

CITY OF GRAND JUNCTION, COLORADO

Ordinance No. 3179

VACATING THE EAST-WEST ALLEY LOCATED BETWEEN 2ND AND 3RD
STREETS, BETWEEN MAIN STREET AND COLORADO AVENUE

Recitals:

This ordinance vacates the east-west alley located between 2nd and 3rd Streets, between Main Street and Colorado Avenue. The petitioner desires the vacation in order to allow construction of a hotel on the site. Site planning and construction design have not been completed but in order to facilitate the construction planning, vacation of the alley is requested. The east-west alley contains several utilities that must be removed, replaced, and some to remain in an easement to be provided prior to this vacation becoming effective. As well, there are other properties; principally those located on 3rd Street that access the east-west alley. The petitioner and city staff have agreed that the vacation ordinance is and shall be contingent on the relocation of the utilities, a utility easement being granted for utilities that remain and a suitable reciprocal cross access agreement being negotiated, if deemed necessary, by owners of the to be benefited and/or burdened properties.

Therefore, if within one year from the passage of this ordinance (the Effective Date) the utilities that are to be relocated are not relocated, the utility easement is not provided for the remaining utilities and the access has not been resolved to the satisfaction of all adjoining, benefiting and/or burdened property owners this ordinance shall not be effective. The City Engineer and the Director of Community Development or his designee shall confirm in writing the relocation of the utilities, the granting of the necessary utility easement and the conveyance of private access, if at all. These confirmatory writings shall be recorded in the land records of the Mesa County.

The City shall be a beneficiary of any and all easements granted or conveyed for the purpose of emergency, utility and vehicular ingress and egress from the petitioners property and the property located on Lots 14 through 25, Block 120, City of Grand Junction Sec 14, 1S, 1W, the physical addresses for which are 248 Colorado Avenue; 123 S. 3rd Street and 101 S. 3rd Street. The access and utility easements shall be no less than 20 feet wide and shall be as otherwise specified or required by the City.

The Planning Commission heard the request on May 18, 1999 and found that the vacation criteria of the Zoning and Development Code have been met. The Planning Commission recommended approval of the vacation.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

1. The following described right-of-way is hereby vacated:

2. The Recitals stated above are incorporated herein as if fully set forth.
3. The vacation as described shall be burdened by and subject to, the reservation of a public access and utilities easement in favor of the City, for the benefit of the public. The form of the easement shall provide for use of the easement by the City or any other public utility, for the installation, operation, maintenance, relocation and repair of existing and/or future utilities, together with the right of ingress and egress for workers and equipment, on, along, over, under, through and across the required or necessary area of the vacated alley right-of-way. The easement shall be recorded in the Mesa County land records, if at all, before the Effective Date.
4. The vacation as described shall be burdened by and subject to private reciprocal cross access easements in favor of the property owners adjoining the to be vacated alley. The parties may agree that no such access is or shall be required. For purposes of the Effective Date only, the form of such agreement shall be approved by the City and shall for the purposes of this ordinance be referred to as the "No Access Agreement."
5. The form of the easements, if any, shall be negotiated by and between the private parties. For purposes of the Effective Date only, the form of such easement shall be approved by the City. If private reciprocal cross access easements are created, the easements shall minimally provide for the right of ingress and egress along, over, through and across the required or necessary area of the vacated alley right-of-way agreed upon by the benefited and/or burdened parties.
6. The easement or the No Access Agreement shall be recorded in the Mesa County land records, if at all, before the Effective Date.
7. The present and future owners of the real property to which the hereinabove vacated right-of-way shall revert and become attached shall not burden or overburden the granted, reserved and retained easement by erecting or placing any improvements or structures thereon which might act to damage the functional use and/or integrity of existing and/or future access and/or utilities situated therein or which might act to prevent reasonable ingress and egress for workers and equipment on, along, over, under through and across said reserved and retained easement.
8. This ordinance shall become effective, if at all, not more than one year from the date of passage, by an affirmative vote of a majority of the City Council considering the ordinance. A protest against the ordinance, if any shall occur, shall be filed within 30 days of the date of passage of the ordinance by the Council as provided in City Charter Article XVI, Paragraph 136.

INTRODUCED for FIRST READING and PUBLICATION this 19th day of May 1999.

PASSED on SECOND READING this 18th day of August, 1999.

ATTEST:

/s/ Stephanie Nye
City Clerk

/s/ Gene Kinsey
President of City Council