



MEMO TO: Mayor Vandernail and the Board of Trustees
FROM: Catherine Trotter, AICP, Town Planner
DATE: November 14, 2018
SUBJECT: Old King Road & Forest Rail Road Right-of Way (ROW) Vacation Petition

MATTER BEFORE BOARD:

We are in receipt of a petition to vacate a portion of Old Kings Road and all of Forest Rail Road located within the Town of Fraser. The applicant is Cornerstone Winter Park Holdings, LLC.

ACTION REQUESTED:

The easement vacation review procedure is detailed in Section 19-3-245 of the Fraser Town Code at:

https://library.municode.com/co/fraser/codes/municipal_code?nodeId=CH19LADECO_ART3SU_DIV2AD_S19-3-245PLRI-WEAVA

The applicant is requesting that the Board approve this ROW vacation request per ordinance.

BACKGROUND:

Please review the vacation petition as submitted by the applicant. Town staff has referred a copy of the vacation petition/request and all accompanying documents to affected governmental agencies, special districts and private and public utility companies for review and comment.

Agency review comments are included in the packet.

The Code and Review Procedures Chart Table 1.1 requires a public hearing before the Board of Trustees. The Board shall consider the vacation petition and review an ordinance vacating the ROW at a public hearing and either approve, approve with conditions or deny the vacation petition.

Rod McGowan, Town Attorney offers the following comments:

Under the statutes and applicable case law, the ownership of the vacated street accrues to the adjacent property owners, but it does not automatically become part of the adjoining parcel and could be conveyed separately. To avoid this, the Johns Drive vacation ordinance includes a provision whereby Cornerstone would agree to treat one-half of the vacated street as being

combined with each abutting parcel and not to be conveyed separately. With respect Forest Rail Road and the section of Old King Road abutting the HOA parcels in Leland Creek Subdivision, ownership would accrue to the HOA but I have not provided for combination, since those properties are in Winter Park. This may need further discussion.

No one has the “right” to have a street vacated, and the Board could condition adoption of the ordinances on appropriate requirements, such as dedication or conveyance of an alternate right-of-way connecting with Old Victory Road.

RECOMMENDATION:

Staff is recommending that the Board approve the vacation petition. Included in the packet is an ordinance authorizing the vacation of portions of certain ROW.

Let me know if you have any questions. ctrotter@town.fraser.co.us