

ORDINANCE NO. 790

AN ORDINANCE OF THE TOWN OF MILLIKEN, COLORADO, VACATING PART OF THE BEULAH AVENUE RIGHT-OF-WAY

WHEREAS pursuant to C.R.S. § 43-2-301 *et seq.*, the Board of Trustees ("Board") for the Town of Milliken, Colorado, ("Town") possesses the authority to divest the Town's interest in platted or designated public streets, roads, and other public ways by ordinance;

WHEREAS the vacation and disposition of municipal interests in public rights-of-way is identified by the appellate courts of the State of Colorado as a legislative and thus discretionary function of the local governing body;

WHEREAS an application has been made for the vacation of a portion of the Beulah Avenue right-of-way located easterly of the Union Pacific Railroad Right-Of-Way, South of the South Half (S1/2) of vacated Elm Street and West of Block 65, Plat of the Town of Milliken, all as more fully described in Exhibit A, which is attached to this Ordinance and made a part hereof;

WHEREAS the Board considered the application at a duly noticed public hearing on March 10, 2021 (date) and found that the application complied with the Milliken Municipal Code and with Town plans and policies;

WHEREAS the subject right of way has not been established as a state highway, lies entirely within the Town, and has no common boundary with any other political subdivision;

WHEREAS the Board finds that the right-of-way is not needed in the short or long term by the Town; that it is not necessary to replace the right-of-way; that there are no public facilities or utilities within the right-of-way that need to be relocated; and that the public and surrounding properties will not be negatively impacted by the vacation;

WHEREAS the Board further finds that vacating the subject right-of-way is desirable and appropriate, will not cause harm to the public, and will not leave any adjacent properties without access to the public road system;

WHEREAS the Board desires to vacate the subject right-of way as requested by the applicant;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, COLORADO, AS FOLLOWS:

Section 1. The following described dedicated right-of-way of Beulah Avenue located within the Town of Milliken, County of Weld, and State of Colorado is vacated:

All that real property described in Exhibit A.

Section 2. The foregoing vacation is subject to any and all utilities easements, previously constructed and currently in place, whether above or below ground. The Town specifically reserves easements for all such utilities as-built and in place at the time of vacation.

Section 3. Upon this ordinance taking effect, title shall vest as provided by law.

Section 4. Effective Date. This ordinance shall take effect thirty days after publication as provided by law.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 10 DAY OF March 2021.

TOWN OF MILLIKEN


By: Elizabeth Austin, Mayor

ATTEST:


Caree Rinebarger, Acting Town Clerk

APPROVED AS TO FORM:


Matthew T. Gould, Town Attorney

Exhibit "A"

PROPERTY DESCRIPTION

A parcel of land, being that portion of Beulah Avenue lying easterly of the Union Pacific Railroad Right-Of-Way, South of the South Half (S1/2) of vacated Elm Street and West of Block 65, Plat of the Town of Milliken, situate in the Southeast Quarter of the Northeast Quarter (SE1/4NE1/4) of Section Eleven (11), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), Town of Milliken, County of Weld, State of Colorado, being more particularly described as follows:

COMMENCING at the North Sixteenth Corner common to Sections 11 and 12 as monumented by a #6 rebar with a 2.5" aluminum cap LS illegible and assuming the East line of the SE1/4NE1/4 of said Section 11 as monumented on the South end by a #6 rebar with a 3.25" aluminum cap LS 34995 as bearing South 00°17'14" East being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983, a distance of 1318.01 feet with all other bearings contained herein being relative thereto;

The lineal dimensions as contained herein are based upon the "U.S. Survey Foot."

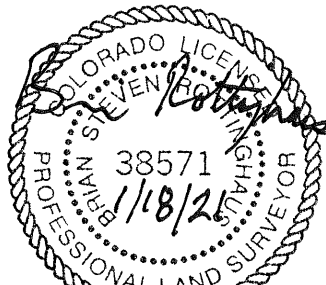
THENCE South 00°17'14" East along the East line of the SE1/4NE1/4 of said Section 11 a distance of 460.05 feet to a point on the easterly projection of the South line of Aragon Subdivision recorded December 27, 1974 at Reception No. 1650996 in the records of Weld County, also being the North line of the S1/2 of Elm Street as vacated by Ordinance No. 124 recorded April 19, 1976 at Reception No. 1686328 in the records of Weld County;
THENCE North 89°25'14" West along the South line of said Aragon Subdivision and the easterly projection thereof a distance of 304.32 feet to a point on the northerly projection of the West line of Block 65, Plat of the Town of Milliken recorded July 23, 1909 at Reception No. 143902 in the records of Weld County;
THENCE South 00°38'38" West along the northerly projection of the West line of said Block 65 a distance of 30.00' to the Northwest Corner of said Block 65 and to the **POINT OF BEGINNING**;

THENCE South 00°38'38" West along the West line of said Block 65 and the East right-of-way of Beulah Avenue a distance of 40.46 feet to a point on the easterly right-of-way of the Union Pacific Railroad recorded March 28, 1910 in Book 320, Page 155 in the records of Weld County,
THENCE North 43°23'14" West along the easterly right-of-way of said Union Pacific Railroad a distance of 56.21 feet to a point on the South line of the S1/2 of said vacated Elm Street;
THENCE South 89°25'14" East along the South line of the S1/2 of said vacated Elm Street a distance of 39.07 feet to **POINT OF BEGINNING**.

Said parcel of land contains 790 square feet or 0.02 acres more or less (+/-) and is subject to any rights-of-way or other easements of record as now existing on said described parcel of land.

SURVEYORS CERTIFICATE

I, Brian S. Rottinghaus, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared by me or under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.



Brian S. Rottinghaus on behalf of Lat40°, Inc.
Colorado Licensed Professional
Land Surveyor #38571

Lat40°, Inc.
Professional Land Surveyors
6250 W. 10th St. Unit 2
Greeley, CO 80634
(970) 515-5294



EXHIBIT "A"

THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY

SECTION: 11
TOWNSHIP: 4N
RANGE: 67W

POINT OF COMMENCEMENT
NORTH SIXTEENTH CORNER
SEC. 11&12, T.4N., R.67W.
FOUND #6 REBAR WITH
2.5" ALUM. CAP LS ILLEGIBLE

460.05'

SE1/4NE1/4
S.11, T.4N., R.67W.

LOT 7

ARAGON SUBDIVISION
REC. NO. 1650996

LOT 8

FOUND #4 REBAR WITH
1.5" ALUM. CAP LS ILLEGIBLE
S 89°25'14" E 0.26'

FOUND #4 REBAR WITH
1" YELLOW PLASTIC CAP
LS 25372

68.04'

N 89°25'14" W 304.32'

SOUTH LINE OF
ARAGON SUBDIVISION
AND THE EASTERLY
PROJECTION THEREOF

41.68'

30' VACATED ELM STREET
REC. NO. 1686328

30.00'

S 89°25'14" E
39.07'

POINT OF BEGINNING
NORTHWEST CORNER
BLOCK 65
FOUND BENT #4 REBAR
WITH REMNANTS OF
YELLOW PLASTIC CAP

SUBJECT PROPERTY
790 SQ. FT. / 0.02 ACRES

PLAT OF THE
TOWN OF MILLIKEN
REC. NO. 143902

N 43°23'14" W
56.21'

BEULAH AVENUE
RIGHT-OF-WAY
WIDTH VARIES

S 00°38'38" W
40.46'

BLOCK 66

BLOCK 65

1

2

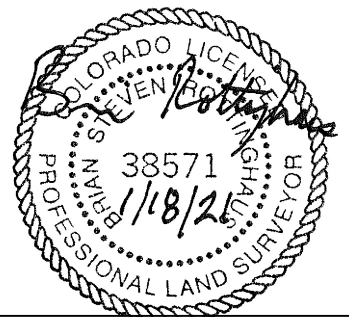
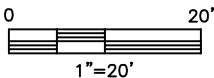
200' UNION PACIFIC RAILROAD
RIGHT-OF-WAY
BOOK 320, PAGE 155

FOUND #4 REBAR WITH
1" RED PLASTIC CAP
LS 38571

1.11'
FOUND #4 REBAR
DID NOT ACCEPT

S 00°17'14" E 1318.01' (BASIS OF BEARING)

EAST QUARTER CORNER
SEC. 11, T.4N., R.67W.
FOUND #6 REBAR WITH
3.25" ALUM. CAP LS 34995



NOTE: This exhibit drawing is not intended to be a monumented land survey. It's sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.