

June 16, 2014

To: Mayor Bemrich and City Council

From: David Fierke, City Manager

Subject: Right-of-Way Vacation



ACTION: Hold Public Hearing and First Reading of Ordinance vacating public right-of-way

Brief History

Holy Trinity Parish is requesting vacation of the remaining portion of alley located west of what was previously the Phillips Middle School Gymnasium and east of North 10th Street between 4th Avenue North and 3rd Avenue North. See attached map. Holy Trinity is currently in the process of purchasing the abutting property and would like to acquire the vacated alley as a part of their property. The Parish intends to use the vacated alley as a driveway to a proposed private parking area. The area proposed for vacation is not used for through access, as the east half of the alley was vacated through Ordinance 1166 in 1960.

Analysis of Issue

When analyzing requests for the vacation of public rights-of-way, City Staff considers the following:

- abutting property owners' access, support and other impacts;
- parking and transportation;
- liability, safety and maintenance;
- existing or proposed utilities and potential city improvement projects; and
- consistency with the City's Land Use Plan.

Abutting Property Owner Access & Support

The alley proposed for vacation is adjacent to lands owned by the Fort Dodge Community School District, which is currently under contract to be sold to Holy Trinity Parish. If the sale proceeds, Holy Trinity Parish wishes to have the vacated alley disposed to them and used as part of the neighboring property. Under its previous use, the alley was blocked off to the public by a chain link fence. The north half of the alley was paved for basketball courts and the south portion was graveled as part of the track. Holy Trinity is proposing to use the existing alley's curb cut for vehicular access to the existing basketball courts, which will be converted into a private parking area for use of the gymnasium and field. Holy Trinity anticipates that the fence will be replaced with a closeable gate, to be opened for use of the gymnasium and field.

Transportation & Parking Impacts

No transportation impacts are anticipated, as the alley proposed for vacation has not been used for through access since before the 1960's. There are also limited impacts to parking upon the vacation of the alley, as the area proposed for vacation is currently not accessible to the public for use of parking.

Liability, Safety & Maintenance

Liability and safety are common concerns for emergency response. By establishing a "no parking" area along the south/east entrance to the gymnasium, concerns for emergency response will be mitigated. Holy Trinity will be responsible for any necessary repairs to the vacated alley access, including the driveway apron, proposed vehicular access and snow removal of such areas. City snow removal services are not currently provided for the area proposed for vacation. Garbage pick-up will require no adjustments.

Utilities and City Improvement Projects

According to Ordinance number 1166, which vacated the east portion of the alley, the City retained full rights in the vacated property for the services of its utilities located therein and the existing rights of any private utility company using the alley at that time. A notice was sent out to all public and private utilities for their review of the proposed vacation. All public and private utilities approve of the vacation of the alley. Fire noted that a 50' clearance zone should be established along one of the entrances to the gymnasium, which the applicant has stated they will meet.

No City improvement projects are currently planned for this site.

Land Use

The City's Land Use Plan guides this area for Public use. The adjacent property is currently zoned Multiple Family Residential (2RM), which requires a Special Exception for use by a private school. Holy Trinity has obtained a Special Exception from the Board of Adjustment to allow use of the alley by St. Edmond Catholic School, upon vacation and disposition. The Special Exception includes the allowance to make improvements to the driveway apron and access drive, and potential changes to the existing fencing to include a gate for access, all of which will require submission of a Site Plan to be approved by the City. The proposed changes are allowed uses within the 2RM district. The proposed parking area is consistent with surrounding uses, which currently consist of multiple family and single family dwellings.

No negative impacts are foreseen in relation to abutting properties; parking and transportation; liability, safety and maintenance; utilities and city improvement projects; or land use.

Budget Impact

Right-of-way vacation requests do not typically entail any City expenditures.

Strategic Plan Impact

N/A

Existing Plan Impact

N/A

Subcommittee or Commission Review / Recommendation

The Plan & Zoning Commission considered this request for vacation at their regular meeting on June 10, 2014. The Commission unanimously voted to recommend approval of the request.

Staff Conclusions / Recommendations

Subject to City Council review, and comments received at the public hearing, Staff recommends approving the public right-of-way vacation request.

Alternatives

The alternative would be to deny the right-of-way vacation request, which would result in the area being maintained as public right-of-way. Denying the request may prevent Holy Trinity from using the area for access to a proposed parking area.

Implementation and Accountability

If the vacation request is ultimately approved, the public right-of-way will be disposed to the abutting property owners.

Signed



Carissa Miller
Associate Planner
Department of Business Affairs &
Community Growth

Approved



David R. Fierke
City Manager

Request for Vacation of Alley - Holy Trinity

Plan and Zoning Commission Case 2201.14



40 20 0 40 Feet

Map created 6/2/14

Prepared by Carissa Miller, 819 1st Ave. South, Fort Dodge, Iowa 50501, 515-573-8321.
Return to Business Affairs & Comm. Growth, 819 1st Ave. South, Fort Dodge, Iowa 50501

ORDINANCE NO. _____

**ORDINANCE PROVIDING FOR THE VACATION OF PUBLIC RIGHT-OF-WAY
CITY OF FORT DODGE, WEBSTER COUNTY, IOWA**

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FORT DODGE, IOWA:

SECTION I. PURPOSE.

The purpose of this Ordinance is to vacate that portion of public right-of-way located in Webster County, Iowa, described as follows:

THAT PORTION OF ALLEY WHICH EXTENDS FROM NORTH 10TH STREET EASTERLY AND INCLUDES ALL OF SAID ALLEY WHICH ABUTS LOTS FIVE (5), FOUR (4), TEN (10) AND NINE (9) IN SAID BLOCK 25, EAST FORT DODGE ADDITION TO FORT DODGE, WEBSTER COUNTY, IOWA.

SECTION II.

The City Council of the City of Fort Dodge, Iowa, hereby makes the following findings:

1. The proposed vacation of the above-described portion of public right-of-way does not negatively impact abutting property owners, parking, transportation, safety, public utilities, or land use;
2. upon vacation, the property will be disposed to the new neighboring property owner; and
3. no utilities were found to be present within the vacated property; therefore, no easements are necessary; and
4. the Public Notice of this intended vacation and the dates, time, and place on which the Council would first consider the vacating Ordinance has been heretofore published, as by law required.

SECTION III.

The public right-of-way, above described, is hereby declared vacated.

SECTION IV.

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION V.

If any Section, provision, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole, or any Section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION VI.

This Ordinance shall be in effect after its final passage, approval, and publication, as by law provided. Passed and approved by the City Council of the City of Fort Dodge, Iowa, this _____ day of _____, AD, 2014.

First consideration _____ day of _____ 2014.

Ayes: _____

Nays: _____

Other: _____

Second consideration _____ day of _____ 2014.

Ayes: _____

Nays: _____

Other: _____

Third consideration _____ day of _____ 2014.

Ayes: _____

Nays: _____

Other: _____

(City Seal)

CITY OF FORT DODGE

BY: _____
Matt Bemrich, Mayor

ATTEST:

Jeff Nemmers, City Clerk

STATE OF IOWA, WEBSTER COUNTY, ss:

On this ____ day of _____, 2014 before me, the undersigned, a Notary Public in and for said State, personally appeared Matt Bemrich and Jeff Nemmers to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of said corporation, that the seal affixed thereto is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its City Council; and that the said Mayor and City Clerk as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Dawn M. Siebken, Notary Public

JOHNSON, KRAMER, GOOD,
MULHOLLAND, COCHRANE & DRISCOLL, P.L.C.
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Arthur H. Johnson (1921-2009)

Of Counsel
Dean P. Erb
William J. Good

June 12, 2014

Fort Dodge City Council
City Clerk's Office
Municipal Building
819 1st Avenue South
Fort Dodge, IA 50501

Dear Council:

The undersigned represents Holy Trinity Parish who is purchasing the property located at 1011 4th Avenue North, Fort Dodge, Iowa from the Fort Dodge Community School District. As part of this transaction, we applied for a Vacation of a Public Right-of-Way concerning an alley vacation on the property being purchased. The Planning and Zoning Commission met and has recommended approval by the City Council to vacate this public right-of-way.

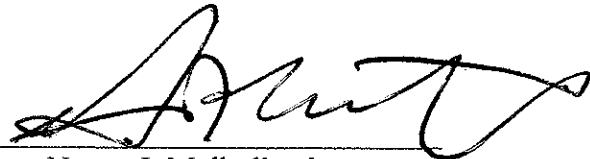
We are requesting that Council give consideration to waiving the second and third readings concerning the vacation of the public right-of-way which would allow us to complete the purchase of the property from the Fort Dodge Community School District.

Thank you for your consideration of this request.

Very truly yours,

JOHNSON, KRAMER, GOOD, MULHOLLAND,
COCHRANE & DRISCOLL, P.L.C.

By



Neven J. Mulholland

NJM/cjl