

COUNCIL ACTION FORM

**SUBJECT: SALE OF A PORTION OF THE CITY-OWNED PROPERTY AT 1125
MAXWELL TO DENNIS & DAWN HEABERLIN**

BACKGROUND:

CDBG funds were used to purchase the property at 1125 Maxwell in 2015 for \$28,500 as part of the Acquisition/Reuse Program. The property was a foreclosure at the time of its purchase by the City. The City demolished an existing structure and entered into an agreement in 2016 with Habitat for Humanity to purchase the property for \$5,000 and to construct a new home on the property.

The housing construction at 1125 Maxwell Avenue was scheduled to begin at the end of July 2017, however, due to the size of the lot and property line complications with the neighboring property at 1123 Maxwell Avenue have delayed construction. The neighboring property owner (Heaberlin) contends the common lot line between the properties should be based upon the location of a fence erected by a prior property owner. The fence varies in distance from the platted lot line of between approximately 3 and 7 feet. The 1123 Maxwell property also has a minor driveway encroachment over the platted property line for the area in front of the 1123 Maxwell house.

A fair and equitable compromise to resolve the issue was determined to be the granting of 3-feet from the property line along the south side of the property at 1125 Maxwell to the property located at 1123 Maxwell owned by Dennis and Dawn Heaberlin. At the September 12, 2017 City Council meeting, City Council approved a Plat of Survey that provides for the 3-feet of the boundary line to be adjusted to the 1123 Maxwell lot. This transfer is based upon the condition that the Heaberlin's sign the attached Quit Claim Deed and Release that they make no other claim of ownership of land that is part of the 1125 Maxwell lot.

This adjustment to the south boundary line will still allow for a buildable lot that will conform to the zoning requirements for the construction of a single-family home by Habitat, and will also allow the Heaberlins to maintain a reasonable width for access of their driveway.

ALTERNATIVES:

1. The City Council can approve a resolution to grant a 3 feet boundary line adjustment along the south property line lot at 1125 Maxwell Avenue to the 1123 Maxwell Avenue owned by Dennis and Dawn Heaberlin as approved in the Plat of Survey and approve the issuance of a Quit Claim Deed and acceptance of Release of no further claim of ownership from the Heaberlins.
2. The City Council deny the adoption of a resolution to grant a 3 feet boundary line adjustment along the south property line lot at 1125 Maxwell Avenue to the 1123 Maxwell Avenue owned by Dennis and Dawn Heaberlin as approved in the Plat of Survey and not approve the issuance of a Quit Claim Deed and acceptance of Release of no further claim of ownership from the Heaberlins.
3. The City Council can refer this item back to staff for further information.

CITY MANAGER'S RECOMMENDED ACTION:

Granting 3-feet of the south property line at 1125 Maxwell Avenue to the 1123 Maxwell will allow the agreement between the City of Ames and Habitat for Humanity of Central Iowa to proceed with the construction of a single-family home to address the housing needs for low and moderate income first-time home buyers.

Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1 as described above.

RELEASE

KNOW ALL PERSONS BY THIS INSTRUMENT: That Dennis Heaberlin and Dawn G. Heaberlin (hereinafter "Heaberlins"), their successors and/or assigns, forever discharge the City of Ames (hereinafter "City"), its successors and/or assigns, from any claims they may have to any portion of the real property owned by the City locally known as 1125 Maxwell Avenue, and legally known as "Lot 1, Block 2, Sunrise Addition to Ames, Story County, Iowa.

Heaberlins hold title to the property at 1123 Maxwell Avenue, in the City of Ames, and claim a property interest related to a boundary line dispute in "Lot 1, Block 2, Sunrise Addition to Ames, Story County, Iowa." In full settlement of this claim, Heaberlins have agreed to relinquish any claim to the City property in exchange for an adjustment in the boundary line between Lots 1 and 2, Block 2, Sunrise Addition to Ames, Story County, Iowa. As part of the settlement, the City will convey to Heaberlins the South 3 feet of Lot 1, Block 2, Sunrise Addition to Ames, Story County, Iowa, to adjust the boundary line between the properties. In exchange for this adjustment to the boundary line between the two properties, Heaberlins will relinquish any and all claims that they may possess by adverse possession, or otherwise, to the City property as part of the settlement and convey any and all interest they, or their successors and/or assigns possess in the City property.

This release shall be binding and effective upon successors and/or assigns of Dennis Heaberlin and Dawn G. Heaberlin and the City of Ames.

Heaberlins agree: (1) That this release covers all injuries and damages, whether known or not and which may hereafter appear or develop arising from the matter referred to. (2) That said boundary line adjustment is all that we or either of us will receive for our claim and no promise for any other or further consideration has been made by anyone. (3) That this release is executed as a compromise settlement of disputed claims, liability for which is expressly denied by the party released, and that the consideration does not constitute an admission of liability on the part of the City of Ames. (4) That each party is executing this release solely in reliance upon our own knowledge, belief and judgment and not upon any representations made by the party released or others on behalf of the party released.

Dated the ____ day of September, 2017.

DENNIS HEABERLIN

DAWN G. HEABERLIN

STATE OF IOWA, COUNTY OF STORY, SS.:

This instrument was acknowledged before me on September ____, 2017, by Dennis Heaberlin and Dawn G. Heaberlin.

NOTARY PUBLIC

S P A C E A B O V E R E S E R V E D F O R O F F I C I A L U S E

Exemption claimed: Iowa Code § 428A.2(6) Grantee is a governmental body without additional consideration

Return /Send tax statement to:: City Clerk, 515 Clark Avenue, Ames IA 50010

Document prepared by: Victoria Feilmeyer, City of Ames Legal Department, 515 Clark Ave., Ames, IA 50010 – 515-239-5146

Quit Claim Deed

KNOW ALL PERSONS: The Grantors, **Dennis R. Heaberlin and Dawn G. Heaberlin**, husband and wife, for valuable consideration, do hereby quit-claim and convey unto the Grantee, **City of Ames**, an Iowa Municipal Corporation, all right, title, interest, estate, claim, and demand in the Real Property described as follows:

Lot One (1), Block Two (2), Sunrise Addition, Ames, Story County, Iowa.

This deed is given to establish that Grantors claim no interest in the subject property.

The Grantors relinquish all rights of dower, homestead, and distributive share in and to the Real Property.

Dated _____, 2017.

DENNIS R. HEABERLIN

DAWN G. HEABERLIN

STATE OF IOWA, COUNTY OF STORY, SS.:

This instrument was acknowledged before me on _____, 2017, by Dennis R. Heaberlin and Dawn G. Heaberlin.

NOTARY PUBLIC