



Vacation of Right-of-Way Report

Case #V-93-24

Planning Commission Date: June 4, 2024

City Council Date: August 5, 2024

GENERAL INFORMATION

PROJECT NAME	Tower Landfill
LOCATION	Generally located south of East 88 th Avenue, between the existing landfill parcel and the parcel to be annexed in AN-263-24
SITE SIZE	110 Acres
CURRENT ZONING	Adams County A-3 (Agriculture-3)
APPLICANT	Allied Waste Services, LLC
OWNER	DIBC HQTS, LLC
CASE PLANNER	Dalton Guerra

REQUEST

The request is to vacate a portion of Himalaya Street, approximately 3,286 feet in length, extending south from East 88th Avenue.

BACKGROUND AND CASE HISTORY

There are five related applications being reviewed for this site:

- Annexation (AN-263-24)
- Land Use Plan Amendment (LUP-058-24)
- Zoning (Z-705-99-00-09-24)
- Final Plat (S-840-24)
- PUD Permit (D-508-24)

Approval of the vacation is dependent on approval of the related annexation request (AN-263-24).

The existing landfill property is not under consideration for any of the land use applications being reviewed. All applications are related to the subject property located at the southwest corner of East 88th Avenue and E-470. However, the existing landfill will be directly impacted by the decisions made.

PROJECT ANALYSIS

Site Overview

The requested vacation of right-of-way is for approximately 3,286 feet extending south of East 88th Avenue. The right-of-way to be vacated is situated between the existing landfill within Commerce City and the property to be annexed which is currently within Adams County. As such, the vacation cannot be approved until the corresponding annexation request is approved. The subject property is proposing to have the main entrance to the landfill, office buildings, and other landfill operations on site.

This site is bordered by the existing landfill to the west which is not under consideration for this vacation request. East 88th Avenue is to the north while E-470 borders to the east. To the south is a vacant property that is within Adams County and owned by City and County of Denver. The nearest residential zoning is within the Legato subdivision 2,000 feet to the northwest of the subject property.

Road Network Impacts

According to the City's Roadway Classification Plan, Himalaya Street is considered a local roadway. Himalaya Street is an unimproved dirt road that is only used for access to the two private properties to the east. It does not connect to any other roads south of East 88th Avenue as it comes to a dead end at Second Creek. It does not provide access to the existing landfill.

Overall Analysis

The proposed vacation of right-of-way has been reviewed by the Development Review Team (DRT) including Planning, Public Works, Engineering, Economic Development, Environmental, South Adams County Fire District, and South Adams County Water and Sanitation District. The DRT has reviewed the proposal against all relevant City standards and Land Development Code (LDC) requirements.

There are concerns regarding access to the property directly south of the property to be annexed. This vacant parcel is owned by the City and County of Denver but is within Adams County jurisdiction. Denver sent a letter to the City stating that they are supportive of the request, contingent upon Denver and Republic Services reaching a final agreement regarding an alternative access to their parcel. Said agreement needs to be produced and provided to the City prior to approval of the Vacation of Right-of-Way. If Republic Services and Denver cannot come to an agreement by the time this vacation is approved, an access easement will need to be put in place on the property to be annexed in order to provide legal access to the southern Denver property.

VACATION OF RIGHT-OF-WAY APPROVAL CRITERIA

A decision for this case must be based on the following criteria from Sec. 21-2110(3) of the Land Development Code. An application may be approved when the proposed amendment:

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 the Comprehensive Plan.

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

The land to be vacated is only used for access to two private parcels and does not connect to any other road network. The southernmost portion of Himalaya Street dead-ends at Second Creek.

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

The vacation will not create a landlocked property so long as alternative access is provided to the Denver property to the south or an access easement is provided by Republic Services on the property to be annexed.

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

The vacation will not render access to any parcel unreasonable so long as alternative access is provided to the Denver property to the south or an access easement is provided by Republic Services on the property to be annexed.

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

The quality of public services is not expected to be impacted by this vacation as both properties in Commerce City will have direct access from East 88th Avenue. The Denver property to the south is currently vacant and will have a form of legal access.

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

There is a corresponding Final Plat (S-840-24) currently under review to include the vacated right-of-way with larger, usable parcels.

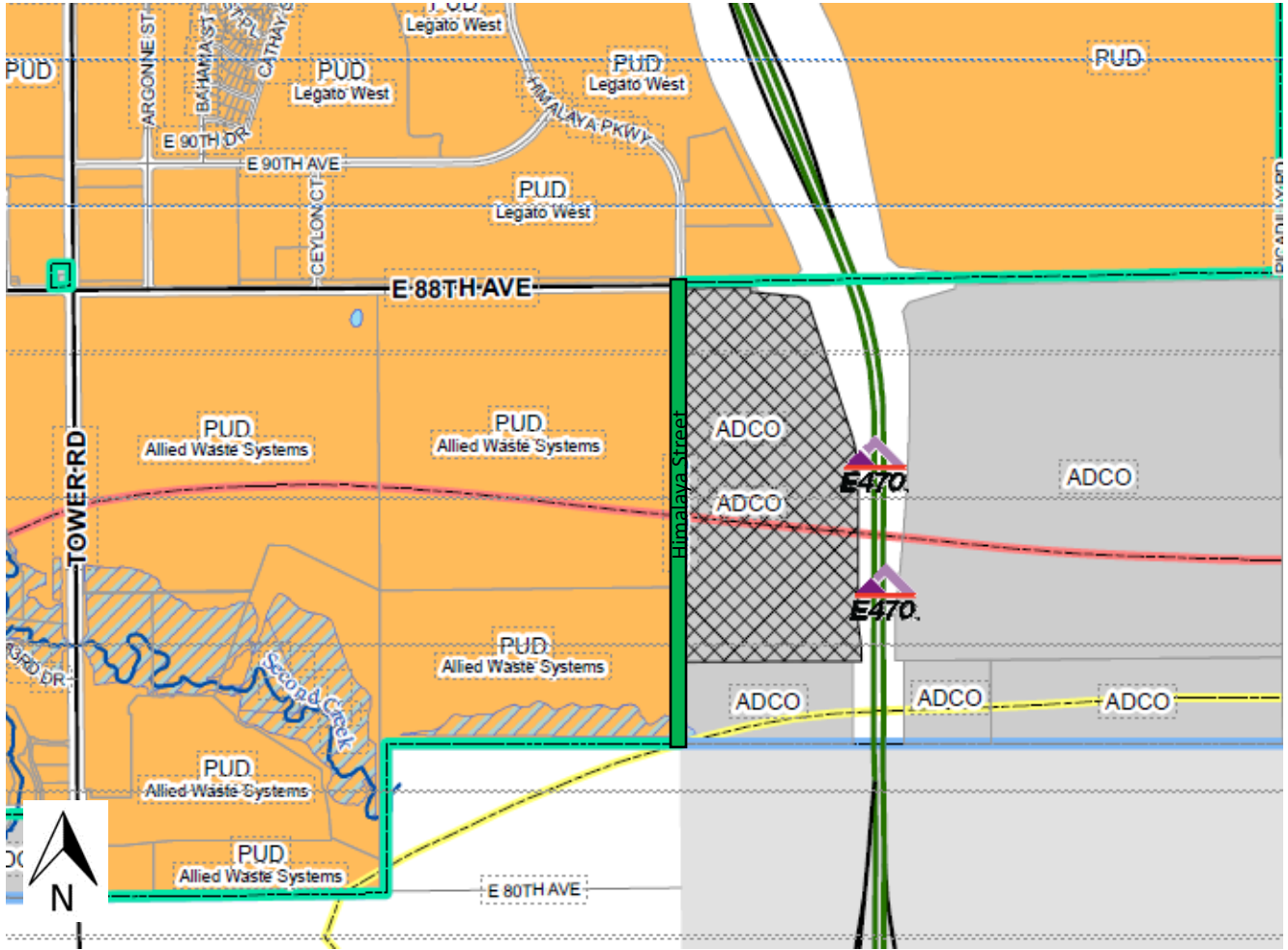
CONSIDERATIONS FOR REQUESTED VACATION OF RIGHT-OF-WAY

1. Himalaya Street is an unimproved local road
2. The Denver property to the south is only accessed via Himalaya Street
3. The property to be annexed will have access directly from East 88th Avenue

POTENTIAL MOTIONS

1. Approval
 - a. Planning Commission
 - i. I move that the Planning Commission enter a finding that the requested **Vacation of Right-of-Way** for the **portion of Himalaya Street, approximately 3,286 feet in length, extending south from East 88th Avenue** contained in case **V-93-24** 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. I move that the City Council enter a finding that the requested **Vacation of Right-of-Way** for the **portion of Himalaya Street, approximately 3,286 feet in length, extending south from East 88th Avenue** contained in case **V-93-24** meets the criteria of the Land Development Code and based upon such finding, approve the **Vacation of Right-of-Way**.
2. Denial
 - a. Planning Commission
 - i. I move that the Planning Commission enter a finding that the requested **Vacation of Right-of-Way** for the **portion of Himalaya Street, approximately 3,286 feet in length, extending south from East 88th Avenue** contained in case **V-93-24** 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. I move that the City Council enter a finding that the requested **Vacation of Right-of-Way** for the **portion of Himalaya Street, approximately 3,286 feet in length, extending south from East 88th Avenue** contained in case **V-93-24** fails to meet the criteria of the Land Development Code and based upon such finding, deny the **Vacation of Right-of-Way**.
3. Continuance
 - a. Planning Commission
 - i. I move that the Planning Commission continue the public hearing of the requested **Vacation of Right-of-Way** for the **portion of Himalaya Street, approximately 3,286 feet in length, extending south from East 88th Avenue** contained in case **V-93-24** to:
 1. The next regularly scheduled Planning Commission hearing; or
 2. A date certain.
 - b. City Council
 - i. I move that the City Council continue the public hearing of the requested **Vacation of Right-of-Way** for the **portion of Himalaya Street, approximately 3,286 feet in length, extending south from East 88th Avenue** contained in case **V-93-24** to:
 1. The next regularly scheduled City Council hearing; or
 2. A date certain.

Zoning Map



Aerial Map

