



# COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

**TO:** City Council Members

**FROM:** Brian Fullmer, Policy Analyst

**DATE:** November 12, 2024

**RE:** Brooklyn Avenue Street Vacation, Alley Vacation, and Subdivision Amendment  
(PLNPCM2022-00068, PLNPCM2022-00349, PLNSUB2023-00493)

Item Schedule:

Briefing: October 1, 2024

Set Date: October 15, 2024

Public Hearing: November 12, 2024

Potential Action: November 19, 2024

## BRIEFING UPDATE

Council Members did not have any questions for staff or the applicant at the October 1, 2024 briefing.

***The following information was provided for October 1, 2024 Council meeting. It is included again for background purposes.***

## ISSUE AT-A-GLANCE

The Council will be briefed about a proposal to vacate an approximately 0.61-acre portion of Brooklyn Avenue between 500West and the West Temple viaduct in City Council District Five. The road segment is adjacent to the petitioner's property at 1007 South 500 West as shown in the image below. In their application, the petitioner cited a lack of maintenance, homeless encampments, and waste dumping as reasons for the request. They also indicated a desire to develop their adjacent properties at some point in the future.

During review of the street vacation application, Planning staff determined a City owned alley dividing the petitioner's property would need to be included in the request, since vacating the section of Brooklyn Avenue would isolate the alley right-of-way.

In addition, a subdivision amendment is required when vacating a public right-of-way dedicated by a subdivision. Planning staff discovered that vacating the street would require amendments to the Brooklyn and Dolan subdivisions since the street is within both. The result is a combination of the street vacation, alley vacation, and subdivision amendments for Council consideration. Each of these will be reviewed



separately in the additional information section below. Current area zoning is CG (General Commercial) and the requests would not change that.

Vacating property such as a public street or alley removes the public interest in and ownership of that right-of-way. The vacated property is then sold or transferred to private ownership. In this case, if approved by the City Council, the street segment and alley would be sold to the adjacent property owners at fair market value—which is determined by the Real Estate Services Division.

The Planning Commission reviewed this petition at its December 13, 2023 meeting and held a public hearing at which one person spoke in opposition citing concern about the ability for large trucks to turn around without using Brooklyn Avenue. **The Commission voted unanimously to forward positive recommendations for all three petitions with the following recommendations.**

- Before a final plat is recorded, the applicant will record a 15-foot-wide perpetual easement along the property lines abutting the storm sewer lines along the edge of the West Temple Viaduct right of way as directed by the Department of Public Utilities.
- After Brooklyn Avenue is officially vacated, City staff will record additional necessary sections of the easement within the vacated right of way prior to the official transfer of ownership to the applicant.
- The applicant will enter into an agreement with the City (through whatever method the City Council deems appropriate) that, upon any development of the Brooklyn Avenue right of way, they will install curb and gutter, streetlights, and sidewalks along the property frontages of 500 West and Fayette Avenue according to Street Typology 8 (found in the Street and Intersection Typologies Design Guide).
- The applicant will enter into an agreement with the City (through whatever method the City Council deems appropriate) that, upon any development of the area within the Brooklyn Avenue right of way, they will install a turnaround that meets the fire code requirements at the time of development.
- On the Final Plat, the lot line dividing Lot 1 and Lot 2 shall be adjusted so that Lot 2 (1007 South 500 West) meets the minimum lot width requirement of 60 feet within the CG General Commercial Zoning District.



*Aerial image showing proposed street vacation shaded in yellow and the alley in red.  
The petitioner's properties on either side of the alley are outlined in dark green, and adjacent property in blue.  
Image courtesy of Salt Lake City Planning Division*

**Goal of the briefing:** Review the proposed street and alley closures and subdivision amendments, determine if the Council supports moving forward with the proposal.

## **POLICY QUESTIONS**

1. The Council may wish to discuss the benefits and drawbacks of vacating the street and alley.
2. Is the Council supportive of the proposed requirements recommended by the Planning Commission to be included in a development agreement?

## **ADDITIONAL INFORMATION**

### **Street Vacation**

The subject section of Brooklyn Avenue is approximately 198 feet long at its center point, and 85 feet wide. Planning staff reviewed historical aerial photographs and stated "...it appears the right of way has remained unimproved and unpaved since at least 1964, when I-15 was under construction."

Brooklyn Avenue and 500 West both end near the petitioner's properties and have very little vehicular traffic. It should be noted that the segment of 500 West that connects to Brooklyn Avenue is not included in the proposed street closure and would remain a City-owned right-of-way if the Brooklyn Avenue street segment is vacated by the Council. Additionally, a different section of 500 West connects to Fayette Avenue and continues south under Interstate-15 as shown in the lower left corner of the image above.

The street vacation process is dictated by Section 10-9a-609.5 *Utah State Code* which is included at the end of this report for reference.

### **Alley Vacation**

The subject alley is approximately 110 feet long and 13.25 feet wide, or about 1,450 square feet. During review of the proposals, Planning staff analyzed historical aerial photographs and noted that the alley appears to have existed only on paper and has not been used since at least 1999 and has essentially been incorporated into the adjacent lots, though it is City property.

If the segment of Brooklyn Avenue is vacated, the alley would be surrounded by the petitioner's property on three sides, and the West Temple viaduct on the fourth, blocking access and rendering it unusable.

Alley vacations must satisfy one of the following policy considerations: Lack of Use, Public Safety, Urban Design, and Community Purpose. The subject alley vacation request satisfies the Lack of Use policy consideration.

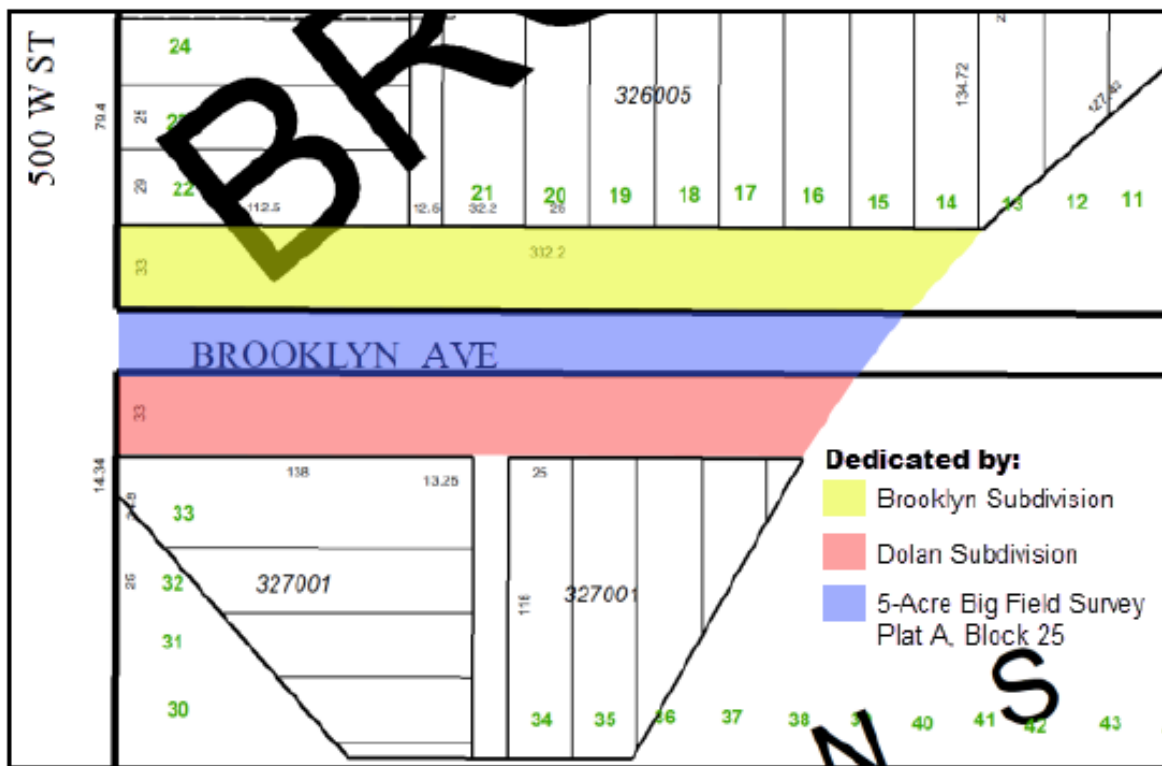
Alley vacations are outlined in Section 14.52 of Salt Lake City Code which is included at the end of this report for reference.

### **Subdivision Amendment**

As discussed above, a subdivision amendment is required if a public right-of-way within a subdivision is changed or removed. The subject section of Brooklyn Avenue was created from both the Brooklyn and Dolan Subdivisions. The north 33 feet of the street (yellow section highlighted in the image below) was platted in the Brooklyn Subdivision, and the south 33 feet (pink highlighted section) from the Dolan Subdivision. That leaves 21 feet in the middle (blue highlighted section) that was not created from a subdivision. It remains part of the Big Field Survey Plat and not included in a subdivision.

Planning staff worked with the City Surveyor to determine how the middle section of the road was not included in a subdivision but could not definitively conclude how it happened. They surmised there was an error when one of the subdivisions was created and this section was left out.

At the time the application was submitted, Chapter 20.28 Article III of Salt Lake City Code was applicable to subdivision amendments involving streets. It is included at the end of this report for reference.



*Salt Lake County plat map of Brooklyn Avenue right-of-way*

## KEY CONSIDERATIONS

Planning staff identified six key considerations during analysis of these proposals which are found on pages 6-9 of the Planning Commission staff report and summarized below. For the complete analysis please see the staff report.

### Consideration 1 – Conditions Requested by Other City Departments

The following departments and divisions expressed concerns with the proposals. The petitioner worked with City staff to mitigate these concerns and the conditions recommended by the Planning Commission satisfy them.

**Public Utilities** – The street is necessary to access to storm sewer facilities located on the edge of the West Temple Viaduct. To resolve the concerns, the petitioner and Public Utilities agreed that before the final plat is recorded vacating the street, easements will be recorded along the edge of the West Temple Viaduct.

**Engineering** – The Engineering Division noted that the Brooklyn Avenue and the section of 500 West it is connected to lack basic street infrastructure. The street surface is poor, and stormwater has nowhere to go. The petitioner met with Engineering staff and agreed to install curb and gutter, streetlights, and sidewalks on the property frontages of 500 West and Fayette Avenue upon development of Brooklyn Avenue. This addresses Engineering's concerns.

*Fire and Transportation* – Both the Fire Department and Transportation Division noted vacating Brooklyn Avenue would leave the abutting segment of 500 West without an area for fire trucks and other large vehicles to turn around. Dead end streets longer than 150 feet and necessary for fire truck access are required by State code to have a turnaround that complies with the code. (Diagrams of compliant turnarounds are found on page 7 of the Planning Commission staff report.)

The petitioner met with City staff and agreed to install a turnaround that meets fire code requirements upon development of Brooklyn Avenue. This satisfies concerns raised by the Fire Department and Transportation Division.

### **Consideration 2 – Features of Brooklyn Avenue**

The Brooklyn Avenue features discussed in this consideration are outlined in the “Subdivision Amendment” section above.

### **Consideration 3 – State Code Regarding Street Vacations**

Utah State Code grants cities the authority to vacate streets. The City Council must determine good cause exists for the vacation and that the public interest or any person will not be materially injured by the vacation. Planning staff reviewed aerial images of the area which show the street has not been maintained for at least 60 years. It is Planning staff’s opinion vacating the street will remove a maintenance burden from the City in exchange for selling the street segment at market rate.

### **Consideration 4 – Factors to Consider**

As noted above, the request to vacate the subject section of Brooklyn Avenue required three different applications – street vacation, alley vacation, and subdivision amendment. Each application has its own applicable factors or standards.

Planning staff reviewed standards for the CG (General Commercial) zoning district, street vacation, alley vacation, and subdivisions. These are found on pages 44-57 of the Planning Commission staff report. It is Planning’s opinion that the requests meet or will meet all applicable conditions if the Planning Commission’s recommendations are requirements of approval.

### **Consideration 5 – Master Plan Compatibility**

Planning staff reviewed the proposals’ alignment with the following City plans:

- *Downtown Master Plan* (2016) Note: the *Ballpark Station Area Plan* defers long range planning in the Granary District (where the properties are located) to the *Downtown master Plan*).
- *Plan Salt Lake* (2015)
- *Transportation Major Street Plan* (2018)
- *Transportation Master Plan* (1996)

Given the subject street and alley location in the center of the freeway viaduct, there is little potential for mid-block crossings and connectivity via alleys and other pedestrian rights-of-way called for in some of the above listed plans.

It is Planning staff’s opinion that while the proposed street and alley vacations are not specifically supported by the plans, they are not in opposition to the goals and initiatives outlined in the plans.

### **Consideration 6 – Compliance with Zoning Standards**

Planning found that the proposed subdivision amendment meets all zoning standards except one: the minimum lot width in the CG district. As noted above, the petitioner’s parcel at 1007 South 500 West is divided into two lots by the alley proposed to be vacated. The eastern lot does not meet the minimum width required in the CG district. The Planning Commission’s recommendation to adjust the lot line dividing the lots so the eastern lot meets the minimum will resolve this issue.

## **PROJECT CHRONOLOGY**

- February 2, 2022 – Petition to vacate the south half of Brooklyn Avenue submitted.
- February-April 2022 – Planning staff worked with the applicant to remedy application deficiencies, including submittal of the alley vacation petition.
- April 6, 2022 – Petition deemed complete by Planning staff.
- April 13, 2022 –
  - Petition circulated to relevant City departments and divisions for review.
  - 45-day notice sent to community councils.
  - Early notification sent to neighbors within 300 feet of the development.
  - Proposal posted on the online open house webpage.
- May 11, 2022 – 45-day comment period for recognized organizations ends.
- July-August 2022 – Applicant indicated the property owner to the north of Brooklyn Avenue would like to join the petition and updated the request to include the entire street right-of-way.
- August 1, 2022 – Updated materials submitted by applicant.
- August 23, 2022 –
  - Petition circulated to relevant City departments and divisions for review.
  - Planning staff sent the 45-day required notice for recognized community organizations to the community councils.
  - Neighbors within 300 feet of the development were provided early notification.
  - The online open house post was updated.
- October 14, 2022 – Department of Public Utilities expressed concern over the proposed vacation.
- November-December 2022 – Applicant and Public Utilities negotiated proposals for new easements.
- February 2, 2023 – Applicant sent draft easement proposals to Public Utilities for review.
- May 8, 2023 – After working with the City Surveyor to understand how Brooklyn Avenue was originally created, Planning staff determined that a subdivision amendment (preliminary plat) must be included with this request.
- June 22, 2023 – Applicant submitted preliminary plat application for the subdivision amendment.
- October 19, 2023 – Planning staff confirmed there is no opposition from relevant City departments to the street or alley vacation.
- October-November 2023 – Planning staff report development.
- November 30, 2023 –
  - Planning Commission public hearing notice mailed.
  - Planning Commission public notice posted on City and State website and Planning Division listserv.
- December 1, 2023 – Public hearing notice sign posted on the property.
- December 3, 2023 – Legal notice published in Salt Lake Tribune.
- December 13, 2023 – Planning Commission held a public hearing and forwarded a unanimous positive recommendation to the City Council for the proposed amendments.
- December 2023-February 2024 – Draft ordinance developed by Planning staff.
- February 2024 – Draft ordinance requested from Attorney's Office.
  - *Planning staff noted during this time capacity in the City Attorney's Office was limited due to a reduction in available personnel and a number of pressing cases taking up available staff time.*
- May 4, 2024 – Draft ordinance received from Attorney's Office.
- August 1, 2023 – Transmittal received in City Council Office.

## **STREET CLOSURE PROCESS**

The street closure process is dictated by Section 10-9a-609.5 *Utah State Code* which is included below for reference.



#### **10-9a-609.5. Petition to vacate a public street.**

- (1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 10-9a-603 through 10-9a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.
- (2) A petition to vacate some or all of a public street or municipal utility easement shall include:
  - (a) the name and address of each owner of record of land that is:
    - (i) adjacent to the public street or municipal utility easement between the two nearest public street intersections; or
    - (ii) accessed exclusively by or within 300 feet of the public street or municipal utility easement;
  - (b) proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or municipal utility easement sought to be vacated; and
  - (c) the signature of each owner under Subsection (2)(a) who consents to the vacation.
- (3) If a petition is submitted containing a request to vacate some or all of a public street or municipal utility easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:
  - (a) good cause exists for the vacation; and
  - (b) the public interest or any person will be materially injured by the proposed vacation.
- (4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or municipal utility easement if the legislative body finds that:
  - (a) good cause exists for the vacation; and
  - (b) neither the public interest nor any person will be materially injured by the vacation.
- (5) If the legislative body adopts an ordinance vacating some or all of a public street or municipal utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:
  - (a) a plat reflecting the vacation; or
  - (b) (i) an ordinance described in Subsection (4); and  
(ii) a legal description of the public street to be vacated.
- (6) The action of the legislative body vacating some or all of a public street or municipal utility easement that has been dedicated to public use:
  - (a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated public street or municipal utility easement; and
  - (b) may not be construed to impair:
    - (i) any right-of-way or easement of any parcel or lot owner;
    - (ii) the rights of any public utility; or
    - (iii) the rights of a culinary water authority or sanitary sewer authority.
- (7) (a) A municipality may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.  
(b) If a municipality submits a petition and initiates a process under Subsection (7)(a):
  - (i) the legislative body shall hold a public hearing;
  - (ii) the petition and process may not apply to or affect a public utility easement, except to the extent:
    - (A) the easement is not a protected utility easement as defined in Section 54-3-27;

- (B) the easement is included within the public street; and
- (C) the notice to vacate the public street also contains a notice to vacate the easement; and
- (iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

(8) A legislative body may not approve a petition to vacate a public street under this section unless the vacation identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the public street.

## **ALLEY CLOSURE PROCESS**

The alley closure process is dictated by Chapter 14.52 *Salt Lake City Code* which is included below for reference.

### **14.52.010: DISPOSITION OF CITY'S PROPERTY INTEREST IN ALLEYS:**

The City supports the legal disposition of Salt Lake City's real property interests, in whole or in part, with regard to City owned alleys, subject to the substantive and procedural requirements set forth herein. (Ord. 24-02 § 1, 2002)

### **14.52.020: POLICY CONSIDERATIONS FOR CLOSURE, VACATION OR ABANDONMENT OF CITY OWNED ALLEYS:**

The City will not consider disposing of its interest in an alley, in whole or in part, unless it receives a petition in writing which demonstrates that the disposition satisfies at least one of the following policy considerations:

- A. Lack Of Use: The City's legal interest in the property appears of record or is reflected on an applicable plat; however, it is evident from an on site inspection that the alley does not physically exist or has been materially blocked in a way that renders it unusable as a public right-of-way;
- B. Public Safety: The existence of the alley is substantially contributing to crime, unlawful activity, unsafe conditions, public health problems, or blight in the surrounding area;
- C. Urban Design: The continuation of the alley does not serve as a positive urban design element; or
- D. Community Purpose: The petitioners are proposing to restrict the general public from use of the alley in favor of a community use, such as a neighborhood play area or garden. (Ord. 24-02 § 1, 2002)

### **14.52.030: PROCESSING PETITIONS:**

There will be three (3) phases for processing petitions to dispose of City owned alleys under this section. Those phases include an administrative determination of completeness; a public hearing, including a recommendation from the Planning Commission; and a public hearing before the City Council.

A. Administrative Determination Of Completeness: The City administration will determine whether or not the petition is complete according to the following requirements:

1. The petition must bear the signatures of no less than seventy five percent (75%) of the neighbors owning property which abuts the subject alley property;
2. The petition must identify which policy considerations discussed above support the petition;
3. The petition must affirm that written notice has been given to all owners of property located in the block or blocks within which the subject alley property is located;
4. A signed statement that the applicant has met with and explained the proposal to the appropriate community organization entitled to receive notice pursuant to title 2, [chapter 2.60](#) of this Code; and
5. The appropriate City processing fee shown on the Salt Lake City consolidated fee schedule has been paid.

B. Public Hearing And Recommendation From The Planning Commission: Upon receipt of a complete petition, a public hearing shall be scheduled before the Planning Commission to consider the proposed disposition of the City owned alley property. Following the conclusion of the public hearing, the Planning Commission shall make a report and recommendation to the City Council on the proposed disposition of the subject alley property. A positive recommendation should include an analysis of the following factors:

1. The City Police Department, Fire Department, Transportation Division, and all other relevant City departments and divisions have no reasonable objection to the proposed disposition of the property;
2. The petition meets at least one of the policy considerations stated above;
3. Granting the petition will not deny sole access or required off street parking to any property adjacent to the alley;



4. Granting the petition will not result in any property being landlocked;
5. Granting the petition will not result in a use of the alley property which is otherwise contrary to the policies of the City, including applicable master plans and other adopted statements of policy which address, but which are not limited to, mid block walkways, pedestrian paths, trails, and alternative transportation uses;
6. No opposing abutting property owner intends to build a garage requiring access from the property, or has made application for a building permit, or if such a permit has been issued, construction has been completed within twelve (12) months of issuance of the building permit;
7. The petition furthers the City preference for disposing of an entire alley, rather than a small segment of it; and
8. The alley property is not necessary for actual or potential rear access to residences or for accessory uses.

C. Public Hearing Before The City Council: Upon receipt of the report and recommendation from the Planning Commission, the City Council will consider the proposed petition for disposition of the subject alley property. After a public hearing to consider the matter, the City Council will make a decision on the proposed petition based upon the factors identified above. (Ord. 22-19, 2019: Ord. 58-13, 2013: Ord. 24-11, 2011)

#### **14.52.040: METHOD OF DISPOSITION:**

If the City Council grants the petition, the City owned alley property will be disposed of as follows:

A. Low Density Residential Areas: If the alley property abuts properties which are zoned for low density residential use, the alley will merely be vacated. For the purposes of this section, "low density residential use" shall mean properties which are zoned for single-family, duplex or twin home residential uses.

B. High Density Residential Properties And Other Nonresidential Properties: If the alley abuts properties which are zoned for high density residential use or other nonresidential uses, the alley will be closed and abandoned, subject to payment to the City of the fair market value of that alley property, based upon the value added to the abutting properties.

C. Mixed Zoning: If an alley abuts both low density residential properties and either high density residential properties or nonresidential properties, those portions which abut the low density residential properties shall be vacated, and the remainder shall be closed, abandoned and sold for fair market value. (Ord. 24-02 § 1, 2002)

#### **14.52.050: PETITION FOR REVIEW:**

Any party aggrieved by the decision of the City Council as to the disposition of City owned alley property may file a petition for review of that decision within thirty (30) days after the City Council's decision becomes final, in the 3rd District Court. (Ord. 24-02 § 1, 2002)

## **SUBDIVISION AMENDMENT PROCESS**

### **CHAPTER 20.28: SUBDIVISION AMENDMENTS**

*Staff Note: this section of City code was applicable at the time the application was submitted.*

### **ARTICLE III. SUBDIVISION AMENDMENTS INVOLVING STREETS**

#### **20.28.100: PURPOSE AND AUTHORIZATION:**

If the amendment petition involves closure, vacation (in whole or in part), alteration or amendment of any public street, right of way, or easement, or the dedication of a private street to a public street, the amendment petition shall be processed pursuant to the provisions of this article. (Ord. 7-14, 2014)

#### **20.28.110: CITY INTERNAL REVIEW:**

- A. The planning director or designee shall transmit a copy of the preliminary plat to, and request comments from, city departments and divisions that are part of the subdivision review process, as determined by the planning director.
- B. The division of transportation may, if the division determines that the proposed amendment petition may have an adverse material impact on traffic, require the applicant to submit a professionally prepared traffic impact study prior to the hearing on the application.

- C. The departmental comments shall be transmitted to the petitioner. (Ord. 7-14, 2014)

**20.28.120: PLANNING COMMISSION HEARING:**

- A. The planning commission shall hold a public hearing to consider the amendment petition and shall provide a recommendation to the city council to approve, approve with conditions, or deny the amendment according to the standards for preliminary plats set forth in section 20.16.100 of this title.
- B. Notice of the planning commission hearing shall be provided in accordance with noticing requirements in chapter 20.36 of this title. (Ord. 7-14, 2014)

**20.28.130: CITY COUNCIL HEARING:**

- A. The city council shall hold a public hearing to consider the amendment petition and shall either approve, approve with conditions, or deny the amendment according to the standards for preliminary plats set forth in section 20.16.100 of this title, and in the case of dedication of street from private ownership to public ownership, according to the policies and standards found in title 14,c hapter 14.54 of this code.
- B. A notice of public hearing before the Salt Lake City council shall be provided in accordance with noticing requirements for public hearings ofc hapter 20.36 of this title. (Ord. 7-14, 2014)

**20.28.140: RECORDABLE INSTRUMENT:**

If the amendment petition is approved by the council, the final amended subdivision plat and such other documents as may be required shall be executed by the planning director. The plat and documents shall be recorded in the office of the county recorder either by the applicant or by the planning director. (Ord. 7-14, 2014)

**20.28.150: APPEALS OF CITY COUNCIL DECISION:**

Refer to chapter 20.48, "Appeals", of this title for information and regulations regarding filing an appeal of a decision on subdivision amendments. (Ord. 7-14, 2014)