



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Brian Fullmer
Policy Analyst

DATE: July 13, 2021

**RE: Goshen Street Alley Vacation
400-06-05**

Item Schedule:

Briefing: July 13, 2021

Set Date: July 13, 2021

Public Hearing: August 17, 2021

Potential Action: August 24, 2021

ISSUE AT-A-GLANCE

The Council will be briefed about a proposal to vacate a City-owned alley at approximately 740 South Goshen Street between Goshen Street and 1075 West in City Council District Two. The subject alley is approximately 15' wide, 138' long (2,070 square feet) and dead ends in line with the applicant's western property boundary as shown in the image below. A former intersecting north-south alley segment along this boundary was vacated in 1962.

This is an old application on which the Council was initially briefed in 2007. At that time, an adjacent property owner on the south side of the alley wanted to purchase half the alley. That property is in a different subdivision from which the alley was created. According to a Salt Lake City Attorney's Office interpretation of City code, when alleys are vacated they must be conveyed to abutting property owners within the subdivision from which it was originally dedicated. Utah court case law supports this position.

In the period since the Council was first briefed on this alley closure, the adjacent property south of the alley was sold and the current owner is supportive of the alley closure with the applicant receiving the alley property (see email from adjacent property owner to the south included as attachment A).

Section 14.52.040 *Salt Lake City Code* outlines the method of disposition for alleys (see pages 4-5 below). For alleys abutting low density residential areas (single-family, duplex or twin homes), the alley is vacated and deeded to abutting property owners. Since the applicant is the only abutting property owner within the subdivision from which the alley was originally created, if the subject alley vacation is approved by the Council the alley property will be deeded to them.



The previous City Council staff report is included with the Administration's transmittal. The Planning Commission forwarded a positive recommendation to the City Council for the alley vacation.



Aerial view with the subject alley highlighted in yellow.

Goal of the briefing: To review the proposed alley closure, address questions Council Members may have and prepare for a public hearing.

POLICY QUESTION

1. Does the Council agree with the Planning Commission's recommendation on this alley closure request?

ADDITONAL INFORMATION

Alley vacation requests receive three phases of review, as outlined in section 14.52.030 *Salt Lake City Code* (see pages 3-5 below). 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.

ALLEY DISPOSITION PROCESS

In order for the City to dispose of its interest in an alley, it must be demonstrated at least one of the following criteria is satisfied:

- A. **Lack of Use**-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**-existence of the alley substantially contributes to crime, unlawful activity or unsafe conditions, public health problems, or blight in the surrounding area.
- C. **Urban Design**-Continuation of the alley does not serve as a positive urban design element.
- D. **Community Purpose**-Petitioners propose to restrict the general public from use of the alley in favor of a community use, such as a neighborhood play area or garden.

Planning staff evaluated the application and found the alley meets Standard C, and does not serve as a positive urban design element. They further determined the proposed alley closure complies with all *City Code* requirements for an alley closure.

The process for closing or vacating a City-owned alley is outlined in Section 14.52 *Salt Lake City Code*.

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.

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 onsite 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. 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.

Attachment A

From: **Miles Hunter** <milesphunter@gmail.com>

Date: Wed, Jul 8, 2020 at 3:25 PM

Subject: Fwd: (EXTERNAL) status of alleyway vacation petition \ alleyway located between 750 S Goshen St and 740 S Goshen St, 84104

To: <nong000001@gmail.com>

Hi Soulasaith and Tair,

The email below contains the information about the petition status for the alleyway's vacation. We totally understand that the alleyway will be deeded entirely to your property. I'm sorry that your petition wasn't advanced in the past. If you choose to proceed with this petition, we will completely support you. Either way, we'll consider this space as yours.

We will install a fence in the future, but just in the back portion of our yard (to have a secure place to let the dog out). The markers along our property are a fenceline marker and were certified to be three inches inside our property. We'll make sure all fencing, plants, etc. won't encroach on the alleyway property.

Thank you both. And thank you to your family. For being such kind, gracious neighbors. Your welcome of us and your generosity has been so lovely. Thank you.

Our garden is starting to get going! We have A LOT of chard, arugula, kale, and spinach right now. Would you and your family like any? I'll happily harvest and stop it over to you!

Best,
Miles & Isai

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