

## RESOLUTION 2024-027

### **A resolution conditionally approving Boulder County Community Planning & Permitting Docket V-23-0002: Frick Vacation**

#### Recitals

A. Robert J. Frick and Carol A. Flowers (the “Applicants”) applied to Boulder County under Article 10-100 of the Boulder County Land Use Code (the “Code”) to vacate portions of the alley rights-of-way that bisect 940 Eldorado Avenue and 0 Bryan Avenue, as well as the portion of Spencer Avenue that divides the two parcels.

B. The subject parcels are located at 940 Eldorado Avenue (Parcel No. 158320011003) and 0 Bryan Avenue (Parcel No. 158320016003), both to the south of Eldorado Avenue approximately 300 feet west of 9th Street in the Eldora Townsite, in Section 21, Township 1 South, Range 73 West, in a Forestry zoning district of unincorporated Boulder County.

C. The subject parcels form a narrow, interrupted line that runs from Eldorado Avenue in the north to Middle Boulder Creek (where the creek bed is located in the Bryan Avenue right-of-way (“ROW”)) to the south.

D. Because the subject parcels have been held on one deed since at least 1948, they constitute a single Building Lot.

E. The subject parcels are divided by the Spencer Avenue ROW, which was originally described on the Eldora townsite map and runs east-west through the townsite. Also described on the map are alleys that run parallel to the east-west ROW and further divide townsite parcels. Both 940 Eldorado Avenue and 0 Bryan Avenue are bisected by one alley each.

F. The Applicants requested to vacate all three of these ROWs, so that neither 940 Eldorado Avenue nor 0 Bryan Avenue are divided by an alley and half of Spencer Avenue is incorporated into each parcel. Although the proposal is to divide the vacated section of Spencer Avenue in half, the entirety of the subject parcels including all three vacated ROWs will be considered one Building Lot.

G. County staff do not have concerns regarding the proposed vacation of the alleys that divide each of the subject parcels, particularly in the case of 940 Eldorado Avenue. As described in the application materials, vacation of the northern alley that bisects 940 Eldorado Avenue is necessary to allow the installation of a modern septic system. The alley would prevent installation of a septic system because such systems cannot be installed in the public ROW, but the distance between the edge of the alley ROW and the rear of the existing cabin is too small to allow construction of a drain field without ROW encroachment unless the ROW is vacated.

H. However, the proposed vacation of a portion of Spencer Avenue may lead to issues with access to other parcels along the ROW in the future. Per Article 10-100.B of the Code, “Unless otherwise noted, the portions of the road or alley vacated will be divided down the centerline and added to the respective adjacent property.” At the time of this review, legal building lot status has not been determined on the eastern adjacent parcel on the south side of Spencer Avenue (158320016002) or the next parcel east (158320016001), so it is not clear whether either parcel could be developed in the future. However, these neighboring parcels could hypothetically apply for a vacation of the adjoining sections of Spencer Avenue through the same process reviewed by staff in the subject application. Unlike the subject parcels, these properties are held separately under individual ownership that does not extend or connect to properties on the north side of the Spencer Avenue ROW. Such future applications therefore would necessitate the provision of access easements to other parcels along the south side of the Spencer Avenue ROW because Spencer Avenue is the only viable location for physical access to those parcels. The Bryan Avenue ROW that bounds the southern extent of these parcels (0 Bryan Avenue, Parcels 158320016002 and 158320016001) is not useable for physical access because Middle Boulder Creek runs through the ROW area.

I. Rather than requiring future provision of access easements crossing former public ROW areas, staff recommend that only the northern half (northern 25 feet) of the Spencer Avenue ROW be vacated. In the narrative submitted by the Applicants, they state that the existing septic system likely extends into the northern part of the Spencer Avenue ROW. Only vacating this northern half will allow the Applicants to incorporate the full extent of their existing septic system into their property and use the same space for installation of the new septic system if needed, but will also preserve future physical access to all parcels on the south side of Spencer Avenue.

J. The two alleys that bisect the subject parcels are no longer necessary to serve the needs of county residents and therefore staff recommend vacation of the alleys.

K. The Boulder County Planning Commission (the “Planning Commission”) considered the Vacation application at a duly noticed public hearing on February 21, 2024. The Planning Commission voted unanimously to recommend approval subject to the conditions of approval recommended by Community Planning & Permitting Department staff. The Planning Commission certified the docket for action to the Board of County Commissioners (the “Board”).

L. The above-described request was processed and reviewed as Boulder County Community Planning & Permitting Docket V-23-0002 (the “Docket”), as further described in the memorandum and written recommendation to the Board by Community Planning & Permitting Department staff dated March 5, 2024, together with its attachments (the “Staff Recommendation”). The Staff Recommendation found that the Docket—with the exception of vacating the southern half of Spencer Avenue—could meet the criteria for approval, and therefore, recommended that the Board conditionally approve the Docket subject to the

conditions of approval.

M. At a public hearing on the Docket held on March 5, 2024 (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 Robert Frick. Two members of the public spoke at the Public Hearing.

N. Based on the Public Hearing, the Board finds that the Docket—with the exception of vacating the southern half of Spencer Avenue—meets the criteria for vacation of public roads, alleys, and easements under Article 10-100 of the Code.

O. Therefore, with the exception of vacating the southern half of Spencer Avenue, the Docket can be approved subject to the conditions stated below.

Therefore, the Board resolves:

Docket V-23-0002 is approved on the basis and terms set forth in this Resolution, above, and subject to the following conditions:

1. In addition to the two alley sections to be vacated, only the northern half (or northern 25 feet) of the Spencer Avenue ROW shall be vacated. The southern half (or southern 25 feet) of the Spencer Avenue ROW must remain public to preserve physical access to all parcels on the south side of the ROW.
2. The Applicants 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).
3. The Applicants shall be subject to the terms, conditions, and commitments of record and in the file for Docket V-23-0002: Frick Vacation.

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

**[Signature Page to Follow]**

**ADOPTED** as a final decision of the Board on this \_\_\_\_\_ day of April 2024.

The signatures below indicate approval of the text of the Resolution but are not necessarily reflective of the votes taken at the Public Hearing.

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

\_\_\_\_\_  
Ashley Stolzmann, Chair

\_\_\_\_\_  
Marta Loachamin, Vice Chair

\_\_\_\_\_  
Claire Levy, Commissioner

ATTEST:

\_\_\_\_\_  
Clerk to the Board