

**COUNCIL ACTION FORM**

**SUBJECT: E. LINCOLN RIGHT-OF-WAY AND EASEMENTS IN FRIEDRICH'S  
COMMERCIAL ADDITION**

**BACKGROUND:**

City Council recently referred a request on behalf of the property owner of 605, 615, and 729 E. Lincoln Way to vacate 10 feet of right-of-way on the north side of the street. The parking lot of the building at 615 E. Lincoln Way extends into this area. In 2008, the parcel that 615 E. Lincoln Way is located on was replatted with a plat of survey. This plat showed the 10 feet being requested as part of the parcel. It was found that this was incorrect while recently preparing to replat the property.

The property owner did research on this property and found that the right-of-way was originally owned by the Iowa Department of Transportation (DOT). In 1969, the area containing these properties was platted through the City of Ames platting process and the existing 50 feet of right-of-way was also dedicated to the City. In 1972, the Iowa DOT abandoned the north 10 feet of their right-of-way which left 40 feet; however, there is no record that the City also abandoned this 10 feet. This means that while the Iowa DOT had 40 feet of right-of-way for the road, the City maintained 50 feet. When this was no longer used as a state route, the Iowa DOT right-of-way became the jurisdiction of the City. In 1975 and 1981, the City did acquire utility easements over the 10 feet, assuming the 40 feet from the Iowa DOT was the correct right-of-way. There is record of the property owners requesting this area in the past, but there is no record of action by the City.

According to City policy for disposing of public right-of-way, the cost of the right-of-way calculated for 605 E. Lincoln Way would be \$1,102.85, 615 E. Lincoln Way would be \$14,373.75, and 729 E. Lincoln Way would be \$6,275.10. These values reflect a 10 percent reduction for quit claim deed and a 15 percent reduction for retaining the area as easements (easements are already in place).

The property owners believe that since this property has been in their use and possession, and due to the fact that it was treated as being owned by them (i.e. easements), that a \$10.00 payment to the City would be a fair alternative.

At this time, the property owner is also seeking to vacate all easements in Friedrich's Commercial Addition so that new, correct easements can be recorded with the new plat. With City Council approval, the motions to vacate the right-of-way and easements will be tied to the approval of a new final plat showing the appropriate new easements and right-of-way.

### **ALTERNATIVES:**

- 1a. Approve the process of vacating the E. Lincoln Way right-of-way adjacent to Friedrich's Commercial Addition conditional upon final plat being approved for the same area, and set the date of public hearing as February 23, 2010.
- b. Approve the sale of all vacated right-of-way to the adjacent property owner in the amount of \$10.00, and establish February, 23, 2010, as the date of public hearing on the resolution to sell the property.
- c. Approve the vacation of all easements in the Friedrich's Commercial Addition conditional upon final plat being approved for the same area, and set the date of public hearing for February 23, 2010.
- 2a. Approve the process of vacating the E. Lincoln Way right-of-way adjacent to Friedrich's Commercial Addition conditional upon final plat being approved for the same area, and set the date of public hearing as February 23, 2010.
- b. Approve the sale of all vacated right-of-way to the adjacent property owner in the amount of \$21,751.71, and establish February, 23 2010, as the date of public hearing on the resolution to sell the property.
- c. Approve the vacation of all easements in Friedrich's Commercial Addition conditional upon final plat being approved for the same area, and set the date of public hearing for February 23, 2010.
- 3a. Retain this land and deny the request to vacate the E. Lincoln Way right-of-way adjacent to Friedrich's Commercial Addition.
- b. Deny the request to vacate all easements in Friedrich's Commercial Addition.

### **MANAGER'S RECOMMENDED ACTION:**

Even though this right-of-way is legally owned by the City of Ames, it appears that the history of the land shows it was treated as private property. This would also be consistent with properties to the west. Since the time the Iowa DOT abandoned use of Lincoln Way as U.S. Highway 30 and transferred the right-of-way to the City, all City actions have been consistent with the presumption that 40 feet was the correct right-of-way in this area. There are currently no plans for widening E. Lincoln way in this area. Should it be needed in the future, any roadway expansion would likely occur to the south across the street from these properties.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 as shown above.





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Title:	
Scale:	1 in = 200 ft
Date:	