



STAFF REPORT

Planning Commission

CASE #V-87-17

PC Date:	November 8, 2017	Case Planner:	Jenny Axmacher
CC Date:	November 20, 2017		
Location:	Ulster Street between East 83 rd Avenue and East 84 th Avenue		
Applicant:	Mid-Rail Real Estate, LLC	Owner:	Same as Applicant
Address:	6000 Jensen Drive Houston, TX 77026	Address:	

Case Summary

Request:	To vacate a portion of Ulster Street between E. 83 rd Avenue and E. 84 th Avenue. The applicant is requesting the vacation of active right-of-way in order to incorporate the property into the development of a rail-served industrial park and eliminate a rail crossing of public right-of-way. The application is being processed concurrently with case Z-943-17.
Project Description:	Mid-Rail Real Estate, LLC has submitted the proposed vacation to include the subject property in the development of a rail-served industrial park in the Irondale Neighborhood. The vacated property is proposed to be zoned Planned Unit Development (PUD) as part of case Z-943-17. The vacation will eliminate a rail crossing of public right-of-way in order to increase safety in the area.
Issues/Concerns:	• Compliance with the Comprehensive Plan • Rail spur
Key Approval Criteria:	• Compliance with the Comprehensive Plan • Compliance with the vacation approval criteria
Staff Recommendation:	Approval with Conditions
Current Zone District:	N/A
Comp Plan Designation:	General Industrial and Industrial/Distribution

Attachments for Review: *Checked if applicable to case.*

☒ Vacation Description

☒ Vicinity Map

Background Information

Site Information

Site Size:	0.30 acres
Current Conditions:	The site is developed as right-of-way but without curb, gutter and sidewalk.
Existing Right-of-Way:	Ulster Street, E. 84 th Avenue, and E. 83 rd Avenue
Neighborhood:	Irondale
Existing Buildings:	None
Buildings to Remain?	N/A
Site in Floodplain	☐ Yes ☒ No

Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
North	Public	Commerce City Municipal Services Building	Public
South	N/A	Vacant	I-1
East	Residential & Industrial	Single-Family homes located in Adams County and the Burlington Northern Santa Fe Railroad	ADCO & I-2
West	Residential & Industrial	Single-Family homes located in Adams County, Single-Family homes in Commerce City, and industrial users	ADCO, I-1, & I-2

Case History

There is no relevant case history related to the right-of-way.

Applicant's Request

The applicant states the street closure and vacation of a portion of Ulster Street is proposed to increase safety by eliminating rail crossings of the public road. A cul-de-sac will be constructed at the north end of the Ulster Street closure, which will continue to provide access for two residential parcels which are currently serviced by the road. Easements will be granted for any utilities located within the portion of Ulster Street being vacated. As proposed, a cul-de-sac will also be constructed approximately 900 feet west of Ulster Street within the 83rd Avenue alignment to provide access to Area C of the Intsel PUD and to continue to provide access to the property south of 83rd Avenue which is owned by Union Pacific Railroad. In conjunction with the future development of the Intsel PUD area, a portion of 84th Avenue from Ulster Street, west to the Syracuse Avenue alignment, will be improved, as currently under review and discussions with Commerce City Public Works.

With the street vacation proposed for Ulster Street, most circulation from and to the PUD area will be to East 88th Avenue from Ulster Street where circulation then connects to the metropolitan area highway network. Some access will occur along East Avenue to Rosemary Street. Final driveway connections are to be approved by the City Engineer. It is important to note that the installation of the rail will significantly reduce truck trips to the site as the majority of larger deliveries will be by rail rather than by truck, and smaller loads by truck will be out-going from the property. It is anticipated that railcar deliveries and the unloading of the railcars will occur approximately 1 or 2 times in a 24-hour period (1 in 1 out) or (2 in 2 out). Deliveries may also be restricted to 2 or 3 times per week. No cars will ever sit stationary blocking 84th Avenue, but will traverse across. The primary rail spur will be limited to one crossing at 84th Avenue. It is anticipated that rail cars will be dropped off onto rail spurs located on individual lots.

Development Review Team Analysis

Staff Review:

The applicant has requested that the existing right-of-way be vacated so that they may incorporate it into the development of the Mid-Rail Real Estate rail-served industrial park. The proposed PUD Zone Document in Case Z-943-17 intends to develop the subject property for General Industrial uses as identified in the Comprehensive Plan and they desire to run the rail spur to service the development across the subject property.

The applicant owns the property on both sides of Ulster Street in the area of the proposed vacation so the vacation will not directly impact any other parties. A cul-de-sac will be constructed at the north end of the Ulster Street closure which will continue to provide access for the two residential parcels that are currently serviced by the road. A cul-de-sac will also be constructed approximately 900 feet west of Ulster Street within the East 83rd Avenue alignment to provide access to Area C of the Intsel PUD and to continue to provide access to the property south of 83rd Avenue owned by Union Pacific Railroad.

The vacation of this portion of right-of-way will eliminate a rail crossing along a public road. The proposed rail spur off of the Burlington Northern Santa Fe Railroad will cross Ulster Street in this area in order to provide rail service to the proposed industrial park. By eliminating the right-of-way in this area, that crossing will be safer and remove any potential vehicle or pedestrian conflicts with the train.

Access to properties in the surrounding area can still be achieved through East 83rd Avenue, East 84th Avenue, the remaining portions of Ulster Street, Rosemary Street and Syracuse Street, when it is built out.

The applicant held a neighborhood meeting on August 15th to discuss the development project as well as the proposed vacation of right-of-way. Approximately a dozen people attended the meeting and majority expressed support for the vacation. The surrounding property owners stated the Ulster Street gets a great deal of "cut through traffic" during rush hour from individuals stuck in traffic on Rosemary who are traveling north. The vacation would eliminate this traffic issue, reducing the traffic in this area of the neighborhood which the surrounding property owners were in favor of.

Public services to the subject property and surrounding area will not be impacted by the vacation of the right-of-way. Any existing utilities will remain and will be located in a utility easement.

The applicant will provide a plat to incorporate the vacated right-of-way into a larger developable site once development is proposed for the adjacent property.

It should be noted that not all of Ulster Street in this area is dedicated as right-of-way. A portion of the right-of-way has been utilized as Ulster Street though never dedicated and is therefore considered prescriptive right-of-way. It is for that reason that Ulster Street is being vacated by ordinance instead of by plat which is typically how active right-of-way is vacated.

Outside Agency Review:

Staff referred this application to several departments in the city as well as outside agencies. All of the responses that were received indicated that the proposed vacation would not create conflicts with

their regulations or services. The South Adams County Water and Sanitation District as well as the other utility providers have no objection to the vacation. Any existing utilities will remain and will be located in a utility easement.

Summary:

In summary, the DRT has determined that the request meets the approval criteria for a vacation as outlined in the LDC as provided below, the proposal meets the Comprehensive Plan goals, the vacation will have no impact on public services, and the proposed rail spur crossing of the subject property will be safer if it is no longer used as right-of-way. After performing this analysis, the DRT is recommending that the Planning Commission forward a recommendation for **approval with conditions** to City Council.

Criteria Met?	Sec. 21-3233. Vacation of Right-of-Way	Rationale
☒	The vacation is consistent with the Comprehensive Plan and any other applicable city-approved plan;	The area to be vacated will be incorporated into the development of a rail-served industrial park as a General Industrial Use, as identified in the Comprehensive Plan.
☒	The land to be vacated is no longer necessary for the public use and convenience;	The subject property is not required for public use and by eliminating a rail crossing of a public road will increase safety.
☒	The vacation will not create an landlocked properties;	There will continue to be access from East 83 rd Avenue and East 84 th Avenue. The applicant is proposing to create cul-de-sacs to allow for access to adjacent properties.
☒	The vacation will not render access to any parcel unreasonable or economically prohibitive;	Access will not be made unreasonable or economically prohibitive as the existing access at E. 83 rd Avenue and E. 84 th Avenues will remain and be improved as part of the larger development.
☒	The vacation will not reduce the quality of public services to any parcel of land; and	There will be no change to the quality of public services to any parcel of land as a result of the vacation.
☒	A separate plat to replat the vacated area into a larger, usable piece of land has been submitted.	A separate plat will be submitted at a later date to include the vacated right-of-way with a larger redevelopment parcel.

Comprehensive Plan

The DRT recommendation for this case is supported by the following Comprehensive Plan Goals:

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use and Growth Strategies	LU 2A	<u>Infill Development:</u> Provide incentives for infill development and redevelopment (e.g., streamlined review process, rebated or reduced fees, or relaxed standards to allow for infill).
<u>Analysis:</u>	This vacation helps to facilitate the infill development of a rail-served industrial park. Without the vacation, the rail spur serving the industrial park would cross an additional roadway, increasing the safety issues in the area and potentially making the project unfeasible.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Safety and Wellness	SW 2a	<u>Pedestrian Improvements:</u> Pursue strategies to create a visually-appealing and safe pedestrian experience. Prioritize pedestrian improvement in areas that will have the greatest benefit (e.g. near schools or commercial areas).
<u>Analysis:</u>	The intent of the development of the rail-served industrial park is to minimize vehicle and especially pedestrian crossing of the new rail spur. Without this vacation there would be additional potential train/pedestrian encounters which reduce pedestrian safety and create an unpleasant pedestrian experience.	

The Comprehensive Plan supports the vacation of Ulster Street by encouraging infill development such as the proposed rail-served industrial park and prioritizing pedestrian safety. The vacation of Ulster Street eliminates a roadway crossing of the proposed rail spur and increases safety by not allowing additional vehicle and pedestrian interactions with the train.

Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a Vacation of Rights-of-way set forth in the Land Development Code and recommends that the Planning Commission forward the Vacation of Rights-of-way request to the City Council with a favorable recommendation, subject to the following condition(s):

CONDITIONS:

- A. The vacated right-of-way must be platted into the adjacent properties via an approved subdivision plat prior to a building permit being issued for a structure on the subject property.

Recommended Motion

To recommend approval subject to condition(s):

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Vacation of Rights-of-way for the property located at **Ulster Street between East 83rd Avenue and East 84th Avenue** contained in case **V-87-17** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Vacation of Rights-of-way subject to the following conditions:

- A. The vacated right-of-way must be platted into the adjacent properties via an approved subdivision plat prior to a building permit being issued for a structure Land Use and Growth Strategies on the subject property.

Alternative Motions

To recommend approval:

I move that the Planning Commission enter a finding that the requested Vacation of Rights-of-way for the property located at **Ulster Street between East 83rd Avenue and East 84th Avenue** contained in case **V-87-17** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Vacation of Rights-of-way.

To recommend denial:

I move that the Planning Commission enter a finding that the requested Vacation of Rights-of-way for the property located at **Ulster Street between East 83rd Avenue and East 84th Avenue** contained in case **V-87-17** fails to meet the following criteria of the Land Development Code:

List the criteria not met

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny the Vacation of Rights-of-way.

To continue the case:

I move that the Planning Commission continue the requested Vacation of Rights-of-way for the property located at Ulster Street between East 83rd Avenue and East 84th Avenue contained in case V-87-17 to a future Planning Commission agenda.