

Fremont County

APR 06 2021

Planning & Zoning



Beau Cochran, Contract Agent
6879 North Star Court
Castle Rock, Colorado 80
Cell 720 934 3168
Beaucochran@outlook.com

April 2, 2021

Mr. Sean Garrett, Planning Director
Fremont County Department of Planning and Zoning
615 Macon Avenue, Room 210
Canon City, Colorado 81212
719 276 7360

Via email to planning@fremontco.com
And via [fed ex](#) Tracking #8139 41385839

Vacation of Public Right-of-Way Application

Black Hills proposed **North Penrose** Substation, 19 K Street, Penrose, CO
Assessor's parcel number 38252 80002002

Dear Mr. Garrett.

Enclosed, please find:

1. Application for vacation of public right-of-way and four attached exhibits.
2. North Penrose Vacation Plat.

The payment for this application was included on the original submittal August 15, 2020.

Please call/write with questions.

Thank you for your help!

Very truly yours,
Black Hills Energy



Beau Cochran, Contract Agent
C2 Consulting

Attachments: Vacation of Public Right-of-Way Application

VPR-5.1

VPR-20

VPR-22.1

VPR-24.1

North Penrose Vacation Plat

APR 06 2021

Planning & Zoning



FREMONT COUNTY
VACATION OF RECORDED PUBLIC
RIGHT-OF-WAY (ROW) APPLICATION

- 1. Project Name: Black Hills Energy North Penrose Substation
- 2. Applicant: Black Hills Electric, LLC dba Black Hills Energy Address: 105 S. Victoria Avenue
City: Pueblo State: Colorado Zip Code: 81003
Telephone #: Seth Boutillier, SR. PM, (719) 564-6448 Facsimile #:
- 3. Consultant: C2 Consulting Address: 6879 North Star Court
City: Castle Rock State: Colorado Zip Code: 80108
Telephone #: (720) 934-3168 Facsimile #:

Please read prior to completion of this application

No Vacation of Recorded Public ROW (VPR) Application which has been denied by the Fremont County Board of County Commissioners (Board) within the past two (2) years can be resubmitted unless there is valid new evidence or a substantial change in circumstances of the original application.

As with all land use applications, payment of associated fees does not insure approval of the application.

Any application which is not complete or does not include all minimum submittal requirements will not be accepted by the Fremont County Department of Planning and Zoning (Department). Further, any application that is inadequately prepared, or is incomplete, may be subject to postponement (*until an adequate submittal is provided*) of placement on an agenda of the Fremont County Planning Commission (Commission).

The applicant shall provide **one (1) original document, five (5) copies, and an electronic copy (either CD or flash/thumb drive)** of the application and all of its attachments (*copies of deeds, contracts, leases etcetera are acceptable*) at the time of application submittal along with the application fee, set as per Resolution of the Board. Submittals shall be made to the Department no later than 3:00 pm on the submittal deadline date.

After an adequate submittal, the Department will review the application and all attachments and prepare a Department Submittal Deficiency and Comment Letter (D & C Letter), which will state the submittal deficiencies which must be addressed by the applicant, Department comments and / or questions about the application and the number of revised application packets that must be supplied to the Department in order to place the application on an agenda of the Commission.

Attachments can be made to this application to provide expanded narrative for any application item including supportive documentation or evidence for provided application item answers. Please indicate at the application item that there is an attachment and label it as an exhibit with the application item number, a period and the number of the attachment for that item (*as an example, the first attached document providing evidence in support of the answer given at application item number 12 would be marked - Exhibit VPR-12.1, the fifth attached document supporting the narrative provided for application item 12 would be marked - Exhibit VPR-12.5*). Exhibit numbers should be placed in the lower right hand area of the exhibit.

An additional full application fee will be charged to the applicant, as per Resolution approved by the Board, if all deficiencies as per the initial D & C Letter are not adequately addressed or provided. Each subsequent D & C Letter, based on resubmitted items, will result in another full application fee. All such fees shall be paid along with the deficiency submittal, prior to any further review of the application.

If the application is approved by the Board with contingencies, the contingencies shall be provided to the Department within six (6) months of the approval date. If not, the approval shall be deemed rescinded and the application expired. Re-submittal of the entire application, including fees, and procedural requirements, including public meetings and notices would be required.

The Department, The Commission and / or The Board may require additional information at any time during the application process as may be deemed necessary in order to review the application adequately, to determine if the application is in compliance with all applicable regulations and make an informed decision with regard to recommendations, approval or disapproval of the application.

Note: If the application for vacation is approved, current regulations require a boundary or lot line adjustment, and the deed(s) of record for the lot(s) or parcel(s) shall include the vacated ROW.

For specific regulatory requirements the applicant should refer to the appropriate sections of the Fremont County Zoning Resolution (FCZR) and the Fremont County Subdivision Regulations. In addition, consideration shall be given to the Fremont County Master Plan, in the review of VPR applications.

For further reference the Fremont County Zoning Resolution (FCZR) may be viewed on the Internet at <http://www.fremontco.com/planningandzoning/zoningresolution.pdf> and the Fremont County Subdivision Regulations may be viewed on the Internet at <http://www.fremontco.com/planningandzoning/forms/subdivisionregulations.pdf> and the Fremont County Master Plan may be viewed on the Internet at <http://www.fremontco.com/planningandzoning/forms/masterplan.pdf>

4. Provide a detailed statement describing the reasons for the proposed vacation of recorded public ROW. Discuss why the public will not be adversely affected by the proposed vacation. The more information provided, the easier it will be for the Department, Commission, Board and Public to understand and review the request.

Black Hills Energy will be vacating the twenty five foot (25') public right-of-way that was dedicated by plat No. 1 the Beaver Park Subdivision dated November, 2nd 1907. The road way runs through the middle of the property where we are building the North Penrose substation. With the current ownership there is no plan to develop this road. There are 3 road segments as shown on the attached plat, only the segment off K St. intersects public right of way. The other 2 segments are at the edge of the original plat and are not a part of any road system, and even if developed would not provide access to adjoining parcels and beyond because controlled access to SH 115 right of way cuts them off and maroons them from other county roadways.

5. What is the description of the ROW to be vacated? Provide ROW name, width, length from one known point to a second known point. A twenty five foot street dedication by plat No. 1 of The Beaver Park Subdivision dated November, 2nd 1907. The road dedication is a total length of 1,331 feet and runs from the South West edge of tract 4 to the point where it intersects K Street, in three separate segments.

If the description is long, an attachment can be made marked as Exhibit VPR-5.1. An exhibit has been attached.

6. What is the general location of the ROW to be vacated? The Northern twenty five feet (25') and the Westerly Twenty-five feet of Lots 3 and 4 of Plat No. 1 of The Beaver Park Subdivision, less the bisecting SH 115 right of way.

7. Does the ROW provide access to Federal or State land (*BLM, DOW, etc.*)? Yes --- No If **yes**, please explain.

8. Will the vacation of this ROW land-lock any parcel? Yes --- No If yes, please explain. _____

9. Is the ROW improved? Yes --- No If yes, please explain. _____

10. Is the ROW maintained by the County? Yes --- No

11. Does the ROW contain utility improvements? Yes --- No If yes, please list the improvements. _____

12. Does the ROW provide access to a State or Federal ROW? Yes --- No If yes, please list the State or Federal ROW(s). _____

13. A copy of the recorded document which dedicates the ROW to the public or to Fremont County shall accompany this application marked as Exhibit VPR-13.1. An exhibit has been attached.

14. What is the total acreage of the ROW to be vacated? Segment 1- .453 acres Segment 2- .210 acres and Segment 3- .115 acres for a total of .778 Acres

15. What is the current zoning of the lots adjoining the ROW to be vacated? _____ AR

16. Is the ROW located within the Urban Growth Boundaries or other areas of influence of any municipality? Yes --- No If yes, please identify the municipality and area(s) of influence. _____

If yes, does the proposed vacation meet the requirements of the municipality influence area, Urban Growth Boundary policies and Master Plan document? Yes --- No Please explain _____

17. Does the ROW lie within three (3) miles of any municipal boundary line and / or a county boundary line? Yes --- No If yes, please identify the entity(s). _____

If yes, does the proposed vacation meet the requirements of the Three Mile Transportation Plan of the municipality? Yes --- No Please explain _____

18. The **purpose** of the Fremont County Zoning Resolution is to promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Fremont County, including lessening the congestion of the streets or roads, or reducing the waste of excessive amounts of roads; and protecting both urban and non-urban development. Please provide a statement explaining how the proposed vacation complies with this purpose. _____

Black Hills has a permit to construct an electric Substation on the southerly parcel. Black Hills owns the northerly parcel as well and has been directed by Fremont County Planning and Zoning to vacate the platted roadways around the southerly

parcel. (Tracts 3 and 4, Beaver Park). In addition, vacation of these roads furthers the purpose of the Fremont County Zoning Resolution by consolidating remnant roads into one parcel, simplifying administrative reducing unneeded road segments that are otherwise landlocked or, in the case of the largest road segment that intersects K Street, is replaced by an internal road that will provide emergency access to the parcel as approved by the Florence Fire Department. Good housekeeping: needed access for emergency response remains; platted but never developed roads to nowhere are eliminated.

19. **Fremont County Master Plan Approval Criteria:** The proposed vacation should comply with the “Goals, Objectives and Implementation Strategies”, in general, of the Transportation Category in Chapter Four of the Fremont County Master Plan. The applicant is familiar with said document and feels that the proposed vacation is in compliance with the document. Yes --- No Please explain. Specifically address Objective A8 which states “The County will not encourage vacating of existing roadways, especially if this action would inhibit public access.” This road was dedicated in 1907 and has never been developed.

20. **MASTER PLAN - PLANNING DISTRICTS** - The Fremont County Master Plan divides the County into six distinctive planning districts, with objectives and strategies for each planning district that will be used in review of VPR applications as a portion of the justification that the proposed project would meet the intent of the Master Plan. An attachment, marked as Exhibit VPR-20.1, that addresses how the proposed VPR will meet the objectives and strategies of the Planning District in which the subject property is located shall be provided. Specifically address the requirement that the proposed vacation will not place a burden on the existing transportation system or impact future development.

In which Planning District is the proposed project site located?

- District One - The Urban Growth District District Two - The Penrose/Beaver Park District
 District Three - The Mountain District District Four - The Royal Gorge Impact District
 District Five - The Arkansas Valley District District Six - The Plains District
 An exhibit has been attached.

21. Six (6) full size and six (6) reduced (8½”x11” or 11”x17”) copies of a site plan drawing, drawn to professional standards, to include, at a minimum, the following (*the Department, Commission or*

Board can require additional information) (More than one sheet may be used if it is easier to express the required information, provided they are adequately labeled for identification):

- a. Drawing size: twenty-four (24) inches by thirty-six (36) inches or eighteen (18) inches by twenty-four (24) inches;
- b. Drawing scale, unless a different scale is approved by the Department prior to submittal: minimum scale of 1"=100';
- c. In the case of multiple sheets, a key map showing the relationship of the individual sheets shall be provided on each sheet;
- d. Appropriate title (A VACATION OF *[name of right-of-way and / or description]*);
- e. The drawing subtitle shall include specific references to the original plat, location of the vacation and the extent of the vacation.
- f. A note table with each note being individually labeled.
- g. A legend table with each symbol and line pattern being identified.
- h. Complete legal description and acreage of ROW to be vacated;
- i. Written and graphic scale;
- j. North Point;
- k. Public ROW to be vacated shall be illustrated by cross hatching or other method approved by the Department. In addition, the ROW to be vacated should be noted on the drawing.
- l. The ROW to be vacated shall include all dimensions, etcetera;
- m. All lots, parcels, or tracts adjoining the ROW to be vacated, along with the zoning classification for each;
- n. A vicinity map to locate the proposed vacation in relation to surrounding areas, streets, etc.;
- o. The drawing shall indicate by statement or note how title to the vacated right-of-way will be vested upon vacation.
- p. Date of preparation and dates of revision, if necessary.

22. At least fourteen (14) days prior to the Commission meeting, the Applicant or his representative shall be responsible for mailing notice of the meeting dates of the Commission and Board (*see FCSSR XV.G.1*) to all adjoining property owners, by certified mail, postage prepaid, return receipt requested to the Department, on a form provided by the Department. The notice shall state that the property owner(s) may appear in person or by a designated representative, or if unable to attend, may submit a written statement expressing their comments on the submission. In addition, a vicinity map locating the ROW to be vacated shall be enclosed with the letter to adjoining property owners. A list of names, mailing addresses, and Assessor's Parcel Numbers for all adjoining property owners shall be attached to this application and marked as Exhibit VPR-22.1. An exhibit has been attached.

23. At least fourteen (14) days prior to the Commission meeting, the proposed vacation shall be posted. The sign shall be not less than three (3) feet by three (3) feet in size with letter size being no smaller than two (2) inches in height. The notice shall be legible and on durable material and shall be waterproof. The sign shall state the following: The date and place of the Commission meeting and the Board meeting, the type of hearing to be held, the public authority (Planning Commission and Board of County Commissioners) considering the vacation and the location and telephone number of the Department where additional information can be obtained. The notice shall be posted continuously for

at least fourteen (14) days prior to the Commission meeting. If sign is destroyed, non-readable etc., re-posting will be required. The sign shall be posted in plain sight, no further than fifteen (15) feet from the public right-of-way providing access to the property, and on the subject property. The sign shall be readable from the public right-of-way. The Department shall be notified when the posting is completed.

24. In accordance with the Fremont County Subdivision Regulations (XVI.H.2.) proof shall be provided (*certified mail with return receipt*) that all individuals and entities having any rights of record easements and all applicable utility companies were notified of this application. The notification shall include a form letter provided by the Department and a copy of the proposed plat provided by the applicant. The person(s) and / or entity(s) receiving such notice shall have ten days from the date of receipt to respond in writing to the Department with any comments regarding the proposed vacation. Please provide a copy of the certified mail receipts and letter mailed to each entity and mark as Exhibit VPR 24.1. An exhibit has been attached.

There are no record easements in the roads that are subject of this application.

Water source _____	Mail date _____	Received date _____
Sanitation source _____	Mail date _____	Received date _____
Electric source _____	Mail date _____	Received date _____
Natural gas source _____	Mail date _____	Received date _____
Telephone source _____	Mail date _____	Received date _____
Cable Television source _____	Mail date _____	Received date _____
Irrigation source _____	Mail date _____	Received date _____
Right of easement _____	Mail date _____	Received date _____
Other required notice _____	Mail date _____	Received date _____

25. A submittal fee of \$ 1,200 is attached to this application (Check # _____ cash)

By signing this Application, the Applicant, or the agent/representative acting with due authorization on behalf of the Applicant, hereby certifies that all information contained in the application and any attachments to the Application, is true and correct to the best of Applicant's knowledge and belief.

Fremont County hereby advises Applicant that if the application for vacation is approved, current regulations require a boundary or lot line adjustment, and the deed(s) of record for the lot(s) or parcel(s) shall include the vacated ROW.

Fremont County hereby advises Applicant that if any material information contained herein is determined to be misleading, inaccurate or false, the Board of Commissioners may take any and all reasonable and appropriate steps to declare actions of the Board regarding the Application to be null and void.

Black Hills Energy



033121

Property Owner Printed Name _____

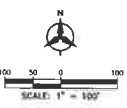
Signature _____

Date _____

Seth Boutillier,
Senior Project Manager

**A VACATION OF
25 FOOT ROAD
NORTHERLY OF TRACT 3 and TRACT 4
PLAT NO. 1 OF THE BEAVER PARK SUBDIVISION
TOWNSHIP 18 SOUTH, RANGE 68 WEST
6TH PRINCIPAL MERIDIAN
FREMONT COUNTY, COLORADO**

JULY, 2020



- NOTES:**
- BASIS OF BEARINGS:**
Southeast corner of said Southeast one-quarter of Section 21 and the Southeast corner of said Section 21, Township 18 South, Range 68 West, of the 6th Principal Meridian, Fremont County, Colorado bears N 89°48'00" E (as monumented as shown hereon).
 - UNIT OF MEASUREMENT:**
The unit of measurement used in this survey is U.S. Survey Feet.
 - STATEMENT OF LIMITATIONS:**
Notice: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect, in no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.
 - DATE OF SURVEY:**
The field work for this survey was completed on December 11, 2017.
 - IRRIGATION & ROW:**
No evidence of irrigation ditches or laterals was observed in the field. Evidence of a 25-foot ROW being water thru planted as observed and no documentation was provided to support additional ROW dedication.
 - RIGHT-OF-WAY ACCESS:**
Limitations on access to State Highway 115 at 241 to 246 to the monument recorded March 20, 1967 in Book 481, Page 451 and 460.

LEGEND	
	FOUND ALUMINUM CAP AS NOTED
	FOUND BRASS CAP AS NOTED
	FOUND CONCRETE MONUMENT AS NOTED
	FOUND CAPPER REBAR AS NOTED
	FOUND REBAR AS NOTED
	FOUND NAIL AND WASHER AS NOTED
	EXISTING HIGHWAY SERVICE FENCE
	CROSS HATCHED ARE DESIGNATES EXISTING RIGHT-OF-WAY SERVING AS EVIDENCE OF THE FILED PLAT

SURVEYOR'S CERTIFICATION

I, **David D. Nelson**, a Licensed Professional Land Surveyor for the State of Colorado do hereby certify that the survey (as defined in C.R.S. 2020(20)) C.R.S. 18 and the resulting plat were made under my personal charge and in accordance with applicable standards of practice and that the measurements shown hereon are truly and correct and that the plat and the resulting plat were accurately prepared and drawn by the best of my knowledge, information and belief. This statement is a guarantee and neither, either, or any part thereof, shall be construed to be a warranty.

David D. Nelson
 LICENSED PROFESSIONAL LAND SURVEYOR
 STATE OF COLORADO
 LICENSE NO. 53300
 EXPIRES 12/31/2025

Bohannon & Huston
Meridian One 6765 Mercon Circle, Suite 140
Englewood, CO 80112 (303) 799-5103



VACATION DESCRIPTION

That 25 foot dedicated roadway (northerly of Tract 3 and Tract 4 and lying westerly of said Tract 2) is hereby vacated as shown on this plat.

COMMENTING at said Northeast corner of the Northeast one-quarter of Section 28, whence the Northeast corner of said Section 28 bears N 89°48'03" E a distance of 2679.06 feet.

THENCE N 67°40'03" E along the northerly line of said Northeast one-quarter of the Northeast one-quarter of Section 28 a distance of 132.89 feet to the southerly right-of-way line of said Colorado State Highway 115 as described in Book 303, Page 238 and the POINT OF BEGINNING.

THENCE N 89°48'03" E along said northerly line of the Northeast one-quarter of the Northeast one-quarter of Section 28 a distance of 175.54 feet.

THENCE S 67°13'55" W along the northerly line of said northerly line of said northerly line of the Northeast one-quarter of the Northeast one-quarter of Section 28 a distance of 254.60 feet to the northerly line of said Tract 3.

THENCE S 89°48'03" E along the northerly line of said Tract 3 and Tract 4 a distance of 601.99 feet to said southerly right-of-way line of Colorado State Highway 115.

THENCE N 48°19'25" E along said southerly right-of-way line of Colorado State Highway 115 a distance of 353.53 feet to the POINT OF BEGINNING.

The above described parcel contains a 0.453 acres (19,719 sq ft).

Also:

BEGINNING at said Northeast corner of the Northeast one-quarter of Section 28, whence the Northeast corner of said Section 28 bears N 89°48'03" E a distance of 2679.06 feet.

THENCE N 89°48'03" E along the northerly line of said Northeast one-quarter of the Northeast one-quarter of Section 28 a distance of 217.00 feet to the northerly right-of-way line of said Colorado State Highway 115 as described in Book 303, Page 238.

THENCE S 47°02'11" W along said northerly right-of-way line of Colorado State Highway 115 a distance of 353.53 feet to the northerly line of said Tract 4.

THENCE S 89°48'02" W along said northerly line of Tract 4 and the prolongation thereof a distance of 184.68 feet.

THENCE S 00°21'33" E along a line bearing five (5) feet (east) and parallel with the westerly line of said Northeast one-quarter of the Northeast one-quarter of Section 28 a distance of 112.64 feet to said northerly right-of-way line of Colorado State Highway 115.

The above described parcel contains a 0.210 acres (9,157 sq ft).

Also:

COMMENTING at said Northeast corner of the Northeast one-quarter of the Northeast one-quarter of said Section 28, whence the Northeast corner of Sections 28 bears N 89°48'03" E a distance of 2679.06 feet.

THENCE S 00°21'33" E along said westerly line of the Northeast one-quarter of the Northeast one-quarter of Section 28 a distance of 476.51 feet to said southerly right-of-way line of Colorado State Highway 115 and the POINT OF BEGINNING.

THENCE N 04°12'12" E along said southerly right-of-way line of Colorado State Highway 115 a distance of 353.97 feet.

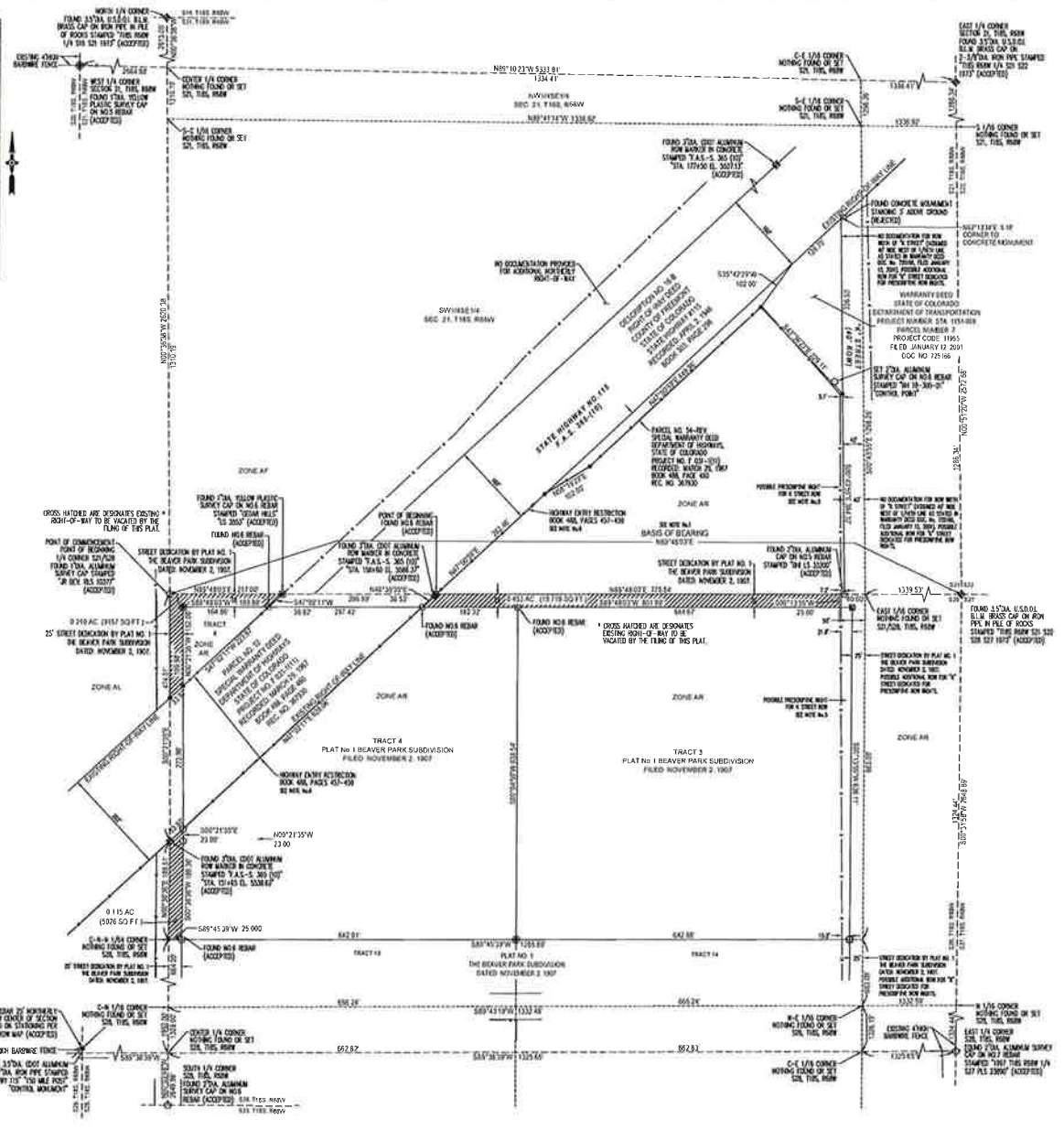
THENCE S 00°21'33" E along a line bearing five (5) feet (east) and parallel with said westerly line of the Northeast one-quarter of the Northeast one-quarter of Section 28 a distance of 223.00 feet.

THENCE S 00°21'33" E along said line being bearing five (5) feet (east) and parallel with the westerly line of the Northeast one-quarter of the Northeast one-quarter of Section 28 a distance of 189.28 feet.

THENCE S 89°48'03" W along the southerly line of said Northwest one-quarter of the Northeast one-quarter of Section 28 a distance of 189.51 feet to the POINT OF BEGINNING.

The above described parcel contains a 0.110 acres (4,725 sq ft).

All three parcels described contain a 0.773 acres (33,932 sq ft).



ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

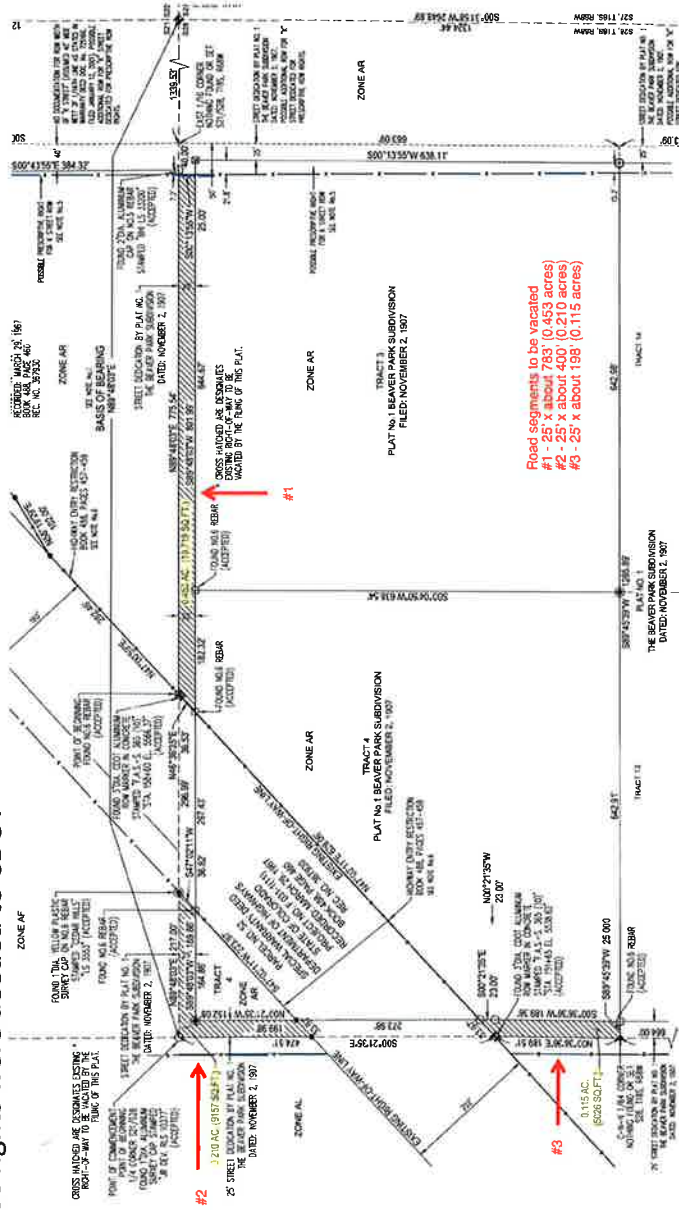


Exhibit VPR-20.

The proposed vacation of this right-of-way will not place a burden on the Fremont County transportation system or its future development for the following reasons. The Roads were dedicated on November, 2nd 1907, and never developed.

Road #1 intersects K street on the eastern side of the parcel and spans a distance of 827' to the western side of the parcel that ends at the CDOT Right-of-way for SH 115. There is an existing entrance to SH 115 at the K Street intersection that is 650' North of this road dedication.

Road #2 and #3 are remnants of a 25' roadway dedication around the perimeter of the original plat. As shown on the sketch below, access to these segments has been cut off by SH 115 when these rights were dedeed to CDOT



Adjoining Landowners:

1. Linda M. Mueller
87 K Street, Penrose, CO 81240
Assessor #67001400
2. State of Colorado
1127 Sherman St, Denver, CO 80203
Assessor #3825280000002
3. Al L. Simmons
18091 State Highway 115 Penrose, CO 81240
Assessor #69008284
4. CDOT Chief Engineer Steve Harelson
2829 W. Howard Place, Denver, CO 80204

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CANON CITY, CO 81212

Certified Mail Fee \$ **3.55**

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- Return Receipt (electronic) \$ **0.00**
- Certified Mail Restricted Delivery \$ **0.00**
- Adult Signature Required \$ **0.00**
- Adult Signature Restricted Delivery \$ **0.00**

Postage \$ **0.55**

Total Postage and Fees \$ 4.10

Sent to **D. Thomas**

Street and Apt. No., or PO Box No.
1701 E. Main St.

City, State, ZIP+4®
Canon City CO 81212

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



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- Return Receipt (electronic) \$ **0.00**
- Certified Mail Restricted Delivery \$ **0.00**
- Adult Signature Required \$ **0.00**
- Adult Signature Restricted Delivery \$ **0.00**

Postage \$ **0.55**

Total Postage and Fees \$ 4.10

Sent to **Spectrum**

Street and Apt. No., or PO Box No.
306. A 16th Stg A-D

City, State, ZIP+4®
Canon City, CO 81212

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



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- Return Receipt (hardcopy) \$ **0.00**
- Return Receipt (electronic) \$ **0.00**
- Certified Mail Restricted Delivery \$ **0.00**
- Adult Signature Required \$ **0.00**
- Adult Signature Restricted Delivery \$ **0.00**

Postage \$ **0.55**

Total Postage and Fees \$ 4.10

Sent to **Century Link**

Street and Apt. No., or PO Box No.
P.O. Box 91151

City, State, ZIP+4®
Seattle WA 98111

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



2019 2280 0000 0148 1995