



Memo

Legal Department

TO: Mayor Campbell and Members of the City Council

FROM: Doug Marek, City Attorney

DATE: March 5, 2009

SUBJECT: Ordinance Vacating & Closing a Portion of Right-of-Way

At the regular meeting February 23, the City Council held public hearings on the vacation and sale of a ten-foot strip of right-of-way adjacent to Friedrich's Commercial Subdivision on East Lincoln Way. As you will recall, there were discrepancies between the records of the Iowa Department of Transportation and the City of Ames as to whether the width of the right-of-way at that location was forty or fifty feet. Following the public hearings the Council authorized the vacation and sale of the ten-foot strip to R. Friedrich and Sons, the owners of the adjacent lots.

Friedrich has now submitted the final plat for Friedrich's Commercial Subdivision, Second Addition, for approval by the Council. That matter is tentatively scheduled for the next regular meeting, March 23rd. Prior to consideration of the final plat, however, it is appropriate to finalize the vacation of right-of-way by ordinance.

In order to keep the approval of the final plat on schedule, the developer has requested that the Council approve the ordinance on first reading at the workshop March 9, and that the rules be suspended and the ordinance passed on final adoption so that it can be published prior to the March 23 regular Council meeting.

I have attached a copy of the proposed ordinance for your information. Please contact me if you have any questions.

ORDINANCE NO. _____

**AN ORDINANCE VACATING AND CLOSING A PORTION OF THE
RIGHT-OF-WAY OF EAST LINCOLN WAY**

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. Findings. The City Council has authority, as described in Article III, Section 38A of the Constitution of the State of Iowa and in Section 306.10 to vacate public rights-of- way. The Council has previously given notice of and conducted a public hearing as required by Sections 306.11 and 306.12 of the Iowa Code, respectively. The City Council deems this ordinance appropriate and necessary to protect, preserve, and improve the rights, privileges, property, peace, safety, health, welfare, comfort, and convenience of the City of Ames and its citizens, all as provided for in and permitted by Section 364.1 of the Code of Iowa (2010).

Section Two. Vacation & Closing. The portion of the public right-o- way (located generally at 605 to 729 East Lincoln Way) is hereby vacated and closed where legally described as follows:

the 10 feet south of and adjacent to Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Friedrich's Commercial Addition, Ames, Iowa

Section 3. Claims for Damages. There having been no objections or claims filed pursuant to section 306.14 of the Code of Iowa, no damages are awarded.

Section 4. Final Order. This ordinance shall constitute the final order of the Council as prescribed by Section 306.16 of the Code of Iowa, and the City Clerk shall cause this ordinance to be filed with the Recorder of the county in which the real property lies.

Section 5. Repealer. All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 6. Severability. 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 7. Effective Date. This ordinance shall be in full force and effect from and after the date of its publication as provided by law.

APPROVAL: In accordance with Iowa Code Section 380.5, the undersigned approves the foregoing as finally enacted on the _____ day of _____, 2010, by the City Council.

In Witness Whereof, I affix my signature on the
_____ day of _____,
2010:

Ann H. Campbell, Mayor

Attested and Sealed with the seal of the City of Ames,
Iowa on the date aforesaid by:

Diane R. Voss, City Clerk