

Map Attached

ORDINANCE

12/09/2021 08:08 AM RF: \$48.00 DF: \$0.00

Arapahoe County Clerk, CO

Page: 1 of 6

Joan Lopez, Clerk & Recorder

E1186597

ORDINANCE NO. 11

Series 2021

November 2, 2021: Introduced as Council Bill 11, Series 2021 by Mayor Pro Tem Katy Brown, seconded by Councilor Dan Sheldon and considered in full text on first reading. Passed by a vote of 4 yes and 0 no.

November 16, 2021: Considered in full text on second reading. Passed by a vote of 4 yes and 1 no.

A BILL FOR AN ORDINANCE

OF THE CITY OF CHERRY HILLS VILLAGE VACATING THE CITY'S INTEREST, IF ANY, IN CERTAIN BRIDLE PATH EASEMENTS LOCATED ON TRACT 6 OF THE CANTITOE PLAT AND LOT 3 OF THE LAKE CANTITOE PLAT, ALL LOCATED WITHIN THE CITY OF CHERRY HILLS VILLAGE, ARAPAHOE COUNTY, STATE OF COLORADO

WHEREAS, Article V of Chapter 11 of the Cherry Hills Village Municipal Code ("Code") sets forth a uniform procedure for the vacation of interests in right-of-way owned or held by the City of Cherry Hills Village ("City"), including equestrian trail easements, and supplements the procedures for vacation of rights-of-way provided by Title 43, Article 2, Part 3 of the Colorado Revised Statutes; and

WHEREAS, the Thiry-O'Leary Living Trust, Dated March 8, 1990 ("Petitioner"), the owner of properties within the City known as 2 Cantitoe Lane and 4 Cantitoe Lane (the "Properties"), submitted to the City a petition to vacate the City's interests, if any, in certain bridle path easements located on those Properties, as further described herein; and

WHEREAS, at its regular meeting on August 18, 2020, City Council determined that the preliminary petition submitted by Petitioner possessed sufficient merit to justify Petitioner's submission of a formal petition for processing in accordance with Article V, Chapter 11 of the Code; and

WHEREAS, that certain plat for the Cantitoe Subdivision recorded on March 5, 1964 at Reception No. 902057 in the real property records of Arapahoe County, Colorado (the "Cantitoe Plat") depicts numerous twenty-foot (20') bridle path easements, including a bridle path easement that runs east/west along the southern property lines of Tracts 5 and 6; and

WHEREAS, that certain plat for the Lake Cantitoe replat of Tracts 4 and 5, Cantitoe recorded on July 1, 1996 at Reception No. A6083448 in the real property records of Arapahoe County, Colorado (the "Lake Cantitoe Plat") depicts twenty-foot (20') bridle path easements on the Properties that run: (1) east/west along the northern property line of Lot 3; and (2) east/west along the southern property line of Lot 3; and two ten-foot (10') bridle path easements that run north/south on the eastern and western sides of the property line between Lot 3, Lake Cantitoe and Tract 6, Cantitoe; and

WHEREAS, 2 Cantitoe Lane is identified in the real property records of Arapahoe County, Colorado as Lot 3, Lake Cantitoe (and formerly as Tract 5, Cantitoe), and 4 Cantitoe Lane is identified in the real property records of Arapahoe County, Colorado as Tract 6, Cantitoe; and

WHEREAS, on December 1, 2020, Petitioner submitted a formal petition to vacate those bridle path easements specified above, as depicted and highlighted on the Land Survey Plat, Cantitoe Lane, prepared by Ehrhart Land Surveying dated September 17, 2020, Sheets 1 and 2, a copy of which is attached hereto as **Attachment A**, and more particularly described as follows:

- The South 20 feet of Tract 6, Cantitoe, County of Arapahoe, State of Colorado;
- The South 20 feet of Lot 3, Lake Cantitoe, County of Arapahoe, State of Colorado;
- The North 20 feet of Lot 3, Lake Cantitoe, County of Arapahoe, State of Colorado;
- The East 10 feet of Lot 3, Lake Cantitoe, County of Arapahoe, State of Colorado;
- The West 10 feet of Tract 6, Lake Cantitoe, County of Arapahoe, State of Colorado;

("Petitioner Bridle Path Easements"); and

WHEREAS, after receiving a recommendation from the Parks, Trails and Recreation Commission, the Planning and Zoning Commission considered the formal petition for vacation and recommended that City Council approve the proposed vacation of the Petitioner Bridle Path Easements; and

WHEREAS, the Petitioner has provided public notice of the public meetings and public hearings regarding the proposed vacation of the Petitioner Bridle Path Easements in accordance with applicable law; and

WHEREAS, City Council conducted a public hearing on the proposed vacation of the Petitioner Bridle Path Easements as required by Section 11-5-50(d) of the Code; and

WHEREAS, City Council has determined that the City does not desire to assert further any public interest that may exist in the Petitioner Bridle Path Easements and desires to approve the vacation of the Petitioner Bridle Path Easements; and

WHEREAS, in accordance with Section 11-5-50(f)(1) of the Code, the City Council has determined that the vacation of the Petitioner Bridle Path Easements serves the public interest.

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

Section 1. The City hereby vacates any City interest that may exist in the Petitioner Bridle Path Easements, being those certain bridle path easements depicted and highlighted on **Attachment A**, located entirely within the boundaries of the City of Cherry Hills Village, and more particularly described as follows:

- The South 20 feet of Tract 6, Cantitoe, County of Arapahoe, State of Colorado;
- The South 20 feet of Lot 3, Lake Cantitoe, County of Arapahoe, State of Colorado;
- The North 20 feet of Lot 3, Lake Cantitoe, County of Arapahoe, State of Colorado;
- The East 10 feet of Lot 3, Lake Cantitoe, County of Arapahoe, State of Colorado;
- The West 10 feet of Tract 6, Lake Cantitoe, County of Arapahoe, State of Colorado.

Section 2. In accordance with Section 11-5-60(2) of the Code, ownership of the Petitioner Bridle Path Easements shall vest with the then-current owners of the Properties, as their ownership interests may appear.

Section 3. Following the effective date of this Ordinance, the City Clerk shall file a certified copy of this Ordinance in the real property records of Arapahoe County, Colorado.

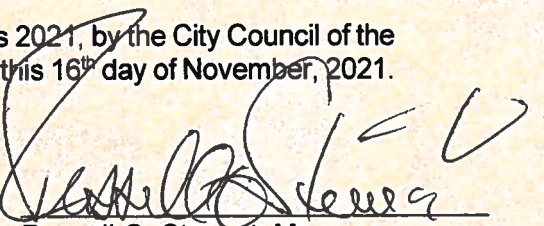
Section 4. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this Ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion be declared invalid.

Section 5. Safety. This Ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

Section 6. Effective Date. This Ordinance shall become effective ten (10) days after publication after second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. 11, Series 2021, by the City Council of the City of Cherry Hills Village, Colorado this 16th day of November, 2021.

(SEAL)




Russell O. Stewart, Mayor

ATTEST:



Laura Gillespie, City Clerk

APPROVED AS TO FORM:



Kathie B. Guckenberger, City Attorney

Published in *The Villager*

Published: 11-25-21

Legal #: 10531

**CITY OF CHERRY HILLS
VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 11, SERIES 2021**

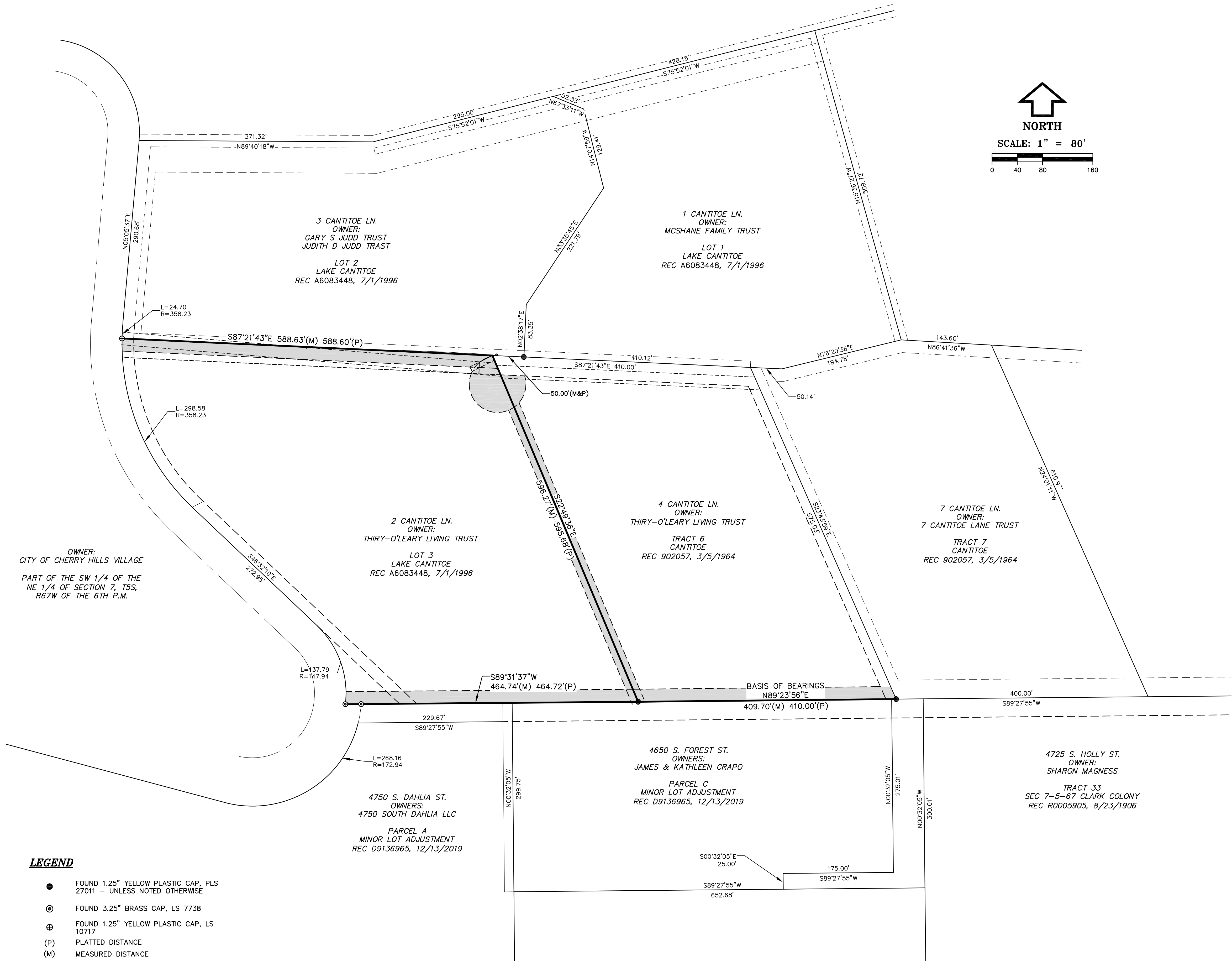
**A BILL FOR AN ORDINANCE OF
THE CITY OF CHERRY HILLS
VILLAGE VACATING THE CITY'S
INTEREST, IF ANY, IN CERTAIN
BRIDLE PATH
EASEMENTS LOCATED ON
TRACT 6 OF THE CANTITOE
PLAT AND LOT 3 OF THE LAKE
CANTITOE PLAT, ALL LOCATED
WITHIN THE CITY OF CHERRY
HILLS VILLAGE, ARAPAHOE
COUNTY, STATE OF
COLORADO**

Copies of the Ordinances are on
file at the office of the City Clerk
and may be inspected during
regular business hours.

Published in *The Villager*
Published: November 25, 2021
Legal # 10513

ATTACHMENT A

**Land Survey Plat, Cantitoe Lane, prepared by Ehrhart Land Surveying,
dated September 17, 2020, Sheets 1 and 2**



LEGAL DESCRIPTION:

(PER PLATS)

PART OF LOT 3, LAKE CANTITOE, AND PART OF TRACT 6, CANTITOE, COUNTY OF ARAPAHOE, STATE OF COLORADO.

NOTES:

- 1) THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF PERSONS NAMED IN THE STATEMENT HEREON. SAID STATEMENT DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESS STATEMENT BY THE SURVEYOR NAMING SAID PERSON.
- 2) LINEAL UNITS USED ARE U.S. SURVEY FEET.
- 3) BASIS OF BEARINGS: THE SOUTH LINE OF TRACT 6, CANTITOE, BEARING N89°23'56"E (ASSUMED), A DISTANCE OF 409.70 FEET, MONUMENTED AS SHOWN HEREON.
- 4) LAND TITLE GUARANTEE COMPANY, POLICY NUMBER PIB70683070.2552933, DATED AUGUST 24, 2020, WAS ENTIRELY RELIED UPON FOR RECORDED INFORMATION REGARDING RIGHTS-OF-WAY, EASEMENTS AND ENCUMBRANCES IN THE PREPARATION OF THIS SURVEY.
- 5) THERE IS A BLANKET EASEMENT ACCROSS THE ENTIRE LOT, GRANTED TO PUBLIC SERVICE COMPANY OF COLORADO, RECORDED 7/23/13 AT RECEPTION NO. D3092091.
- 6) ALL RIGHT-OF-WAY, EASEMENT, AND LOT AND BLOCK INFORMATION WAS TAKEN FROM THE PLAT OF LAKE CANTITOE, RECORDED JULY 1, 1996 AT RECEPTION NO. A6083448, THE PLAT OF CANTITOE, RECORDED MARCH 5, 1964 AT RECEPTION NO. 902057, AND THE MINOR LOT ADJUSTMENT RECORDED DECEMBER 13, 2019 AT RECEPTION NO. D9136965. TEMPORARY CONSTRUCTION EASEMENTS SHOWN ON THE PLAT OF LAKE CANTITOE ARE NOT SHOWN HEREON.
- 7) UTILITY LOCATIONS AND PIPE SIZES SHOWN ARE FROM VISIBLE SURFACE EVIDENCE AND LOCATES BY OTHERS. THIS OFFICE CANNOT ACCEPT RESPONSIBILITY FOR THE ACCURACY OF THE UNDERGROUND IMPROVEMENTS SHOWN HEREON. FOR SPECIFIC LOCATIONS DURING CONSTRUCTION CALL THE UTILITY NOTIFICATION CENTER OF COLORADO AT 1-800-922-1987.
- 8) 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 SURVEYOR'S STATEMENT SHOWN HEREON.
- 9) AFTER THE VACATION OF THE BRIDLE EASEMENTS SHOWN ON THE SURVEY, SUCH INTEREST VACATED BY THE CITY OF CHERRY HILLS VILLAGE WILL VEST IN THIRY-O'LEARY LIVING TRUST DATED MARCH 8, 1990.

SURVEYOR'S STATEMENT:

I, JOHN P. EHRHART, A DULY REGISTERED LAND SURVEYOR, LICENSED IN THE STATE OF COLORADO, HEREBY STATE FOR AND ON BEHALF OF EHRHART LAND SURVEYING, LLC, TO THIRY-O'LEARY LIVING TRUST THAT A SURVEY OF THE ABOVE DESCRIBED PREMISES WAS CONDUCTED BY ME OR UNDER MY DIRECT SUPERVISION, RESPONSIBILITY AND CHECKING ON OR AROUND SEPTEMBER 2, 2020; THAT SAID SURVEY AND THE ATTACHED PRINT HEREON WERE MADE IN SUBSTANTIAL ACCORDANCE WITH C.R.S. 38-51-106 "LAND SURVEY PLAT".

JOHN P. EHRHART
COLORADO P.L.S. #29414
EHRHART LAND SURVEYING, LLC
PO BOX 930, ERIE, CO 80516
PHONE: 303-828-3340



LAND SURVEY PLAT
CANTITOE LANE
LOT 3, LAKE CANTITOE & TRACT 6, CANTITOE
NE 1/4 SECTION 7, T5S, R67W OF THE 6TH P.M.
CHERRY HILLS VILLAGE, ARAPAHOE COUNTY, COLORADO



P.O. Box 930 • Erie, Colorado 80516
(303) 828-3340
www.coloradolands.com

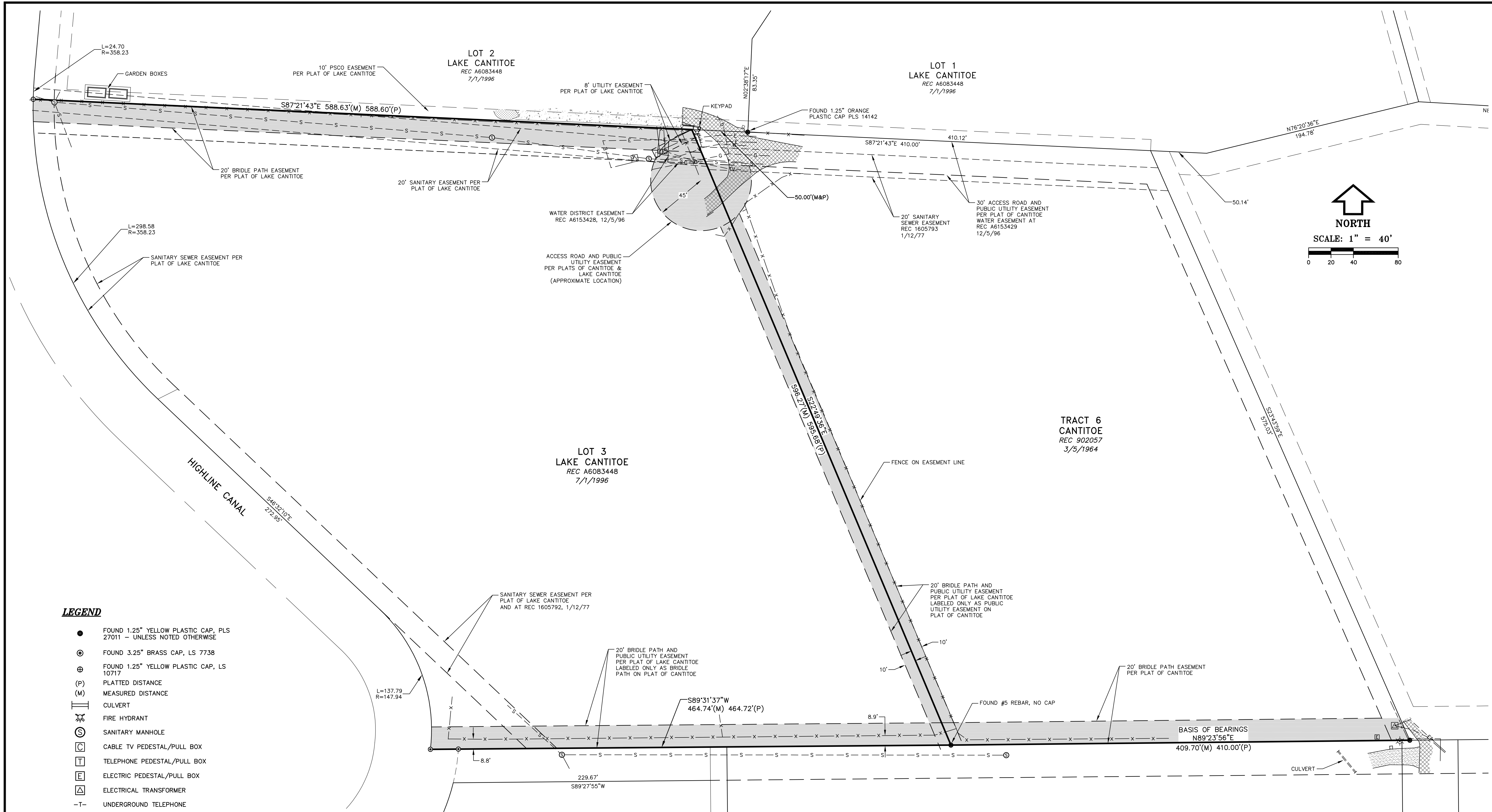
SHEET:
1 OF 2

DATE: 9/17/20

DRAWN BY: JPE

PROJECT: S205233

REVISION #5, 3/8/21, BY JPE, CITY COMMENTS
REVISION #4, 2/26/21, BY JPE, CITY COMMENTS
REVISION #3, 2/15/21, BY JPE, CITY COMMENTS
REVISION #2, 2/3/21, BY JPE, CITY COMMENTS
REVISION #1, 10/14/20, BY JPE, EASEMENT LABELS UPDATED



LEGEND

- FOUND 1.25" YELLOW PLASTIC CAP, PLS 27011 - UNLESS NOTED OTHERWISE
- ⊙ FOUND 3.25" BRASS CAP, LS 7738
- ⊕ FOUND 1.25" YELLOW PLASTIC CAP, LS 10717
- (P) PLATTED DISTANCE
- (M) MEASURED DISTANCE
- |— CULVERT
- ⊗ FIRE HYDRANT
- ⊙ SANITARY MANHOLE
- ⊕ CABLE TV PEDESTAL/PULL BOX
- ⊕ TELEPHONE PEDESTAL/PULL BOX
- ⊕ ELECTRIC PEDESTAL/PULL BOX
- ⊕ ELECTRICAL TRANSFORMER
- T- UNDERGROUND TELEPHONE
- TV- CABLE TV LINE
- G- GAS LINE
- W- WATER LINE
- E- UNDERGROUND ELECTRIC LINE
- S- SANITARY LINE
- X- FENCE
- ⊙ LIGHT POLE
- ▨ PROPOSED EASEMENT VACATION
- ▨ CONCRETE
- ▨ GRAVEL/DIRT
- ▨ LANDSCAPE
- ▨ ASPHALT



REVISION #3, 2/15/21, BY JPE, CITY COMMENTS
REVISION #2, 2/3/21, BY JPE, CITY COMMENTS
REVISION #1, 10/14/20, BY JPE, EASEMENT LABELS UPDATED

LAND SURVEY PLAT
CANTITOE LANE
LOT 3, LAKE CANTITOE & TRACT 6, CANTITOE
NE 1/4 SECTION 7, T5S, R67W OF THE 6TH P.M.
CHERRY HILLS VILLAGE, ARAPAHOE COUNTY, COLORADO

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SHEET:	2 OF 2
DATE:	9/17/20
DRAWN BY:	JPE
PROJECT:	S205233