

**COUNCIL ACTION FORM**

**SUBJECT: SUMNER AVENUE RIGHT-OF-WAY AND ALLEY IN KINGSBURY'S ADDITION**

**BACKGROUND:**

A representative from BMB Land Company LC (Doug Pyle) has requested that the alley south of SE 2<sup>nd</sup> Street between Sumner Avenue and High Avenue be vacated, and a representative of BBNC LLC (Bart Clark) has requested that the right-of-way of Sumner Avenue south of SE 2<sup>nd</sup> Street be vacated. (See attached map.) Sumner Avenue pavement in that location was removed long ago, and the right-of-way does not connect with SE 3<sup>rd</sup> Street.

Staff has determined that neither of these rights of way are needed for public ingress or egress. According to City policy for disposing of excess right-of-way, the adjacent property owners were approached to determine their interest in purchasing the respective adjoining halves of the right-of-ways. Exhibits 1 and 2 are attached to demonstrate each section of right-of-way. The total value of the Sumner Avenue right-of-way is estimated at \$123,460.79, and the alley right-of-way value is estimated at \$12,091.85. In accordance with City policy, these values were determined by taking the average value of the adjacent properties, deducting 10 percent for a quit claim deed, and deducting 15 percent for maintaining easements on the property for access to existing utilities. Utility right-of-way permits and easements need to be retained in order to maintain access to the existing utilities.

BMB Land Company LC, JMH Corporation, and BBNC LLC have expressed interest in purchasing the segments of these rights-of-way adjacent to their properties. Boyd Antill has told staff that he would forego purchasing piece A of Sumner Avenue, if BMB Land Company LC can purchase it directly from the City. BMB Land Company LC has stated that they are interested in purchasing piece A. BBNC LLC has also expressed an interest in purchasing the entire right-of-way of Sumner Avenue, including piece A.

It should be noted that piece E has a long-term lease from the City to BBNC for parking purposes. After conferring with the Legal Department, the right-of-way with the lease (piece E) could be sold conditional upon the new owner honoring the exact lease terms that exist. Since BBNC is both the lessee and the proposed owner, this becomes a moot issue.

## **ALTERNATIVES:**

- 1a. Approve starting the process of vacating the Sumner Avenue right-of-way and alley right-of-way in Kingsbury's Addition by setting the date of public hearing as February 8, 2011, and directing the City Clerk to publish notice.
- b. Approve starting the process of disposing of the right-of-way once it is vacated by proposing the sale and conveyance, setting February 8, 2011, as the date of public hearing, and directing the City Clerk to publish notice as follows:
  - pieces F and J on Exhibits 1 and 2 to JMH Corporation in the amount of \$17,260.85;
  - pieces A, B, D, G, H, and I on Exhibits 1 and 2 to BMB Land Company LC in the amount of \$90,390.01;
  - pieces C and E on Exhibits 1 and 2 to BBNC LLC in the amount of \$27,901.78.
- 2a. Approve starting the process of vacating the Sumner Avenue right-of-way and alley right-of-way in Kingsbury's Addition by setting the date of public hearing as February 8, 2011, and directing the City Clerk to publish notice.
- b. Approve starting the process of disposing of the right-of-way once it is vacated by proposing the sale and conveyance, setting February 8, 2011, as the date of public hearing, and directing the City Clerk to publish notice as follows:
  - pieces F and J on Exhibits 1 and 2 to JMH Corporation in the amount of \$17,260.85;
  - pieces B, D, G, H, and I on Exhibits 1 and 2 to BMB Land Company LC in the amount of \$55,890.05;
  - pieces A, C, and E on Exhibits 1 and 2 to BBNC LLC in the amount of \$62,401.74.
3. Retain the land and deny the requests to vacate the right-of-way of Sumner Avenue and the alley located in Kingsbury's Addition.

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

The difference between Alternatives #1 and #2 are that, under #1, piece A goes to BMB, while under #2, piece A would go to BBNC. It has been long-standing City policy, as well as past practice, to offer the adjoining half of vacated right-of-way to the property owner that is immediately adjacent to that land. In the case of piece A, the immediately adjacent owner, Boyd Antill, has told staff he would forego purchasing this property.

This leaves the only other adjacent property owner as BMB. BMB has expressed their desire to purchase piece A, in addition to the other adjacent pieces noted on the attached exhibits.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby vacating and selling the right-of-way of Sumner Avenue and the alley located in Kingsbury's Addition.

ST.

SOUTHEAST 2ND. ST.

S DUFF AVE

SUMNER AVE

HIGH AVE.

SOUTHEAST 3RD. ST.

BOYD L. ANTILL  
205 W 5TH ST  
HUXLEY, IA 50124-9501  
09-11-204-045

BBNC LLC  
C/O BART CLARK  
5743 N SWING  
AMES, IA 50014-9473  
09-11-204-030

VALLEY BANK  
1103 BUCKEYE AVE STE 104  
AMES, IA 50010-8120  
09-11-204-005

BMB LAND COMPANY LC  
P.O. BOX 763  
AMES, IA 50010-0763  
09-11-204-080

BMB LAND COMPANY LC  
P.O. BOX 763  
AMES, IA 50010-0763  
09-11-204-090

BMB LAND COMPANY LC  
P.O. BOX 763  
AMES, IA 50010-0763  
09-11-204-070

JMH CORPORATION  
212 HIGH AVE  
AMES, IA 50010-6654  
09-11-204-110

JMH CORPORATION  
212 HIGH AVE  
AMES, IA 50010-6654  
09-11-204-065



BBNC LLC (c/o BART CLARK)



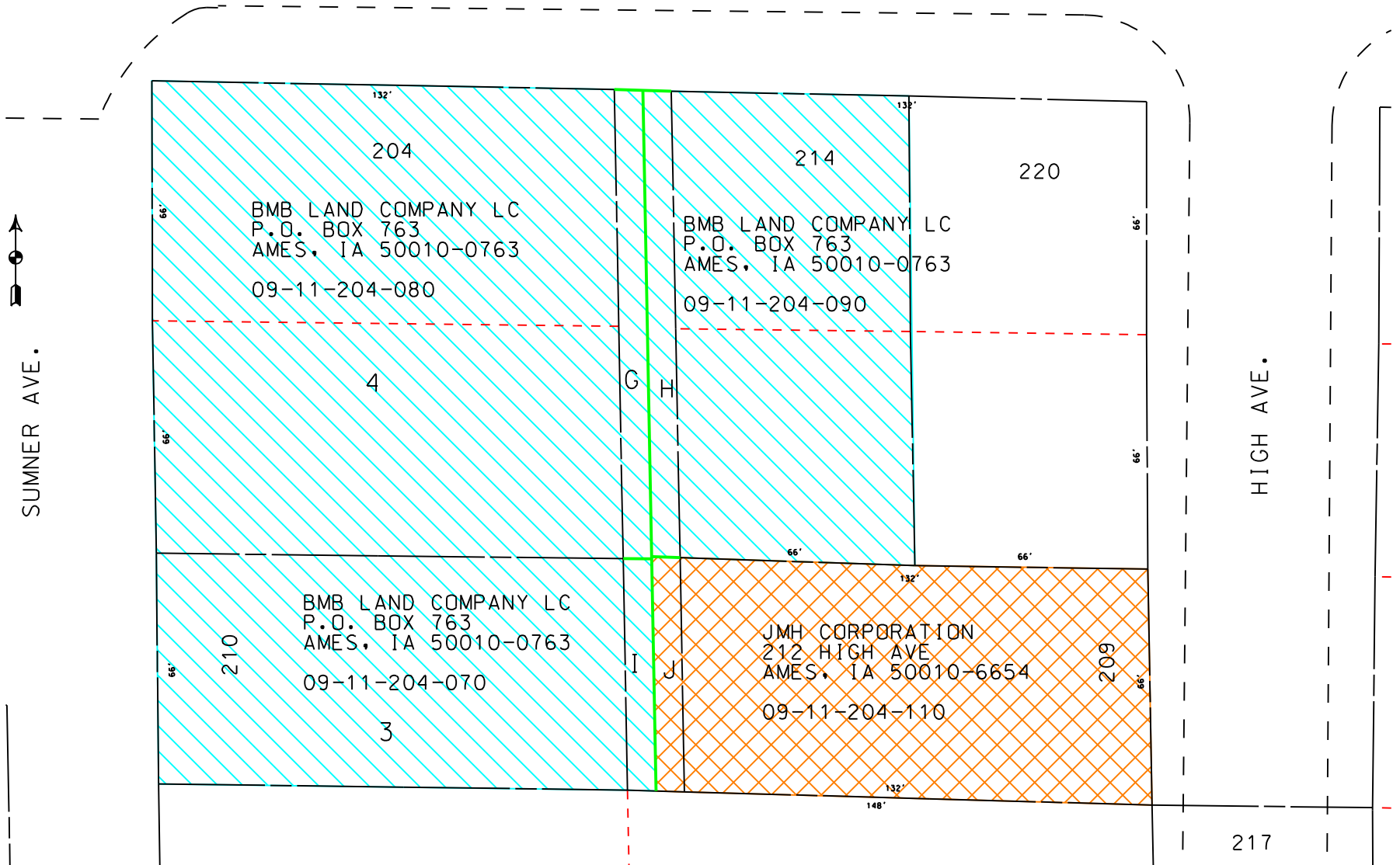
BMB LAND CO.



JMH CORP.

EXHIBIT 1

SOUTHEAST 2ND. ST.



BMB LAND CO.



JMH CORP.

EXHIBIT 2