

City Cherry Hills Village
2450 E Quincy Ave
Cherry Hills Vlg, Co 80110

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TRACY K. BAKER
ARAPAHOE COUNTY

ORDINANCE 7
SERIES 2002

November 20, 2001: Introduced as Council Bill 23 Series of 2001 by Jan Steiert, seconded by John Love, and considered by the title only on first reading. Passed unanimously.

March 5, 2002: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 07, Series 2002.

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE VACATING THE CITY'S INTEREST, IF ANY, TO A PORTION OF PLATTED FAIRFAX STREET EASEMENT AND PROHIBITING PARKING ALONG OTHER PORTIONS OF FAIRFAX STREET

WHEREAS, pursuant to its Home Rule Charter, the City Council of the City of Cherry Hills Village is expressly authorized to own, possess, and hold real property and to sell and dispose of such real property; and

WHEREAS, state law at Title 43, article 2, part 3, C.R.S., authorizes every municipal governing body to divest the municipality's interest in platted or designated public streets, alleys, lanes, parkways, roads, and other public ways in accordance with the municipality's charter and laws; and

WHEREAS, the vacation and disposition of municipal interests in public rights-of-way and other public property is identified by the appellate courts of the State of Colorado as a legislative and discretionary function of the local governing body; and

WHEREAS, pursuant to its Home Rule Charter and state law, the City Council holds the power and authority to specify the terms and conditions under which the City will consider and dispose of public interests in rights-of-way and other property; and

WHEREAS, the City is authorized to exercise its legislative power to vacate all or any portion of a right-of-way in accordance with Chapter 4 of Title 8 of the City Code for the City of Cherry Hills Village; and

WHEREAS, the City Council determines that neither a preliminary nor formal petition for vacation is necessary for this vacation and the vacation may be processed without conformance with the application requirements of Chapter 4 of Title 8 of the City Code for the City of Cherry Hills Village; and

WHEREAS, by recordation of the Clark Colony subdivision plat (recorded at Book 1, Page 24 on or about August 23, 1906 in the office of the Clerk and Recorder for Arapahoe County), an open street access system was reserved or otherwise dedicated to provide access throughout the subdivision to and from public streets and the City has maintained and/or asserted some claim to ownership or control of, or some form of public interest in, certain portions of the street access system in the Clark Colony subdivision; and

WHEREAS, the Clark Colony subdivision plat (recorded at Book 1, Page 24) expressly dedicated to the occupants of the lots described in the Clark Colony Plat a private right of access to the streets, including Fairfax Street, and

WHEREAS, private property within the Clark Colony plat have historically obtained access via private drives and private streets located within and adjacent to the property described in this Ordinance; and

WHEREAS, the City Council, by vacation of any public interest that may exist in Fairfax Street, does not intend to impair or affect in any way the private access rights dedicated by the Clark Colony plat; and

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WHEREAS, the City Council recognizes that the City has never opened, operated, constructed, or maintained a public thoroughfare on, over, or through the property proposed for vacation by this Ordinance; and

WHEREAS, some portions of Fairfax Street that are not subject to the vacation proposed by this Ordinance have been controlled and maintained as a public thoroughfare by the City of Cherry Hills Village for more than 20 years; and

WHEREAS, the City desires to vacate a portion of Fairfax Street in accordance with Chapter 4 of Title 8 of the City Code and Part 3, Article 2, Title 43, C.R.S.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:

Section 1. The City Council finds that the portion of Fairfax Street lying within the area described below in this Section 2 is no longer necessary for use by the general public and that no land would, by such vacation of right-of-way, be left without access (via public or private drive or thoroughfare) to an established public road. The Council further finds that the vacation of the portion of Fairfax Street described herein is in the best interests of the City of Cherry Hills Village. Based upon such findings, the City's title to or claim to ownership of the portion of Fairfax Street described in Exhibits A & B is hereby vacated.

Section 2. Nothing in this Ordinance or the City's vacation is intended to modify, annul, or otherwise affect any private right of access to Fairfax Street as such rights may be described in the Clark Colony plat (recorded at Book 1, Page 24 on or about August 23, 1906 in the office of the Clerk and Recorder for Arapahoe County) or as such rights may exist as the result of historic use of Fairfax Street.

Section 3. Parking shall be prohibited, and signs shall be erected by the City to prohibit parking, within and along the portion of the public right-of-way that is accessible to public vehicular traffic and known as Fairfax Street located north of the northernmost boundary of Chenango Avenue and south of the southernmost boundary of the right-of-way for Union Avenue.

Section 4. Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable.

Adopted as Ordinance No. 7 Series 2002, by the City Council of the City of Cherry Hills Village, Colorado this 5th day of March, 2002.

John F. Welborn, Mayor

ATTEST:

APPROVED AS TO FORM:

Jennifer Pettinger, City Clerk

Robert C. Widner, City Attorney

PUBLISHED IN THE VILLAGER
ON DATE 3/14/02
LEGAL # 4239

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EXHIBIT A

LEGAL DESCRIPTION
(Partial Vacation of S. Fairfax Street)

A parcel of land lying within the Southeast Quarter of Section 7, Township 5 South, Range 67 West of the Sixth Principal Meridian, Arapahoe County, State of Colorado, being more particularly described as follows:

NOTE: For the purpose of this description the bearings are based on the North line Lot 2, Klikoff Subdivision as recorded under Reception No. 225744 of the Arapahoe County records, bearing South 89°33'25" West, 230.60 feet. Monumented by a No. 3 rebar on the eastern terminus and a No. 4 rebar with a 1" plastic cap stamped "WSS Inc. LS 18473" on the western terminus.

Beginning at the Northeast Corner of Lot 2, Klikoff Subdivision as recorded under Reception No. 225744 of the Arapahoe County records;

Thence North 89°28'24" East, 30.00 feet;

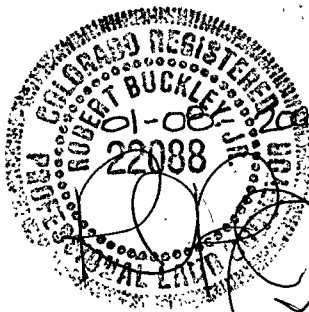
Thence South 00°00'08" East, 874.13 feet, along the West line of Lot 1 and Lot 2, Tamblyn Subdivision Filing No. 2 as recorded under Reception No. 2495579 of the Arapahoe County records, to the intersection of a permanent and perpetual roadway easement recorded at Book 5710 at Page 554 of the Arapahoe County records;

Thence North 89°59'52" West, 30.00 feet, to the West line of Lot 2, said Klikoff Subdivision;

Thence North 00°00'08" West, 873.86 feet, along the West line of said Lot 2, to the POINT OF BEGINNING.

Containing 0.6019 acres, or 26220 square feet, more or less.

I hereby certify that the above legal description was prepared under my direct supervision.



WSSI Job No.: 20146-002

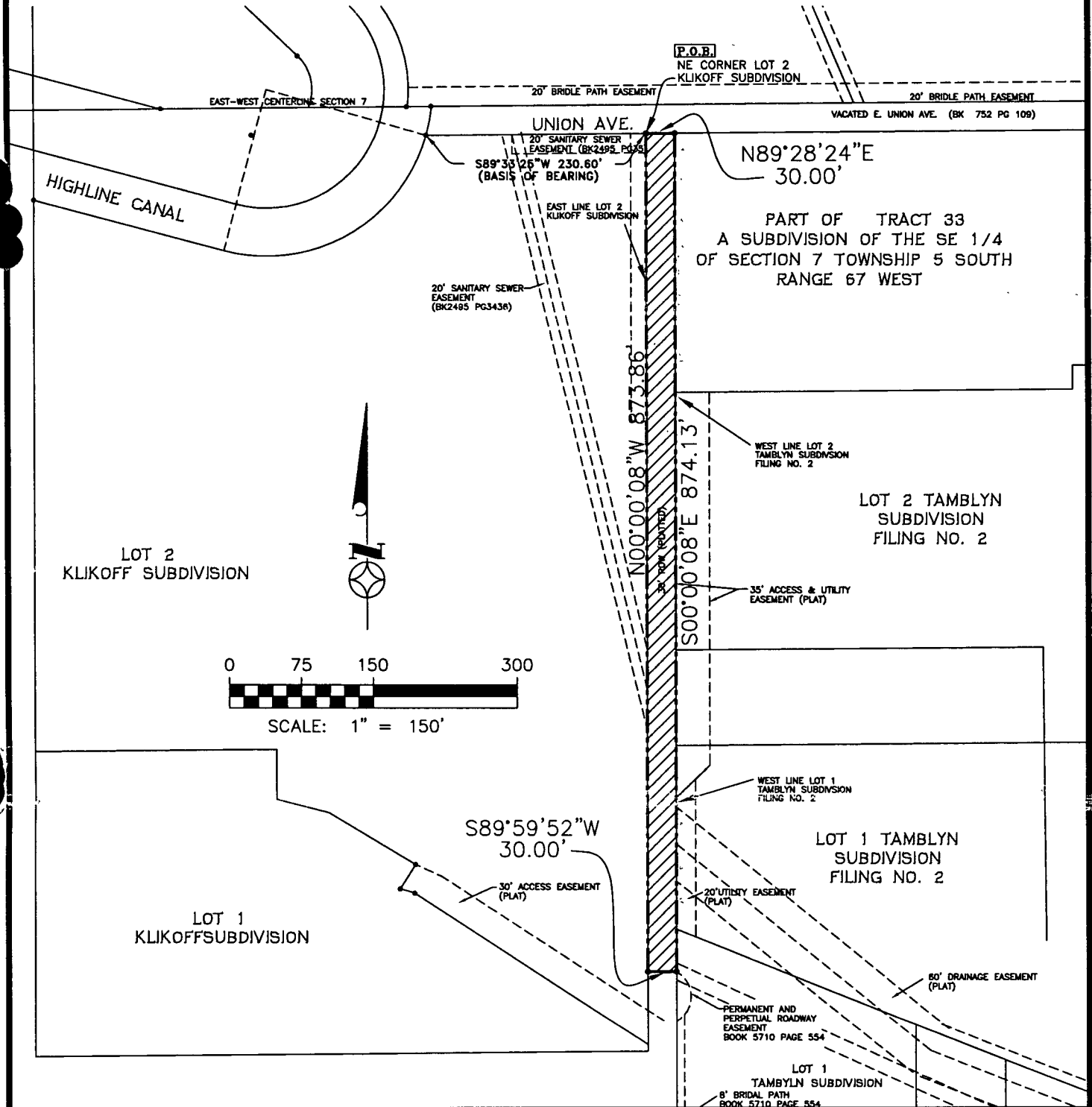
Date: January 8, 2002

For and on Behalf of
WESTERN STATES SURVEYING, INC.
12753 South Parker Road, Suite 205
Parker CO 80134
303-841-7436
Robert Buckley, Jr., PLS 22088



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EXHIBIT



Western States SURVEYING, Inc.
 12753 SOUTH PARKER ROAD, SUITE 205
 PARKER, COLORADO 80134 (303) 841-7436

NOTE: THIS DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.

CITY OF CHERRY HILLS VILLAGE VACATION OF S. FAIRFAX STREET		REV:	DATE: 01/08/02
		CALC: RB	DRWN: RDC
AREA OF PARCEL: 0.6019 ACRES	26220 SF	JOB NO. 20146-002	SHEET 2 OF 2
		DWG. NAME: FAIRFAX	

CITY OF CHERRY HILLS VILLAGE
2450 E. QUINCY AVENUE
CHERRY HILLS VILLAGE, COLORADO 80110