

COUNCIL ACTION FORM

SUBJECT: CONVEYANCE OF CITY OWNED PARCEL LOCATED AT 1420 LINCOLN WAY TO METRO FIBERNET, LLC

BACKGROUND:

Metro Fibernet, LLC (MetroNet) is an internet provider that plans to construct a fiber optic network throughout Ames in 2020. Its network will be arranged in three fiber “rings” in the community, to which individual neighborhoods will be connected. The fiber rings must all converge at one point to connect to switching equipment, housed in a small building referred to as a “hut.” Because the fiber rings reach different parts of the City, the area where they converge must ideally be close to the center of the community. MetroNet also provides a television package over its internet service. Therefore, MetroNet desires to construct an aerial antenna adjacent to the hut to receive over-the-air television channels.

City staff has had regular discussions with MetroNet representatives since spring 2019 to discuss various aspects of MetroNet’s internet project. In late summer 2019, MetroNet representatives met with City staff to discuss technical issues related to installing fiber on City utility property east of the Power Plant, as well as MetroNet’s prospective locations for the hut site. Because the hut must be located somewhere along the path where all three fiber rings converge, there are a limited number of potential sites where the hut may be located.

City staff noted that MetroNet’s initial proposed location in a commercial area east of South Duff Avenue was in area identified for potential future redevelopment as part of the Ames Plan 2040 process. Since the hut site would have significant amounts of fiber infrastructure associated with it, it would not be feasible to move the hut in the future, making this proposed location undesirable. Another private site was considered, but that property had recently been sold to another owner for potential development and would likely not be able to allow for the installation of the antenna without a variance.

MetroNet and City staff then met to discuss whether any City-owned land existed that may be feasible for their needs. **Very few potential sites exist that are 1) City-owned, 2) not used for other purposes, and 3) located along the path where MetroNet’s three fiber rings converge.** A potential City-owned site east of the Power Plant was discussed, but was in active use for equipment storage and was in too close proximity to electric transmission lines.

Ultimately, the property at 1420 Lincoln Way was identified as a potential hut site that was not in active use by the City, would meet the technical requirements for MetroNet's planned activities, and would be free from interfering with the City's utility operations. MetroNet representatives viewed the property and submitted a letter of interest to the City Council. On September 24, 2019, the City Council referred the request from MetroNet for staff for a background memo. **A memo dated October 20, 2019 was provided by City staff in the October 18th Council packets with further details informing the City Council for the first time that a 79-foot aerial antenna was a part of the proposal.** At the October 22, 2019, City Council meeting, the Council directed City staff to negotiate with MetroNet regarding the acquisition of the property.

1420 LINCOLN WAY:

This property is approximately 0.5 acres in size. It was acquired in 1924 and was formerly used by the City as a water booster pump station. The pumping station became obsolete in the 1990s with a reconfiguration of the water pressure zones. A number of water mains on the property have been abandoned. The Water and Pollution Control Department anticipates demolishing the structure and the abandoned mains in 2024 at a cost of up to \$125,000.

The existing building footprint occupies nearly all the area that could be developed on the lot. As part of any sale, City staff proposes that the northern 20 feet of the property would be acquired by the City as right-of-way. At least three-fourths of the property area would need to be maintained in easements for electric, water main, and drainage/bridge infrastructure/surface flowage. These easements, combined with required setbacks, would make it very difficult to demolish the existing structure and place other structure on the property.

PROCESS TO SELL CITY PROPERTY:

State law requires that a hearing be held prior to the sale of City-owned real property. Notice of the hearing must be published in the newspaper. **Except for these basic requirements, the City Council has broad discretion regarding the decision to sell real property. There is no requirement in state or local law to sell property to the highest bidder. The Council may determine to whom the property may be sold and for what amount (as long as the sale price to a private party is reasonably within the range of fair market value and does not constitute a gift).** The hearing is the opportunity to hear and consider alternative proposals or to hear reasons why the proposed sale should not occur.

The City has a process to establish the value of rights-of-way for sales to adjacent property owners. In sales of City-owned houses, the City typically evaluates individual offers. The 1420 Lincoln Way property is a former utility site, rather than a house or right-of-way. Therefore, following the October 22 direction from City Council to negotiate, City staff requested that MetroNet obtain an appraisal of the property. **The**

appraisal report notes the significant limitations on the property due to the terrain, and ultimately concludes the market value of the property to be \$21,600.

Once the appraisal was obtained, a report was prepared for the City Council at the December 17, 2019, City Council meeting. At that meeting, the City Council set the date of public hearing regarding the sale for January 14, 2020. **Staff contacted the Oak-to-Riverside neighborhood representative on December 13th to alert them to the upcoming potential sale of the property and to pass this information on to the neighborhood.**

AERIAL ANTENNA:

MetroNet submitted an application for a Special Use Permit to place a 79-foot aerial antenna to collect over-the-air television signals. Special Use Permits are required for any new tall structure exceeding 50 feet in height for the purpose of installing wireless communication equipment. MetroNet has indicated that ideally, the antenna is installed on the same property as the hut, since equipment for the antenna can be housed in the same structure.

Special Use Permits are reviewed for approval by the Zoning Board of Adjustment (ZBA). ZBA decisions are not reviewable by the City Council. **ZBA's review of the overall project is limited to the proposed tower. Prior to the ZBA meeting, notices were mailed to addresses within 200 feet of the subject property, notice was published in the newspaper, and a sign was placed on the property. Additionally, as mentioned above, the registered neighborhood representative was notified as a courtesy via email about the proposed sale and request for a Special Use Permit.**

On January 8, ZBA considered MetroNet's Special Use Permit application. ZBA received a substantial number of comments from residents in the adjacent neighborhood opposing the approval of the antenna. ZBA tabled the consideration of the Special Use Permit and requested further information from MetroNet regarding: 1) whether the tower height is the minimum necessary to function, 2) design alternatives for the pole, such as "stealth" options, 3) alternative locations of the antenna on the 1420 Lincoln Way site, 4) alternative locations for the antenna *outside* the 1420 Lincoln Way site, and 5) safety and geotechnical analysis of the impact of the antenna installation on the soils and creek.

At the ZBA meeting, MetroNet representatives testified that they were willing to proceed with the purchase the property for the hut site, and find an alternative location for the antenna. It is City staff's understanding that MetroNet could locate its television signal receivers on an existing tall structure located elsewhere, or on a new tower structure in a more compatible location for that use.

If the City Council chooses to sell the property (to MetroNet or any other buyer), the Council has the ability to place covenant restrictions on the sale. These

restrictions could include prohibiting the co-location of wireless transmission (e.g., cellular) technology, or prohibiting the installation of an antenna of any kind. It is important to note, however, that any covenant restriction is only enforceable for 21 years per Iowa law, but there are legal mechanisms to extend covenants beyond the 21 years. If such a restriction were implemented, there would be no need to further pursue the Special Use Permit request pending before ZBA.

ALTERNATIVE PROPOSAL:

Following the Council action to set the date of public hearing regarding this sale, the City received an alternative proposal from Kathranne Knight to purchase the property (Attachment 1). Ms. Knight proposes to use the existing building as an art studio, and has expressed that she would establish partnerships with a variety of organizations for best practices for the site. In subsequent discussion with City staff, Ms. Knight indicated she would be willing to pay \$21,700 for the property, and would grant the easements and right-of-way proposed by the City.

Ms. Knight arranged to view the property with City staff, and has consulted with the Planning and Housing Department staff regarding the proposal to use the property for an art studio. **City staff has reported to her that an art studio would not be an allowed use under the current UCRM zoning. Therefore, if Ms. Knight was to acquire the property, she would either have to use it for some other use allowed under UCRM or the property would need to be rezoned to a designation that would allow an art studio.**

ALTERNATIVES:

1. Approve the sale of City-owned property located at 1420 Lincoln Way to Metro Fibernet, LLC, for \$21,600, contingent upon recording a right-of-way acquisition plat and granting easements to the City, and contingent upon a covenant restriction prohibiting the installation of a communication tower as defined by the City's Zoning Ordinance.
2. Approve the sale of City-owned property located at 1420 Lincoln Way to Metro Fibernet, LLC, for \$21,600, contingent upon recording a right-of-way acquisition plat and granting easements to the City, and without any covenant restrictions regarding the installation of a communication tower.
3. Approve the sale of City-owned property located at 1420 Lincoln Way to Kathranne Knight for \$21,700, contingent upon recording a right-of-way acquisition plat and granting easements to the City.
4. Do not approve the sale of the property.

CITY MANAGER'S RECOMMENDED ACTION:

The City Council has made improving internet service in the community an objective of its adopted goals. City staff has been working with MetroNet for the past year to facilitate its plans to provide fiber internet service in Ames. As part of that process, City staff had discussions with MetroNet regarding potential sites for its hut. After evaluating several potential sites, MetroNet believes, and City staff agrees, that 1420 Lincoln Way is a viable site. City staff is not aware of any available alternative sites that are free from more significant shortcomings.

The zoning of the proposed site allows the activity MetroNet proposes. MetroNet has obtained an appraisal report that values the property at \$21,600 and wishes to purchase the property for that amount. MetroNet will agree to the City's proposed acquisition of right-of-way and easements as a condition of the sale.

While staff has determined that this is a viable site, it must be emphasized that the adjacent neighbors are not supportive of the installation of the antenna. MetroNet has indicated that it remains interested in the purchase of the property, even if the antenna cannot be sited at the same location. The Council has the ability to place covenant restrictions on the sale of the property to prohibit tall structures such as a communication tower for antennas.

The City no longer has any use planned for this property, and it is expected to cost a considerable amount to demolish the existing structures and utilities as planned in the next decade. Disposing this property through a sale would be preferred to demolition.

Although there is an alternative proposal to purchase the property, and even though the proposed sale amount is slightly higher than MetroNet's offer, the sale of this property to another party would not advance the City Council's desire to expand internet options in the community. Although selling this property to any of the potential parties would allow the City to avoid a potential \$125,000 in demolition costs, this is a secondary benefit; it is not the primary reason the property is being proposed for sale at this time.

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

METRONET[™]
11919 P Street, Suite D
Omaha, NE 68137

1420 LINCOLN WAY, AMES IOWA
FIBER OPTIC NETWORK BUILDING
POST CONSTRUCTION CONCEPTUAL RENDERING



From: "kathranne knight" <kathrannek@yahoo.com>
To: "MayorCouncil@cityofames.org" <MayorCouncil@cityofames.org>, "bphillips@city.ames.ia.us" <bphillips@city.ames.ia.us>, "kathrannek@yahoo.com" <kathrannek@yahoo.com>

Date: Monday, December 23, 2019 03:02PM

Subject: 1420 Lincoln Way and MetroNet

Kathranne Knight
123 S. Riverside Dr.
Ames, Iowa 50010
413-386-7386
kathrannek@yahoo.com

December 23, 2019

Members of the Ames City Council

cc: Brian Phillips

City Hall

515 Clark Ave

Ames, IA 50010

515-239-5101

To: Members of the Ames City Council and Brian Phillips, Assistant City Manager,

Subject: 1420 Lincoln Way Ames, Iowa

I am writing to announce my intent to purchase city property located at 1420 Lincoln Way, which is currently being investigated as a site for a MetroNet 79' antenna and storage hut. I propose a use more in keeping with the activity and purpose of the location, and to support the city's goals of economic desirability, elimination of a sizable expense for the city in the future and stabilization of a viable neighborhood.

On the property of 1420 Lincoln Way is an historic booster pumping station, which sits just off the old Lincoln Highway, atop a high bank of Squaw Creek. The property is zoned UCRM and O-E. The O-E designation, "is intended to supplement the city's flood plain regulations and to protect designated natural resource areas by using the natural resources inventory to identify and preserve natural resources and by establishing parks and open space areas." Section 29.1103 goes on to say that, "Greenways are included in this district for stream corridors, linear parks and open spaces adjacent to environmentally sensitive areas to create a continuous system throughout the city."

I own property one parcel away from 1420 Lincoln Way, and can see the booster pump station from my backyard. Stuart Smith Park is also visible, with its open green space and bike path, which gets a lot of use from the citizens of Ames. Residents jogging, walking, or biking along that path have a direct line of sight across the creek to the East bank, which has been beautifully landscaped by the city using prairie to help mitigate erosion in the flood zone. It is my intention to purchase the property at 1420 Lincoln Way, maintain the easements the city requires, preserve the historic value of the building, and increase the presence of a well-maintained, aesthetically beautiful "gateway" property.

I call it a "gateway" property because it functions as such. Many people park in the Oak-to-Riverside neighborhood to walk to events at Hilton Colosseum, Fisher Theatre, Cy Stevens Auditorium and the Brunner Gallery. As pedestrians walk toward the University on Lincoln Way, they will either see a fenced-in 79' transmission tower or an historic building with well-maintained, environmentally sensitive landscaping. This property also signals the beginning of a neighborhood, and we have an opportunity to support the safety of families raising children through thoughtful placement of utility and industry.

My proposed use for the building and land is to preserve the historic value. The building would serve as an art studio and I will

leverage connections to the College of Design for outreach and education. I will establish partnerships with the Lincoln Highway Association, Prairies Rivers of Iowa, Ames History Museum, Ames Historic Preservation Commission, COTA, and Public Art Commission for best practices for that site.

My desire to purchase the property comes from a deep investment in the city of Ames, its history, and its goals to promote a high quality of life for all its citizens. I propose this alternative purpose because to use this particular location for a 79' transmission tower is problematic for the city, its goals, the environment, and the Oak-Riverside Neighborhood.

I very much look forward to working with the city to purchase the property at 1420 Lincoln Way, including recording a right-of-way acquisition plat and granting easements to the City.

Sincerely,
Kathranne Knight