

BY AUTHORITY

ORDINANCE NO.

638

COUNCIL BILL NO.:

618

SERIES OF 2009

COMMITTEE OF REFERENCE:

Public Works

A BILL

For an ordinance vacating the portion of 44th Avenue, with reservations.

WHEREAS, the Manager of Public Works of the City and County of Denver has found and determined that the public use, convenience and necessity no longer require that certain area in the system of thoroughfares of the municipality hereinafter described and, subject to approval by ordinance, has vacated the same with the reservations hereinafter set forth;

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That the action of the Manager of Public Works in vacating the following described area in the City and County of Denver and State of Colorado, to wit:

A PARCEL OF LAND SITUATED IN THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (SE1/4 NE1/4) OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, SAID PARCEL ALSO BEING A PART OF 44TH AVENUE AS SHOWN ON THE OFFICAL CITY SURVEY OF GARDEN PLACE ON FILE AT BOOK 24, PAGE 2, IN THE CITY ENGINEER'S OFFICE OF THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1, BLOCK 4 OF SAID GARDEN PLACE, SAID POINT ALSO BEING THE INTERSECTION OF THE NORTHWESTERLY RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY AND THE NORTH RIGHT-OF-WAY LINE OF SAID 44TH AVENUE;

THENCE S45°24'15"W ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 42.67 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SAID 44TH AVENUE;

THENCE N89°55'30"W, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 46.94 FEET;

THENCE N45°24'15"E, PARALLEL WITH THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAID BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, A DISTANCE OF 42.67 FEET THE NORTH RIGHT-OF-WAY LINE OF SAID 44TH AVENUE;

THENCE S89°55'30"E, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 46.94 FEET TO THE POINT OF BEGINNING.

BASIS OF BEARINGS: ALL BEARINGS SHOWN HEREBON ARE BASED ON THE CALCULATED GEODETIC BEARING BETWEEN GPS STATIONS "PEARL" AND "TOWER" AS BEING N32°43'34"W, A DISTANCE OF 3923.84 FEET. BOTH GPS STATIONS ARE CDOT MONUMENTS.



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1 be and the same is hereby approved and the described area is hereby vacated and declared
2 vacated; PROVIDED, HOWEVER, said vacation shall be subject to the following reservations
3 covering the land described below:

4 A perpetual, non-exclusive easement is hereby reserved by the City and County of Denver, its
5 successors and assigns, over, under, across, along, and through the vacated area for the purposes
6 of constructing, operating, maintaining, repairing, upgrading and replacing public or private utilities
7 including storm drainage and sanitary sewer facilities and all appurtenances to said utilities. A hard
8 surface shall be maintained by the property owner over the entire easement area. The City reserves
9 the right to authorize the use of the reserved easement by all utility providers with existing facilities in
10 the easement area. No trees, fences, retaining walls, landscaping or structures shall be allowed
11 over, upon or under the easement area. Any such obstruction may be removed by the City or the
12 utility provider at the property owner's expense. The property owner shall not re-grade or alter the
13 ground cover in the easement area without permission from the City and County of Denver. The
14 property owner shall be liable for all damages to such utilities, including their repair and
15 replacement, at the property owner's sole expense. The City and County of Denver, its successors,
16 assigns, licensees, permittees and other authorized users shall not be liable for any damage to
17 property owner's property due to use of this reserved easement. Said reserved easement shall
18 apply to the following area only:

19 COMMITTEE APPROVAL DATE: N/A MAYOR-COUNCIL DATE: October 20, 2009

20 PASSED BY THE COUNCIL November 2 2009

21 [Signature] - PRESIDENT

22 APPROVED: [Signature] - MAYOR Nov. 3 2009

23 ATTEST: [Signature] - CLERK AND RECORDER,
24 EX-OFFICIO CLERK OF THE
25 CITY AND COUNTY OF DENVER

26
27 NOTICE PUBLISHED IN THE DAILY JOURNAL Oct. 30, 2009; Nov. 6, 2009

28 PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY, October 20, 2009

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30 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
31 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
32 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
33 3.2.6 of the Charter.
34

35 David R. Fine, City Attorney:

36 BY: [Signature], Assistant City Attorney DATE: Oct 21, 2009