

Appendix 2

Copy of Sec.30-192 of the Land Development Code.

Sec. 30-192 Supplemental provisions.

(b) Street vacation.

(1) On application to abandon public streets or public places by virtue of a new plat, the owners of land abutting the street or public place to be abandoned, or owning property within 300 feet thereof, shall be notified of the proposed abandonment and of the plan board meeting at which the application, as well as the new plat showing the area after the abandonment, shall be scheduled for public hearing and review. For this purpose the owners shall be deemed to be those persons shown as owners upon the city's latest tax rolls. The notice shall be mailed to the address shown upon the tax rolls at least ten days before the date of the hearing.

(2) An application to abandon a public street or public place may be initiated by:

a. The city commission where it is deemed that the use of the public street or public place no longer serves a public purpose; or

b. Upon receipt of an application presented in the form of a petition which is to be signed by all owners of land abutting the portion of public street or place to be closed.

(3) All applications for the abandonment of a public street or public place shall be considered by the city plan board at a public hearing, notice of which shall be placed in a newspaper of general circulation in the city at least ten days before the hearing. Where the city commission has initiated consideration of the abandonment, all owners of property abutting the portion to be abandoned shall be notified by mail ten days before the hearing. For this purpose the owners shall be deemed to be those persons shown as owners upon the city's latest tax rolls. Prior to the public hearing, the petition proposing the abandonment shall be in accordance with the development plan review process, division 1 of this article. Following the public hearing, the plan board shall submit a recommendation to the city commission concerning any petition to abandon the public street or public place.

(4) At the public hearing, the plan board and city commission shall make a determination that:

a. The public street or public place no longer serves a public purpose; or

b. The vacation of the public street or public place is in the public interest.

(5) At the public hearing, the plan board and the city commission shall consider the following criteria in determining whether the vacation is in the public interest:

a. Whether the public benefits from the use of the subject right-of-way as part of the city street system;

b. Whether the proposed action is consistent with the comprehensive plan;

c. Whether the proposed action would deny access to private property;

d. The effect of the proposed action upon public safety;

e. The effect of the proposed action upon the safety of pedestrians and vehicular traffic;

f. The effect of the proposed action upon the provision of municipal services including, but not limited to, emergency service and waste removal;

g. The necessity to relocate utilities both public and private;

h. The effect of the proposed action on the design and character of the area.