

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 18 A-C

DATE: August 15, 2006

STAFF: Helen Matson

SUBJECT

Items Relating to Block 33, Fort Collins, Colorado.

RECOMMENDATION

Staff recommends the adoption of the Ordinances on Second Reading.

EXECUTIVE SUMMARY

- A. Second Reading of Ordinance No. 117, 2006, Authorizing the Sale of City-owned Property Consisting of the Vacated Alley Right-of-Way on Block 33, Fort Collins, Colorado to Penny Flats, LLC.
- B. Second Reading of Ordinance No. 118, 2006, Authorizing the Conveyance of a Non-Exclusive Public Access, Drainage, Utility and Maintenance Easement to Penny Flats, LLC.
- C. Second Reading of Ordinance No. 119, 2006, Authorizing the Conveyance of a Temporary Construction Easement over Portions of Block 33 to Penny Flats, LLC.

In July 2004, the City Council adopted Resolution 2004-081, setting out a process for selling portions of Block 33 to a private developer. A developer was selected and on July 19, 2005, City Council approved Ordinance No. 077, 2005, which authorized the sale, in phases, of a portion of Block 33 to Penny Flats, LLC. The proposed development is a mixed use project having approximately 150 dwelling units with approximately 30,000 square feet of commercial space.

The Option Agreement for Purchase and Sale of Real Property was entered into on February 24, 2006. This Agreement has the property being conveyed in three parcels, with the first portion to be conveyed 30 days following final approval of the PDP process for the development, which is expected this fall. During the negotiations and planning of this project, a few items were identified that needed further Council approval. These Ordinances, unanimously adopted on First Reading on July 18, 2006, approve these items.

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

ITEM NUMBER: 29 A-C

DATE: July 18, 2006

STAFF: Helen Matson

SUBJECT

Items Relating to Block 33, Fort Collins, Colorado.

RECOMMENDATION

Staff recommends the adoption of the Ordinances on First Reading.

FINANCIAL IMPACT

Ordinance No. 077, 2005, approved the sale of a portion of Block 33 for the appraised value of the property, \$1,624,000, plus interest at seven percent per year on any unpaid portion. This purchase price covers the conveyance of the vacated alley and the temporary construction easement.

In exchange for compensation for the 10-foot public access, drainage, utility and maintenance easement, the developer will be constructing and maintaining all improvements in the easement area.

EXECUTIVE SUMMARY

- A. First Reading of Ordinance No. 117, 2006, Authorizing the Sale of City-owned Property Consisting of the Vacated Alley Right-of-Way on Block 33, Fort Collins, Colorado to Penny Flats, LLC.
- B. First Reading of Ordinance No. 118, 2006, Authorizing the Conveyance of a Non-Exclusive Public Access, Drainage, Utility and Maintenance Easement to Penny Flats, LLC.
- C. First Reading of Ordinance No. 119, 2006, Authorizing the Conveyance of a Temporary Construction Easement over Portions of Block 33 to Penny Flats, LLC.

In July 2004, the City Council adopted Resolution 2004-081, setting out a process for selling portions of Block 33 to a private developer. A developer was selected and on July 19, 2005, City Council approved Ordinance No. 077, 2005, which authorized the sale, in phases, of a portion of Block 33 to Penny Flats, LLC. The proposed development is a mixed use project having approximately 150 dwelling units with approximately 30,000 square feet of commercial space.

The Option Agreement for Purchase and Sale of Real Property was entered into on February 24, 2006. This Agreement has the property being conveyed in three parcels, with the first portion to be conveyed 30 days following final approval of the RDP process for the development, which is expected this fall. During the negotiations and planning of this project, a few items were identified that needed further Council approval. These Ordinances approve these items.

BACKGROUND

A. First Reading of Ordinance No. 117, 2006, Authorizing the Sale of City-owned Property Consisting of the Vacated Alley Right-of-Way on Block 33, Fort Collins, Colorado to Penny Flats, LLC.

The City's agreement with Penny Flats, LLC, requires that a pedestrian spine be included in the development. This pedestrian spine is part of the Civic Center Master Plan and continues the pedestrian spine that runs through Block 31 and Block 32. In order to facilitate the construction of this pedestrian walkway, staff is requesting Council to approve the vacation of the alley right-of-way with Ordinance No. 116, 2006.

The description of the property to be conveyed with Ordinance No. 077, 2005 did not specifically include the alley right-of-way; therefore, if Council does approve the vacation of this alley right-of-way, staff is requesting permission to convey the vacated alley to Penny Flats, LLC, with the reservation of a public access, drainage and utility easement.

B. First Reading of Ordinance No. 118, 2006, Authorizing the Conveyance of a Non-Exclusive Public Access, Drainage, Utility and Maintenance Easement to Penny Flats, LLC.

During the planning process, Penny Flats, LLC identified a need for a 10-foot off-site easement for public access, drainage, maintenance and utilities. The requested easement would be over the southerly 10 feet of Lot 12, Block 33, and would connect the pedestrian spine in the center of the block to Howes Street. The City is retaining ownership of Lots 9 through 12 as they include the Trolley Car Barn and associated parking.

As compensation for the ten-foot easement, the developer will be constructing a 6 foot sidewalk for public access, curb and gutter and a grassy drainage swale. The City's existing fence will be replaced by Penny Flats, LLC and will be relocated to a location as specified by the City. If the existing street light on Howes Street needs to be moved for this easement, Penny Flats will pay all those associated costs. The City will retain the right to use the property in the easement area for compatible purposes.

This easement request was forwarded to appropriate City staff and there were no objections. Staff comments were that the construction of this sidewalk and new fence would be a good separation between the new development and the City's Trolley Car Barn and associated parking.

C. First Reading of Ordinance No. 119, 2006, Authorizing the Conveyance of a Temporary Construction Easement over Portions of Block 33 to Penny Flats, LLC.

In order to construct the development, Penny Flats, LLC has requested a temporary construction easement to cover portions of the Block not in its ownership. This temporary construction easement will allow construction access, staging and parking a temporary sales office. The area to be included in the temporary construction easement is Lots 1 through 8, Lots 13 through 16, the vacated alley and the eastern 10 feet of Lots 9 through 12.

The temporary construction easement over the vacated alley, Lots 1 through 8 and Lots 13 through 16 will terminate as Penny Flats, LLC purchases those parcels from the City. As noted above, the City will retain ownership of Lots 9 through 12, but the developer is asking that the temporary construction easement include the eastern 10 feet of Lots 9 through 12 to facilitate construction of improvements within the pedestrian spine. City staff was asked to comment on this request and had no objection to the temporary construction easement including part of Lots 9 through 12, so long as that property is not used for construction staging.

COPY

COPY

ORDINANCE NO. 117, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE SALE OF CITY-OWNED PROPERTY
CONSISTING OF THE VACATED ALLEY RIGHT-OF-WAY
ON BLOCK 33, FORT COLLINS, COLORADO
TO PENNY FLATS, LLC

WHEREAS, the City of Fort Collins is the owner of the certain real property described as the alley right-of-way on Block 33 in Fort Collins, Colorado (the "Alley Property"); and

WHEREAS, pursuant to Ordinance No. 077, 2005, the Council approved the conveyance of a portion of Block 33 to Penny Flats, LLC ("PFL") so that it could be developed in a manner approved by the City; and

WHEREAS, the City and PFL entered into an Option Agreement for Purchase and Sale of Real Property on February 24, 2006; and

WHEREAS, the Civic Center Master Plan adopted by the City in 1997 calls for the development of Block 33 to include a pedestrian spine in the area of the Alley Property to link with the rest of the Civic Center area; and

WHEREAS, by separate ordinance staff is asking the Council to approve the vacation of the Alley Property in order to facilitate development of the pedestrian spine by PFL; and

WHEREAS, Section 23-111 of the City Code provides that the City Council is authorized to sell, convey or otherwise dispose of real property owned by the City, provided the Council first finds by ordinance that any sale or disposition of real property owned by the City is in the best interests of the City of Fort Collins; and

WHEREAS, if the Council vacate the Alley Property, City staff recommends that the Alley Property be conveyed to PFL to be developed as a pedestrian spine as part of PFL's planned project on Block 33, with the City reserving from such conveyance a public access, drainage and utility easement upon and across the whole of the Alley Property.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS, as follows:

Section 1. That the conveyance of the Alley Property, with an easement reserved for public access, drainage and utilities, to be used for construction of a pedestrian pathway, is in the best interests of the City of Fort Collins.

Section 2. That, subject to the prior vacation of the Alley Property, the Mayor is hereby authorized to execute the necessary documents to convey the Alley Property to Penny Flats, LLC upon the terms and conditions described above, along with such other terms and

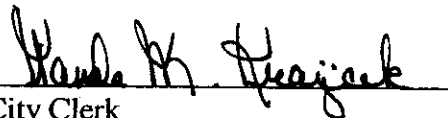
conditions as the City Manager, in consultation with the City Attorney, determines to be in the best interest of the City.

Introduced, considered favorably on first reading, and ordered published this 18th day of July, A.D. 2006, and to be presented for final passage on the 15th day of August, A.D. 2006.



Mayor

ATTEST:



City Clerk

Passed and adopted on final reading on the 15th day of August, A.D. 2006.

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 118, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF A NON-EXCLUSIVE
PUBLIC ACCESS, DRAINAGE, UTILITY AND MAINTENANCE EASEMENT
TO PENNY FLATS, LLC

WHEREAS, the City of Fort Collins, Colorado (the "City") is the owner of Lots 9 through 12, Block 33, Fort Collins, Colorado (the "Property"); and

WHEREAS, Penny Flats, LLC ("PFL") has entered into an Option Agreement with the City to purchase the remaining portions of Block 33 to construct a mixed use development; and

WHEREAS, in order to construct its project as planned, PFL wishes to acquire a non-exclusive public access, drainage, utility and maintenance easement over, under, and across the southerly 10 feet of Lot 12 Block 33, Fort Collins, Colorado (the "Easement"), linking the center of PFL's development to Howes Street; and

WHEREAS, in exchange for granting the easement to PFL, PFL will construct and maintain the improvements in the easement area, including a 6 foot sidewalk, curb and gutter and a grassy drainage swale; they will also replace the existing fence on City property with a new fence in a location specified by the City; and, if required, relocate the existing streetlight, at their sole expense; and

WHEREAS, based on review of this request by City staff, it has been determined that granting the non-exclusive easement will not have any adverse effect on the Property; and

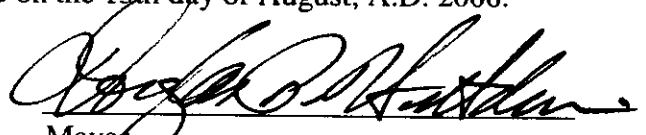
WHEREAS, Section 23-111 of the City Code provides that the City Council is authorized to sell, convey, or otherwise dispose of real property owned by the City, provided the Council first finds by ordinance that any sale or other disposition of real property owned by the City is in the best interests of the City of Fort Collins.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the conveyance of this Easement over, under and across the southerly ten feet of Lot 12 Block 33, Fort Collins, Colorado, consistent with the terms of this Ordinance, is in the best interests of the City of Fort Collins.

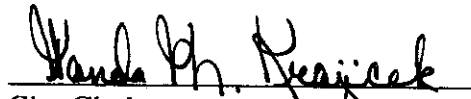
Section 2. That the Mayor is hereby authorized to execute such documents of conveyance as are necessary to convey the Easement to Penny Flats, LLC upon the terms and conditions as described above, along with such other terms and conditions as the City Manager, in consultation with the City Attorney, determines to be in the best interests of the City.

Introduced, considered favorably on first reading, and ordered published this 18th day of July, A.D. 2006, and to be presented for final passage on the 15th day of August, A.D. 2006.



Mayor

ATTEST:



City Clerk

Passed and adopted on final reading on the 15th day of August, A.D. 2006.

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 119, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF A TEMPORARY
CONSTRUCTION EASEMENT TO PENNY FLATS, LLC

WHEREAS, the City of Fort Collins, Colorado (the "City") is the owner of Block 33, Fort Collins, Colorado (the "Property"); and

WHEREAS, City Council approved Ordinance No. 077, 2005 which authorized the sale, in options, of a portion of the Property to Penny Flats, LLC ("PFL") for its appraised value; and

WHEREAS, on February 24, 2006, PFL entered into an Option Agreement with the City for the purchase of a portion of Block 33 in order to construct a mixed use development thereon; and

WHEREAS, in order to construct its project as planned, PFL wishes to acquire a temporary construction easement over, under, and across Lots 1 through 8, Lots 13 through 16, the alleyway that is proposed to be vacated by separate ordinance, and the easterly ten feet of Lots 9 through 12, Block 33, Fort Collins, Colorado (the "TCE"), and

WHEREAS, the TCE would allow PFL to use those portions of Block 33 for construction access, staging and the location of a temporary sales office; and

WHEREAS, the consideration for this TCE is included in the sale price for the portions of Block 33 to be acquired by PFL, as approved by Ordinance No. 077, 2005; and

WHEREAS, based on review of this request by City staff, it has been determined that granting the TCE will not have any adverse effect on the Property so long as the easterly ten feet of Lots 9 through 12 are not used for construction staging; and

WHEREAS, Section 23-111 of the City Code provides that the City Council is authorized to sell, convey, or otherwise dispose of real property owned by the City, provided the Council first finds by ordinance that any sale or other disposition of real property owned by the City is in the best interest of the City of Fort Collins.

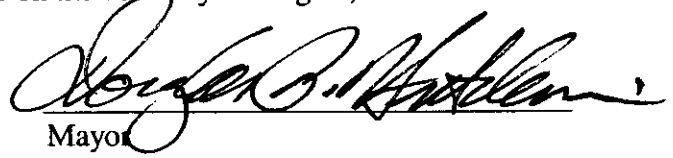
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the conveyance of this Temporary Construction Easement over, under and across Lots 1 through 8, Lots 13 through 16, the vacated alleyway and the easterly ten feet of Lots 9 through 12, Block 33, Fort Collins, Colorado, in a manner consistent with the terms of this Ordinance, is in the best interests of the City of Fort Collins.

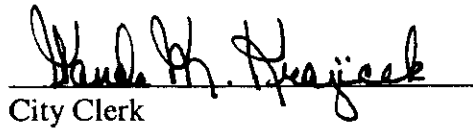
Section 2. That, subject to the prior vacation of the alleyway, the Mayor is hereby authorized to execute such documents of conveyance as are necessary to convey the Temporary

Construction Easement to Penny Flats, LLC upon the terms and conditions as described above, along with such other terms and conditions as the City Manager, in consultation with the City Attorney, determines to be in the best interests of the City.

Introduced, considered favorably on first reading, and ordered published this 18th day of July, A.D. 2006, and to be presented for final passage on the 15th day of August, A.D. 2006.


Mayor

ATTEST:


City Clerk

Passed and adopted on final reading on the 15th day of August, A.D. 2006.

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