

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

**ORDINANCE NO. 03
 Series 2003**

B3114070
 5/28/2003 13:14:46
 PG: 0001-005
 26.00 DOC FEE: 0.00
 TRACY K. BAKER
 ARAPAHOE COUNTY

April 15, 2003: Introduced as Council Bill 03-03 by Councilmember Doug Tisdale, seconded by Councilmember Bonnie Blum, and considered by the title only on first reading. Passed unanimously.

May 6, 2003: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 03, Series 2003.

**A BILL FOR AN ORDINANCE
 OF THE CITY OF CHERRY HILLS VILLAGE
 VACATING THE CITY'S INTEREST, IF ANY, TO
 A PORTION OF GREENBRIAR DRIVE**

WHEREAS, state law at Title 43, article 2, part 3, C.R.S., generally 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 process for divesting ownership of public property set forth in Title 43, article 2, part 3, C.R.S., is not declared to be a matter of statewide concern; and

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, pursuant to its home rule authority and C.R.S. § 31-15-713(1)(b), the City Council has adopted a procedure governing the vacation of public rights-of-way within the City as Chapter 4, Title 8 of the City Code for the City of Cherry Hills Village; 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, Greenbriar Drive (a/k/a Greenbriar Lane) is a public right-of-way originally dedicated to the public by the plat of Charlou Park Addition; and

WHEREAS, Greenbriar Drive is currently an established public thoroughfare that was initially constructed more than 25 years ago in a location that deviated from the platted right-of-way for Greenbriar Lane; and

WHEREAS, the City commenced a quiet title action (Arapahoe County District Court, Case No. 01CV0021) resulting in a court order establishing the City's ownership and right to Greenbriar Drive as such thoroughfare was constructed and as it presently exists today; and

WHEREAS, as a result of the City's establishing its ownership and right to the constructed Greenbriar Drive, a small portion of the originally platted Greenbriar Drive is not necessary for use by the public; and

WHEREAS, in accordance with Title 8 of Chapter 4 of the City Code, the owner of Lot 3, Charlou Park Addition, petitioned for the City's vacation of a

ABJ053

portion of platted Greenbriar Drive immediately adjacent Lot 3 of the Charlou Park Addition, also known as 6301 Greenbriar Drive; and

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, the vacation of the City's interest in the unimproved portion of Greenbriar Lane described in the petition would not deny access to any property because the City has acquired title to the property underlying the current improved location of Greenbriar Drive, originally platted as part of Lot 8, Charlou Park Addition; and

WHEREAS, the City Manager determined that the petition to be a complete formal petition and waived the preliminary petition requirements of City Code Section 8-4-4(A); 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 right-of-way proposed for vacation is not necessary for use by the public and the vacation of the right-of-way described in this Ordinance would not leave any property without access to a public thoroughfare; and

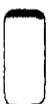
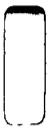
WHEREAS, the City desires to vacate a portion of Greenbriar Drive in accordance with Chapter 4 of Title 8 of the City Code and Part 3, Article 2, Title 43, C.R.S.

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

Section 1. The City Council finds that the portion of Greenbriar Drive described in Exhibit A is not necessary for use by the public, that the vacation of such portion of Greenbriar Drive would not leave any property without access to a public thoroughfare, and that the vacation of such right-of-way is in the best interest of the City of Cherry Hills Village. Based upon such findings, the City's title to or claim to ownership of the right-of way is hereby vacated subject to the conditions imposed by Section 2 of this ordinance.

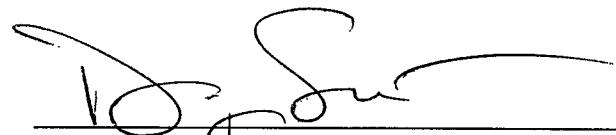
Section 2. In accordance with Section 8-4-3(B) of the City Code for the City of Cherry Hills Village, the City Council conditions the vacation approved by this Ordinance on the occurrence of both of the following events: (1) the City Council's approval by resolution of a quitclaim deed from the City to the owner(s) of Lot 3, Charlou Park Addition that contains a restriction on the conveyance or transfer of the vacated right-of-way so that the vacated right-of-way is effectively consolidated or combined with Lot 3, Charlou Park Addition; and (2) the City's receipt of three thousand dollars (\$3,000.00) from the owner(s) of Lot 3, Charlou Park Addition as consideration for the property interest transferred to the owner(s) by the City's quitclaim deed. The conditions imposed by this Section 2 shall be deemed satisfied without further action upon the recordation of a quitclaim deed executed by the Mayor for Cherry Hills Village conveying the vacated right-of-way to the owner(s) of Lot 3, Charlou Park Addition.

Section 3. No Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall invalidate the entirety of this ordinance, it being the intent of the City Council that



the City should not vacate the property described in Exhibit A unless all provisions of this ordinance are satisfied.

Adopted as Ordinance No. 03 Series 2003, by the City Council of the City of Cherry Hills Village, Colorado this 6TH day of May, 2003.



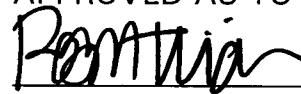
Douglas Scott, Mayor

ATTEST:



Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:



Robert C. Widner, City Attorney

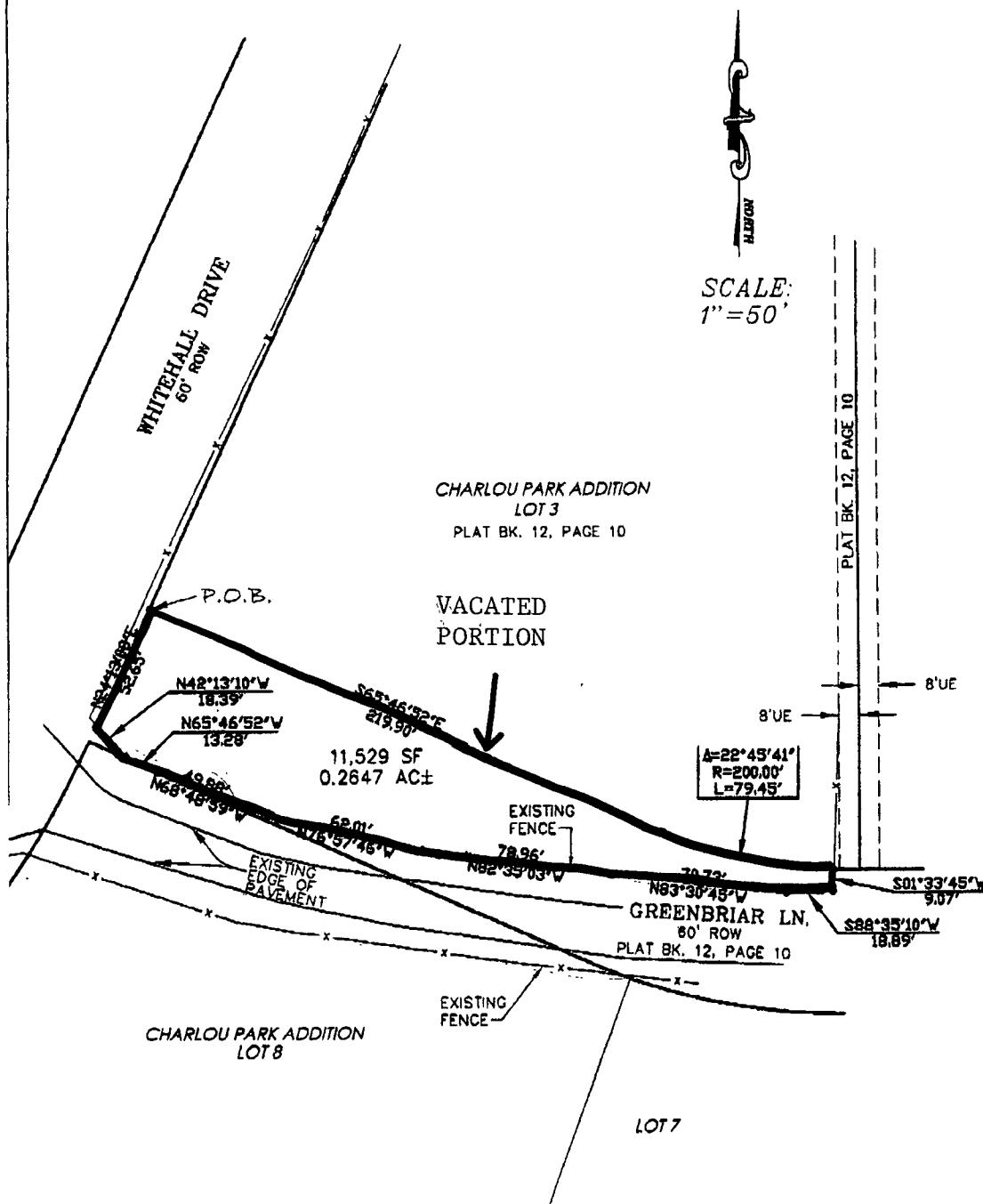
ABJ053

Published in The Villager
Published MAY 15, 2003
Legal # 5254

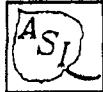


EXHIBIT A

4/5



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



ASPEN Surveying, Inc.

2993 So. PEORIA STREET
SUITE 150
Aurora, CO 80014
Phone (303) 750-4590
Fax (303) 750-0646



5 | 5

LEGAL DESCRIPTION

OCTOBER 7, 2002

A PARCEL OF LAND BEING A PART OF GREENBRIAR LANE AS RECORDED IN CHARLOU PARK ADDITION PLAT BOOK 12 AT PAGE 10, SITUATED IN THE NE ¼ OF THE SW ¼ OF SECTION 8, T5S., R67W., OF THE 6TH P.M., COUNTY OF ARAPAHOE, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 3 OF SAID CHARLOU PARK ADDITION, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF GREENBRIAR LANE, AND CONSIDERING SAID NORTHERLY RIGHT-OF-WAY LINE TO BEAR S65°46'52"E, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO, SAID POINT BEING THE POINT OF BEGINNING;

THENCE S65°46'52"E ALONG THE SOUTH LINE OF SAID LOT 3, A DISTANCE OF 219.90 FEET TO A POINT OF CURVATURE TO THE LEFT;
THENCE 79.45 FEET ALONG THE ARC OF SAID CURVE, HAVING AN INTERIOR ANGLE OF 22°45'41" AND A RADIUS OF 200.00 FEET TO A POINT;
THENCE DEPARTING SAID SOUTH LINE S01°33'45"W, A DISTANCE OF 9.07 FEET TO A POINT;
THENCE S88°35'10"W, A DISTANCE OF 18.89 FEET TO A POINT;
THENCE N83°30'45"W, A DISTANCE OF 70.73 FEET TO A POINT;
THENCE N82°35'03"W, A DISTANCE OF 78.96 FEET TO A POINT;
THENCE N76°57'46"W, A DISTANCE OF 62.01 FEET TO A POINT;
THENCE N68°48'59"W, A DISTANCE OF 49.88 FEET TO A POINT;
THENCE N65°46'52"W, A DISTANCE OF 13.28 FEET TO A POINT;
THENCE N42°13'10"W, A DISTANCE OF 18.39 FEET TO A POINT;
THENCE N24°13'08"E, A DISTANCE OF 52.65 FEET TO THE POINT OF BEGINNING.

CONTAINING 11,529 SQUARE FEET OR 0.2647 ACRES OF LAND, MORE OR LESS.

ROGER A. VERMAAS PLS 24968
FOR AND ON BEHALF OF
ASPEN SURVEYING, INC.
2993 SOUTH PEORIA STREET, SUITE 150
AURORA, COLORADO 80014

Roger A. Vermaas
ROGER A. VERMAAS
PLS 24968
10/22/02
ASPEN SURVEYING

