would be open to having the water main moved to the current Gifford Road right-of-way at the applicant's cost. CBWW and the developer shall privately coordinate an agreement regarding CBWW facilities within the old Gifford Road right-of-way, and the final plat shall not be executed until the City has received a copy of this agreement signed by both parties. The book and page number of said agreement shall be noted on the final plat prior to execution.
14. CBWW stated furthermore that Echo Electric has a private water lateral line extending from the main in the old Gifford Road right-of-way east to Echo Electric's property, passing under the city-owned property that the applicant wishes to purchase and incorporate into the proposed subdivision. Access to this water line must be preserved, and as such, the developer shall reserve an easement and note this on the final plat or work with Echo Electric on a private agreement to maintain access, noting the book and page number of the recorded agreement on the final plat.
15. MidAmerican Energy stated they have "substantial electric transmission and distribution facilities" within the former Gifford Road right-of-way and existing City right-of-way at this location. MidAmerican Energy has requested an easement to access their facilities for maintenance. MidAmerican

Energy also stated the applicant should contact MidAmerican Energy directly to discuss the project timeline and identify any and all costs associated with relocating existing electric facilities and supplying new electrical service within the proposed subdivision. The cost of relocating, burying, or extending these facilities shall be the responsibility of the developer and not the City or utility provider.

16. The final plat shall only be executed if the City Council approves 1) the applicant's offer to buy City-owned property at the southwest corner of Gifford Road and US-275/Veterans Memorial Highway, 2) the vacation of the former Gifford Road right-of-way (Case #SAV-1-003), and 3) the rezoning of the proposed subdivision (Case #ZC-21-008).
17. The following technical corrections shall be made to the final plat prior to the city executing the document:
    a. Add the subdivision name at top center of the final plat
    b. Add a section for Auditor Certificate of Recording
    c. Add language describing the easement agreement between the applicant and CBWW, or the book and page number of such agreement recorded by the county recorder.
18. The applicant shall provide a copy of any proposed covenants and/or private restrictions associated with the subdivision to the City, or place a note on the final plat indicating none will be recorded.

CASE #SAV-21-003

The purpose of this request is to allow the applicant to acquire right-of-way that formerly contained a section of Gifford Road, on the land legally described above, and consolidate it with abutting property to the east and west (see Case #SUB-21-010). The applicant is the contract purchaser of the property to the west of the right-of-way, currently occupied by Twin Cities Christian Church (4220 Gifford Road), and has submitted an offer to buy city-owned property to the east of the right-of-way. See Attachment C for a plat of survey showing the right-of-way the applicant wishes to vacate and dispose of.

Comments

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:

   East—Property owned by the City of Council Bluffs
   West—Property owned by Twin Cities Christian Church (4220 Gifford Road)

   The applicant is the contract purchaser of the land to the west, and the applicant has also submitted an offer to buy the City-owned property to the east. Once both properties are acquired by the applicant, they will be combined with the subject right-of-way to create a one-lot minor industrial subdivision (see Case #SUB-21-010).

   The City of Council Bluffs is not interested in acquiring its respective portion of the right-of-way. As such, the applicant and property owner to the west were each mailed a petition asking whether they are in favor of/opposed to the vacation request and if the applicant is willing/not willing to acquire the entire section of former Gifford Road right-of-way, if vacated. Their responses can be found in Comment #10 below.

2. *To ensure that no property owner is deprived of required and reasonable access.*
   Both abutting properties and the right-of-way will be replatted into one lot as part of Case #SUB-21-010, and this lot will be accessible via the relocated Gifford Road. The right-of-way in question no longer contains a city street, so it is not needed for access to any properties.

3. *To reduce or eliminate hazardous or dangerous traffic conditions.*
   The portion of right-of-way to be vacated is currently unimproved and is not used for vehicular, pedestrian, or bicycle traffic.

4. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets, or other rights-of-way.*
   The proposed vacation will not create any dead end alleys, streets, or other rights-of-way.

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 Permits and Inspections Division stated they have no comments on the request.
   - The Public Works Department stated that a sanitary sewer line is stubbed into the right-of-way from the north. This will require an easement, or the developer may remove or relocate the sanitary sewer line to the north property line at their own cost.
   - Cox Communications stated that they have cable facilities on MidAmerican power poles within the right-of-way (see Attachment E). These facilities will require an easement. Relocation or burial of these facilities shall be the responsibility of the developer and not the City or utility providers.
   - Council Bluffs Water Works has water mains that run under the right-of-way. CBWW stated that they will require an easement for these water mains. CBWW has also expressed a desire to enter into an agreement with the developer regarding specific access rights, as their infrastructure within the right-of-way is significant and would require quick maintenance in any instance of a main break. Alternatively, CBWW would be amenable to the water main being relocated to the current Gifford Road right-of-way at the developer's expense. The developer shall coordinate with CBWW on an agreement regarding access to or relocation of CBWW facilities, and the vacation shall not become effective until the City has received a copy of said agreement signed by both parties.
   - MidAmerican Energy stated that they have substantial electric transmission and distribution facilities within the right-of-way and will require an easement to access the facilities for maintenance. They also stated the applicant should contact MidAmerican Energy directly to discuss the project timeline and any costs for relocating the facilities and supplying the subdivision (see Case #SUB-21-010) with power. Any cost to relocate or extend MidAmerican facilities shall be the responsibility of the developer and not the City or utility provider.

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 portions of an existing alley, street, or other right-of-way.*
   This proposal will vacate an entire segment of right-of-way between two existing streets (US-275/Veterans Memorial Highway and the relocated portion of Gifford Road).

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 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 property.*
    The applicant and adjacent property owner were notified about this vacation request. Their responses are included below:

    - Twin Cities Christian Church stated they are in favor of this request.
    - The applicant, stated they are in favor of this request and are willing to acquire the entire right-of-way for a total sum of $24,723.35, subject to final plat approval and purchase of adjacent parcels.

The City will vacate the former Gifford Road right-of-way upon full approval of this request, and the city shall dispose of the subject right-of-way to the applicant only after the applicant has purchased both abutting properties. The applicant will also need to purchase the subject right-of-way before the City executes the final subdivision plat (see Case #SUB-21-010).

Case #ZC-21-008

The proposed subdivision (Case #SUB-21-010) is split zoned A-2/Parks, Estates, and Agricultural District and I-2/General Industrial District. The applicant has requested to rezone the land within proposed subdivision to I-2/General Industrial District to establish consistent zoning across the entire subdivision and enable the land within the subdivision to be used for an industrial and/or commercial business. Land subject to this rezoning is the same as the land legally described on the final subdivision plat (Attachment B).

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

- North
  - Future Amazon warehouse – I-1/Light Industrial District
- South
  - Consolidated Concrete – I-2/General Industrial District
- East
  - City-owned property – I-2/General Industrial District
  - Echo Electric Supply – I-2/General Industrial District
  - Council Bluffs Recycling Center – I-2/General Industrial District
- West
  - Consolidated Concrete – I-2/General Industrial District

A location/zoning map has been included with this report (see Attachment D).

The future land use plan of the Bluffs Tomorrow: 2030 Comprehensive Plan designates the subject property as "Office/Industrial."

Public notices were mailed to all property owners within 200 feet of the subject property. No comments have been received as of the date of this report.

Discussion

1. The developer intends to use the single lot in the proposed subdivision (see Case #SUB-21-010) for an industrial and/or commercial use. This use can only occur if the entire newly created parcel is zoned for industrial use.
2. The single lot proposed within the subdivision will contain 7.37 acres (more/less), which exceeds the minimum lot area requirement for the I-2/General Industrial District.
3. The Bluffs Tomorrow: 2030 Comprehensive Plan designates the subject property "Office/Industrial." The proposed rezoning is therefore consistent with the Future Land Use Plan.
4. Adequate utilities (e.g. water, sanitary sewer, storm sewer, electric, etc.) are available to accommodate the uses permitted in the I-2/General Industrial District.
5. The subject property is located among other industrial property, thus the rezoning would be consistent with the existing development pattern.

Recommendations

The Community Development Department recommends the following:

1. Approval of the proposed one-lot minor industrial subdivision to be known as Mark Andersen – Twin City Church Subdivision, as legally described in Attachment B, subject to the comments above and the conditions below:
   a. The final plat shall be recorded within 90 days of City Council approval or the plat will become null and void unless an extension has been requested and granted by the Community Development Department director.
   b. The subdivision shall conform to all City standards and specifications, the zoning and subdivision ordinances, and the Department of Public Works Standards for Public Improvements.
   c. All comments and technical corrections stated in this staff report shall be addressed on the final plat prior to execution of the document.
   d. All new utilities shall be installed underground. Any costs to construct, remove, and/or relocate any utilities shall be the responsibility of the developer and not the City.

2. Approval of the request to vacate and dispose of the section of right-of-way formerly containing Gifford Road, as legally described in Attachment C, subject to the following conditions:
   a. An easement shall be retained over the entirety of the subject right-of-way for utility access and maintenance purposes.
   b. All portions of the subject right-of-way shall be disposed of and replatted with the other properties that make up the developer's proposed subdivision (Case #SUB-21-010).
   c. Vacation and disposal of the subject portion of right-of-way shall be contingent on simultaneous approval of the proposed subdivision (Case #SUB-21-010) and rezoning request (Case #ZC-21-008).

3. Approval of the request to rezone the land legally described in Attachment B based on the reasons stated above and subject to final plat approval of the Mark Andersen – Twin City Church Subdivision.

Public Hearing

Staff speaker for the request:

1. Brandon Siracuse, Planner, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor:
1. Mark Andersen, Andersen Construction, 3125 S. 11th Street, Council Bluffs, IA 51501

Speakers against: None

Planning Commission Recommendation

The City Planning Commission recommended:

1. Approval of the proposed one-lot minor industrial subdivision to be known as Mark Andersen – Twin City Church Subdivision, as legally described in Attachment B, subject to the comments above and the conditions below:
   a. The final plat shall be recorded within 90 days of City Council approval or the plat will become null and void unless an extension has been requested and granted by the Community Development Department director.
   b. The subdivision shall conform to all City standards and specifications, the zoning and subdivision ordinances, and the Department of Public Works Standards for Public Improvements.
   c. All comments and technical corrections stated in this staff report shall be addressed on the final plat prior to execution of the document.
   d. All new utilities shall be installed underground. Any costs to construct, remove, and/or relocate any utilities shall be the responsibility of the developer and not the City.

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   b. All portions of the subject right-of-way shall be disposed of and replatted with the other properties that make up the developer's proposed subdivision (Case #SUB-21-010).
   c. Vacation and disposal of the subject portion of right-of-way shall be contingent on simultaneous approval of the proposed subdivision (Case #SUB-21-010) and rezoning request (Case #ZC-21-008).

3. Approval of the request to rezone the land legally described in Attachment B based on the reasons stated above and subject to final plat approval of the Mark Andersen – Twin City Church Subdivision.

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

Attachments

Attachment A: Letter of intent
Attachment B: Final subdivision plat
Attachment C: Gifford Road right-of-way plat of survey
Attachment D: Location/zoning map
Attachment E: Cox Communications facility map

Prepared by: Brandon Siracuse, Planner, Community Development Department