



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Brian Fullmer, Policy Analyst

DATE: August 27, 2024

**RE: Street Vacation at 700 South 5600 West
(PLNPCM2023-00482)**

Item Schedule:

Briefing: July 2, 2024

Set Date: July 9, 2024

Public Hearing: August 13, 2024

Potential Action: August 27, 2024

BRIEFING UPDATE

No one spoke at the August 13, 2024 public hearing. One person arrived after the hearing was closed and said they would email their comments. The comments have not been received as of this report update. The Council closed the public hearing and deferred action to a future meeting.

As a reminder, Public Utilities does not support the proposed street vacation due to existing water and sewer infrastructure under the roadway. The Planning Commission voted to forward a positive recommendation to the Council for the proposed street vacation with a requirement to record a utility easement for existing utilities in the right-of-way.

During the July 2, 2024 City Council briefing Planning staff agreed with Public Utilities' recommendation for the City to retain ownership of the property rather than vacate the street segment.

The following information was provided for the Council briefing and public hearing. It is included again for background purposes.

BRIEFING UPDATE

During the briefing a question was raised about the practical differences between vacating the property and placing an easement allowing the City access to underground utilities versus retaining ownership of the property. Planning staff stated best practice is to retain ownership if there are significant utilities on the property. Planning's perspective is to go along with Public Utilities' recommendation for the City to retain ownership of the property.



ISSUE AT-A-GLANCE

The Council will be briefed about a proposal to vacate a portion of 700 South adjacent to the petitioner's property on the corner of 700 South and 5600 West in City Council District Two. The request is to vacate the portion of 700 South between the petitioner's eastern property line and 5600 West as shown in the image below. Note: the petitioner also owns the parcel abutting the north side of 700 South.

Reconstruction of 5600 West, a UDOT road, was completed in 2020 which rerouted the road slightly to the west and expanded it from two lanes to six. A new section of 700 South was constructed which connects to 5600 West north of the old 700 South. A portion of the old 5600 West abutting the petitioner's property was abandoned by UDOT to the petitioner. The old 700 South now dead ends where it meets the old portion of 5600 West. The only property adjacent to the subject section of 700 South is owned by the petitioner, so vacating the road would not restrict access to any property owner.

During City department review Public Utilities opposed the street vacation due to 12" and 24" public water mains, and a 36" sewer main which are all located in this section of 700 South. Public Utilities stated an easement would not provide sufficient protection for the department. The petitioner offered a full access easement to Public Utilities, but the department reiterated opposition saying, "easements are not a replacement of property ownership when it comes to working on, replacing or accessing our infrastructure."

Once the street is vacated and no longer owned by the City, there could be use and development of the property that affects the underground utilities and makes access difficult even with an easement.

Based on comments from Public Utilities, Planning staff recommended *denying* the petition. The Planning Commission reviewed this petition at its February 28, 2024 meeting and held a public hearing at which no one spoke. **The Commission voted 5-3 to forward a *positive* recommendation on the proposed street vacation with an additional recommendation that an easement be recorded for any existing public utilities within the right-of-way.** One Commissioner who voted against the recommendation felt selling the property isn't in the public interest. Other Commissioners who voted against the recommendation did not express their concerns.

If the proposed street vacation is approved by the Council, the property would be sold to the petitioner at market value.



*Aerial image showing proposed street vacation shaded in red.
The petitioner's properties are outlined in yellow.*

Goal of the briefing: Review the proposed street closure, determine if the Council supports moving forward with the proposal.

POLICY QUESTION

1. The Council may wish to discuss the benefits and drawbacks of utility easement as opposed to the City retaining ownership of the street segment.

ADDITIONAL INFORMATION

Planning staff identified four key considerations during analysis of this proposal which are found on pages 3-4 of the Planning Commission staff report and summarized below. For the complete analysis please see the staff report.

Consideration 1-Other City Department Considerations

Engineering – the Engineering Division had concerns with the original proposal to vacate the street at 5500 West. The proposal was changed to vacate at the petitioner's property boundary. That resolved the concern and Engineering is now supportive of the vacation request.

Transportation – the Transportation Division expressed concern that the street vacation would restrict access to surrounding properties. Changes to the proposed vacation at the property owner's property boundary resolved that concern. Transportation also wants to ensure drainage doesn't affect the public road, and that a dead-end sign is placed on the property if vacated.

Public Utilities – as discussed above, Public Utilities is opposed to the street vacation due to water and sewer lines in the right-of-way. They would like the City to retain ownership of the road. It is worth noting that State statute requires easements owned by culinary water or sanitary sewer authorities for existing facilities located within a public street to be identified and preserved.

Consideration 2-Compliance with Master Plans

Planning staff found the proposed street vacation does not conflict with the *Northwest Quadrant Plan* or *Connect SLC*. The street is already a dead end and there would not be a substantial change if the proposal is adopted by the Council.

Consideration 3-Compliance with Zoning Requirements and Overlays

Planning staff found that the potential lot which would be created if the proposal is approved meets minimum lot width requirements for General Commercial (CG) zoning district. The petitioner's parcels adjacent to the south and north of the subject street segment are zoned CG.

It is Planning staff's opinion that the proposed street vacation would not negatively affect the Inland Port overlay's goal for connections linking to other parts of the city and region if other access to 700 South such as on the new segment of the road is maintained.

Consideration 4-State Code Regarding Street Vacations

Street closure process is dictated by Section 10-9a-609.5 Utah State Code which is included at the end of this report for reference. The City Council must determine if there is good cause for the vacation, and the public interest or any person will be materially injured by the vacation.

Planning noted that the City would be relieved of the maintenance burden if the street segment is vacated and sold for market value. However, vacating the street would be counter to Public Utilities' desire for the City to retain ownership of the street.

Attachment D to the Administration's Planning Commission staff report (pages 27-28) is an analysis of factors related to the City's street closure policy. A summary is provided below. For the complete analysis, please refer to the Planning Commission staff report.

- **It is the policy of the City Council to close public streets and sell the underlying property. The Council does not close streets when the action would deny all access to other property.**
 - **Finding: Complies.** The proposed vacation would not deny vehicular or pedestrian access to any nearby properties.
- **The general policy when closing a street is to obtain fair market value for the land, whether the abutting property is residential, commercial, or industrial.**
 - **Finding: Complies.** The City would give up ownership of the 700 South right-of-way and obtain fair market value if it is sold to the applicants.
- **There should be sufficient public policy reasons that justify the sale and/or closure of a public street and it should be sufficiently demonstrated by the applicant that the sale and/or closure of the street will accomplish the stated public policy reasons.**
 - **Finding: Does not comply.** Planning staff noted that there are no adopted plans or policies that oppose or support the vacation of this section of 700 South. However, Planning stated "...it would reduce the burden of city maintenance on this portion, but the amount of utilities in this section of road is highly valuable and needs full access where an easement would not be sufficient."
- **The City Council should determine whether the stated public policy reasons outweigh alternatives to the closure of the street.**

- **Finding: Does not comply.** Planning said “The vacation of this portion of 700 S would benefit the applicant and may reduce some maintenance of City facilities. But due to the large number of utilities in this portion of road that need ease of access beyond what an easement would provide, Public Utilities does not support this request.”

PROJECT CHRONOLOGY

- June 26, 2023 – Application for street vacation was received.
- July 3, 2023 – Petition assigned to Cassie Younger, Senior Planner.
- July 7, 2023 –
 - Notice was sent to the Poplar Grove Recognized Community Organization informing them of the petition.
 - Notice was sent to property owners within 300 feet of the applicant’s property.
- July 12, 2023 – The proposal was posted for an online open house.
- August 21, 2023 – The 45-day public comment period for recognized organizations ended.
- October 27, 2023 – Meeting with the applicant, Planning, Public Utilities, and Engineering staff to discuss the petition. Public Utilities stated their opposition but said they would check with the City’s maintenance crew to see if an easement would be acceptable.
- January 19, 2024 – Public Utilities confirmed that an easement would not be sufficient and restated their opposition to the vacation.
- February 15, 2024 –
 - Agenda posted to the Planning Commission website and the State of Utah Public Notice webpage.
 - Property owners within 300 feet of the applicant’s property were notified of the public hearing.
 - Applicant posted public hearing signs on the property.
- February 28, 2024 – The Planning Commission held a public hearing and made a recommendation to the City Council to approve the proposed street vacation.
- March 14, 2024 – Planning staff requested ordinance from the Attorney’s Office.
- May 2, 2024 – Ordinance received from the Attorney’s Office.
- May 9, 2024 – Transmitted to 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.