



Staff Report

PLANNING DIVISION
DEPARTMENT of COMMUNITY & NEIGHBORHOODS

To: Salt Lake City Planning Commission

From: Molly Robinson, 801-535-7261 or molly.robinson@slcgov.com

Date: November 14, 2018

Re: PLNPCM2018-00121 Partial Street Vacation at 239 N East Capitol Street

Street Vacation

PROPERTY ADDRESS: 239 N East Capitol Street (114 East Hillside Ave)

MASTER PLAN: Capitol Hill

ZONING DISTRICT: RMF-35, Moderate Density Multi-Family Residential District

REQUEST: This is a request by Brian and Jennifer Reuben requesting Salt Lake City to close a portion of 114 East Hillside Avenue where it borders the Reuben's property located at 239 N East Capitol Street. The applicant owns the parcel abutting the proposed street vacation. The parcels are located in the RMF-35 (Moderate Density Multi-Family Residential District) zoning district. The purpose of this street vacation is to reconcile the location of two accessory shed buildings and a masonry wall that are located within the public way on East Hillside Avenue. The applicant wishes to keep the buildings and wall for security purposes. If approved by the City Council, this portion of East Hillside Avenue will be vacated, declared surplus property, and sold at market-rate. The proposed area is approximately 1,968 square feet.

RECOMMENDATION: Based on the information in this staff report, Planning Staff recommends that the Planning Commission forward a positive recommendation to City Council for the request to vacate this portion of 114 East Hillside Avenue.

ATTACHMENTS:

- A. [Vicinity Map](#)
- B. [Property Photographs](#)
- C. [Historic Application Materials](#)
- D. [Additional Applicant Information](#)
- E. [Analysis of Standards](#)
- F. [Public Process and Comments](#)
- G. [Department Review Comments](#)

BACKGROUND

The property adjacent to the subject street was previously two properties with two separate homes until the late 1980s. In 1988, the Historic Landmark Commission approved the consolidation of the

two properties, 239 N East Capitol Street and 114 East Hillside Avenue, and the joining of the two homes. Once the buildings were connected, the front entrance became 114 Hillside Avenue. The house is located in the Capitol Hill Historic District but is considered to be noncontributing because of the many changes it has gone through. It is unclear exactly when the accessory shed buildings and wall were built though they appear to exist prior to the joining of the two homes in 1988 (see Attachment C). The buildings and wall predate the applicant's ownership and have existed for decades without prior lease agreements by previous owners with the city.

In 2014, the applicant received a Certificate of Appropriateness for a detached garage and an upper level addition. In 2016 prior to receiving their building permit, the applicant received a Certificate of Appropriateness to remove the wall and accessory shed buildings as they are located within the public right-of-way; removal was a condition of the building permit for their detached garage and addition application. The buildings and wall were not removed. Their removal would involve relocation of gas meters, electric meters, and associated utility lines; and regrading of the site. The applicant and the City's Real Estate Services group began negotiations for a lease agreement for the area of land bounded by the wall and including the outbuildings.

Subsequently, the applicant requested a partial street vacation for this land and purchase of it for private ownership instead of leasing the land from the city or removal of the buildings and wall. The applicant wishes to keep the buildings and wall for security purposes.

PROJECT DESCRIPTION:

The proposed partial street vacation is located on 114 East Hillside Avenue. It measures approximately 200 feet by 10 feet. The subject area is landscaped with lawn and shrubs, and includes the subject wall and two accessory shed buildings. The proposed area is 1,968 square feet, according to the survey. The East Hillside Avenue public right-of-way is approximately sixty-six feet (66') wide. Vacation of the subject area would not impact roadway or traffic operations, including pedestrian circulation. The area does not include the adjacent sidewalk. The area is not part of a subdivision. If the partial street vacation is approved by City Council, the applicant will be required to pay fair market value for the land, which will be determined by Salt Lake City's Real Estate Services (part of Housing and Neighborhood Development).



CONSIDERATIONS:

Important considerations listed below have been identified through the analysis of the project.

1. **Utah State Code:** Section 10-9a-609.5 of the Utah Code Annotated establishes the power for cities to vacate streets upon the request of the governing body or a property owner. The City Council must determine that there is good cause for the action and the action will not be detrimental to the public interest. Due to the longevity of the existence of the wall and accessory buildings, the property in question is essentially privatized already and its transfer to private ownership would not be detrimental to public interest especially since the applicant will be required to pay for the property.
2. **City Council Policies:** In 1999, the City Council adopted a street closure policy, which applies to street vacations. See Attachment E.
3. **City Master Plans:** The *Capitol Hill Master Plan* identifies this area as within the Kimball neighborhood. The plan emphasizes preservation of historic properties, traffic circulation, and access to parks and open space. No specific historic preservation policies or action items are identified for East Hillside Avenue aside from continued application of the local historic district regulations and guidelines. No specific policies or action items are identified for East Hillside Avenue though it is considered a neighborhood connection to the Canyon Rim Walkway along N East Capitol Street and East Capitol Boulevard. East Hillside Avenue is considered a “local street” that is characterized by one travel lane in each direction and meant to carry traffic over short distances and at low speeds. The right-of-way of the block of East Capitol Avenue immediately west of State Street (between Main and State) is narrower than the subject block

of East Capitol Avenue: 53-feet wide versus 66-feet wide. This suggests that a local street can have a narrower right-of-way than the subject block and still carry local traffic effectively.

The *Salt Lake City Urban Design Element (1990)* advises that street vacation must have a public benefit. Though this proposal does not violate public policies, it does not have a stated public benefit. However, the property isn't needed for a public purpose and the city would benefit from the sale of the land the proceeds from which would go into the General Fund for use on other public projects.

DISCUSSION:

The proposal has been reviewed according to Utah State Code, the City Council policies regarding street closures (Attachment E), and applicable city master plans, and staff finds that although *there are no public policies that will be explicitly accomplished with the partial street vacation, it does not violate any public policies. Further, the city will benefit financially from the sale of the property to the applicant.*

NEXT STEPS:

With a recommendation of approval or denial of the street closure and subdivision amendment from the Planning Commission, the proposal will be sent to the City Council for a final decision by that body.

ATTACHMENT A: VICINITY MAP





Applicant's Property



Proposed Street Vacation

ATTACHMENT B: PROPERTY PHOTOGRAPHS



Proposed partial street vacation – 114 East Hillside looking west



Proposed partial street vacation – 114 East Hillside looking east



East Hillside, main entrance to home showing wall, gate, and accessory buildings



West side of one of the accessory buildings, showing gas meters and integration with wall



South side of wall, showing electric meters



Northwest corner of wall, showing integration with landscape and grading



Eastern portion of property, showing new detached garage



Eastern portion of wall near new detached garage, showing second accessory building

ATTACHMENT C: HISTORIC APPLICATION MATERIALS

54/2

Site Plan for cabana and swimming pool application to Historic Landmark Commission in 1985. Shows part of the wall and both accessory shed buildings along 114 East Hillside.

Thomas L. Sogard
1871-1901

CASH 542
Tom Selig



ATTACHMENT D: ADDITIONAL APPLICANT INFORMATION

ATTACHMENT E: ANALYSIS AND FINDINGS

In 1999, the City Council adopted a street closure policy that includes the following provisions:

1. **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.**

Analysis: If the City Council approves of the partial street vacation, the City would sell the land to the property owner at market value. The partial street vacation would not deny access to any properties.

Finding: The proposed street vacation would not deny access to the properties adjacent to the vacation.

2. **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.**

Analysis: If approved by the City Council, the portion of right-of-way would be declared surplus and sold at fair market value to the applicant.

Finding: The City would give up ownership of this property and obtain fair market value for the sale of the property to the applicant.

3. **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.**

Analysis: The proposed partial street vacation is located in the area addressed by the [*Capitol Hill Master Plan*](#), adopted in 1999 and amended in 2001. That plan provides the following goals related to the proposed street closure:

*Provide for the preservation and protection of the historically and architecturally important districts and resources as well as the quality of life inherent in historic areas. **Ensure new construction is compatible with the historic district within which it is located.***

*Enhance the visual and aesthetic qualities of the community by implementing historic preservation principles, designing public facilities to enhance the established residential character of the Capitol Hill Community and **encouraging private property improvements that are visually compatible with the surrounding neighborhood.***

Provide for safe, convenient circulation patterns for vehicular and non-vehicular traffic movement, while discouraging commuter and commercial traffic on residential streets and restricting industrial traffic to appropriate routes.

The subject partial street vacation would transfer property rights from the city to the property owner for this approximately 2,070 square foot piece of land. Any demolition or construction planned for the property would be subject to historic preservation

regulations and guidelines and require a Certificate of Appropriateness. This would ensure compatibility with the historic district and neighborhood.

The subject partial street vacation would not impact vehicular or non-vehicular traffic movement.

The [Salt Lake City Urban Design Element](#) states the following regarding vacating streets:

“Decline to vacate streets, alleys and other public rights-of-way unless it is demonstrated that the vacation will result in a public benefit.”

In accordance with this policy, the proposal to vacate this portion of East Hillside Avenue does not have a direct public benefit. The city would benefit financially from the sale of the property to the applicant.

Finding: The proposed partial street vacation does not conflict with the Capitol Hill Master Plan but does not result in a direct public benefit per the Salt Lake City Urban Design Element. However, the property isn’t needed for a public purpose and the city would benefit from the sale of the land the proceeds from which would go into the General Fund for use on other public projects.

4. The City Council should determine whether the stated public policy reasons outweigh alternatives to the closure of the street.

Analysis: As an alternative to the proposal, the City and applicant could enter into a lease agreement for the land occupied by and enclosed by the wall and buildings. Lease agreements are commonly utilized in similar conditions throughout the city where fencing, walls, retaining walls, and other structures encroach upon city property such as public rights-of-way. All maintenance of the subject property would be by the lessee (the applicant) subject to required permits for any work. In exchange for exclusive use of the subject property, the lessee (the applicant) would be required to pay annual rent based on fair market value.

A second alternative is to demolish the wall and accessory buildings. This would require the applicant at their expense to demolish and dispose of the materials, relandscape and regrade the land, relocate the existing gas and electric meters and associated utilities onto their private property, and other associated steps. This option would require a new Certificate of Appropriateness from the Planning Division.

Finding: Alternatives to this request maintain city ownership of the subject portion of the public right-of-way and require the applicant to either enter into a lease agreement for the encroachment or demolish the wall and buildings. Staff finds that the demolition alternative is burdensome. The proposal to partially vacate street is more satisfactory to the property owner than a lease agreement.

ATTACHMENT F: PUBLIC PROCESS AND COMMENTS

PUBLIC PROCESS AND INPUT

- Notice of petition and request for review sent to Capitol Hill Community Council and Greater Avenues Community Council on April 13, 2018. No responses were received from either.
- Letters sent to properties within the neighborhood that may be impacted by the partial street vacation on April 12, 2018. Two emails were sent in opposition of the project and can be found below. Two callers indicated support of the project.
 - Neighbors who expressed opposition suggested that partial street vacation and sale of the property to the adjacent property owner sets a negative precedent for similar conditions throughout the city. Concerned that aesthetics of non-contributing properties in a historic district are not compatible.
 - Neighbors who expressed support suggested that as long as the partial street vacation does not impact pedestrian or traffic movement that the vacation is acceptable.
- Open House notice mailed on April 6, 2018.
- Open House was held on April 19, 2018. No comments were received at the Open House.
- Public hearing notice mailed on September XX, 2018.
- Public hearing notice posted on the property on September XX, 2018.
- Public notice posted on the City and State websites and sent via the Planning Division list serve on September XX, 2018.

Written public comments received follow this page.

ATTACHMENT G: DEPARTMENT REVIEW COMMENTS

Attorney's Office: No comments received.

Building: No building code issues.

Engineering: No objections from Engineering.

Fire: No comments received.

Police: No comments received.

Public Utilities: There is a water line that runs through the east side of this property. The survey and final plat needs to show the existing line and 30-foot easement. No structures or permanent facilities can be installed within the 30-foot easement; the easement can be offset with at least 10 feet on each side of this water line. Permanent structures, footings or new trees are not acceptable within the easement; driveway or parking and landscaping are acceptable; fencing is ok but may be torn down if we need access. Recording of the easement for the water line on the final plat is required.

Sustainability: No comments received.

Transportation: No objections from Transportation.

Urban Forestry: No comments received.

Zoning: No objections or zoning related concerns regarding the proposed street closure.