

ORDINANCE NO. 096, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
CONDITIONALLY VACATING A PORTION OF
COLEMAN STREET RIGHT-OF-WAY

WHEREAS, the previously approved Eastridge Second Filing subdivision plat dedicated Coleman Street internal to the subdivision as a public street right-of-way; and

WHEREAS, the developer of the Mulberry & Greenfields Planned Unit Development, Mulberry Development, LLC, (the “Developer”) located east of and adjacent to Eastridge Second Filing has requested that the portion of Coleman Street east of Fairchild Street be vacated as depicted on Exhibit “A” attached hereto and incorporated herein (such portion hereinafter referred to as the “Vacation Area”); and

WHEREAS, the Vacation Area is a dead-end street stub originally intended to be extended upon development of the land to the east; and

WHEREAS, the Developer has stated that extending Coleman Street east of Fairchild Street into the Mulberry & Greenfields Planned Unit Development is not necessary and proposes that the current street stub be removed and landscaping installed within the Vacation Area; and

WHEREAS, the developer of East Ridge Second Filing has submitted a minor amendment, MA220027, to amend the site plan to allow removal of the street stub within the Vacation Area and to install landscaping in its place; and

WHEREAS, the City Engineer has routed the vacation request to potentially affected utility agencies, City staff, emergency service providers and affected property owners in the vicinity of the Vacation Area and no objection to the proposed vacation has been received; and

WHEREAS, in accordance with City Code Section 23-115, the City Engineer recommended conditional approval of this vacation to the Planning, Development and Transportation Director, and the Director recommends to Council that the request for vacation be approved with the conditions set forth in the Ordinance; and

WHEREAS, the right of the residents of the City of Fort Collins will not be prejudiced or injured by the vacation of said street rights-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds and determines that:

- (1) The Vacation Area more particularly described on Exhibit “A” attached hereto and incorporated herein is no longer needed for road right-of-way purposes and that it is in the public interest to vacate the Vacation Area provided certain conditions as stated in Section 3 below are met; and
- (2) Upon vacation of the Vacation Area, the City hereby reserves a non-exclusive blanket easement for access and utilities within the Vacation Area (the “Reserved City Easement”); and
- (3) Title to the Vacation Area shall vest, subject to the Reserved City Easement, in accordance with Section 43-2-302, C.R.S.

Section 3. This vacation shall not take effect until this Ordinance is recorded with the Larimer County Clerk and Recorder and this Ordinance shall not be recorded until the following conditions have been met:

- (1) At the Developer’s sole expense, the Developer must demolish the existing street improvements in the Vacation Area to the City’s satisfaction after providing a bond with the City as obligee for 125% of the estimated cost to restore the demolished street improvements within the Vacation Area should this Ordinance become null and void as stated in Section 4 below, and such bond shall be released upon recording of this Ordinance;
- (2) The East Ridge Second Filing – ROW Minor Amendment, MA220027, must meet all applicable Land Use Code requirements and receive City approval;
- (3) The Mulberry Metropolitan District No. 3 (“Metropolitan District”) must enter into an intergovernmental agreement acceptable to the City in which the Metropolitan District agrees to:
 - (a) If ownership of the Vacation Area does not vest in the Metropolitan District under Section 43-2-302, C.R.S., obtain ownership of the Vacation Area immediately after vacation, subject to the Reserved City Easement;
 - (b) Provide a bond with the City as the obligee for 125% of the estimated value of the landscape improvements within the Vacation Area, as such improvements are described in the approved MA220027 minor amendment, to guarantee completion of such improvements; and
 - (c) Maintain the Vacation Area in perpetuity pursuant to the City’s approved MA220027 minor amendment landscape plan, and any subsequent amendments, at the Metropolitan District’s sole expense.
- (4) The City Manager is authorized to sign the intergovernmental agreement referenced in (3) above and any subsequent amendment of such agreement.

Section 4. If this Ordinance is not recorded within three years of the date of second reading of this Ordinance, then this Ordinance shall become null and void. Should this Ordinance become null and void but the existing road improvements within the Vacation Area have been demolished pursuant to Section 3, Subsection (1) above, the Developer must restore the road improvements within one-hundred and twenty days of this Ordinance becoming null and void, or such further time as the City Manager may grant in writing their reasonable discretion to restore the road improvements in consideration of the winter season or other construction limitations, after which the City may call upon the bond to restore such road improvements.

Introduced, considered favorably on first reading, and ordered published this 6th day of September, A.D. 2022, and to be presented for final passage on the 20th day of September, A.D. 2022.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 20th day of September, A.D. 2022.

Mayor

ATTEST:

City Clerk