

MEMORANDUM

TO: City Council
FROM: Community Development Staff
DATE: August 18, 2015
RE: Utility Easement Vacation Request – Salmon Rentals, LLC.

Salmon Rentals, LLC, represented by Bill Nesbitt, has submitted an application to vacate two portions of a utility easement (north/south) that is within Tracts B and D of the Boundary Line Adjustment, Salmon Property. No utilities exist in the easements and future utility extensions are not contemplated by the Public Work Department and City Engineer.

The staff report and Planning and Zoning Commission recommendation is included in the Council packet along with a draft ordinance for your review. The Commission unanimously recommended approval of this vacation request.

STAFF REPORT
VACATION OF UTILITY EASEMENT
Salmon Rentals, LLC

TO: Planning and Zoning Commission
FROM: Community Development Staff
DATE: August 12, 2015
RE: Easement Vacation Application VF 15-1, Submitted by Salmon Rentals, LLC

PROCESS

The process for a vacation application is defined in the Subdivision Standards section of the *Land Development Code (LDC)* in Section 12.11. Vacation applications are subject to two public meetings. The first is a Public Hearing with the Planning and Zoning Commission, who shall make a recommendation to City Council to approve, approve with conditions, deny the application, or remand the application back to the applicant with instructions for modifications.

The second meeting is a public meeting (not a hearing) with City Council who shall consider the recommendation of the Planning and Zoning Committee. Council shall approve, approve with conditions, deny the application, or remand the application back to the applicant.

APPLICATION

The applicant is Salmon Rentals, LLC, Joe and Lori Salmon, represented by Bill Nesbitt of Nesbitt & Company. The request is to vacate portions of a north/south utility easement located with the applicant's property. The legal description of the property is Boundary Line Adjustment – Salmon Property, Tract B and D, Reception #631561 within West Gunnison Amended, City and County of Gunnison. The applicant's narrative states:

“...The Release of Easement request (see attached drawing) affects a North/South 25 foot wide power line easement, recorded at Book 437 at Page 394, that was historically dedicated for a power line that was not installed nor presently serving active utility lines. As per the attached plat as prepared by Pearson Surveying, the easement to be released is 25 feet wide (east to west) and 150 feet long (north to south) adjacent to the east boundary line between Tracts B and the west boundary line of Tract C. Also, a release is requested for the 25 foot wide (east to west) remainder tract by 76.80 feet; the longest north-south leg of the trapezoid-shaped Tract D.

This release will not detrimentally affect the City's utilities, now or in the future, in our opinion, as a new 20-foot wide (north to south) by 171.72 foot in length utility easement (east to west) has been created that will serve all Tracts A, B, C and D, which is shown on the new plat as prepared by Pearson Surveying.

Tract B will be able to utilize more of its land without the burden of a 25-foot wide utility easement, creating the opportunity to construct a larger commercial space on the site...

“...It is our opinion that there will be no detrimental affect to our property and/or neighboring uses that would cause any negative impact to the life, safety, health and welfare of the community at large...”

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Salmon Rentals, LLC**

SITE ASSESSMENT

The property is located in the Commercial zone district and is bordered by Tomichi Avenue on the north, Highway 50 on the east and New York Avenue on the south. The site consists of four tracts: the southern tract (D) has a structure that is a retail store (Sears) and tracts A through C are vacant.

The City does not have any utilities within the north/south utility easement proposed for vacation. A city power line is located within the Tomichi Avenue right-of-way adjacent to Tracts A through C and a 25 foot east/west utility easement is located on the northern boundary of Tracts B and C. Additionally, a 20 foot access and public utility easement is located adjacent to tracts A through D. The east/west easements are serving the needs of the four tracts making the north/south easement unnecessary.

CITY STAFF REVIEW

Police Chief: No issues.

Parks & Rec. Director: No issues.

Building Official: No issues.

Fire Marshall: No issues.

Public Works Director: No issues.

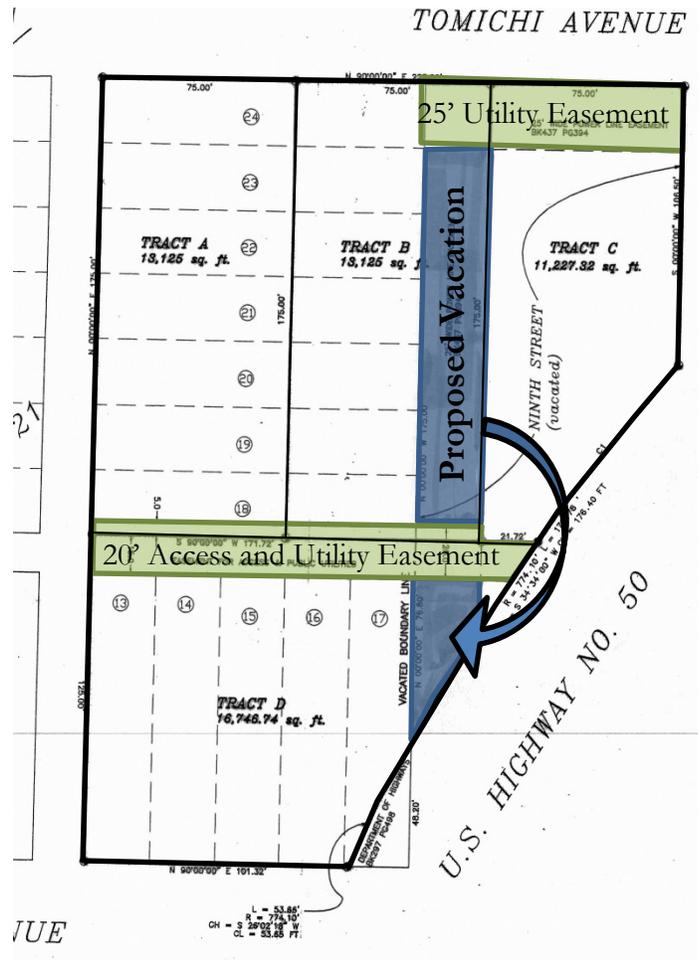
City Engineer: No issues.

Water & Sewer Superintendent: No issues.

Electric Superintendent: No issues, as long as Tract B will not be subdivided. Otherwise an easement will be needed to provide service to the Tract B lots.

STAFF OBSERVATIONS

1. The applicant is requesting to vacate a portion of a north/south power line easement within previously vacated 9th Street that is adjacent to Block 21, West Gunnison Amended.
2. The 25 foot power line easement was originally recorded in Gunnison County in 1962 and was amended as a utility easement in 1975 at Book 437, Page 394.
3. The City does not have any utilities located within the north/south utility easement nor are any utilities planned at this location in the future.
4. The site contains two east/west easements with the centralized 20 foot easement providing access and utility extensions for tracts A through D and the northern 25 foot utility easement adjacent to Tracts B and C.



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5. Vacation of portions of the north/south 25 foot power line easement will allow for reasonable utilization of Tract B.
6. Further subdivision of Tract B is not allowed as it would create a nonconforming lot.

REVIEW STANDARDS

The *Land Development Code* Section 12.11 E. contains four specific standards that must be met in order for a vacation of a recorded plat, right-of-way or easement to be approved.

1. Access to a Public Road. No roadway shall be vacated so as to leave any adjoining land without a means of access to another public road. Furthermore, there shall be an express reason for and a derived benefit to the City for a vacated roadway request.

No Conflict: This vacation is for a utility easement and does not affect the access to a public road.

2. Easements. In granting a vacation, the City may reserve easements for the installation or maintenance of utilities, ditches and similar improvements.

No Conflict: The City does not have any utilities located in the north/south utility easement. A power line is located within the Tomichi Avenue right-of-way adjacent to Tracts A through C.

3. Master Plan. A subdivision plat, public right-of-way or dedicated easement may be vacated if the vacation would be consistent with or implements the applicable intent statements, specific directions and recommended actions of the Master Plan.

Possible Conflict:

Chapter 8, Transportation, Policy 1.12: Discourage the vacation of alley or street rights-of-way in an effort to integrate them into multi-use travel corridors.

Chapter 9, Utilities and Infrastructure, Goal: The City will efficiently deliver its public utilities and continue to be fiscally responsible in the construction of high-quality public infrastructure, making forward-looking decisions that maintain low operational, maintenance and energy costs.

The vacation of this utility easement is consistent with the intent of the *City's Master Plan*.

4. Transfers or Sales of Lots. A subdivision plat may be vacated if none of its lots has been sold or transferred; or if there have been sales or transfers there has been no development on any lots in the subdivision and all of the owners agree to the vacation of the plat.

Not Applicable. A subdivision plat is not being vacated.

ACTION

During the regular Planning and Zoning Commission meeting held on August 12, 2015, Commissioner Niemeyer moved, Commissioner Cave seconded, and the Commission voted to recommend APPROVAL to City Council of Vacation Application, VF 15-1 submitted by Salmon Rentals, LLC, to vacate portions of a north/south utility easement within Boundary Line Adjustment – Salmon Property, Tract B and D, Reception #631561 with the following findings of fact:

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Findings of Fact:

1. The Planning and Zoning Commission finds that the record of this action includes the application contents, staff reports, applicable provisions of the *City of Gunnison Master Plan* and *Land Development Code*, and written and verbal testimony submitted during the public hearing held for this application.
2. The Planning and Zoning Commission finds that the applicant is requesting to vacate a portion of a north/south utility easement within previously vacated 9th Street that is adjacent to Block 21, West Gunnison Amended.
3. The Planning and Zoning Commission finds that the 25 foot utility easement was originally recorded in Gunnison County in 1962 (as a power line easement) and was amended as a utility easement in 1975 at Book 437, Page 394.
4. The Planning and Zoning Commission finds that the City does not have any utilities located within the north/south utility easement nor are any utilities planned at this location in the future.
5. The Planning and Zoning Commission finds that the site contains two east/west easements with a centralized 20 foot easement providing access and utility extensions for tracts A through D and the northern 25 foot utility easement adjacent to Tracts B and C.
6. The Planning and Zoning Commission finds that vacation of portions of the north/south 25 foot power line easement will allow for reasonable utilization of Tract B.
7. The Planning and Zoning Commission finds that the vacation of this easement will not be a detriment to the health, safety and welfare of the community.

**DRAFT
ORDINANCE NO.
SERIES 2015**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, VACATING A UTILITY EASEMENT WITHIN BOUNDARY LINE ADJUSTMENT – SALMON PROPERTY, TRACT B AND D, WEST GUNNISON AMENDED, RECEPTION #631561, CITY OF GUNNISON, STATE OF COLORADO.

WHEREAS, the applicant, Salmon Rentals, LLC., submitted an application on June 24, 2015, requesting the City of Gunnison to vacate a utility easement within Boundary Line Adjustment – Salmon Property, Tract B and D, Reception #631561 as described in Exhibit 1; and

WHEREAS, Section 12.11 of the *City of Gunnison Land Development Code* states that approval of a vacation of a recorded plat, right-of-way or easement may only occur if the application meets all the Review Standards for a Vacation; and

WHEREAS, the Planning and Zoning Commission of the City of Gunnison held a public hearing upon the proposed vacation on August 12, 2015, and made a recommendation to the City Council to approve the requested easement vacation; and

WHEREAS, the City Council of the City of Gunnison, Colorado, held a public meeting on the requested utility easement vacation on August 25, 2015;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, ORDAINS THAT:

Section 1. Findings of Fact. Based upon the application for an easement vacation, the supporting materials submitted therewith, and the evidence adduced at the public hearing conducted by the Planning and Zoning Commission of the City of Gunnison, the City Council hereby finds as follows:

- A. The applicant requests to vacate a portion of a 25 foot north/south utility easement within Boundary Line Adjustment – Salmon Property, Tract B and D, West Gunnison Amended, Reception #631561.
- B. The 25 foot utility easement was originally recorded in Gunnison County in 1962 (as a power line easement) and was amended as a utility easement in 1975 at Book 437, Page 394.
- C. Utilities are not located within the north/south utility easement nor are any utilities planned at this location in the future.
- D. The site contains two east/west easements with one a centralized 20 foot easement providing access and utility extensions for tracts A through D and the other a northern 25 foot utility easement adjacent to Tracts B and C.
- E. Vacation of portions of the north/south 25 foot power line easement will allow for reasonable utilization of Tract B.
- F. The vacation of the easement will not be a detriment to the health, safety and welfare of the community.

Section 2. Vacation. The easement which is vacated by this ordinance is located in a portion of Boundary Line Adjustment – Salmon Property, Tract B and D, West Gunnison Amended, Reception #631561, as described in Exhibit 1.

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED, this ____th day of August, 2015, on first reading, and introduced, read, and adopted on second and final reading this ____ day of September, 2015.

Mayor

(SEAL)

ATTEST:

City Clerk

Exhibit 1:

Description of vacated easements:

To be determined.

