



MEMORANDUM

**DO NOT RECORD ORDINANCE 2024-08
UNTIL APPROVED TO DO SO BY TOWN
ATTORNEY**

**TOWN OF PALISADE, COLORADO
ORDINANCE NO. 2024-08**

**AN ORDINANCE OF THE TOWN OF PALISADE, COLORADO
VACATING A PORTION OF THIRD STREET ADJACENT TO 311 AND
307 WEST THIRD STREET.**

WHEREAS, Section 31-15-702(1)(a)(I), CRS., and Section 43-2-303(1)(a), C.R.S., permit the Town of Palisade to vacate any platted or dedicated public street, road or other public way whether or not it has been used as such, following certain findings of fact; and

WHEREAS, Section 43-2-303, C.R.S., requires that public roadways and other public ways must be vacated by ordinance; and

WHEREAS, Mathew High (“Owner”) applied to the Town for the vacation of a portion of Third Street adjacent to 311 and 307 West Third Street shown and described on Exhibit A attached hereto and incorporated herein by this reference (hereinafter the “Right-of-Way”); and

WHEREAS, Owner owns 311 West Third Street (Parcel # 2937-092-44-001) (“Owner’s Property”) which he intends to develop with a 9 unit motel with onsite management and the Right-of-Way restricts the development potential of Owner’s Property; and

WHEREAS, the Town supports the development of Owner’s Property to encourage economic development and activity in this area of the Town; and

WHEREAS, the Right-of-Way in front of 307 West Third Street (Parcel # 2937-092-44-002) is used as parking for that property and the vacation of the Right-of-Way in this location is a logical extension of Owner’s application; and

WHEREAS, public notice has been given as required by Section 3.08 of the Palisade Land Development Code for the vacation of the Right-of-Way; and

WHEREAS, said application was reviewed before the Planning Commission on November 5, 2024, as required by Article 4 of the Palisade Land Development Code; and

WHEREAS, the Planning Commission has recommended to the Board of Trustees that the Right-of-Way be vacated; and

WHEREAS, it has been determined by the Town of Palisade that the Right-of-Way is no longer of need to the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALISADE, COLORADO:

Section 1. The Board of Trustees of the Town of Palisade adopts the foregoing recitals and conclusions as facts and determinations and incorporates them by reference as if set forth in full herein.

Section 2. Pursuant to C.R.S. §43-2-303, the Board of Trustees of the Town of Palisade hereby finds that the action of vacating the Right-of-Way shall not leave any land adjoining said property without an established road connecting said land with another established public road.

Section 3. The Right-of-Way shown and described on Exhibit A, subject to the conditions set forth in Section 4 below, is hereby vacated, and this vacated Right-of-Way shall merge with the Owner's Property and 307 West Third Street (Parcel # 2937-092-44-002) as provided by C.R.S. §42-3-302.

Section 4. The adoption of this Ordinance is expressly conditioned upon Owner's construction of a 9-unit motel with onsite management on Owner's Property for commercial purposes open to the public (the "Motel") and receipt of a certificate of occupancy by the deadline as set forth herein. Owner shall apply for a building permit for the Motel by December 31, 2025 and shall receive a certificate of occupancy within two years from the issuance of the building permit, at which time the Town Clerk shall file for record in the office of the Mesa County Clerk and Recorder a certified copy of this Ordinance making it effective pursuant to C.R.S. §42-3.303(2)(f). If Owner does not develop Owner's Property and apply for a building permit by December 31, 2025, or receive a Certificate of occupancy within two years from the issuance of the building permit, this Ordinance shall not be recorded and the approval of the vacation of the Right-of-Way shall expire and be null and void; provided, however, if Owner encounters unforeseen circumstances constructing the Motel on Owner's Property as a result of a force majeure event, such as, war, riots, fire, flood, lightning, explosion, strikes, lockouts, slowdowns, prolonged shortage of energy or supplies, and acts of state or governmental action prohibiting or impeding Owner performing its obligations, the deadline to receive a certificate of occupancy may be extended by two additional years; provided further, this extension shall be strictly construed for the specific force majeure reasons stated herein and shall not apply to the deadline to apply for a building permit.


Section 5. Upon the issuance of a building permit for the development of Owner's Property, the Town hereby grants an exclusive license to Owner for its use of the Right-of-Way related to construction and development of Owner's Property. The license shall expire upon the first of the following to occur: (1) the recordation of this ordinance and the effective vacation of the Right-of-Way whereby the license merges with the Owner's ownership of the Right-of-Way, or (2) the expiration of the approval of the vacation of the Right-of-Way by owner not receiving a certificate of occupancy by the deadline set forth in Section 4, above. The Town agrees to cooperate with Owner and any reasonable request of Owner's contractor or lender to execute

documents or instruments to carry out the intent of this license to further the redevelopment of Owner's Property. During this license period, Owner agrees to indemnify, defend, and hold harmless the Town against any and all claims, liabilities, or demands whatsoever relating to or arising out of the use of the Right-of-Way, the construction on Owner's Property, or arising out of or related to this license.

Section 6. In executing this document, Owner waives all objections it may have over the final disposition of the Right-of-Way vacation and its merger pursuant to state statute, defects, if any, in the form of this document, the formalities for execution, or over the procedure, substance, and form of this Ordinance or resolutions adopting this document.

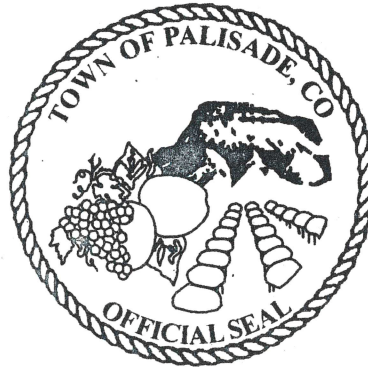
INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED at a regular meeting of the Board of the Trustees of the Town of Palisade, Colorado, held on November 12, 2024.

TOWN OF PALISADE, COLORADO

By: 
Greg Mikolai, Mayor

ATTEST:


Keli Frasier, CMC
Town Clerk



OWNER:

Mathew High

EXHIBIT A

Description of Vacated Right-Of-Way

The proposed right-of-way to be vacated is:

Lewis Subdivision NW ¼ Section 9, Township 11 South, Range 98 West 6th principal Meridian, Mesa County, Colorado.

Beginning at the western corner of Lot 1, then extending 269 feet northeast along the western side of Lot 1 and Lot 2 to the northeastern corner of Lot 2 at the Town of Palisade Peach Ave right-of-way;

Then 21 feet north from the northeastern corner of Lot 2 along the Town of Palisade Peach Ave right-of-way;

Then 345 feet southwest along the Town of Palisade W Third St. right-of-way;

Then 73 feet east along the Town of Palisade alley right-of-way.

The total perimeter to be vacated is 708 feet, and the area to be vacated is 6,581 sq. ft

