



TEL 801 852 6140  
351 W CENTER ST  
PO BOX 1849  
PROVO, UT 84603

## Provo City (*Legal*)

Staff Memorandum

### Ordinance for Dedication of Private Streets to Public Ownership

December 8, 2021 Planning Commission

<p><b>Department Head</b> Brian Jones (801) 852-6143</p> <p><b>Memorandum Author</b> Matthew Griffiths (801) 852-6359</p> <p><b>Case File # (if applicable)</b> N/A</p>	<p><b>Purpose of Proposal</b></p> <ul style="list-style-type: none"><li>• To move forward on a Provo City Code ordinance establishing criteria and procedures for petitions that request dedication of privately owned streets to public (City) ownership.</li></ul> <p><b>Action Requested</b></p> <ul style="list-style-type: none"><li>• Approval of proposed ordinance.</li></ul> <p><b>Relevant City Policies</b></p> <ul style="list-style-type: none"><li>• Provo City Code Chapter 15.23.</li></ul> <p><b>Description of this item (at least 2 paragraphs)</b></p> <ul style="list-style-type: none"><li>• The City has recently received multiple requests from owners (mainly HOAs) of private roads in Provo that their streets and/or utilities be converted to public ownership. However, the City Code does not currently have a procedure in place for accomplishing this, nor does it list factors to consider when evaluating such a request. The proposed ordinance achieves both objectives. It creates a new Chapter with three Sections.</li><li>• Section 15.23.010 explains the purpose of the new Chapter.</li><li>• Section 15.23.020 contains the dedication policy, which is</li></ul>
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	<p>divided into 11 subsections.</p> <ul style="list-style-type: none"><li>● The requirements for submitting a petition under subsection (1) include obtaining signatures from all applicable property owners, or in the case of an HOA, those with authority to legally bind the HOA. The petition must state reasons for the request and explain how dedication is in the public interest. Public Works and Development Services will then evaluate the petition and identify deficiencies, if any. Petitioners may elect to have the City Council consider appropriation of certain costs to remedy deficiencies. Once all deficiencies have either been corrected or the Council has authorized appropriation of funds to correct them, the petition is forwarded to the Coordinators Review Committee (CRC) executive team for final approval.</li><li>● Subsection (2) gives factors to be considered when determining whether dedication is in the public interest.</li><li>● Subsection (3) explains certain standards which, if not met, will disqualify a private street from being approved for public ownership.</li><li>● Subsections (4), (5), and (6) explain that the City will not pay the cost of certain improvements and lay out other possible funding options for those improvements.</li><li>● Subsection (7) explains that if a private street was created as part of a planned development, an amendment to the development approved by the City Council is required before the street can be dedicated to public ownership.</li><li>● Subsection (8) explains that a street may require an evaluation or audit to ensure it complies with ADA standards.</li><li>● Subsection (9) states that the City will not take ownership of a street that does not allow for public access.</li></ul>
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	<ul style="list-style-type: none"><li>● Subsection (10) states that the City will not take ownership of a street targeted for redevelopment.</li><li>● Subsection (11) explains that no specific rights or guarantees for use of the street will be conveyed to private street owners once the street becomes publicly owned.</li><li>● Section 15.23.030, the last Section in the Chapter, explains that the Mayor may adopt additional procedures necessary to implement this policy.</li><li>● The procedures and requirements in the dedication policy are intentionally strict because of the potential downsides to the City in accepting such a dedication. There would be, of course, additional City cost and labor in having to maintain and repair roads and utilities that in some cases have been privately owned for decades. Additional staffing may be required. Some utilities do not have current equipment (water meters, etc.) and in some cases would require extensive work to meet City standards. Some private roads do not have sidewalks on one or both sides of the street, and some roads/utilities may be difficult to access by repair and maintenance crews.</li></ul>
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## CHAPTER 15.23

### DEDICATION OF PRIVATE STREETS TO PUBLIC OWNERSHIP

Sections:

**15.23.010 Purpose**

**15.23.020 Policy**

**15.23.030 Administrative Procedures**

#### **15.23.010 Purpose.**

This Chapter establishes policies and procedures for the dedication of private streets and utilities to public ownership. Private alleys are not eligible for dedication under this Chapter.

#### **15.23.020 Policy.**

(1) Property owners may request that existing private streets and/or utilities be considered for dedication to public ownership, using the following process:

(a) The request must come in the form of a private dedication petition, which must be signed by property owners representing one hundred percent (100%) of the total linear frontage of the street and 100% of the ownership of the utility. In the case of a Homeowners Association (HOA), the petition must be signed by the board of trustees representing the owners or those with express authority to legally bind the HOA.

(b) By signing the petition, each petitioner agrees it is that petitioner's intent to dedicate the street or utility that is the subject of the petition to public ownership.

(c) The petition shall set forth the reasons for the proposed dedication and explain how dedicating the street or utility is in the public interest.

(d) The City's Public Works and Development Services departments will review the request and identify any deficiencies, including, but not limited to, ways in which the street or utilities do not satisfy the factors set forth in this Chapter and potential costs, liabilities, or logistical/maintenance/infrastructure problems the dedication may impose on the City if approved. If no deficiencies are identified, or all identified deficiencies have been corrected, the petition will be forwarded for final approval as provided in subsection (1)(g).

(e) The identified deficiencies will be communicated to the petitioners. Petitioners may choose to correct any or all of the identified deficiencies at their own expense prior to the Municipal Council review described in subsection (1)(f).

(i) No later than 30 days after receiving the list of deficiencies from the Public Works and Development Services departments, petitioners must notify the City in writing whether petitioners elect to correct deficiencies or request the petition be forwarded to the Municipal Council for consideration of an appropriation.

(ii) If petitioners elect to correct deficiencies, they must notify the City in writing when the corrective work is complete. The Public Works and Development Services departments will then review the request again as set forth in subsection (1)(d).

(iii) The process set forth in subsections (1)(d)-(e) will repeat until no further deficiencies are identified or until petitioners elect to submit the deficiencies to the Municipal Council for review.

(f) Upon election by the petitioners, any deficiencies identified through the City's review and uncorrected by the petitioners will be reviewed by the Municipal Council to consider appropriation of the estimated costs necessary to remedy the deficiencies. However, the Council may not appropriate money to correct deficiencies that this Chapter specifically states will not be paid for by the City. If all remaining deficiencies associated with a petition are of this type, the petition will not be sent to the Municipal Council for review and will be deemed rejected.

(i) If the Municipal Council does not authorize the appropriation, the petition shall be deemed rejected and the street or utilities will not be dedicated to public ownership.

(ii) If the Municipal Council authorizes the appropriation, the petition will be forwarded for final approval as provided in subsection (1)(g).

(g) Upon referral under subsection (1)(d) or (1)(f), the petition will be considered by the Coordinators Review Committee (CRC) Executive Committee, consisting of the Chief Administrative Officer and directors of the following departments: Public Works, Development Services, Parks and Recreation, Fire, and Energy. The CRC Executive Committee will decide whether to grant final approval of the petition under subsection (1)(h).

(h) Dedication to public ownership may be approved by the CRC Executive Committee only if a finding has been made that dedication is in the public interest and all the conditions in subsection (3) have been met. The mere fact that the conditions in subsection (3) are met does not guarantee that the street will be approved for public ownership.

(2) The following factors, among others, may be considered by the CRC Executive Committee in determining whether dedication is in the public interest:

(a) The street provides or can provide access to open space, public facilities/uses, or other public amenities.

(b) The street provides or can provide an improvement to the surrounding pedestrian or vehicular circulation pattern.

(c) The street provides or can provide an identified planning goal as noted in the adopted master plan for the neighborhood.

(d) Dedicating the street or utility to public ownership will encourage reinvestment in the community.

(e) Dedicating the street or utility to public ownership will improve water conservation in the community.

(f) Dedicating the street or utility to public ownership will increase maintenance efficiency for City workers.

(g) Dedicating the street or utility to public ownership will mitigate a hazardous condition and/or will lead to an improvement in health or safety conditions in the community.

(h) Dedicating the street or utility to public ownership will enhance public safety for the

community and surrounding area (e.g. access, certified maintenance, and use of fire hydrants for a high-risk fire danger area).

- (3) Private streets and utilities will not be approved for public ownership unless:
- (a) The street surface features and/or utilities meet current City standards, the petitioners have received funding to bring them up to current City standards, or it is demonstrated that the key objectives of current City standards are already being met by existing conditions.
    - (i) In determining whether street surface features meet these requirements, the CRC Executive Committee may specifically consider:
      - (A) The street's grade, surface, and width as they relate to health, safety, and the ability of the City to provide services;
      - (B) Fire Code standards; and
      - (C) Current state and federal standards, such as those contained in the Americans with Disabilities Act of 1990 (ADA).
    - (b) Deteriorated retaining walls and other private property features abutting the proposed public ownership have been removed, repaired, or replaced by the property owners to ensure public safety.
    - (c) The City is able to safely and efficiently provide services (fire protection, garbage collection, snow removal, etc.) along the street.
- (4) Except as described in subsection 1(f), the City will not pay the cost of underground or surface improvements to bring the street or utilities into compliance with subsection (3). The burden is on the private street property owners to fund necessary improvements.
- (a) Private street property owners may pursue funding options to bring the street and/or utilities into compliance with subsection (3) through the City's community development block grant (CDBG), capital improvement program (CIP), or special assessment area (SAA) programs if the private street was not expressly created in a platted subdivision.
- (5) If matching funding is requested from the City through the CDBG or CIP programs, or through creation of an SAA, the request will be considered through the routine processes for allocation of those funds and will not be given priority.
- (6) The City will not agree to split the ownership of utilities and streets unless the public interest in dedication is compelling.
- (7) If a private street was created as part of a planned development:
- (a) The City will not pay or share the cost of repairing or improving the street. However, property owners may pursue funding options as described in subsection (4)(a).
  - (b) An amendment to the planned development is required.
  - (c) The amendment process will be reviewed by the planning commission with a recommendation forwarded to the Municipal Council.

(d) The petition for dedication for such a street will only be forwarded to the CRC Executive Committee for final approval under subsection (1)(h) if the Municipal Council approves the amendment.

(8) The City may determine that a street proposed to be dedicated requires an evaluation or audit to ensure compliance with ADA standards as described in subsection (3)(a)(i). Petitioners will be responsible for funding any evaluation or audit deemed necessary.

(9) The City will not take ownership of a street that does not allow public access.

(10) The City will not take ownership of a street that is targeted for redevelopment as identified in a City master plan.

(11) No specific rights or guarantees for use of the street, such as on street parking, are conveyed to private street owners when a private street becomes publicly owned.

**15.23.030 Administrative Procedures.**

The Mayor is authorized to adopt additional, consistent administrative procedures necessary to implement this policy.



**PUBLIC WORKS**  
TEL 801 852 6780  
1377 S 350 E  
PROVO, UT 84606

## **Public Works Staff Report** **Hearing Date: 12/8/2021**

PLOTA20210360 – Ordinance Text Amendment

### **Item #1 Summary:**

Matthew Griffiths requests an Ordinance Text Amendment to Title 15, to add a new chapter establishing policies and procedures for the dedication of private streets and utilities. City-wide application.

### **Staff Recommendation:**

Public Works has reviewed the Ordinance Text Amendment, and recommends **Approval.**

Dave Decker, Public Works Director  
David Day, Development Engineering Coordinator