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Recording Fee: \$26.00
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ORDINANCE NO. 06 Series 2005

April 5, 2005: Introduced as Council Bill 05 Series 2005 by Councilmember John Love, seconded by Councilmember Cathy Pomeroy, and considered by the title only on first reading. Passed unanimously.

May 3, 2005: Considered in full text on second reading. Passed unanimously

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE VACATING THE CITY'S INTEREST, IF ANY, TO A PORTION OF MEADE LANE FROM QUINCY AVENUE EAST APPROXIMATELY 576 FEET AND TO A PORTION OF E. QUINCY AVENUE FROM S. UNIVERSITY BOULEVARD NORTHEAST APPROXIMATELY 824 FEET

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, 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, easements, and other property; and

WHEREAS, the owner of properties addressed as 2450 E. Quincy Avenue, 125 Meade Lane and 2480 E. Quincy Avenue has petitioned the City Council, through its authorized agent, for the City's vacation of a portion of Meade Lane from E. Quincy Avenue southeast approximately 576 feet and a portion of E. Quincy Avenue from S. University Boulevard northeast approximately 824 feet; and

WHEREAS, the majority of the portion of Meade Lane and E. Quincy Avenue described in the petition is a publicly improved and maintained paved road originally dedicated to the public by plat or other document of conveyance; and

WHEREAS, the portion of E. Quincy Avenue described in the petition provides a consistent right-of-way distance of 60 feet for E. Quincy Avenue east of S. University Boulevard; and

WHEREAS, the portion of Meade Lane described to be vacated will be relocated as part of a replat of 2450 E. Quincy Avenue, 2480 E. Quincy Avenue, 115 Meade Lane, and 125 Meade Lane; and

WHEREAS, the vacation of the City's interest in the portion of Meade Lane and E. Quincy Avenue described in the petition would not deny access to any property because all adjacent properties will maintain frontage and access from the re-located Meade Lane and from portions of E. Quincy Avenue not subject to vacation; and

WHEREAS, the City provided public notice in accordance with law of the proposed vacation; and

WHEREAS, the Planning and Zoning Commission recommended that the proposed vacation be approved based on findings that the portion of the right-of-way described in the petition is no longer necessary for use by the public and the vacation of the portion of the right-of-way described in the petition would not leave any property without access to a public thoroughfare; and

WHEREAS, the City desires to vacate that portion of Meade Lane and E. Quincy Avenue adjacent to the properties addressed as 2450 E. Quincy Avenue, 2480 E. Quincy Avenue, 115 Meade Lane, and 125 Meade Lane 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 the right-of-way known as Meade Lane and E. Quincy Avenue described below in **Exhibit A** is no longer necessary for use by the public, that the vacation of such portion of Meade Lane and E. Quincy Avenue would not leave any property without access to a public thoroughfare, and that the vacation of such portion of right-of-way is in the best interest of the City of Cherry Hills Village. Based upon such findings, the City's title or claim to ownership of the described right-of way is hereby vacated subject to the condition(s) stated in Sections 2 and 3 below and subject to the following reservation of interest by the City of Cherry Hills Village:

The City of Cherry Hills Village hereby reserves from such vacation, pursuant to Section 11-5-30(C) of the City Code, an easement for public utilities (electric, water, sewer, cable, gas, telephone, communications).

Section 2. In accordance with Section 11-5-30(B) of the City Code for the City of Cherry Hills Village, the City Council conditions the vacation approved by this Ordinance upon the satisfaction of the following events:

- (A) The City's approval of a final subdivision plat that evidences the vesting of ownership in the vacated portion of Meade Lane and E. Quincy Avenue with the ownership of adjacent property (2450 E. Quincy Avenue, 2480 E. Quincy Avenue, 115 Meade Lane, and 125 Meade Lane) in accordance with Section 11-5-60 of the City Code and Section 43-3-302, C.R.S; and
- (B) Construction and acceptance of Meade Lane.

Section 3. Ownership of the City's interest in the vacated portions of Meade Lane and E. Quincy Avenue shall vest in accordance with Section 11-5-60 of the City Code and Section 43-3-302, C.R.S. only upon satisfaction of the

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conditions of approval. Satisfaction of the conditions of approval shall be deemed conclusive upon (1) the City's recordation with the Arapahoe County Clerk and Recorder's Office of a fully executed copy of this Ordinance and the final subdivision plat; and (2) construction and acceptance of Meade Lane.

Section 4. No Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall render the remaining portions or applications of this ordinance invalid. It is the express intent and declaration of the City Council that the Council would not approve the vacation of right-of-way without all provisions of this ordinance being valid and effective.

Adopted as Ordinance No. 6 Series 2005, by the City Council of the City of Cherry Hills Village, Colorado this 3rd day of May, 2005.



Douglas C. Scott, Mayor

ATTEST:



Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:



Thad Renaud, City Attorney

Published in The Villager
Published on 5/12/05
Legal # 1211

RIGHT OF WAY VACATION

EXHIBIT A

SHEET 1 OF 2

PARCEL NO. 1

A VACATION OF A PORTION OF MEADE LANE AS DEDICATED ON THE PLAT OF MEADE SUBDIVISION AS RECORDED IN THE RECORDS OF ARAPAHOE COUNTY AUGUST 10, 1966, AT PLAT BOOK 18 PAGE 88, LYING IN THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF CHERRY HILLS VILLAGE, COUNTY OF ARAPAHOE, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT 2, MEADE SUBDIVISION; THENCE S $37^{\circ}17'56''$ E ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF MEADE LANE 411.88 FEET; THENCE S $00^{\circ}00'48''$ E 4.58 FEET TO A POINT OF TANGENT CURVE; THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A RADIUS OF 280.00 FEET, A CENTRAL ANGLE OF $37^{\circ}17'08''$, A DISTANCE OF 182.21 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID MEADE LANE; THENCE N $37^{\circ}17'56''$ W ALONG THE SOUTHWESTERLY LINE OF SAID MEADE LANE 576.73 FEET TO THE SOUTH RIGHT OF WAY LINE OF EAST QUINCY AVENUE; THENCE N $44^{\circ}42'40''$ E ALONG SAID SOUTHERLY RIGHT OF WAY LINE 60.59 FEET TO THE POINT OF BEGINNING; CONTAINING 27,764.5 SQUARE FEET MORE OR LESS,

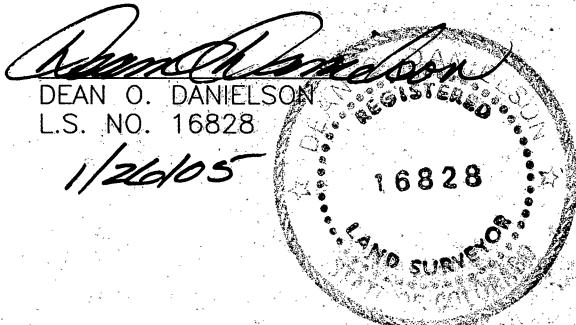
PARCEL NO. 2

A VACATION OF A PORTION OF E. QUINCY AVE. LYING IN THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF CHERRY HILLS VILLAGE, COUNTY OF ARAPAHOE, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT 2 MEADE SUBDIVISION, RECORDED IN THE RECORDS OF ARAPAHOE COUNTY AUGUST 10, 1966, AT PLAT BOOK 18 PAGE 88; THENCE S $44^{\circ}42'40''$ W 530.86 FEET TO A POINT LYING 85.30 FEET EAST OF THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 12; THENCE N $00^{\circ}03'29''$ E PARALLEL WITH SAID WEST LINE, 113.55 FEET; THENCE N $87^{\circ}07'27''$ E 7.77 FEET TO A POINT OF TANGENT CURVE; THENCE THE FOLLOWING SIX (6) COURSES ALONG A LINE LYING 60 FEET SOUTHEASTERLY OF THE NORTH RIGHT OF WAY LINE OF E. QUINCY AVE. AS SHOWN ON THE PLAT OF CHERRY HILLS SCHOOL FILING NO. 1, RECORDED IN THE RECORDS ARAPAHOE COUNTY SEPTEMBER 24, 1982, AT PLAT BOOK 58 PAGE 53; (1) THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A RADIUS OF 205.00 FEET, A CENTRAL ANGLE OF $26^{\circ}59'46''$ A DISTANCE OF 96.59 FEET TO A POINT OF COMPOUND CURVE; (2) THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A RADIUS OF 685.00 FEET, A CENTRAL ANGLE OF $14^{\circ}14'56''$ A DISTANCE OF 170.35 FEET; (3) THENCE N $45^{\circ}52'45''$ E 35.00 FEET TO A POINT OF TANGENT CURVE; (4) THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A RADIUS OF 905.00 FEET, A CENTRAL ANGLE OF $10^{\circ}26'56''$ A DISTANCE OF 165.04 FEET; (5) THENCE N $35^{\circ}25'49''$ E 5.00 FEET TO A POINT OF TANGENT CURVE; (6) THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A RADIUS OF 837.15 FEET, A CENTRAL ANGLE OF $08^{\circ}06'24''$ A DISTANCE OF 118.45 FEET TO A POINT OF COMPOUND CURVE; THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A RADIUS OF 200.00 FEET, A CENTRAL ANGLE OF $30^{\circ}55'36''$ A DISTANCE OF 107.95 FEET TO A POINT ON THE NORTHWESTERLY LINE OF SAID TRACT 2; THENCE S $44^{\circ}42'40''$ W ALONG THE NORTHWESTERLY LINE OF SAID TRACT 2 A DISTANCE OF 233.10 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 15,464 SQUARE FEET MORE OR LESS,

FOR THE PURPOSES OF THIS EXHIBIT THE BASIS OF BEARINGS IS THE NORTH LINE OF THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 5 SOUTH, RANGE 68 WEST BEING N $89^{\circ}16'32''$ E AS EVIDENCED BY THE CORNERS AS SHOWN HEREON.

I, DEAN O. DANIELSON, A DULY REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.



THIS DESCRIPTION IS NOT THE RESULT OF A MONUMENTED LAND SURVEY. IT IS INTENDED ONLY TO DEFINE THE PARCEL DESCRIBED AND SHOWN HEREON.

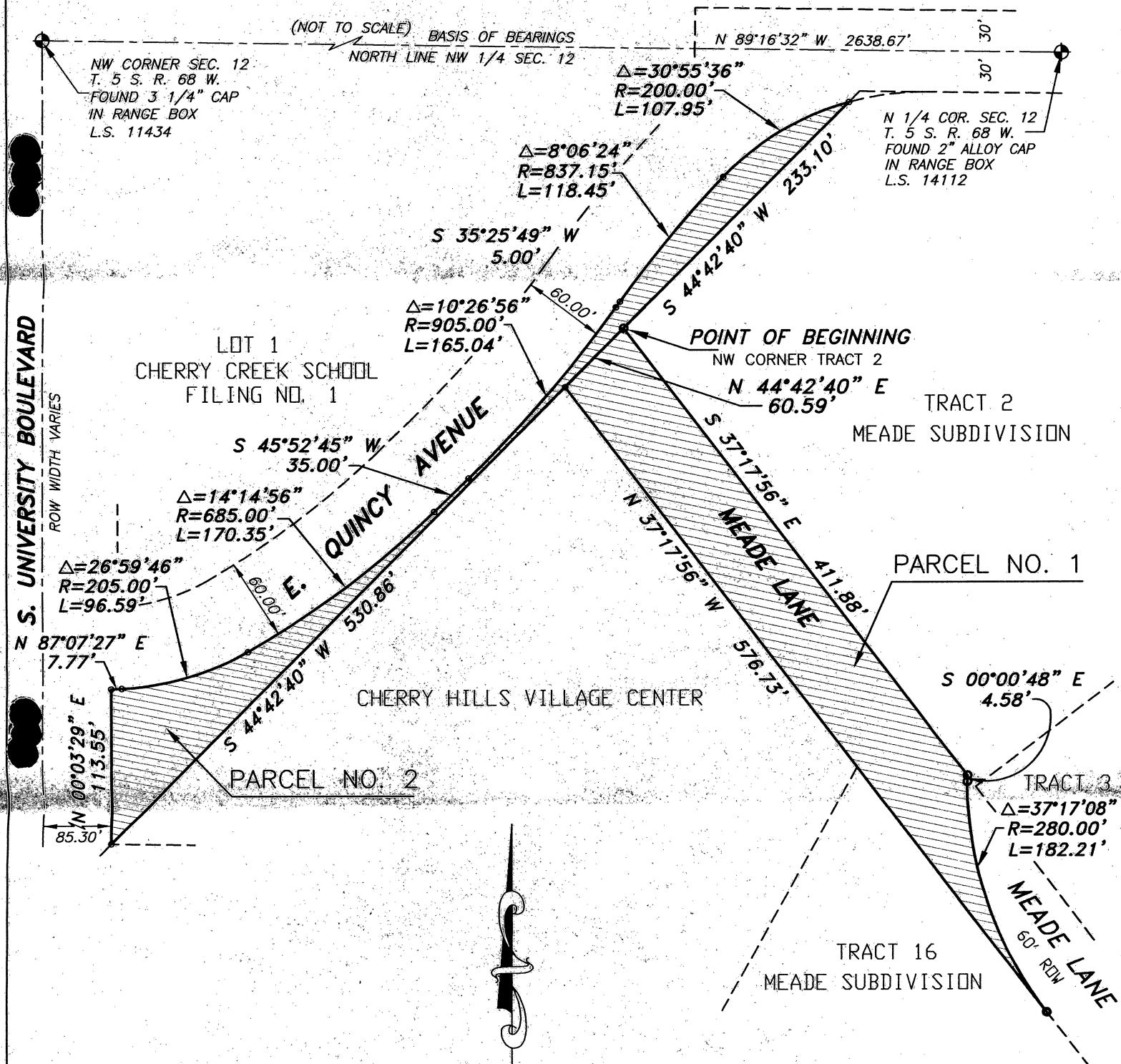
B BELL SURVEYING COMPANY
500 KALAMATH ST. • DENVER, CO. 80204
(303) 629-0165

Date: 1/26/2005 Drawing No. 0502-101
Ordered By: CHERRY HILLS VILLAGE

RIGHT OF WAY VACATION

EXHIBIT A

SHEET 2 OF 2



BELL SURVEYING COMPANY
500 KALAMATH ST. • DENVER, CO. 80204
(303) 629-0165

Date: 1/26/2005 Drawing No. 0502-101
Ordered By: CHERRY HILLS VILLAGE

SCALE 1"=100'

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OF A MONUMENTED LAND SURVEY. IT IS
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