

RESOLUTION 2007-121

A RESOLUTION DIRECTING THE COUNTY LAND USE DEPARTMENT TO NOT ACCEPT APPLICATIONS FOR THE VACATION OF PUBLIC OWNERSHIP IN THE PLATTED ROADS, ALLEYS, AND RIGHTS-OF-WAY WITHIN THE TOWNSITE AND FORMERLY INCORPORATED TOWN OF ELDORA, UNTIL THE COUNTY CAN CONDUCT A COMPREHENSIVE STUDY OF SUCH RIGHTS-OF-WAY TO DETERMINE THEIR APPROPRIATE FUTURE USE

WHEREAS, Part 3 of Article 2 of Title 43, C.R.S. ("the Road Vacation Statute"), allows the Board of County Commissioners ("the Board") to vacate the County's right, title, and interest in any roadway or part thereof within the unincorporated County, pursuant to the further requirements of the Road Vacation Statute, as amended; and

WHEREAS, historically the Board has exercised its broad authority under the Road Vacation Statute in the context of individual applications for vacations submitted by property owners whose lands, structures, or other real property appurtenances are located on or adjacent to County roads, alleys or rights-of-way, as currently codified in and administered through Article 10 of the Boulder County Land Use Code ("the Land Use Code"); and

WHEREAS, the County Attorney recently has issued an opinion concluding that the platted roads, alleys, and rights-of-way within the townsite and formerly incorporated Town of Eldora reside in public, not private, ownership, as explained in a memorandum from Leslie Wright Lacy, Assistant County Attorney, dated October 10, 2007, which has been submitted to the staffs of the County Land Use Department and Transportation Department, presented to the Board, and made available to the public; and

WHEREAS, over the past year or more the County Land Use staff has communicated to the Board the concerns of the County Planning Commission regarding the difficulty of deciding the merits of individual property owner vacation applications in Eldora without a broader context in which to evaluate such applications; and

WHEREAS, the Board further recognizes that the Planning Commission recently recommended to table indefinitely part of one Eldora vacation application pending the outcome of a comprehensive County study; and

WHEREAS, the Board is concerned that it is a disservice to individual property owner applicants, to the Eldora community, and to the public at large, for the County to continue to process and review piecemeal vacation applications in Eldora without the formulation of a general zoning or land use plan to protect the community's character, without a more definitive assessment of the appropriate use of the platted rights-of-way within the community, and without the development of clearer guidelines to direct the vacation application review process; and

WHEREAS, the County Land Use Department is embarking on a comprehensive land use study of Eldora as an identified County "Special Character Area," which will involve the participation of the Land Use Department, County Transportation Department, and County Parks and Open Space Department, and is estimated to take from approximately nine months to a year to complete; and

WHEREAS, the Eldora Special Character Area study is anticipated to include, along with an overall assessment of the rural character of Eldora, an analysis of which rights-of-way are appropriate to retain in public use, which rights-of-way are appropriate to transfer to private use, how the resulting ownership patterns conform with a comprehensive zoning plan for Eldora, and what criteria for road vacations might be appropriate to include in an adopted community plan or in amendments to Article 10 of the Land Use Code; and

WHEREAS, based on the foregoing recitals, the Board concludes that it is reasonable, prudent, and in the public interest of sound community planning for the Board to direct the County Land Use Department to not accept for processing any applications under Article 10 of the Land Use Code for vacations of platted roads, alleys, or rights-of-way within the townsite and former incorporated Town of Eldora, after the effective date of this Resolution, as further set forth below.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Beginning on the effective date of this Resolution as set forth below (November 13, 2007), the County Land Use Department shall not accept any application under Article 10 of the Land Use Code for vacations of platted roads, alleys, or rights-of-way within the area of the townsite and former incorporated Town of Eldora. The townsite and former incorporated Town of Eldora shall be considered to be the area decreed by the Boulder District Court for disincorporation in 1973, including all territory platted as The Happy Valley Placer Co.'s Plat of Eldora dated May 9, 1898, and as Eldora filed January 27, 1965, and as Ben Hur addition to the Town of Eldora filed January 15, 1900.

2. Any application which the Land Use Department has accepted prior to the effective date of this Resolution as a complete application for processing, may continue to be processed and reviewed as provided in the Land Use Code. By enacting this Resolution and allowing such applications to continue, the Board does not alter or waive its existing broad discretion under the Road Vacation Statute to approve any such application, or to postpone or deny an application for any valid reason, including that the Board lacks sufficient information to assess whether the subject right-of-way may be needed for some continued public purpose in the future.

3. The Board's foregoing direction to the Land Use Department shall continue until rescinded or amended by the Board. The Board anticipates that this direction will remain in place for approximately one year, depending upon the progress of the Eldora Special Character Area study, and related regulatory processes which may result from that study such as adoption of a rezoning plan for Eldora and amendments to Article 10 of the Land Use Code.

A motion to approve the foregoing Resolution directing the County Land Use Department to not accept any application under Article 10 of the Land Use Code for vacations of platted roads, alleys, or rights-of-way within the townsite and former incorporated Town of Eldora, as stated above, was made at the Board's duly noticed public business meeting held on November 13, 2007 by Commissioner TOOR, seconded by Commissioner DOMENICO, and passed by a 3-0 vote of the Board.

ADOPTED and effective on this 13th day of November, 2007.

BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:



Ben Pearlman, Chair



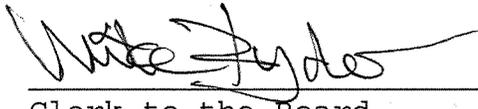
Will Toor, Vice Chair



Cindy Domenico, Commissioner



ATTEST:



Clerk to the Board