

RESOLUTION 2023-022

A resolution conditionally approving Boulder County Community Planning & Permitting Docket V-22-0002: Peters Vacation

Recitals

A. Daniel Peters (the “Applicant”) applied to Boulder County under Article 10-100 of the Boulder County Land Use Code (the “Code”) to vacate a portion of an existing public right-of-way (the “ROW”) and combine it with his parcel no. 157721000010.

B. The subject property is located at 5377 Marshall Road, on the west side of Eldorado Avenue approximately 0.30 of a mile northeast of its intersection with South Foothills Highway, in Section 21, Township 1 South, Range 70 West, in a Rural Residential zoning district of unincorporated Boulder County (the “Property”).

C. In December 2021, the primary residence and a nonconforming accessory dwelling unit (the “ADU”) located on the Property were destroyed in the Marshall Fire. The Applicant seeks to rectify the outstanding setback issues related to the nonconforming ADU with the proposed ROW vacation.

D. The ROW is directly in front of the Property. Proposed reconstruction of the structures as allowed through Article 19-500 of the Code has identified existing conflicts with setback requirements on the Property. The proposed ROW vacation will rectify existing setback encroachments and provide a pathway for the redevelopment of the Property. If approved, the Applicant will be required to provide an updated survey and legal description for the Property reflecting the vacated ROW.

E. The Boulder County Planning Commission (the “Planning Commission”) considered the Vacation application at a duly noticed public hearing on December 14, 2022. The Planning Commission voted unanimously to recommend approval subject to the conditions of approval recommended by Community Planning & Permitting staff for the vacation. The Planning Commission certified the docket for action to the Board of County Commissioners (the “Board”).

F. The above-described request was processed and reviewed as Boulder County Community Planning & Permitting Docket V-22-0002 (the “Docket”), as further described in the memorandum and written recommendation to the Board by Community Planning & Permitting Department staff dated March 7, 2023, together with its attachments (the “Staff Recommendation”). The Staff Recommendation found that the Docket could meet the criteria for approval, and therefore, recommended that the Board conditionally approve the Docket subject to the conditions of approval.

G. At a public hearing on the Docket held on March 7, 2023 (the “Public Hearing”), as further reflected in the official record of the Public Hearing, the Board considered the Staff Recommendation as well as the documents and testimony presented by Community Planning & Permitting Department staff and Applicant Daniel Peters. No members of the public spoke at the Public Hearing.

H. Based on the Public Hearing, the Board finds that the Docket meets the criteria for vacation of public roads, alleys, and easements under Article 10-100 of the Code.

I. Therefore, the Docket can be approved subject to the conditions stated below.

Therefore, the Board resolves:

Docket V-22-0002 is approved on the basis and terms set forth in this Resolution, above, and subject to the following conditions:

1. The Applicant shall meet all post-approval requirements within one year after the date of the Board’s Resolution approving this vacation. This Resolution and associated documents shall be recorded by Community Planning & Permitting Department staff with the County Clerk and Recorder’s Office within this one-year time frame. This vacation approval shall not be considered final or effective until this recordation. Finally, this vacation approval shall expire if recordation does not occur within the required one-year time frame (unless an extension is granted).

2. The Applicant shall work with the public utility provider (Xcel Energy) to establish an easement for the public utilities located within the ROW to be vacated.

3. The Applicant shall be subject to the terms, conditions, and commitments of record and in the file for Docket V-22-0002: Peters Vacation.

[Signature Page to Follow]

A motion to approve the Docket was made by Commissioner Ashley Stolzmann, seconded by Commissioner Marta Loachamin, and passed by a 3-0 vote.

ADOPTED as a final decision of the Board on this _____ day of _____ 2023.

**BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:**

Claire Levy, Chair

Ashley Stolzmann, Vice Chair

Marta Loachamin, Commissioner

ATTEST:

Clerk to the Board