



DENVER
THE MILE HIGH CITY

Department of Public Works
Permit Operations and Right of Way
Enforcement
201 W. Colfax Avenue, Dept. 507
Denver, CO 80202
P: 720-865-2782
F: 720-865-3280
www.denvergov.org/pwprs

REQUEST FOR VACATION ORDINANCE

TO: Esther Vargas, City Attorney's Office
FROM: Robert J. Duncanson, P.E.,
 Manager 2, Development Engineering Services
ROW NO: 2007-0236-02
DATE: June 29, 2011
SUBJECT: Request for an Ordinance to vacate a portion of 43rd Ave, west of Broadway intersection, with reservations.

It is requested that the above subject item be placed on the next available Mayor Council Agenda.

This office has investigated the request of **Charles W. Carlberg**, on behalf of **Leo C. Ward and Sydelle B. Ward Intervivos Trust and 4301 N. Broadway, LLC**, for granting of the above requested vacation. This matter has been field inspected and has been coordinated with Asset Management; Colorado Department of Transportation [if State Highway]; Comcast Corporation; Commission for People with Disabilities; Community Planning & Development – Building Inspections, Planning and Zoning; Councilperson Montero; Fire Department; Metro Wastewater Reclamation District; Office of Emergency Management; Office of Telecommunications; Parks & Recreation; Public Works – DES - Construction Engineering, DES Engineering – Transportation & Wastewater, DES Survey, IPP Infrastructure Engineering and Street Maintenance; Qwest Corporation; Regional Transportation District; Denver Water Department; Xcel Energy, all of whom have returned our questionnaires indicating their agreement.

As a result of these investigations, hereby approved and the described area is hereby vacated and declared vacated; PROVIDED, HOWEVER, said vacation shall be subject to the following reservations:


A perpetual, non-exclusive easement is hereby reserved by the City and County of Denver, its successors and assigns, over, under, across, along, and through the vacated area for the purposes of constructing, operating, maintaining, repairing, upgrading and replacing public or private utilities including storm drainage and sanitary sewer facilities and all appurtenances to said utilities. A hard surface shall be maintained by the property owner over the entire easement area. The City reserves the right to authorize the use of the reserved easement by all utility providers with existing facilities in the easement area. No trees, fences, retaining walls, landscaping or structures shall be allowed over, upon or under the easement area. Any such obstruction may be removed by the City or the utility provider at the property owner's expense. The property owner shall not re-grade or alter the ground cover in the easement area without permission from the City and County of Denver. The property owner shall be liable for all damages to such utilities, including their repair and replacement, at the property owner's sole expense. The City and County of Denver, its successors, assigns, licensees, permittees and other authorized users shall not be liable for any damage to property owner's property due to use of this reserved easement.

Therefore, you are requested to initiate Council action to vacate the following area:

INSERT PARCEL DESCRIPTION ROW 2007-0236-001
 The following information, pertinent to this request action, is submitted:



1. The width of this area is **60 feet**.
2. Transportation connectivity is preserved so that there will be minimal impacts to the transportation system.
3. The area is open and is **being used**.
4. **2** buildings abut on said area.
5. The owner of the contiguous area would benefit by being able to make more effective use of their ground; the City would benefit by reduced maintenance responsibility.
6. Grades and drainage are not adversely affected by this action.
7. Replacement area **will not** be required.
8. The vacating notice **was** posted on 05/31/2011, and the 20-day period for protests has expired.
9. Adjoining Neighbor and Registered Neighborhood Organization notification **was** sent on June 3, 2011.
10. Protests, sustained by the Manager of Public Works **have not been filed**.
11. Ordinance action by the City Council is considered to be necessary because the Council is the only City body authorized by the Charter to dispose of City property.

RJD: as 

cc: Asset Management, Steve Wirth
City Councilperson Montero & Aides
City Council Staff, Gretchen Williams
CPM, Mike Anderson,
Department of Law, Arlene Dykstra
Department of Law, Karen Aviles
Department of Law, Esther Vargas
Public Works, Manager's Office, Debra Baca
Public Works, Manager's Office, Christine Downs
Public Works Solid Waste, Mike Lutz
Public Works Survey, Paul Rogalla
Public Works Street Maint. William Kennedy,
Project File #2007-0236-02

Property Owners:
4301 N. Broadway, LLC
Charles W. Carlberg, Mgr.
31290 Eagle Crest Lane
Evergreen, CO 80439

And

Leo C. Ward and Sydelle B. Ward
Intervivos Trust
c/o Michael Bloom Realty Company
3615 Blake St
Denver, CO 80203

ORDINANCE/RESOLUTION REQUEST

Please email requests to the Mayor's Legislative Team
at MailHighOrdinance@DenverGov.org by NOON on Tuesday.

**All fields must be completed.*
Incomplete request forms will be returned to sender which may cause a delay in processing.*

Date of Request: June 29, 2011

Please mark one: Bill Request or Resolution Request

1. Has your agency submitted this request in the last 12 months?

Yes No

If yes, please explain:

2. Title: : (Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: grant acceptance, contract execution, amendment, municipal code change, supplemental request, etc.)

Request to vacate a portion of 43rd Ave. west of the Broadway intersection.

3. Requesting Agency: PW: Right of Way/Engineering Services

4. Contact Person: (with actual knowledge of proposed ordinance)

- Name: Ava Simmons
- Phone: 720-865-3036
- Email: ava.simmons@denvergov.org

5. Contact Person: (with actual knowledge of proposed ordinance who will present the item at Mayor-Council and who will be available for first and second reading, if necessary)

- Name: Debra Baca
- Phone: 720-865-8712
- Email: debra.baca@denvergov.org

6. General description of proposed ordinance including contract scope of work if applicable: A request to vacate a portion of 43rd Ave. for additional access to the adjoining property.

Please include the following:

- a. Duration: permanent
- b. Location: 43rd Ave. west of Broadway
- c. Affected Council District: # 9, Judy Montero
- d. Benefits: N/A
- e. Costs: N/A

7. Is there any controversy surrounding this ordinance? (groups or individuals who may have concerns about it?) Please explain. None

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: _____

Date: _____

Ordinance Request Number: _____

Date: _____



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EXECUTIVE SUMMARY

Project Title:2007-0236-02, Vacation of 43rd Ave. west of Broadway intersection.

Description of Proposed Project:To vacate a portion of 43rd Ave. west of Broadway intersection.

Explanation of why the public right-of-way must be utilized to accomplish the proposed project: A request to vacate a portion of 43rd Ave. for additional access to the adjoining property

Has a Temp MEP been issued, and if so, what work is underway: N/A

What is the known duration of an MEP: N/A

Will land be dedicated to the City if the vacation goes through: No

Will an easement be placed over a vacated area, and if so explain: Yes.

Will an easement relinquishment be submitted at a later date: N/A

Additional information:Request to vacate a portion of 43rd Ave. which is a dead end street, and will not have a major impact on the throughfare

DES project No. 2007-0236
DES parcel No. 20070236-001

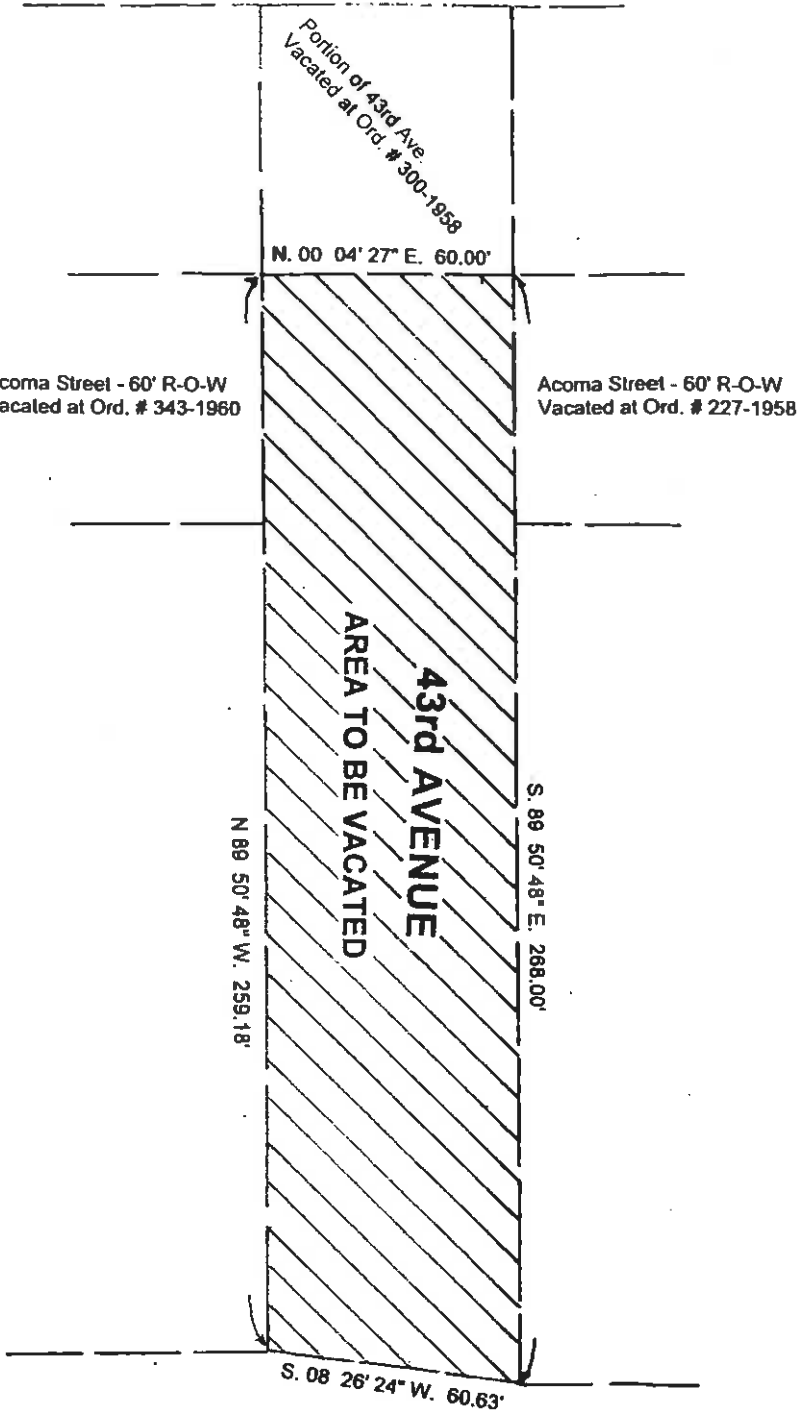
LEGAL DESCRIPTION

A PORTION OF WEST 43RD AVENUE LYING BETWEEN BLOCK 6, BURLINGTON AND NORTH ACOMA STREET AS VACATED AT CITY & COUNTY OF DENVER ORDINANCE 343-1960 ON THE SOUTH AND BLOCKS, BURLINGTON AND BLOCK 12, TACOMAS HEIGHTS AND NORTH ACOMA STREET AS VACATED AT CITY & COUNTY OF DENVER ORDINANCE 227-1958, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 4, BURLINGTON, SAID POINT ALSO BEING ON THE EAST LINE OF A PORTION OF WEST 43RD AVENUE AS VACATED BY CITY & COUNTY OF DENVER ORDINANCE 300-1958, THENCE S 89° 50' 48" E ALONG THE SOUTH LINE OF SAID VACATED NORTH ACOMA STREET AND THE SOUTH LINE OF SAID BLOCK 5, BURLINGTON, AND THE SOUTH LINE OF SAID BLOCK 12 TACOMA HEIGHTS A DISTANCE OF 268.00 FEET TO THE SOUTHEAST CORNER OF LOT 18, BLOCK 12, TACOMA HEIGHTS, SAID POINT ALSO BEING ON THE WEST RIGHT OF WAY LINE OF NORTH BROADWAY STREET AS SHOWN ON THE SUBDIVISION PLAT OF TACOMA HEIGHTS; THENCE S 08° 26' 24" W ALONG SAID WEST RIGHT OF WAY LINE OF BROADWAY STREET A DISTANCE OF 60.63 FEET TO THE NORTHEAST CORNER OF LOT 25, BLOCK 6, BURLINGTON; THENCE N 89° 50' 48" W ALONG SAID NORTH LINE OF BURLINGTON AND THE VACATED NORTH ACOMA STREET A DISTANCE OF 259.18 FEET TO THE NORTHEAST CORNER OF LOT 35, BLOCK 7, BURLINGTON, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID PORTION OF WEST 43RD AVENUE AS VACATED BY CITY & COUNTY OF DENVER ORDINANCE 300-1958; THENCE N 00° 04' 27" E ALONG SAID EAST LINE OF A PORTION OF VACATED 43RD AVENUE A DISTANCE OF 60.00 FEET TO THE TRUE POINT OF BEGINNING.
CITY & COUNTY OF DENVER, STATE OF COLORADO.

SAID PARCEL CONTAINS 15815.36 SQUARE FEET (0.363 ACRES).



**43RD AVENUE
WEST OF BROADWAY
R-O-W VACATION
LEGAL DESCRIPTION**



BROADWAY



Sheet 1 of 4

**43rd AVENUE
WEST OF BROADWAY
R-O-W VACATION**

DES project No. 2007-0236
DES parcel No. 20070236-001