

ITEM #:	50
DATE:	07-14-26
DEPT:	P&H

COUNCIL ACTION FORM

**SUBJECT: RESOLUTION APPROVING CONVEYANCE PARCEL PLAT OF SURVEY
WITH PUBLIC UTILITY EASEMENTS FOR 701 DAYTON AVENUE**

BACKGROUND:

701 Dayton Avenue is a "Conforming Conveyance Parcel" as defined by the City's Ames Municipal Code Chapter 23 Subdivision Code. A conveyance parcel is a property created without the benefit of a formal survey.

The City requires a Plat of Survey for a conveyance parcels prior to approval of a principal building (see Sec. 23.102 and Sec. 23.307). The 701 Dayton Avenue site was formerly used for storage and transport of materials with access to the abutting railroad. It contains water and sewer mains that cross the property, although no written easement has been recorded for either.

The new owner of the property desires to establish a concrete company at this location. Development of the site includes placement of new pre-fabricated office structures and concrete processing equipment along with other site improvements.

Typically the Planning Director authorizes the approval of a Conveyance Parcel Plat of Survey and these are not reviewed by City Council. The Planning Director is authorized to prepare application requirements and apply the subdivision design standard to the Conveyance Parcel as referenced by 23.307(5)(c) and the approval process of 23.308(4).

No new utility improvements are required. However, a t issue with the Plat of Survey is whether a water main easement and a sanitary sewer easement are required for existing utilities that are already in place on the site. Staff believes the easements are necessary as referenced in 23.308(4), and therefore required. This request has been communicated to the applicant.

The applicant does not desire to provide easement documents as companion items to the Plat of Survey for the preexisting water and sewer utility mains. Instead, the applicant requests approval of the Plat of Survey as presented (see attached) with an outline and legal description of an easement boundary over the utilities, but with no easement documents further describing each party's rights and responsibilities.

Because staff is unwilling to approve the Plat of Survey without completed easement documents, as would be consistent when establishing new easements in other Plats of Survey, this application is being presented for the City Council to consider whether it is acceptable in its submitted form.

The applicant's representative, Scott Renaud P.E., has expressed that the conveyance

parcel process is burdensome and the easement documents are unnecessary, as the Plat outlines the physical extent of the easement. Mr. Renaud has indicated to staff his belief that the City has a “prescriptive easement” for the utilities because of their preexisting condition. The City’s Legal Department has advised that a prescriptive easement does not exist in this instance, and that such an easement can only be established and its scope defined through the courts.

The City's practice has been to require easements on plats and to have an easement document for City utilities that describes the scope of the obligations and protections that are part of an easement. Easement documents typically address matters such as whether structures may be placed in the easement, the right of the grantee to install, maintain, or remove the utilities, and restoration obligations.

These details benefit all parties by clearly defining use and limitations. While delineation on a plat establishes a boundary for an easement, it does not define any particular rights. Examples of common water and sewer main easement language is attached. These same examples have been provided to the applicant.

The Legal Department advises that the City Council require the additional easement document for the benefit of the property owner and the City to define the limitation of the easement with the approval of the Plat of Survey. This is Alternative #2 below.

ALTERNATIVES:

1. Accept the Plat of Survey as requested by the applicant with no easement documents and direct the Planning Director to approve the Plat of Survey. The plat would then be recorded prior to approval of the Minor Site Development Plan.
2. Conditionally accept the Plat of Survey by directing the Planning Director to approve the Plat of Survey with water main and sanitary sewer easement documents consistent with the attached examples, or as approved by the City Attorney. Both the plat and easements must be recorded prior to approval of a Minor Site Development Plan for the new use.

CITY MANAGER'S RECOMMENDED ACTION:

The City Council has the discretion to require the easement document to accompany the plat or to determine that the proposed plat with the graphical depiction on the plat satisfies the City code requirement.

The standard practice is to improve conditions of a site with the conveyance parcel process. Having an easement document is advised by staff as it provides absolute clarity regarding rights and responsibilities for both parties. Without the document, the right to place buildings or stockpiles in the area of the easement is unclear. The easements do not prevent any regular use of the site that is not contrary to language of the easement (e.g., driving or parking vehicles, etc.). Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #2 and require easement documents.

Due the disagreement about the conveyance parcel process, easements, and zoning

requirements, the Minor Site Development Plan approval for the concrete facility has been delayed for several weeks awaiting applicant updates and then scheduling the item for City Council review. With approval of the Plat of Survey on July 14, the applicant will be able to proceed with the project.

ATTACHMENT(S):

[701 Dayton Location Map.pdf](#)

[SURVEY - 701 Dayton.PDF](#)

[Example sanitary sewer main easement.PDF](#)

[Example water main easement.PDF](#)