



# Vacation of Right-of-Way Report

## Case #V-91-23

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### **GENERAL INFORMATION**

*Planning Commission Date: October 3, 2023*

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|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PROJECT NAME</b>   | Vacation of East 83 <sup>rd</sup> Avenue                                                                                                             |
| <b>LOCATION</b>       | Generally located south of 8003 E. 83 <sup>rd</sup> Avenue, north of 8000 E. 83 <sup>rd</sup> Avenue, and west of a vacated portion of Ulster Street |
| <b>SITE SIZE</b>      | 1.11 Acres                                                                                                                                           |
| <b>CURRENT ZONING</b> | PUD (Planned Unit Development District) - Intsel Properties PUD                                                                                      |
| <b>APPLICANT</b>      | Mid-Rail Real Estate, LLC                                                                                                                            |
| <b>OWNER(S)</b>       | Mid-Rail Real Estate, LLC                                                                                                                            |
| <b>CASE PLANNER</b>   | Matt Kowalski                                                                                                                                        |

### **REQUEST**

Mid-Rail Real Estate, LLC is requesting to vacate a portion of East 83<sup>rd</sup> Avenue right-of-way in Irondale that is no longer used due to a 2017 vacation of a portion of adjoining Ulster Street.

### **BACKGROUND AND CASE HISTORY**

The portion of East 83<sup>rd</sup> Avenue proposed to be vacated has not been used for several years. This portion of East 83<sup>rd</sup> Avenue became effectively unusable when a rail spur was built in 2018, and the adjoining portion of Ulster Street was vacated via ordinance No. V-87-17 (recorded by Adams County on May 18, 2023).

### **ADDITIONAL INFORMATION**

There is a consolidation plat (S-698-18-23) currently under review for this site to replat the vacated land into usable land. The consolidation plat will dedicate East 84<sup>th</sup> Avenue as right-of-way for east-west access between Rosemary Street and Ulster Street in Irondale.

### **COMPREHENSIVE PLAN CONSISTENCY**

The proposed vacation of right-of-way is supported by Land Use and Growth Goal LU 2.1 of promoting infill development. By vacating an unused portion of right-of-way and platting it to usable land, the surrounding parcels will be more desirable for development.

Additionally, the proposed vacation of right-of-way is supported by the Capital Improvement Program Recommendations Map on page 63 of the Irondale Plan. This map depicts the portion

of East 83<sup>rd</sup> Avenue referenced in this case, as well as the already vacated portion of Ulster Street as “road to be closed.”

## **PROJECT ANALYSIS**

### **Site Overview**

The requested vacation of right-of-way is for an approximately 1.11 acre portion of East 83<sup>rd</sup> Avenue right-of-way in Irondale. The right-of-way proposed to be vacated is approximately 810 feet by 60 feet. The site is generally located south of 8003 E. 83<sup>rd</sup> Avenue, north of 8000 E. 83<sup>rd</sup> Avenue, and west of a vacated portion of Ulster Street, and is located between parcels belonging to Mid-Rail Real Estate, LLC to the north and parcels belonging to Union Pacific Railroad Company to the south. There is already a cul-de-sac with a “dead end” sign built at the west end of the area proposed to be vacated. The east end of the proposed vacation area that previously connected to Ulster Street no longer goes anywhere due to the vacation of that portion of Ulster Street and the construction of the rail spur.

At the end of this report, there is a “vacation plat” image showing the boundaries of the portion of East 83<sup>rd</sup> Avenue to be vacated.

### **Road Network Impacts**

According to the City’s Transportation Master Plan, East 83<sup>rd</sup> Avenue is considered a local roadway.

The parcels affected by the proposed vacation of right-of-way will still be able to be accessed from existing roadways (E. 83<sup>rd</sup> Ave. and E. 84<sup>th</sup> Ave.). East 84<sup>th</sup> Avenue is being dedicated as right-of-way by the related consolidation plat through this area.

### **Overall Analysis**

The proposed vacation of right-of-way has been reviewed by the Development Review Team, including: Planning, Public Works/Development Review Engineering, South Adams County Fire Department, GIS, Parks, Xcel Energy, South Adams County Water and Sanitation District, Building Safety, Economic Development, Comcast, Century Link, Union Pacific Railroad and the Police Department. There are no outstanding comments or concerns.

## **VACATION OF RIGHT-OF-WAY APPROVAL CRITERIA**

A decision for this case must be based on the following criteria from Sec. 21-3233 of the Land Development Code:

**Criteria (i): The vacation is consistent with the comprehensive plan and any other applicable city-approved plan;**

The proposed vacation of right-of-way is consistent with both the Comprehensive Plan and the Irondale Plan. The Irondale plan calls out this portion of right-of-way as “road to be closed” and this vacation request accomplishes that vision.

**Criteria (ii): The land to be vacated is no longer necessary for the public use and convenience;**

The land to be vacated is no longer necessary for public use due to the prior vacation of a portion of Ulster Street and the construction of the rail spur.

**Criteria (iii): The vacation will not create any landlocked properties;**

Properties to the south of the vacation request are owned by Union Pacific Railroad. Access to these parcels will remain sufficient as these parcels are under common ownership and will continue to have direct access to Rosemary Street via the unvacated portion of East 83<sup>rd</sup> Avenue. Properties to the north of the vacation request are owned by Mid-Rail Real Estate, LLC and will have direct access to East 84<sup>th</sup> Avenue.

**Criteria (iv): The vacation will not render access to any parcel unreasonable or economically prohibitive;**

The proposed vacation will not render access to any parcel unreasonable, as all parcels will continue to have direct access to either East 84<sup>th</sup> Avenue or the unvacated portion of East 83<sup>rd</sup> Avenue. Additionally, a 60-foot access easement is being granted by the vacation plat for the properties to the south of the area to be vacated.

**Criteria (v): The vacation will not reduce the quality of public services to any parcel of land; and;**

The quality of public services to any parcel of land are not expected to be impacted by the proposed vacation of right-of-way.

**Criteria (vi): A separate plat to replat the vacated area into a larger, usable piece of land has been submitted:**

A separate plat (S-698-18-23) is currently under review to include the vacated right-of-way with larger/more usable parcels.

**CONSIDERATIONS FOR DISCUSSION**

1. The requested vacation of right-of-way is consistent with the Comprehensive Plan and the Irondale Plan.
2. The portion of East 83<sup>rd</sup> Avenue proposed for vacation of right-of-way is no longer utilized and leads to nowhere.

**POTENTIAL MOTIONS**

1. Approval
  - a. Planning Commission
    - I move that the Planning Commission enter a finding that the requested **Vacation of Right-of-Way** contained in case **V-91-23** meets the criteria of the Land Development Code and based upon such finding, recommend that the City Council approve the **Vacation of Right-of-Way**.
  - b. City Council
    - I move that the City Council enter a finding that the requested **Vacation of Right-of-Way** contained in case **V-91-23** meets the criteria of the Land

Development Code and based upon such finding, approve the **Vacation of Right-of-Way**.

2. Approval with conditions

a. Planning Commission

- I move that the Planning Commission enter a finding that the requested **Vacation of Right-of-Way** contained in case **V-91-23** meets the criteria of the Land Development Code and based upon such finding, recommend that the City Council approve the **Vacation of Right-of-Way** with the following conditions:

b. City Council

- I move that the City Council enter a finding that the requested **Vacation of Right-of-Way** contained in case **V-91-23** meets the criteria of the Land Development Code and based upon such finding, approve the **Vacation of Right-of-Way** with the following conditions:

3. Denial

a. Planning Commission

- I move that the Planning Commission enter a finding that the requested **Vacation of Right-of-Way** contained in case **V-91-23** fails to meet the criteria of the Land Development Code and based upon such finding, recommend that the City Council deny the **Vacation of Right-of-Way**.

b. City Council

- I move that the City Council enter a finding that the requested **Vacation of Right-of-Way** contained in case **V-91-23** fails to meet the criteria of the Land Development Code and based upon such finding, deny the **Vacation of Right-of-Way**.

4. Continuance

a. Planning Commission

- I move that the Planning Commission continue the public hearing of the requested **Vacation of Right-of-Way** contained in case **V-91-23** to:
  1. The next regularly scheduled Planning Commission hearing; or
  2. A date certain.

b. City Council

- I move that the City Council continue the public hearing of the requested **Vacation of Right-of-Way** contained in case **V-91-23** to:
  1. The next regularly scheduled City Council hearing; or
  2. A date certain.

# Zoning Map



# Aerial Map



