

RESOLUTION NO. R2021-45

ON PETITION FOR VACATION OF PUBLIC RIGHT-OF-WAY

WHEREAS, the petition and consent in writing of Phoenix Community LLC, owner of Lot 9, Except S 6' and all of Lot 10, Block 4, Fairview Addition, City of Mitchell, Davison County, South Dakota; and Fred Shank owner of Lot A in SW1/4 of SW1/4 Ex. E 359.6' of W 725.6' of N 85' of Lot A Ex. Lots H1 & PE1 & Ex E 115.6' of W 840.6' of N 100' of Lot 4 Ex. Sebert Tract 1, Section 23, T 103 N, R 60 W of the 5th P.M., Davison County, South Dakota; and the S 6' of Lot 9, Fairview Addition, City of Mitchell, Davison County, South Dakota respectfully in due and proper form, are requesting the Governing Body of the City of Mitchell to vacate the street right-of-way, subject to existing utilities, described as set forth below pursuant to the statues in such cases made, and provided, particularity SDCL 9-45-7, et. Seq. and the petitioners respectfully show and represent the following;

That portion of South Marshall Street extending south from Birch Avenue right-of-way to the southeast corner of the parcel described as S 6' of Lot 9, Block 4, Fairview Addition, City of Mitchell, Davison County, South Dakota and southwest corner of Block 5, Fairview Addition, City of Mitchell, Davison County, South Dakota

WHEREAS, Marshall Street was previously known as Morrow Street and Birch Avenue was previously known as 4th Street as depicted in the plat attached to this resolution as Exhibit A; and,

WHEREAS, This Council did thereupon consider said Petition and did find that said Petition and Consent in writing requesting and consenting to the vacation of said street was signed by all of the owners of the property abutting the street right-of-way sought to be vacated; and,

WHEREAS, Notice of Hearing in relation to said Petitions was made by publication as required by law providing that such Petitions would be heard and considered by the Governing Body of the said City Council on the 21st day of June, 2021 at 6:00 p.m., in the Chambers of the City Council of the City of Mitchell, South Dakota, and

WHEREAS, Said Council did meet to consider and hear said Petition on the 21st day of June, 2021 at the time and place specified in said Notice, and that the said Petitions were duly heard and considered by this Council, the Petitioners and considerations of those objecting were heard by Council were presented in regards to said Petitions, in writing or otherwise.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, South Dakota, in a regular meeting, on the 21st day of June, 2021 that upon proper hearing and consideration of said Petitions, this Council finds;

1. That due notice of the hearing of said Petition was given by the City Finance Officer by publication of a Notice thereof in the form as provided by law in the *Mitchell Republic*, South Dakota, for two (2) successive weeks, to-wit: May 26 and June 2, 2021.

2. That the Petitioners are the sole owners of all the property abutting the street right-of-way requested to be vacated and have requested that the said right-of-way be vacated subject to existing utilities, easements and other restrictions of record, and further subject to prohibition against construction of improvements within the above described area to be vacated. Said owners having consented in writing to the vacation of said street and which consent is made part of the Petition.

IT IS FURTHER RESOLVED the street right-of-way identified as:

That portion of South Marshall Street extending south from Birch Avenue right-of-way to the southeast corner of the parcel described as S 6' of Lot 9, Block 4, Fairview Addition, City of Mitchell, Davison County, South Dakota and southwest corner of Block 5, Fairview Addition, City of Mitchell, Davison County, South Dakota

Is hereby vacated subject to existing utilities, easements, and other restrictions of record, and further subject to a prohibition against construction of improvements within the above described area hereby vacated.

Adopted by the City Council of the City of Mitchell, South Dakota in regular session this 21st day of June, 2021 with:

___ Votes cast in favor of adoption

___ Votes cast against adoption

___ Votes abstaining

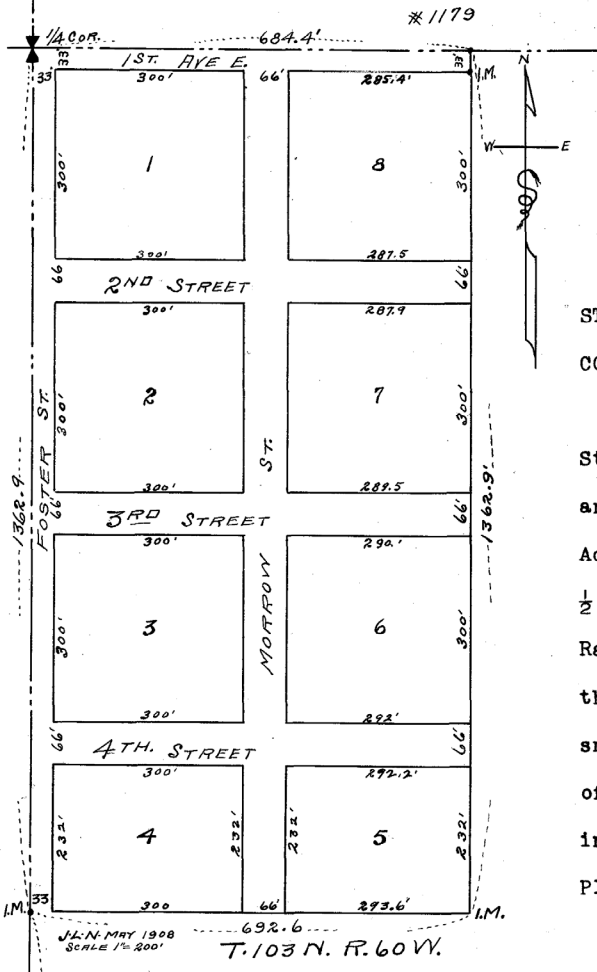
Robert B. Everson, Mayor

ATTEST:

Michelle Bathke, Finance Officer

{SEAL}

EXHIBIT A



PLAT OF
 FAIR VIEW ADDITION TO THE CITY OF
 MITCHELL SO. DAK. May 1908 J. L. Nelson Eng.
 Scale 1" = 200'

STATE OF SOUTH DAKOTA)
 : SS
 COUNTY OF DAVISON)

I, John L. Nelson, Deputy State Surveyor of the State of South Dakota do hereby certify that I have surveyed and staked out on the 12th day of May a. d. 1908, Fair View Addition to the City of Mitchell, Being a part of the West 1/2 of the NW 1/4 of the South West 1/4 of Section 23, Town 103, Range 60 West of the 5th P. M. in Davison County South Dakota that the large figures indicate the Block numbers and the small figures indicate the size of each Block and the width of each street. I have placed iron monuments at the points indicated by the letters I. M., and I hereby certify that this Plat is correct.

John L. Nelson Deputy State Surveyor
 South Dakota.

STATE OF SOUTH DAKOTA)
 : SS
 COUNTY OF DAVISON)

On this 12th day of May 1908 personally appeared before me John L. Nelson, Deputy State Surveyor, who is well known to me to be such Deputy State Surveyor, and to be the person who is described in and who executed the foregoing certificate and duly acknowledged to me that he executed the same

R. E. Cone
 R. E. Cone, Notary Public S. D.

Filed for record this 1st day of July A. D. 1911 at 11 o'clock A. M. and recorded in Book 1 of Plats on Page 55.

NOT TO SCALE

D. G. Lot
 Register of Deeds.

