

**TOWN OF GRAND LAKE
PLANNING COMMISSION
RESOLUTION NO. 12 - 2022**

**A RESOLUTION RECOMMENDING APPROVAL OF VACATION OF A PORTION OF THE
ELLSWORTH STREET RIGHT OF WAY WITHIN THE TOWN AND RESERVING CERTAIN UTILITY
EASEMENTS THEREON**

WHEREAS, Francis Heckendorf III and Kirsten Heckendorf (collectively the “Applicant”) is the owner of certain real property located within the Town of Grand Lake, more particularly described as follows:

Cairns Addition to Grand Lake, Lots 1-5 and a 0.16 AC Tract North of Lots 1-5 (the “Property”); and

WHEREAS, the Applicant has submitted an application seeking approval of vacation of a portion of the Ellsworth Street right of way adjoining the Property (the “Application”) more particularly describe in **Exhibit A** (the “Vacated ROW”), attached hereto and incorporated herein, pursuant to Section 11-2-10 of the Grand Lake Municipal Code (the “Town Code”); and

WHEREAS, section 31-15-702(1)(a)(I), C.R.S. grants the Board of Trustees the power to lay out, establish, open, alter, widen, extend, grade, pave or otherwise improve streets and vacate the same; and

WHEREAS, section 43-2-303(a), C.R.S. provides that a town may vacate by ordinance any roadway or part thereof located within the corporate limits of the town, subject to the provisions of the charter of such town, the state constitution, and the statutes of the state of Colorado; and

WHEREAS, the Board of Trustees intends to reserve a portion of Ellsworth Avenue on the West side of the dedicated Right of Way one foot in width with the intention that, upon vacation, title to the Property shall vest with the owners of the property located directly to the South of the Property; and

WHEREAS, Section 11-2-10 of the Town Code provides that the Planning Commission may recommend the vacation of Town Streets, easements, or right of way due to peculiar circumstances and in accordance with C.R.S. § 43-2-303; and

WHEREAS, the Town Board of Trustees (the “Board”) previously granted a perpetual easement to the Applicant for existing improvements located on the Ellsworth Street right of way by Ordinance 15-2011 which was subsequently repealed and replaced by Ordinance 18-2011 and Ordinance 05-2012; and

WHEREAS, the Applicant is currently unable to obtain proper property insurance for a structure that has been on the Property in excess of fifty years based on, inter alia, setback requirements and adjoining land ownership requirements; and

WHEREAS, the Town is not currently utilizing the Vacated ROW for any governmental purpose, and does not anticipate the need to utilize it in the foreseeable future for any governmental purpose; and

WHEREAS, vacating the Vacated ROW would not negatively alter the existing circumstances surrounding the Property, but would permit a resident of the Town to obtain insurance protecting a historic structure within the Town; and

WHEREAS, the Applicant has agreed to reimburse the Town for survey expenses incurred in connection with the Application; and

WHEREAS, following proper notice, the Application was presented to and considered by the Planning Commission at a Public Hearing at its regular meeting on October 5, 2022; and

WHEREAS, staff has recommended approval of the Application; and

WHEREAS, based on the Application, the representations of the Applicant to the Planning Commission and the comments of the public, the Planning Commission finds:

1. The Applicant has paid an appropriate fee and deposit.
2. The Applicant has not been required to sign an updated agreement for services for this Application based on the recommendation of staff.
3. The Applicant has provided a plat of the proposed vacation including the surrounding properties.
4. The Applicant has provided a letter explaining the justification for the vacation.
5. The Applicant has provided all pertinent information requested by Town staff.
6. The Planning Commission hearing was properly noticed, including certified letters being sent to all property owners within two hundred feet of any portion of the Property.
7. Vacating the Vacated ROW will not leave any adjoining land without an established public or private-access easement connecting the same with another established public road.
8. The Town shall reserve all existing easements and all easements for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, for ditches or canals and appurtenances, and for electric, telephone, and similar lines and appurtenances.

9. No private rights will be injured or endangered by this vacation, the public will not suffer loss or inconvenience by this vacation, and the Property is not presently needed for transportation purposes nor will it need to be used by the Town or the public; provided, however, the utility easement set forth in Section 8, above, shall be reserved.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE TOWN OF GRAND LAKE, COLORADO AS FOLLOWS:

1. The Planning Commission recommends that the Application be approved by the Board of Trustees subject to the conditions set forth in Section 2., below.
2. The Planning Commission's recommendation for approval is based on the Applicant satisfying the following conditions. Unless specified otherwise, such conditions should be satisfied before the matter is considered by the Board of Trustees:
 - a. Payment by Applicant of all legal, engineering and administrative fees incurred by the Town in connection with review, processing, consideration and approval of the Application.
 - b. Compliance by the Applicant with all representations made to the Planning Commission during all public hearings or meetings related to the Application

Severability: If any section, paragraph, sentence, clause, or phrase of this Resolution is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution. The Planning Commission declares that it would have passed this Resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Repeal: Existing resolutions or parts of resolutions covering the same matters as embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed

DULY MOVED, SECONDED, AND APPROVED BY THE PLANNING COMMISSION OF THE TOWN OF GRAND LAKE, COLORADO, THIS 5th DAY OF OCTOBER 2022.

Votes Approving:
Votes Opposed:
Absent:
Abstained:

(S E A L)

PLANNING COMMISSION OF THE
TOWN OF GRAND LAKE

ATTEST:

Alayna Carrell

Town Clerk TOWN OF GRAND LAKE

James Shockey

Planning Commission Chairman
