

City Council Agenda Memo

From: Mike Struck, Community Development Director

Council Meeting: July 25, 2023

Subject: Right-of-Way Vacation

Presenter: Mike Struck, Community Development Director

Summary:

Action on Resolution 23-062, a resolution to vacate a portion of street right-of-way north of 8th Street that is not necessary for the public street network.

Background:

Lots 1 and 2, Block 1, University First Addition was platted in 1973 with a street right-of-way dedication north of 8th Street, which would have been an extension of Twentieth Avenue. The right-of-way has never been improved and has remained a grass area north of 8th Street.

South Dakota State University is the owner of Lot 1 and Alpha Phi-Alpha Gamma Rho Alumni Association is the owner of Lot 2. Both parcels are adjacent to the right-of-way on the west and the State of South Dakota on the east (McCrary Gardens). A petition to vacate the right-of-way was submitted in 1989 by South Dakota State University and was approved by the Brookings City Commission. In 2015, it was discovered the right-of-way vacation was incorrectly vacated as Alpha Phi-Alpha Gamma Rho Alumni Association was not a party to the right-of-way vacation petition as an adjacent land owner. In January 2015, the City Council adopted Resolution 15-008 rescinding Resolution 116-89, which vacated the street right-of-way.

South Dakota State University and Alpha Phi-Alpha Gamma Rho Alumni Association have worked cooperatively to file a petition to vacate the street right-of-way adjacent to their properties.

Item Details:

Approval of the resolution would vacate the street right-of-way and the vacated land would be split evenly to the adjacent land owners. South Dakota State University and Alpha Phi-Alpha Gamma Rho Alumni Association intend to exchange some land to square up the Alpha Phi-Alpha Gamma Rho Alumni Association property and the University will eventually retain the vacated right-of-way. A plat has been signed by the Governor, Commissioner of School and Public Lands, and President of the Alpha Phi-Alpha Gamma Rho Alumni Association and will be recorded upon completion of the

street right-of-way vacation and subsequent Warranty Deed transfer between the university and fraternity.

State law requires the public notice to be published twice in consecutive weeks with the most recent publication being published not less than 10 days prior to the public hearing. The notices were published on July 7th and 14th.

Legal Consideration:

City Attorney Steve Britzman and South Dakota State University legal counsel have worked cooperatively on the street right-of-way vacation documentation.

Strategic Plan Consideration:

Approval of the resolution vacating the street right-of-way is consistent with the City Council Strategic Plan Initiative of Fiscal Responsibility in which the City determined this street connection and associated future maintenance costs are unnecessary. This action also supports Initiative of Economic Growth as the Alpha Phi-Alpha Gamma Rho Alumni Association is working on an initiative to construct a new fraternity on its property and working with the university on small land exchanges aids in the development.

Financial Consideration:

N/A

Options and Recommendation:

The City Council has the following options:

1. Approve as presented
2. Amend
3. Deny
4. Move the item to a Study Session
5. Discuss / take no action / table

Staff recommends approval of the resolution as presented.

Supporting Documentation:

Memo

Resolution

Notice

Map

Resolution 15-008