



# COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

**TO:** City Council Members

**FROM:** Brian Fullmer, Policy Analyst

**DATE:** July 20, 2021

**RE: ROSEWOOD PARK STREET VACATION AND ALLEY VACATION  
(PLNPCM2019-01036 and PLNPCM2019-01037)**

Item Schedule:

Briefing: July 20, 2021

Set Date: July 20, 2021

Public Hearing: August 17, 2021

Potential Action: August 24, 2021

## ISSUE AT-A-GLANCE

The Council will be briefed about a proposal from City Real Estate Services to vacate five alleys and six streets within Rosewood Park at approximately 1400 North 1200 West in City Council District One. Rosewood Park was constructed in 1977 on part of the Kinney and Gourlay's Improved Subdivision, recorded in 1887. The subdivision was platted for residential lots with alleys and streets servicing the parcels. The subject streets and alleys were never constructed and do not physically exist.

Rosewood Park includes numerous parcels, streets, and alleys as shown in the image below. The Administration is requesting vacating these alleys and streets to consolidate them and the parcels within the park into one parcel. This will simplify the permitting process for future park improvements.

City Planning staff noted the platted streets and alleys are not connected to any established road network system, do not provide access to adjacent private property, or serve a connectivity function. Planning further noted the City's Transportation Master Plan does not include proposals for the subject streets or alleys and vacating them will not negatively affect future area development. If approved by the Council, Planning advises the Administration to amend Section 15.04.350 *Salt Lake City Code* to include an updated description of Rosewood Park.

Planning staff recommended the Planning Commission forwarded positive recommendation to the City Council for the proposed street and alley vacations, and the planning commission forwarded a positive recommendation after their public process.





*Aerial image of Rosewood Park showing proposed street vacations in red and alley vacations in blue  
Image courtesy Salt Lake City Planning Division*

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

## **POLICY QUESTION**

1. Is the Council supportive of vacating the subject streets and alleys in Rosewood Park?
2. Is the Council interested in an update of proposed improvements at Rosewood Park, and the extent to which these vacations/closures facilitate those improvements?

## **ADDITIONAL INFORMATION**

Attachments E and F of the Administration's transmittal (pages 31-35) are an analysis of factors related to the City's street and alley closure policies. Planning staff found the proposed street and alley vacations comply with all factors. For the complete analysis, please refer to the transmittal.

During City department review of the proposal no responding department found issues with the proposal.

The proposed ordinance includes a requirement for parcels within Rosewood Park to be consolidated into one lot.

## **KEY CONSIDERATIONS**

Planning staff identified two key considerations during analysis of the project which are summarized below. For the complete analysis, please refer to pages 19-20 of the Administration's transmittal.

### **1. City Goals and Policies**

None of the adopted City master plans providing guidance for Rosewood Park specifically address street and alley vacations. However, the Northwest Master Plan, Rose Park Small Area Plan, Salt Lake City Transportation Master Plan, and Plan Salt Lake emphasize the importance of recreational facilities and the ability to maintain and improve facilities as the city grows. Planning found the proposed street and alley vacations will allow for a more efficient and flexible manner for the City to improve Rosewood Park.

## **2. Lack of Connectivity**

Streets and alleys dedicated in the subdivision were planned to service parcels within it. However, Rosewood Park was built on many of these parcels so they will not be developed. Rosewood Park has its own connections to the road network system that do not coincide with platted streets and alleys within the park. It is Planning staff's opinion the subject streets and alleys are not needed.

## **PUBLIC PROCESS**

- December 2, 2019 – Notice of the project and request for comments sent to Chairs of the Rose Park and Capitol Hill Community Councils. Neither Chair responded to the request.
- December 12, 2019 – Proposal presented at the Planning Division Open House.
- January 10, 2020 – Planning Commission hearing notice mailed to owners and tenants of property within 300 feet of the streets and alleys.
- January 22, 2020 – Planning Commission reviewed the petition and conducted a public hearing. No one spoke at the hearing. The Commission voted unanimously to forward a positive recommendation to the City Council.
- August 26, 2020 – Street closure (closed to travel, but property remains a street) petition amended to street vacation (closed to travel and property no longer listed as a street). The Planning Commission reviewed the petition and conducted a public hearing. No one spoke at the hearing. The Commission unanimously voted to forward a positive recommendation to the City Council.

## **ALLEY CLOSURE PROCESS**

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.

#### **STREET CLOSURE PROCESS**

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.