



Board Summary Report

Date: May 16, 2019

To: Board of County Commissioners

Through: Jan Yeckes, Planning Division Manager

From: Bill Skinner, Senior Planner

Subject: Request for Extension of Approval of Mountainview Gardens 10 Vacation of Easements and Right of Way (V16-003).

Purpose and Recommendation

Latsis Custom Homes, applicant's representative for Leland McGill, owner of 1781, 1783, and 1793 S Unita Way, is requesting an extension of time for the recording of exhibits depicting various easements and right of way existing on the properties listed above. PWD Staff supports the request. The attached motion would approve the extension.

Background

On December 12, 2017 the BOCC approved development application V16-003, Vacation of Easements and Right of Way. The vacation request is required for the property owner to consolidate the three lots listed above so they may build a single family home on the combined property.

Shortly after BOCC approval of this vacation application, the property owner experienced an extended illness and progress on the project was suspended. The owner is ready to proceed and is asking for a one year extension of the approval deadline. Section 14-705.D of the Land Development Code allows 60 days after the vacation approval for the applicant to submit a vacation exhibit that is "ready for recordation". The applicant requests an extension of an additional year. The staff agrees with the applicant's request to extend the approval process so the vacation can be finalized, but recommends the approval extension be granted until May 28, 2020, which is one year from the hearing of this request.

Link to Align Arapahoe

Improve the County's economic environment is an Align Arapahoe objective that relates to this request. Allowing the extension would provide additional time for the developer to wrap up some details related to the vacation application and ultimately construct a home on the property.

Discussion and Recommendation

As noted above, the staff agrees with the applicant's request to extend the approval process so the vacation can be finalized and recommends the approval extension be granted until May 28, 2020, which is one year from the hearing of this request on May 28, 2019.

One concern with continued extensions should be noted for the Board's consideration. Vacation approvals are not complete until the exhibits are recorded even if the BOCC has taken action during a public meeting. For this reason, the cases are not noted on maps available to the public and often used for due diligence when deciding whether to buy property or locate a business nearby. When final plans or exhibits are signed or recorded after a significant delay the approval goes into effect without further public process. As the requested vacations are limited to three residential lots, and the improvements associated with the easement and right of way have not been constructed, the risk associated with the incomplete easements and right of way vacation is a lower level of risk.

The applicant has submitted revised vacation exhibits to the Planning Division. We are currently in the process of reviewing these documents. This progress on the corrected exhibits helps reduce the risk mentioned in the previous paragraph.

Alternatives

PWD Staff presents two alternatives for BOCC consideration at this time:

Alternative 1: Grant an extension of one year from the date of this hearing for recording of the Vacation Easement exhibit.

Alternative 2: Deny the extension for recording request. If the extension is denied, new applications and fees will be required.

Fiscal Impact

If the extensions are granted, the owners have additional time to wrap up details without repeating the application, review, and approval processes.

Concurrence

PWD Staff concurs with this request.

Reviewed by:
Jason Reynolds
Jan Yeckes
Bryan Weimer
Todd Weaver
Robert Hill

Attachment:

Letter Requesting Extension

LETTER OF AUTHORIZATION

April 1, 2019
Leland McGill
4245 E. 46th Ave.,
Denver, CO 80216

Arapahoe County Public Works & Development
Planning Division
6924 S Lima St
Centennial CO 80112

Attn: Planning Division

I, Leland McGill, property owner, hereby authorize Jim and Kathryn Latsis, of Latsis Custom Homes to prepare and sign application materials and otherwise represent the owner(s) regarding the vacation of easement, administrative re-plat, and conventional re-zone for the Eagles Nest, located at Mountain View Gardens Filing 9, 1783 South Uinta Way, Denver, CO 80231; 1973-21-4-29-002. C

By: L. C. McGill
Property Owner or Authorized Agent Printed Name

L. C. McGill
Property Owner or Authorized Agent Signature

Date: 4/3/19

State of Colorado

County of Denver

Before me, the undersigned notary public, in and for said state, personally appeared, Leland McGill
(insert name of owner here), personally known to me or proved to me on the basis of satisfactory evidence to the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged he/she executed the same.

Witness my hand and official seal:

Notarial Stamp Here

Kathy Mosbacher
Notary Public Signature

KATHY L. MOSBACHER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20004015526
My Commission Expires May 25, 2020
Notarial Stamp Here

DRAFT MOTIONS (V16-003) – Mountainview Gardens 10 Vacation of Easements and Right of Way:

APPROVAL: In the case of V16-003 - Request for Extension of Approval of Mountainview Gardens 10 Vacation of Easements and Right of Way, I have reviewed the staff report, including all exhibits and attachments and have listened to the applicant's presentation and hereby move to approve this application based on the findings in the staff report, which will extend the allowed date of recordation until one year from the date of this hearing, which is May 28, 2020.

Staff provides the following Draft Motions listed below as general guidance in preparing an alternative motion if the Board reaches a different determination:

Denial

In the case of V16-003 - Request for Extension of Approval of Mountainview Gardens 10 Vacation of Easements and Right of Way, I have reviewed the staff report, including all exhibits and attachments and have listened to the applicant's presentation and hereby move to deny this application based on the following findings:.

1. *State new findings in support of denial as part of the motion.*

B. Continue

In the case of V16-003 - Request for Extension of Approval of Mountainview Gardens 10 Vacation of Easements and Right of Way, I move to continue to the decision on these requests to [DATE], 2019, at 9:30 A.M., at this same location to obtain additional information and to further consider the information presented.

Request for Extension

RESOLUTION NO. [reso#] It was moved by Commissioner [moved] and duly seconded by Commissioner [seconded] to adopt the following resolution:

WHEREAS, on December 12, 2017, by the adoption of Resolution No. _____, the Board of County Commissioners of Arapahoe County approved the application submitted on behalf of by **Leland McGill** for Case No. V16-003, Mountainview Gardens 10 Vacation of Easements and Right of Way, subject to the requirements of the County's Land Development Code and said Resolution; and

WHEREAS, the Land Development Code provides for period of **sixty days for the submittal of exhibits that are ready to record and that period has been exceeded;**

and

WHEREAS, there are no specific provisions in the Land Development Code for extensions beyond the sixty day time period; and

WHEREAS, because there are no specific provisions and because of the extenuating circumstances confronting Leland McGill, the applicant has requested an extension of time for submittal of documentation required by the County's Land Development Code **until May 28, 2020** and this request is brought before the Board of County Commissioners for deliberation and consideration; and

WHEREAS, the Planning staff has recommended that this request for an extension of time be **approved**.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Arapahoe County, Colorado, to hereby approve an additional extension of time for vacation exhibits of to be submitted for recordation on or before May 28, 2020 for Mountainview Gardens 10 Vacation of Easements and Right of Way, Case No. V16-003.

The vote was:

Commissioner Baker, ___; Commissioner Conti, ___; Commissioner Holen, ___; Commissioner Jackson, ___; Commissioner Sharpe, ___.

The Chair declared the motion carried and so ordered.