

ORDINANCE 2022-14

AN ORDINANCE OF THE CITY OF FRUITA, COLORADO, VACATING CERTAIN STREET RIGHT-OF-WAY ALONG WEST PABOR WAY LOCATED WITHIN THE CITY OF FRUITA.

WHEREAS, 507 W Aspen LLC (the “Owner”) is the owner of that certain property known as 535 West Aspen Avenue (the “Property”).

WHEREAS, that certain public street, as further described in Exhibit A attached hereto (the “Right-of-Way”), adjacent to the Property was dedicated to the City; and

WHEREAS, Owner has requested the City vacate the Right-of-Way, which Right-of-Way is not used or developed by the City as a public street; and

WHEREAS, Section 31-15-702 (1) (a) (I), C.R.S, and Section 43-2-303(1)(a), C.R.S., permit the City of Fruita 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 facts; and

WHEREAS, pursuant to Section 43-2-303(3), C.R.S., in the event of a vacation, the City may reserve a multi-purpose easement for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, for ditches or canals and appurtenances, and for electric, telephone, and similar lines and appurtenances; and

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

WHEREAS, the Fruita Planning Commission recommended approval of the proposed right-of-way vacation at their April 12, 2022, public hearing; and

NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO, THAT:

Section 1. That the real property described in Exhibit A, which constitutes a portion of a public right-of-way dedication to the City of Fruita, situate in the County of Mesa, State of Colorado, be, and the same hereby is, vacated as public right-of-way and this vacated right-of-way shall merge with the adjacent property as provided by §42-3-302, C.R.S.; provided, however, there is hereby reserved by the City a non-exclusive 14-foot easement in, over, under and across the real property vacated, including the perpetual right to enter upon said property at a time that it may see fit, and to construct City-owned infrastructure systems in, over, under and across the real property vacated and to repair, replace, relocate, inspect, operate, and maintain said systems (the “Reserved Utility Easement”). As such, no permanent structures shall be placed on the Reserved Utility Easement and Owner shall be required to remove any temporary structures or fencing in the event the City needs to enter upon and work in the Reserved Utility Easement.

Section 2. The right-of-way vacation provided for herein shall not become effective until this Ordinance is recorded with the Office of the Clerk and Recorder of Mesa County by the City.

Section 3. Upon adoption of this Ordinance, the City Clerk shall, within thirty (30) days, file for record in the Office of the Mesa County Clerk and Recorder a certified copy of the written Ordinance.

Section 4. 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 the ordinances or resolutions adopting this document.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL

THIS 3RD DAY OF MAY 2022.

ATTEST:

CITY OF FRUITA

City Clerk

Joel Kincaid, Mayor

OWNER:

507 W ASPEN LLC

By: _____

Name: _____

Its: _____