

**CITY PLANNING COMMISSION  
MINUTES  
MAY 8, 2018**

1. **CALL TO ORDER** – DeMasi called the meeting to order at 6:00 P.M.

2. **ROLL CALL**

Members Present: DeMasi, Danielsen, Holm, Holtz, Hutcheson, Rew, and VanHouten  
Absent: None  
Vacancy: Four  
Staff: Garrett, Gibbons, Meeks and Wade

3. **ADOPTION OF AGENDA**

Gibbons explained that the agenda states that it is amended, as the applicant for Case #ZC-18-007 revised their submittal. The agenda that was mailed to the applicants and Commission members presents the correct information

Motion by VanHouten, second by Rew to adopt the agenda as presented. Motion carried by unanimous voice vote.

4. **APPROVAL – MINUTES OF APRIL 10, 2018 MEETING**

Motion by Holm, second by Hutcheson to adopt the minutes as presented. Motion carried by unanimous voice vote.

5. **PROOF OF PUBLICATION** – Gibbons

6. **REVIEW OF MEETING PROCEDURES** – DeMasi

7. **PUBLIC HEARINGS** - *(Refer to the taped recording of these proceedings for official verbatim minutes)*

- A. CASE SAV-18-005: Public hearing on the request of T&A Real Estate to vacate a portion of 11th Avenue located between South 7th Street and the South Expressway. Adjacent properties are legally described as Lot 10 (excluding right-of-way) and Lot 11, Block 11, Riddles Subdivision, and Lot 16 and Lot 17 (excluding right-of-way), Block 14, Riddles Subdivision. Location: Between 1025 S. 7th Street and 1107 S. 7th Street.

The following members of the public spoke in favor of the request:

Andy Sunday, 1025 South 7<sup>th</sup> Street, Council Bluffs, IA 51501 spoke as the prospective buyer of the subject right-of-way. Sunday stated that he does not believe that the vacation should be denied for land-locking a parcel owned by Joseph and Michelle Bates, which is located on the East side of the South Expressway viaduct.

Roger Sandau, 650 Simms Avenue, Council Bluffs, IA 51503, asked why the Public Works Department was in favor of the vacation of 11<sup>th</sup> Avenue on the East side of the South Expressway, but opposed to the proposed vacation on the West side of the South Expressway, when the building owned by the Bates would be most reasonably accessed by 11<sup>th</sup> Avenue on the West side of the South Expressway.

Michelle Bates, 14017 Overland Trail, Council Bluffs, IA 51503, stated she owns the property which would be landlocked by the proposed vacation. Bates stated she was told by City staff that access to her property should come from 11<sup>th</sup> Avenue via South 6<sup>th</sup> Street, as she was not to drive under the South Expressway

viaduct. Bates stated she was not informed of the 11<sup>th</sup> Avenue vacation on the East side of the viaduct, and would like an easement to access her property.

No one spoke in opposition of the request. DeMasi closed the public hearing.

Gibbons stated that one of the reasons for the recommending denial was based on the request of the Public Works Department that no more right-of-way vacations adjacent to the South Expressway be approved until future plans regarding the lowering of the South Expressway to an at-grade roadway are finalized, as the right-of-way may be necessary for the project. Gibbons stated access to the Bates property also factored into the recommendation. Gibbons stated that the vacation of the proposed section of 11<sup>th</sup> Avenue right-of-way would land-lock the parcel owned by the Bates.

Rew asked the Bates how they access their site. Bates stated it is from 6<sup>th</sup> Avenue, though the PACE owned ground.

Rew asked Sunday if there are any plans for expansion into the section of 11<sup>th</sup> Avenue that is proposed to be vacated. Sunday stated there are no formal plans at this time, but the vacation would allow them flexibility on the use of the site. Sunday stated he has no issues with allowing The Bates an access easement through his property, if he were to acquire the subject right-of-way.

Holm asked if there are any formal plans of where the South Expressway will be lowered to ground level. Garrett stated there are no known formal plans at this time.

Motion by VanHouten, seconded by DeMasi to deny the request based on staff recommendation.

Rew stated that an access easement should have been granted with the vacation of 11<sup>th</sup> Avenue on the East side of the South Expressway, but it was not and access to the Bates property needs to be maintained. Garrett stated the term that should be used is "platted access" to public right-of-way.

Sandau stated that 11<sup>th</sup> Avenue is not passable at this time, and the City does not allow access under the South Expressway, so the vacation would not change the access to the Bates property. Rew asked if Sunday could allow the Bates to access their property through an easement through the former 11<sup>th</sup> Avenue right-of-way, if it were to be vacated. Garrett stated he could not speak for the Public Works Department on that question. Sandau stated that access through the privately owned PACE site is not practical, as PACE could install a barrier that would prevent the Bates from accessing their site.

Rew stated it should be the responsibility of the City to provide reasonable access to the Bates property, not Mr. Sunday's responsibility. Wade suggested a motion to approve the vacation, with the condition that the City provide reasonable access to the Bates property. Sunday and Bates stated that it is reasonable to both of them.

VanHouten withdrew his previous motion.

Motion by VanHouten, second by Hutcheson to recommend approval of the applicant's request for vacation, provided that the City give access to the property currently owned by The Bates that appears to be landlocked.

VOTE: AYE – DeMasi, Danielsen, Holm, Holtz, Hutcheson, Rew, and VanHouten.  
NAY – None. ABSTAIN – None. ABSENT – None. Motion carried.

- B. CASE #SAV-18-006: Public hearing on the request of Robert Howe to vacate a 12-foot by 48.52-foot section of alleyway that was platted as a part of Babbitt Place Subdivision, and located north of Hammer

Avenue. Adjacent properties are Lot D of Babbitt Place, and Lot E of Babbitt Place. Location: North of Hammer Avenue, adjacent to 1302 East Washington Ave.

The following members of the public spoke in favor of the request:

Robert Howe, 121 Norton Avenue, Council Bluffs, IA 51503, stated he owns property that is adjacent to the alleyway, and he would like to fence his portion of the alley to keep trespassers off of his land.

No one spoke in opposition of the request.

Rew asked why the request was not expanded to vacate the entire alleyway between Hammer Avenue and Norton Avenue. Meeks explained that the remainder of land between the subject alleyway and Norton Avenue were platted parcels that were previously sold by the City of Council Bluffs, and were currently privately owned.

Gibbons stated for the record that MidAmerican Energy has requested an easement remain over the alleyway if it is vacated.

Motion by Rew, second by Holm to recommend approval of the request to vacate and dispose of a 12-foot by 48.52-foot section of alleyway that was platted as a part of Babbitt Place Subdivision, and located north of Hammer Avenue, per staff's recommendation.

VOTE: AYE – DeMasi, Danielsen, Holm, Holtz, Hutcheson, Rew, and VanHouten.  
NAY – None. ABSTAIN – None. ABSENT – None. Motion carried.

- C. CASE #SAV-18-007: Public Hearing on the request of Jimmy Steinbach to vacate a section of alleyway that is platted as a part of Block 33, Fleming and Davis Addition, and Block I, Riddles Subdivision. Adjacent properties include Lots 3-8, Block 33, Fleming and Davis Addition (1405 15th Avenue), Lots 9-14, Block 33, Fleming and Davis Addition (unaddressed and vacant), Lots 1-4, Block I, Riddles Subdivision (1400 16th Avenue), and property owned by the Chicago Northwestern Railroad (Lots 1-4, Block 33, Fleming and Davis Addition). Location: West of South 15th Street, between 16th Avenue and 15th Avenue Right-of-Way.

The following member of the public spoke in favor of the request:

Jim Steinbach, 1405 15<sup>th</sup> Avenue, Council Bluffs, IA 51501, stated that he applied to vacate this section of alleyway to allow him to install a fence around the perimeter of his property.

No one spoke in opposition of the request.

Motion by VanHouten, second by Davidson to recommend approval of the request to vacate and dispose of a section of alleyway that is platted as a part of Block 33, Fleming and Davis Addition, and Block I, Riddles Subdivision. Adjacent properties include Lots 3-8, Block 33, Fleming and Davis Addition (1405 15th Avenue), Lots 9-14, Block 33, Fleming and Davis Addition (unaddressed and vacant), Lots 1-4, Block I, Riddles Subdivision (1400 16th Avenue), and property owned by the Chicago Northwestern Railroad (Lots 1-4, Block 33, Fleming and Davis Addition), per staff's recommendation.

VOTE: AYE – DeMasi, Danielsen, Holm, Holtz, Hutcheson, Rew, and VanHouten.  
NAY – None. ABSTAIN – None. ABSENT – None. Motion carried.

- D. CASE #SAV-18-009: Public Hearing on the request of Stanley Wills to vacate a 12-foot wide section of north/south alleyway that is located between 4th Avenue and 5th Avenue, and adjacent to Lot 6, Block 30, Bryant and Clark Addition; Lots 3, Block 9, Ferry Addition; Lot 1, Block 1, Browns Subdivision; and Lot 9, Block 6, Omaha Addition. Location: Adjacent properties are addressed as 3325 4th Avenue, 3329 4th Avenue, 3450 5th Avenue, and 3350 5th Avenue.

The following member of the public spoke in favor of the request:

Stan Wills, 3325 4<sup>th</sup> Avenue, Council Bluffs, IA 51501, stated that the vacation of this alleyway would allow him the additional setback distance and lot area necessary to expand his home.

No one spoke in favor or opposition of the request.

Gibbons stated the City received a signed petition from the owner of the home addressed as 3329 4<sup>th</sup> Avenue stating they are in favor of the vacation, and are willing to acquire their half of the subject alleyway. Gibbons asked that the staff report recommendation be changed to allow this neighbor to acquire their portion of the alleyway. Gibbons also stated that MidAmerican Energy requested a permanent utility easement be maintained over the alleyway if approved.

Motion by DeMasi, second by Holm to recommend approval of the request to vacate and dispose of a 12-foot wide section of north/south alleyway that is located between 4th Avenue and 5th Avenue, and adjacent to Lot 6, Block 30, Bryant and Clark Addition; Lots 3, Block 9, Ferry Addition; Lot 1, Block 1, Browns Subdivision; and Lot 9, Block 6, Omaha Addition, with all adjacent property owners receiving the half of the alleyway abutting their property.

VOTE: AYE – DeMasi, Danielsen, Holm, Holtz, Hutcheson, Rew, and VanHouten.  
NAY – None. ABSTAIN – None. ABSENT – None. Motion carried.

- E. CASE #SUB-18-007 and CASE #ZC-18-007: Combined public hearing on the request of Knudson Companies to rezone part of the NE1/4 of Section 14-74-44 from R-1/Single-Family Residential District and R-3/Low Density Multi-Family Residential District to R-1/Single-Family Residential District and R-4/High Density Multi-Family Residential District along with preliminary plan approval for an 85-lot residential subdivision to be known as North Shore Subdivision. The Community Development Department expanded the request to include appending a PR/Planned Residential Overlay on proposed Lots 2 and 3, North Shore Subdivision. Location: North of Lake Manawa.

The following members of the public spoke in favor of the request:

Mark McKeever, 5102 Ballard Circle, Council Bluffs, IA 51503, stated that he has spent 10 years working to develop the site, but Knudson Companies is able to accomplish what he was not able to. McKeever stated that this development will be a benefit to the city.

No one spoke in opposition of the request.

Rew asked about the lot size for the R-1/Single Family Residential zoned lots. McKeever stated that all the homes will be detached single family with this proposal. McKeever stated that the proposal is not as dense as

previously submitted plans for this site. Rew stated he is in support of the proposed layout of streets and alleys.

Motion by Rew, second by Holm to recommend approval to rezone part of the NE1/4 of Section 14-74-44 from R-1/Single-Family Residential District and R-3/Low Density Multi-Family Residential District to R-

I/Single-Family Residential District and R-4/High Density Multi-Family Residential District along with preliminary plan approval for an 85-lot residential subdivision to be known as North Shore Subdivision, and to append a PR/Planned Residential Overlay on proposed Lots 2 and 3, North Shore Subdivision, per staff recommendation.

VOTE: AYE – DeMasi, Danielsen, Holm, Holtz, Hutcheson, Rew, and VanHouten.  
NAY – None. ABSTAIN – None. ABSENT – None. Motion carried.

- F. CASE #ZT-18-001: Public hearing on the request of the Community Development Department to amend multiple sections of Title 15: Zoning of the Municipal Code as follows: add Section 15.03.171a ‘consumer fireworks sales’; and add Section 15.15.020(7a) ‘consumer fireworks sales’ to the C-2 Commercial District and; add Section 15.15.060(4) Additional Regulation; and add Section 15.18.020(04a) ‘consumer fireworks sales’ to the PC/Planned Commercial District; and add Section 15.18.055 Additional Regulation; and add Section 15.20.020(10a) ‘consumer fireworks sales’ to the I-1/Light Industrial District and; add Section 15.20.060(2) Additional Regulations and; add Section 15.21.020(9a) ‘consumer fireworks sales’ to the I-2/General Industrial District; and add 15.21.060(2) Additional Regulations’; and add 15.23.060(4) requiring 1/space per 200 square feet of gross floor area.

The following members of the public spoke in favor of the request:

Gibbons explained that these text amendments are in response to state legislatures approval of the sale of consumer fireworks during the 2017 legislative session. Gibbons stated the amendments establish definitions of terms, zoning districts the sales would be allowed in, setbacks, and parking standards.

DeMasi asked if staff anticipates any areas where the fireworks stands would be located. Gibbons stated that the sales would mostly take place in large commercial parking lots.

No one spoke in opposition of the request.

Motion by Holm, second by DeMasi to recommend approval of the request of the Community Development Department to amend multiple sections of Title 15: Zoning of the Municipal Code as follows pertaining to consumer fireworks sales, per staff recommendation.

VOTE: AYE – DeMasi, Danielsen, Holm, Holtz, Hutcheson, Rew, and VanHouten.  
NAY – None. ABSTAIN – None. ABSENT – None. Motion carried.

8. **OTHER BUSINESS** (*Refer to the taped recording of these proceedings for the official verbatim minutes*)
- A. City Council Update- Wade provided an update of City Council actions relative to recent planning cases.
  - B. Other Items of Interest- Gibbons presented an idea of reducing the size of the Planning Commission from 11 members to 7 members. The commission shared their viewpoints regarding the size of the board and the time of the meetings, and agreed to consider the proposal and discuss it at a later date.

9. **ADJOURNMENT** – DeMasi adjourned the meeting at 6:57 P.M.

*The recording of this proceeding, though not transcribed, is part of the record of each respective action of the City Planning Commission. The recording of this proceeding is incorporated into these official minutes of this Commission meeting as if they were transcribed herein.*