



PLANNING AND ZONING

Cerro Gordo County Courthouse

220 N Washington Ave Mason City, IA 50401-3254

(641) 421-3075

John Robbins, Planning and Zoning Administrator

plz@cgcounty.org

Michelle Rush, Executive Assistant

cgcounty.org/planning

July 23, 2020

TO: Cerro Gordo County Planning and Zoning Commission

FROM: John Robbins

SUBJECT: Next Meeting – *Thursday, August 6; 4:00 p.m.; Boardroom*

Ladies and Gentlemen:

The next meeting of the Cerro Gordo County Planning and Zoning Commission is scheduled for **August 6, 2020 at 4:00 p.m., in the Boardroom at the Courthouse.** You will be considering a petition to vacate a portion of a platted public access to Clear Lake.

If you have concerns with attending in person due to COVID-19, the option to attend the hearing via teleconference will be made available. Social distancing will be practiced. You may join via teleconference by calling the phone number below and enter the Conference ID when prompted. Please let me know if you have any questions about this.

Conference phone: (641) 421-3113

Conference ID: 3044#

PETITIONS TO VACATE OF PLATTED PUBLIC STREET OR ALLEY

1. Jane Fogg/George Frampton public access between 4322 Southshore Drive and 4304 Southshore Drive

This request has been amended, and that the petitioners voluntarily tabled it from the previous month. The amended request is a petition to vacate a portion of the 40'- wide public access to Clear Lake, lying between 4322 Southshore Drive and 4304 Southshore Drive. If approved, it would vacate all but the central 10' of the public access (See Figures 1-4).

There are no buildings within the public access, except the side steps accessing the side entrance of 4322 Southshore Drive encroaches approximately 1' into the public access (See Figure 5). The intent for the request is to allow for the private use of the land for the petitioners.

Area utilities have been afforded opportunity to provide comment. Mediacom states that they hold no easements within the access. CLTel has a line running along the north side of Southshore Drive, which is located outside of the general area that is requested to be vacated.

Any further comments received will be shared with the Commission at the hearing. A few public comments have also been included in your packets for you to consider in your recommendation. Any further comments will also be shared with the Commission at the hearing.

The County Engineer's Office stated in his previous comments that the roads department has no concerns with vacating the public access. There are no public drainage structures within the access. Locating a public dock at the location is possible, but the cost for necessary tree removal, grading, and installation of parking stalls is prohibitive for the potential public benefit. I have also given him the opportunity to provide additional comment on the amended petition. Any further comments received will also be shared with the Commission at the hearing.

The standard established under Iowa Code 354.23 to vacate platted public right-of-way is the governing body must make a determination that there is no public benefit of the right-of-way maintaining that status. On the south shore of Clear Lake, there is limited public access to the lake. That, in itself, is a public benefit, even if a public dock at the location is not practicable. This public access is one of the few that do not have a steep incline accessing the lake.

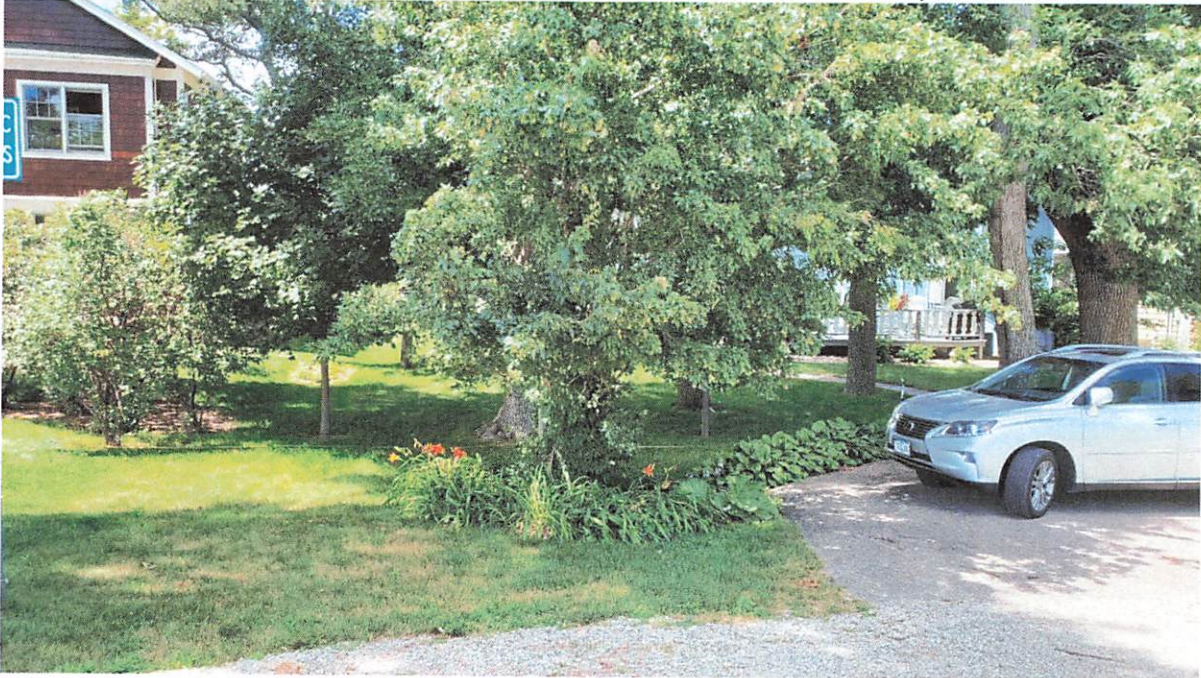
The amended request maintains a 10'-wide public access to the lake. At a minimum, this is necessary to maintain access to the trail running along the lake behind the houses. In your decision, you should make a determination whether maintaining the full 40'-wide access makes a difference in public benefit. Public access to the lake is maintained with a narrow access. There is some landscaping in front of the central 10' that would be maintained as a public access (See Figure 1 & 2). The landscaping appears to be located in the right-of-way of Southshore Drive and as such should not inhibit access.

The critical question is, does vacating a portion of the public access as requested result in a loss of public benefit? As a result, I recommend the petition be forwarded to the Board of Supervisors with a recommendation consistent with your findings.

Jane Fogg/George Frampton
40'-wide public access between 4322 and 4304 Southshore Drive

Figure 1

Looking northwest from Southshore Drive toward the 40'-wide public access



July 22, 2020, J. Robbins

Figure 2

Looking southeast toward Southshore Drive



July 22, 2020, J. Robbins

Figure 3

Looking northwest along the 40'-wide public access toward the lake



July 22, 2020, J. Robbins

Figure 4

Looking southeast along the 40'-wide public access toward Southshore Drive



July 22, 2020, J. Robbins

Figure 5

Looking southeast along the southwest side lot line of 4322 Southshore Drive



July 22, 2020, J. Robbins

Jane Bishop Fogg

Mail: 13156 Pinecrest Lane, Clive, Iowa 50325
Local: 4322 South Shore Drive, Clear Lake, Iowa 50328

George H. Frampton

Mail: 2041 NW 130th Ct., Clive, IA 50325
Local: 4304 South Shore Drive, Clear Lake, IA 50428

July 22, 2020

Mr. John Robbins

Planning and Zoning Administrator

222 N. Washington Ave.

Mason City, IA 50401-3254

Dear Mr. Robbins,

We are jointly writing to you and to the Board of Adjustment to respectfully request consideration of our Petition to Vacate a portion of the platted public access lying between our homes. Currently, the public access is 40 feet wide, which greatly exceeds the need for public access. We are proposing that the access be preserved, but narrowed to a width of 10 feet. We believe that is consistent with public need for access. The applicants and adjacent homes owners filing this Petition are Jane Bishop Fogg, 4322 South Shore Drive and George H. Frampton, 4304 South Shore Drive. Both individuals are life-long acquaintances and belong to families who have owned and maintained homes on the lake for many decades.

Willard Bishop, (Jane's father) prior to his death and Jane since then, at personal expense has taken care of mowing and maintaining the lake frontage, lawn and both ash and oak trees for more than forty-five years. For the past several years, those responsibilities have been shared by both Framptons and Fogs.

Our intent is to maintain open public access, while equally dividing the remaining property to facilitate maintenance as well as personal and family recreation. There are no plans to build upon, develop or change the look of the entire property.

If the Petition is adopted, unhindered Public Access would continue and the County would benefit from additional tax base.

Thank you for your consideration of this request.

Sincerely

Jane Bishop Fogg

Jane Bishop Fogg

G.H. Frampton

George H. Frampton

PETITION TO VACATE PLATTED PUBLIC STREET AND/OR ALLEY

TO THE PLANNING & ZONING COMMISSION AND BOARD OF SUPERVISORS OF CERRO GORDO COUNTY, IOWA:

The undersigned ask that a street and/or alley 40 feet wide, commencing at

and running thence See attached legal description

see attached map

and terminating at _____

be vacated.

The following information is attached to this petition:

- A plat showing the location of the street and/or alley to be vacated.
- Filing fee in the amount of \$100. (Check made payable to Cerro Gordo County)

By filing this petition, the undersigned land owner(s) certify and/or agree to the following:

- There are no building encroachments on the street and/or alley to be vacated.
- There are building encroachments on the street and/or alley to be vacated, and a detailed survey showing the encroachments is attached.
- Public utility easements exist and if the street and/or alley is vacated, we will provide the utility company with a private easement.

Private easements exist and if the street and/or alley is vacated, we will provide a private easement.

If the street and/or alley is vacated, we understand each of us, along with any mortgagees, will need to file with the county an instrument of consent and description. We understand in order to obtain the "description" a survey will need to be done showing each individual portion of the street and/or alley to be joined to each individual adjacent platted lot.

Owner Signature	Printed Name of Owner	Mailing Address of Owner
<i>Jane B. Foggy</i>	Jane B. Foggy	13156 Pinecrest Lane Olive, IA
<i>George H Frampton</i>	George H Frampton	2041 NW 130 TH CT 50325 CLIVE IA 50325

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Jane B. Foggy	Jane B. Foggy	13156 Pinecrest Lane Clive, IA
G H Frampton	George H Frampton	2041 NW 130 TH CT 50325 CLIVE IA 50325

Petition to Vacate a Platted Public Street and/or Alley

Right-of-Way Description

A portion of the platted public access lying between Lot 7, Block 9 and Lot 1, Block 10, said portion designated hereinbelow, all in Dodges Point Park, located in Section 22, Township 96 North, Range 22 West of the 5th P.M., Cerro Gordo County, Iowa, as follows, to-wit:

The Northeasterly Half of said alley lying Southwesterly of Lot 7, Block 9 in Dodges Point Park, located in Section 22, Township 96 North, Range 22 West of the 5th P.M., in Cerro Gordo County, Iowa except the Southwesterly 5 feet thereof; and,

The Southwesterly Half of said alley lying Northeasterly of Lot 1, Block 10 in Dodges Point Park, located in Section 22, Township 96 North, Range 22 West of the 5th P.M., in Cerro Gordo County, Iowa except the Northeasterly 5 feet thereof.



27TH SHORE DR

Clear Lake

BE VACANT
ENTER

Robbins, John

From: David Barnes <den1golf2@aol.com>
Sent: Friday, July 17, 2020 11:09 AM
To: Robbins, John
Subject: Fogg-Frampton Vacate

External Email WARNING: DO NOT open attachments or click links from unknown senders or unexpected emails. Questions? Call 3-HELP.

Hi John: I received the proposed petition to vacate the property between the Fogg residence and the Frampton residence. My wife and I are supportive of the vacate petition, but would like to make sure that these provisions existed in the agreement. That there is a 10ft. wide public walking path down the center of the vacated property from the road (Southshore Dr. extending to the public walk at the shore of Clear Lake). Also, to preserve the openness of the area, there could be no structures (buildings) placed on the vacated property. Sincerely, Dave Barnes
property owner..4328 Southshore Dr. Clear Lake, Iowa 50428

Robbins, John

From: drs11oo@aol.com
Sent: Wednesday, July 15, 2020 4:40 PM
To: Robbins, John

External Email WARNING: DO NOT open attachments or click links from unknown senders or unexpected emails.
Questions? Call 3-HELP.

Hi John-

I am a neighbor of the Foggs and Framptons and have received your notice of their request to vacate the alley between their their properties but retaining a 10 ft walking path in the center. I am in favor of their request and support its approval.

Dan R Salmon
Marysue Salmon

drs11oo@aol.com

Robbins, John

From: Paul Skram <paul.skram@yahoo.com>
Sent: Wednesday, July 1, 2020 4:55 PM
To: Plz
Subject: Fogg/Frampton Land Conveyance Request - Clear Lake So. Shore Drive

External Email WARNING: DO NOT open attachments or click links from unknown senders or unexpected emails.
Questions? Call 3-HELP.

July 1, 2020

Cerro Gordo County Planning and Zoning Commission

RE: Jane Fogg and George Frampton Alley Vacation Request

Dear Planning and Zoning Commission Members

I am writing relative to the request of Jane Fogg and George Frampton to vacate a 40' parcel of land adjacent to their two homes (4304/4322 So. Shore Drive). My family has maintained a nearby summer resident since 1963 and it has been our understanding the parcel has long been a public access to the lake although never has been used as such. I understand the applicant's interest in obtaining the parcels and continue to use as it has always been and recognize they have continually maintained the area in a proper manner. My concern is the conveyance by vacation for such a large amount of lake frontage. The majority of lake frontages in this area are 50'-60', but there are 40' lots also. The approximate land assessment value for tax purposes is roughly \$9,000-\$10,000 per lineal foot in the area. While I would prefer to see the land continue in its current state, conveying ownership by vacation of such a large area without compensation is of concern.

Thank you for your consideration.

Paul Skram, Trustee for

Arthur Skram Trust and Marcile Skram Trust

4350 South Shore Drive

Robbins, John

From: Brad Emerson <BradEmerson@cltel.com>
Sent: Tuesday, June 23, 2020 8:29 AM
To: Plz
Subject: Response to notice for alley vacate Dodges Point Clear Lake
Attachments: Response to petition for Alley vacate- CLTel 6-23-2020.pdf

External Email WARNING: DO NOT open attachments or click links from unknown senders or unexpected emails.
Questions? Call 3-HELP.

Attn: John Robbins

John,

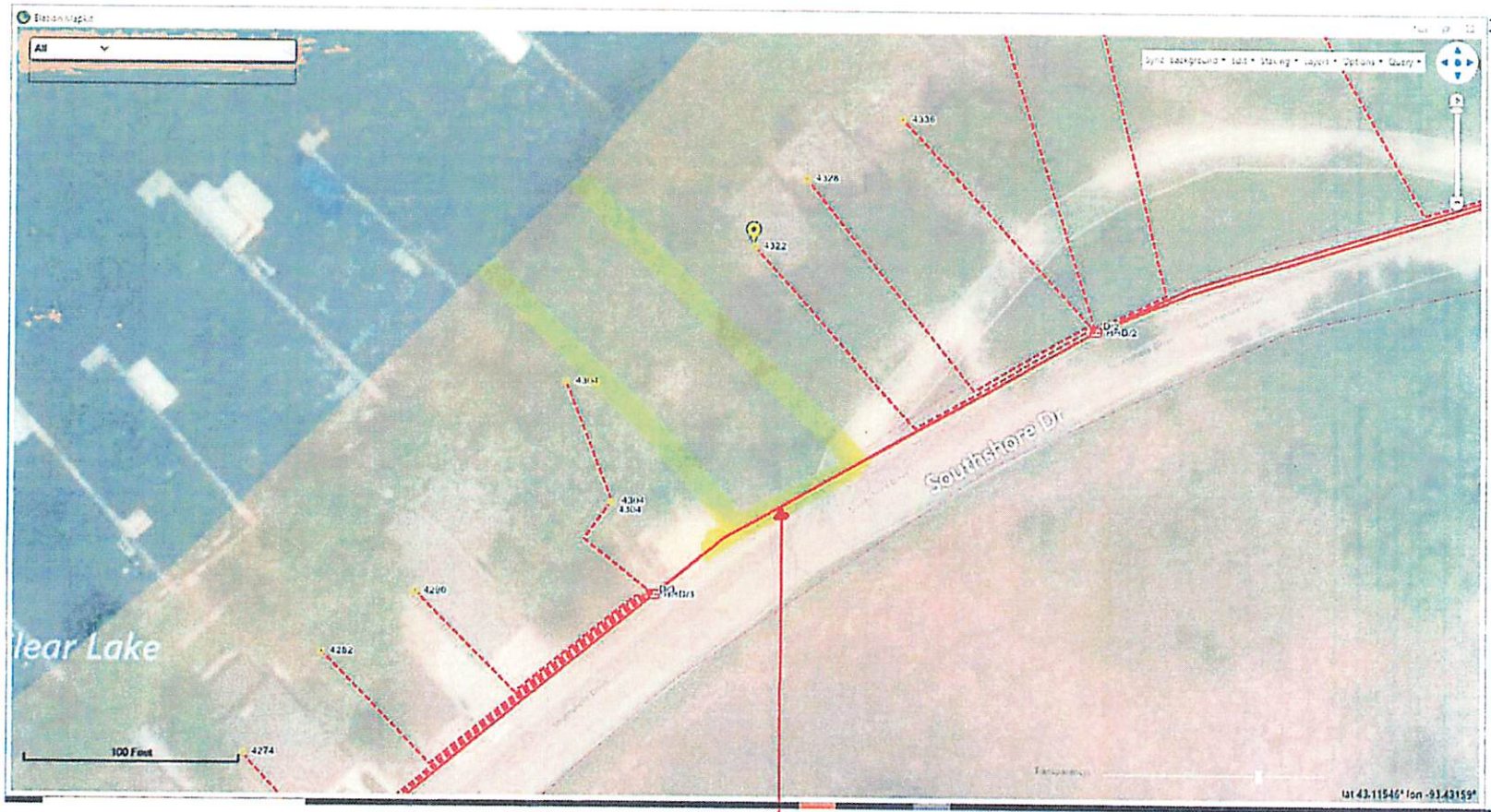
Attached you will find Clear Lake Telephones buried fiber optic facilities depicted in red for the requested alley vacate. Our main line has been verified by our construction supervisor as being in the right of way on South Shore Drive, for these addresses. We also verified that the service drops to the adjacent properties are not located anywhere within the alley designated area. Please let me know if you require further details on this information.

Brad Emerson



Brad Emerson | Plant Manager
CL Tel | 107 N. 4th St. | Clear Lake, IA 50428
P: 641-357-2111 | F: 641-357-8800
www.cltel.com | www.facebook.com/cltel

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Fiber MAIN - Buried in RIGHT OF WAY