

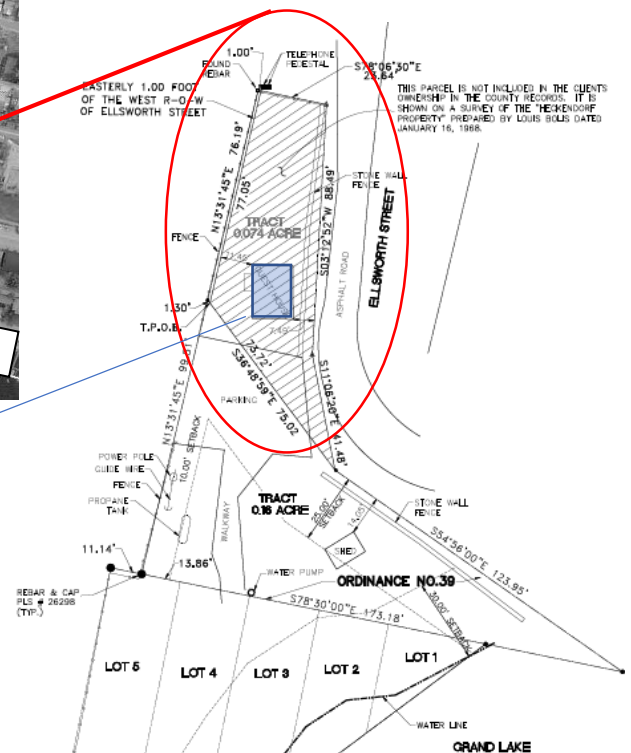
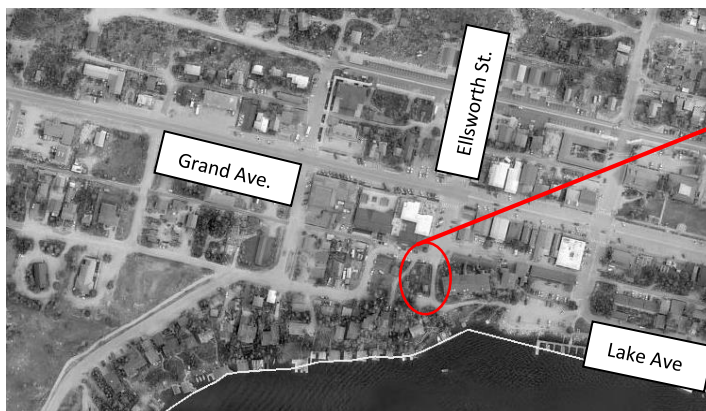


Date: 10/10/2022

To: Mayor Kudron and The Board of Trustees

From: Planning Commission

Re: **PUBLIC HEARING-** Consideration to recommend vacating a portion of the Ellsworth Street right of way located adjacent to Lots 1-5 Cairns Addition to Grand Lake; more commonly referred to as 846 Lake Avenue.



### Purpose:

The Town has received a vacation request application from Kirsten and Francis Heckendorf to vacate approximately a 0.074ac portion of the Town right of way upon which they currently hold an encroachment agreement for a cabin and a stone fence. This request requires Planning Commission recommendation and Board review.

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*Vacation plat overlaid onto Town map-Vacation request is black hatched area*

### **Background:**

In 1955, the Town adopted Ordinance 39 which vacated a portion of the Ellsworth Street right of way and Lake Avenue right of way (triangle parcel shaded in blue, known to be Tract 0.16 acres north of Lots 1-5, Cairns Addition to GL) for some existing improvements on Town property.

The Town adopted Ordinance 08-1980 which vacated a portion of the Ellsworth Street right of way and Lake Avenue right of way for the development of Eagles Landing.

The Town adopted Ordinance 18-2011 which granted an easement for some existing encroachments on the town right of way (hatched in black).

The 2016 decision not to vacate this portion of the right of way was due to the following reasons:

- The narrow width of right of way that would remain (estimated at less than 27'); and
- The Town uses that area for snow storage; and
- Utilities located in that area

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In September 2022, the applicant 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

October 5<sup>th</sup>, 2022, Planning commission discussed changing the sign at the bottom of the hill adjacent to the property to read no motorized vehicles beyond this point – public access in order to make it clear that it was not a private path. The current sign reads: no motorized vehicles beyond this point. It was discussed that there is a wayfinding master plan for the Town in which signage will be updated and this is one of the signs that should be included.

The commission discussed the need to vacate to or past the rock wall on the east side and how large of an area does the applicant require for insurance coverage. The applicant agreed that the rock wall should be the eastern most property line.

The commission discussed that the access needed to stay open for emergency access to assist fire crews to reach Eagles landing during an emergency.

Planning Commission voted 3:1 with 2 abstentions (due to remote voting) to recommend the vacation of this 0.074Ac ROW. Commissioner Shockey voted against the vacation because he would like only the minimal amount of land required by the applicants for the cabin. He would like to see the Town retain the northern portion of the property past the cabin for possible future use by the Town and found it unnecessary to vacate the strip of land to the east of the rock wall.

### **Staff Discussion:**

The applicant has provided all items required for an application as required by MC 11-2-10. Legal notice was placed in the local newspaper on September 12th, 2022 and 34 certified letters were sent to all neighbors within 200 feet of the property; 11 of which have not been received to date. Three written comments were received in favor of the vacation and they are attached below. No comments were received against the request. The Town previously received two (2) written comments from Three Lakes Water and Sanitation District and Mountain Parks Electric stating no objections to the request.

Upon review of the previous vacation request, Staff has found:

- The Right of Way currently is retained for road and drainage development and thus, if retained, cannot be developed into parklet or other Town amenity.
- The Town does not use this property for snow storage or other municipal uses.
- The Town is not intending on investigating this road as a thoroughfare.

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- The attached Resolution includes language about easements for continued use, repair, replacement, and maintenance of utilities on the property.
- The Town issued an encroachment license and water tap for the property in question.
- The vacation plat attached was updated to not include the grassy area to the East of the stone fence.

## **Municipal Code:**

### **11-2-10 Vacation Request and Procedure.**

On occasion, vacation of Town Streets or various easements may be warranted, due to peculiar circumstances or changes in the overall development patterns.

Procedure for request of vacation of a Municipal Rights-of-Way shall be done in accordance with C.R.S. § 43-2-303.

No street or part shall be vacated that will leave a parcel of land without access to a public road. All vacation requests must comply with Colorado Revised Statute.

- (A) *Application.* A Land Use Application form must be filled out and accompanied with the following:
1. Appropriate Fee and/or deposit; and
  2. Signed Agreement for Services; and
  3. A plat and/or survey of the proposed vacation including the surrounding properties; and
  4. A letter explaining the justification for vacation; and
  5. Any other pertinent information required by Town Staff.
- (B) *Planning Commission Review.* Vacations shall be reviewed by the Planning Commission at a Public Hearing and make a recommendation to the Board of Trustees.
1. Fifteen (15) days prior to the scheduled Public Hearing date, legal notice shall be placed in the local newspaper of general circulation advertising the time, date, and location of the Public Hearing.
  2. In addition, certified letters are to be mailed at least fifteen (15) days prior to the Public Hearing to all property owners within two hundred (200) feet of any portion of the property.
- (C) *Board of Trustees Review.* The Board of Trustees may vacate any Town street or any portion thereof after receiving a recommendation from the Planning Commission.
- The Board of Trustees shall grant no vacation without first conducting a Public Hearing. The Board of Trustees will hold a Public Hearing within forty-five (45) days from receiving a recommendation from the Planning Commission.
1. Fifteen (15) days prior to the scheduled date, legal notice shall be placed in the local newspaper of general circulation advertising the time, date, and location of the Public Hearing.
  2. In addition, certified letters are to be mailed at least fifteen (15) days prior to the Public Hearing to all property owners within two hundred (200) feet of any portion of the property.

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### **Board Discussion:**

The Board should conduct the Public Hearing as follows:

1. Open the Public Hearing
2. Allow Staff to present the matter
3. Allow for the Applicant to address the Commission
4. Take all public comment
5. Close the Public Hearing
6. Allow for Commission discussion
7. Take action as appropriate

### **Board Action:**

The Board has the following options:

1. Recommend vacating of a portion of the Ellsworth Street right of way; or
2. Recommend denying the vacation request; or
3. Continue review of the request.



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