

DATE: June 22, 2006

TO: Salt Lake City Planning Commission

FROM: Doug Dansie, Principal Planner

RE: Staff Report for the June 28, 2006 Planning Commission Meeting

CASE#: 400-06-05

APPLICANT: Maylaykhone Kiphibane

STATUS OF APPLICANT: Adjacent land owner

PROJECT LOCATION: 740 S. Goshen Street



PROJECT/PROPERTY SIZE: Approximately 0.05 acres
COUNCIL DISTRICT: District 2, Council Member Van Turner
PROPOSED USE(S): Alley vacation

SURROUNDING ZONING DISTRICTS:

North R-1-5000 Single Family Residential
South R-1-5000 Single Family Residential
East R-1-5000 Single Family Residential
West R-1-5000 and OS Open Space

SURROUNDING LAND USES:

North Single Family Residential
South Single Family Residential
East Single Family Residential
West Single Family Residential

REQUESTED ACTION/PROJECT DESCRIPTION:

Maylaykhone Kiphibane is requesting that the City close the alley property located in Block 3 of Seventh South subdivision, as a public right-of-way and declare the alley as surplus property. (Exhibit 1).

The subject right-of-way runs along the southeast corner of the block. Maylaykhone Kiphibane owns all of the lot adjacent to the alley, and should the alley closure request receive approval, the alley property would become part of the adjacent lot to the north. The property owner to the south is not part of the original platted subdivision and has no legal claim on the alley. The alley to the rear of the property has already been vacated. Consistent with City Council policy, residential alleys are divided between the two adjacent landowners, however, since there is only one adjacent land owner in this instance, half the alley would be deeded to the adjacent landowner to the north and the other half would be sold to the petitioner at fair market value.

APPLICABLE LAND USE REGULATIONS:

Chapter 14.52 of the Salt Lake City Code outlines a procedure for the disposition of City owned alleys and establishes criteria for evaluating the public's interest in an alley. Chapter 2.58 of the code regulates the disposition of surplus City-owned real property.

MASTER PLAN SPECIFICATIONS:

There are two master plan documents that are applicable to this area. The land use policy document that guides development in this area is the West Salt Lake Master Plan adopted in 1995. The plan indicates that unused alleys in residential neighborhoods are an undesirable element and invite burglary and vandalism. It also states that a lack of maintenance of alleys is a problem. The master plan indicates that unused alleys should be encouraged to be closed through an initiation of such action by the abutting property owners. The Open Space Master Plan identifies a system of non-motorized transportation corridors that would re-establish connections between urban and natural land forms of the City. The subject alley property has not been designated for a future trail in the Open Space Master Plan, nor does it provide access to the adjacent Jordan River Parkway which is identified as an Open Space corridor.

SUBJECT PROPERTY HISTORY:

The alley was part of the original plat of the Seventh South Subdivision. The majority of the alley (north south portion) was vacated in 1962. The portion of the alley subject to this petition, (east-west) is on the south side of the subdivision and there is only one lot within the original subdivision that is adjacent to the alley.

ACCESS:

The alley as reflected on the plat runs west from Goshen Avenue. Access to the alley property is accessed from Goshen Avenue.

COMMENTS, ANALYSIS AND FINDINGS:

1. COMMENTS

Summary of Comments from City Departments and Community Council(s):

- a) **Transportation:** The Transportation Division has no objections pending approval of property owners and relocation of an adjacent drive.
- b) **Building Services:** No objection.
- c) **Police:** No objection.
- d) **City Engineering:** No objection.
- e) **Property Management:** Property Management has no objection.
- f) **Fire:** The Fire Department has no objection.
- g) **Public Utilities** has no objection but notes that it is within the flood plain which will ultimately affect the development of the property.
- h) **Airport** has no objection to the alley closure but will require avigation easement for new construction.
- i) **Poplar Grove Community Council** supported the petition assuming property owners were in support.
- j) **Parks Division:** No objections were received.

In addition, all owners of property located in the block within which the subject alley property is located were notified of the proposed closure in a letter dated March 28, 2006 (Exhibit 5). One comment in opposition to the proposal was received to date.

2. ANALYSIS AND FINDINGS

Chapter 14.52 of the Salt Lake City Code regulates the disposition of city owned alleys. When evaluating requests to close or vacate public alleys, the City considers whether or not the continued use of the property as a public alley is in the City's best interest. Noticed public hearings are held before both the Planning Commission and City Council to consider the potential adverse impacts created by a proposal. Once the Planning Commission has reviewed the request, their recommendation is forwarded to the City Council for consideration.

The Planning Commission must also make a recommendation to the Mayor regarding the disposition of the property. If the Commission recommends that the alley property be declared surplus, the property should be disposed of according to Section 2.58 City-Owned Real Property of the Salt Lake City Code. If an alley is next to or abuts properties which are zoned for multi-family (3 or more units) residential use or other non-residential uses, the City typically retains title to the surplus property until the land is sold at fair market value or other acceptable compensation is provided. All proceeds or revenue from the sale of any real property sold by the city is deposited in a surplus property account within the capital improvements fund of the general fund. City Council has the authority to allocate disbursements of these funds.

The City Council has final decision authority with respect to alley vacations and closures. A positive recommendation from the Planning Commission requires an analysis and positive determination of the following factors:

Section 14.52.02 of Salt Lake City Code: Salt Lake City Council 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 or 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.

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.

Discussion: The requested alley closure satisfies policy considerations **B and C**. The applicant notes in a letter (Exhibit 1, the alley has never been used or maintained and it becomes a settlement for dangerous insects and rodents which can become a public health issue. Furthermore, the applicant questions the validity of the alley to serve a positive public purpose since the land consists of undisturbed earth and low growing weeds. The neighboring property owner to the south has been using the alley as a driveway, however, they have no legal standing to use the alley since their parcel is outside the original subdivision and they have other forms of access available to their property. Planning Staff, therefore, is of the opinion that the alley property in its current condition does not serve as a positive urban design element (Exhibit 6).

Finding: The alley property is not usable as a public right-of-way nor does it serve as a positive urban design element. The request satisfies at least one of the policy considerations listed above, and as required by Section 14.52.02 of the City Code.

Section 14.52.030 (B) of Salt Lake City Code: 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 objection to the proposed disposition of the property;**

Discussion: Staff requested input from pertinent City departments and/or divisions. Comments were received from the Public Utilities, Fire Department, Building Services, Engineering Division, Division of Transportation, Police Department, Airport and Property Management. These comments are attached to this staff report as Exhibit 3.

Finding: The appropriate City departments and divisions have reviewed this request and have no objections to the proposed disposition of the property.

- 2. The petition meets at least one of the policy considerations stated above;**

Finding: The petition meets policy consideration C as required in Section 14.52.020 of the Code and as outlined above.

3. The petition must not deny sole access or required off-street parking to any adjacent property;

Discussion: It has been the City's policy not to close an alley if it would deny a property owner required access to the rear of their lot. Since the applicant owns all of the property abutting the alley and the property would become part of the internal circulation system of the consolidated lot, this consideration would not be an issue if the alley were vacated. The adjacent property owner to the south has used the alley, but is not part of the original subdivision and technically has no claim to use the alley for access to their property. The property owner to the south has other options for accessing their property. The property to the south is two separate parcels. A home is on the southern parcel and the northern parcel (adjacent to the alley) is vacant. Access would be available to the northern parcel with the creation of a new drive approach. Both parcels share the same street address.

Finding: Closing the alley will not deny sole access to an owner of property adjacent to the alley.

4. The petition will not result in any property being landlocked;

Discussion: Should the alley be vacated, the applicant will combine all of their property, including the alley property by deed.

Finding: The proposed alley closure would not create any landlocked parcels.

5. The disposition of the alley property will not result in a use 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;

Discussion: The alley does not provide access to the adjacent Jordan River Parkway and may not otherwise be integrated to a city trail system.

Finding: The proposed disposition of the alley property will not result in a use that is inconsistent with pertinent or applicable policies of the City.

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 12 months of issuance of the building permit;

Discussion: The applicant owns the property abutting the subject alley and there are no existing or proposed garages that require access from the alley. The adjacent property owner to the south has no legal standing to use the alley because their property is outside the original subdivision. The property owner to the south has other opportunities for access available to their vacant and developed land.

Finding: No abutting property owner, with standing, intends to build a garage requiring access from the alley property.

7. The petition furthers the City preference for disposing of an entire alley, rather than a small segment of it; and

Discussion: The larger alley (all other portions) has been vacated. This is the only portion of the alley remaining that is not vacated.

Finding: The applicant's request is to vacate the entire alley consistent with City preference.

8. The alley is not necessary for actual or potential rear access to residences or for accessory uses.

Discussion: The subject alley property will be entirely encompassed by the applicant's development on this block and integrated into the site plan for the proposed residential use. The adjacent property owner to the south has been using the alley but has no legal claim to the alley because they are outside the original subdivision.

Finding: The alley is not necessary for actual or potential rear access to residences or for accessory uses other than the petitioner's property.

Section 14.52.040 (B) of Salt Lake City Code: High Density Residential Properties and Other Nonresidential Properties.

If the alley abuts properties which are zoned for high density residential use or other non-residential 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.

Discussion: The property is not zoned commercial or high density residential; the adjacent properties are zoned for single family homes.

Finding: The applicant is entitled by Council policy to half the alley. It is proposed that the petitioner be required to pay fair market value for the other half of the alley property.

RECOMMENDATION:

Based upon the analysis and findings identified in this report, staff recommends that the Planning Commission forward a favorable recommendation to the City Council to vacate and close the subject alley and deed it to the applicant with the following conditions:

1. The proposed method of disposition of the alley property shall be consistent with the method of disposition expressed in Section 14.52.020 Method of Disposition and Chapter 2.58 City-Owned Real Property of the Salt lake City Ordinance.
2. Prior to building permit issuance, the applicant shall formally combine the parcels owned by the applicant in the Seventh South Subdivision, including the alley property.

Doug Dansie
Principal Planner

Attachments: Exhibit 1 - Petition to Vacate Alley
 Exhibit 2 - Description of Alley
 Exhibit 3 – Departmental/Division Comments
 Exhibit 4 - Community Council
 Exhibit 5 - Letter to Property Owners and responses
 Exhibit 6 - Photographs

Exhibit 1
Petition to Vacate Alley

Exhibit 2
Description of Alley

Exhibit 3
Departmental/Division Comments

Exhibit 4
Community Council

Exhibit 5
Letter to Property Owners and responses

Exhibit 6
Photographs