



Legislation Text

File #: ID-252-23, Version: 1

Department of Community Development

Reference: Edgemark Subdivision Filing No. 2 Right-of-Way Vacation

To: Mayor Gregory Mills and Members of the City Council

Through: Michael P. Martinez, City Manager

Prepared By: Summer McCann, Associate Planner

Date Prepared: July 19, 2023

INTRODUCTION /PURPOSE/ BACKGROUND

The vacation of public rights-of-way set forth in the Colorado Revised Statutes §43-2-303 and the *Land Use & Development Code*, allows City Council to vacate rights-of-ways by ordinance. The application before City Council is for an approximately 0.084-acre portion of City right-of-way, generally located to the north of East Bridge Street and south of the intersection of North 18th Avenue and North 19th Avenue (the "Vacation Area"). The Vacation Area was originally dedicated as right-of-way by the lot directly to the south known as Lot 2, Block 1 under the Edgemark Subdivision Final Plat (the "Original Property"). In 2008, the Original Property was replatted into three lots. The lot abutting the right-of-way to the south was platted as Lot 3, Block 1 under the Edgemark Subdivision Filing No. 2 Plat (the "Property"). Melanie Bagley is the applicant (the "Applicant") working on behalf of the prospective Property owner, Victory Real Estate Development LLC (the "Prospective Owner") as authorized by the Property owner, 18th and Bridge LLC (the "Owner"). As part of the application, a petition for vacation of right-of-way was submitted with the Property Owner providing consent and support for the application.

Surrounding Land Use(s):

<i>Surrounding Direction</i>	<i>Land Use(s)</i>	<i>Zoning</i>	<i>Annexation Status</i>
North	Vacant Land	Cottage Crossing PUD	City of Brighton
South	Retail	C-2 (Restricted Retail and Services)	City of Brighton
East	Adams County Detention Facility	Public Land	City of Brighton
West	Residential	R-2 (Mixed-Density Residential) and R-1 (Single-Family Residential)	City of Brighton

PROCESS

The *Land Use & Development Code* (the "LUDC") outlines review criteria upon which the decision should be made. An ordinance must be approved by City Council via two readings to be considered approved. City staff collects and analyzes application materials, and after a thorough review, presents their findings to the City Council.

The LUDC outlines that the Vacation process applies to any public rights-of-way or easements dedicated to

the City by plat proposed to revert to private ownership. As such, Staff and the City Council should use the Review Criteria outlined in the LUDC's Section 2.13 B.

CRITERIA BY WHICH CITY COUNCIL MUST CONSIDER THE ITEM AND STAFF ANALYSIS

PROPOSED VACATION:

The proposal is to vacate the current right-of-way in order to provide access via a private drive from North 19th Avenue. An Administrative Plat currently in review will create an access easement to ensure the private drive has the ability to serve the adjacent lot to the north. If approved, the vacated right-of-way will be vested in Lot 3, Block 1 Edgemark Subdivision Filing No. 2 to be maintained by the Property Owner.

LAND USE & DEVELOPMENT CODE:

The City Council in making its decision shall use the following criteria (Section 2.13 B.):

- 1. There is no public purpose for the right-of-way or easement, considering the Comprehensive Plan, the Transportation Master Plan, or other plans or policies under those plans.*

The City's adopted Transportation Master Plan has not identified the subject area for any planned thoroughfare. The vacation of this right-of-way does not impact the goals and policies of the Comprehensive Plan and Transportation Master Plan.

- 2. The right-of-way or easement is not necessary to meet any of the purposes, intent, design objectives or standards of this code.*

The current 15' of right-of-way does not meet the minimum width requirement for any of the public street cross-sections outlined in the adopted Transportation Master Plan. Given the commercial zoning and proximity to a Collector Street (North 18th Avenue), the City would need to acquire more right-of-way in order to construct the appropriately sized roadway. According to the Public Works Standards and Specifications, the minimum roadway width for this area would be 30'.

- 3. Vacating the right-of-way or easement will not leave properties without necessary access or provisions of other public utilities and services, or alternatively private easements, to reserve necessary access or provisions of public utilities and services are maintained.*

A site plan currently in review indicates a private access drive off North 19th Avenue which will be constructed and maintained by the Property Owner. As this proposal would remove a potential future access point on North 18th Avenue, it aligns with the Public Works Standards and Specifications to limit the number of access points along Collectors. Additionally, an Administrative Plat currently in review will create an access easement over the proposed private drive that will have the ability to serve the adjacent north parcel, this further limits the number of access points and potential conflicts.

- 4. There are no adverse impacts on property in the vicinity potentially served by the right-of-way or easement.*

There are no adverse impacts on property in the area. The existing right-of-way has not been utilized to serve this subject lot or the adjacent parcel. The proposed private access drive is 10' wider than the existing right-of-way and will equally or better serve the area.

- 5. The vacation meets all other requirements of the Colorado Statutes, the Colorado Constitution, and the Brighton City Charter.*

The proposal has not been found to conflict with the Colorado Statutes, the Colorado Constitution or the Brighton City Charter.

DEVELOPMENT REVIEW COMMITTEE:

The Development Review Committee (DRC) reviewed this project and recommended approval.

- The Brighton Police Department did not oppose this project during the review process.
- The Brighton Fire Rescue District has signed off with their approval and is a reviewer on all other applications submitted for this project.
- The City of Brighton Public Works Department has reviewed this project and recommended approval.

Note: A complete list of comments and the agencies who made them are available upon request.

PUBLIC NOTICE AND INQUIRY

On July 17th, a notification was published on the City's website. Although not required, mailings were sent to the immediately adjacent property owners. Also included with the letter was a map of the subject area. City staff will be publishing the agenda item information on Facebook and NextDoor in the days leading up to the meeting.

SUMMARY OF FINDINGS AND STAFF RECOMMENDATION

Staff finds the Right-of-Way Vacation is in compliance with the requirements as outlined as approval criteria in Section 2.13 B. Review Criteria of the LUDC and therefore recommends approval of the Edgemark Subdivision Filing No. 2 Right-of-Way Vacation. Staff has drafted an ordinance for approval if the City Council agrees with this recommendation.

OPTIONS FOR CITY COUNCIL CONSIDERATION

The City Council has four options when reviewing this Right-of-Way Vacation application. The City Council may:

- 1.) Approve the Right-of-Way Vacation via Ordinance as drafted;
- 2.) Approve a modified Right-of-Way Vacation via Ordinance;
- 3.) Deny the Right-of-Way Vacation via Ordinance with specific findings to justify the denial, or;
- 4.) Continue the item to be heard at a later, specified date if the City Council feels it needs more information to ensure compliance with the approval criteria as set forth in the *Land Use & Development Code*.

Note: A second reading of the ordinance, if approved at first reading, will be required at a future meeting.

ATTACHMENTS

- Draft City Council Ordinance
- Aerial Map by City Staff
- Right-of-Way Vacation by Applicant
- Neighboring Property Owner Notification
- Website Notification
- Website Notification Proof
- Draft Staff Presentation