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ORDINANCE NO. 01
Series 2005

1-4

December 14, 2004: Introduced as Council Bill 13 Series 2004 by Councilmember Doug Tisdale, seconded by Councilmember Bonnie Blum, and considered by the title only on first reading. Passed unanimously.

January 19, 2005: Considered in full text on second reading. Passed unanimously
JP

**A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE
VACATING THE CITY'S INTEREST, IF ANY,
TO AN EIGHT (8) FOOT WIDE PLATTED UTILITY EASEMENT
IN THE BUELL MANSION SUBDIVISION FILING 3**

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, state law and local ordinances 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 21 Sandy Lake Road and 1 Sunrise Drive (the "Owner") petitioned the City Council, through its authorized agent, for the City's vacation of an eight (8) foot wide utility easement (the "Utility Easement Vacation"), which easement encumbers certain real property known as Lot 1 and Lot 2 Buell Mansion Subdivision, Filing 3, City of Cherry Hills Village, County of Arapahoe, State of Colorado; and

WHEREAS, the City Council finds that, if the Owner meets the conditions of this vacation ordinance by providing to the City the written consent of Comcast, Qwest, Cherry Hills Village Sanitation District, Denver Water and Xcel Energy to the Utility Easement Vacation, then the Utility Easement Vacation serves the public interest because there is no public purpose to be served by the portion of the utility easement to be vacated; and

WHEREAS, the City and Owner provided public notice of the proposed easement vacations in accordance with law; and

WHEREAS, the Planning and Zoning Commission recommended that the proposed vacation be approved; subject to the condition that the Utility Easement Vacation be approved by the various utility service providers; and

WHEREAS, pursuant to the foregoing findings and subject to the conditions described below, the City desires to vacate certain portions of certain easements described below.

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

Section 1. The City Council finds that, if the Owner meets the conditions of this vacation ordinance by providing to the City, in accordance with Sections 2 hereof, the written consent of Comcast, Qwest, Cherry Hills Village Sanitation District, Denver Water and Xcel Energy to the Utility Easement Vacation, then the Utility Easement Vacation serves the public interest because there is no public purpose to be served by the portion of the utility easement to be vacated. Based upon such findings, the City's title or claim to ownership of the easement described and depicted in Exhibit A hereto is hereby vacated subject to the conditions stated in Section 2 below.

ABF554

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 receipt of the written consent of Comcast, Qwest, Cherry Hills Village Sanitation District, Denver Water and Xcel Energy to the Utility Easement Vacation.

Section 3. The City's recording in the real property records for Arapahoe County, Colorado of a fully executed copy of this ordinance shall be conclusive evidence of the fact that the condition of Section 2 of this ordinance has been satisfied.

Section 4. Ownership of the City's interest in the vacated easements shall vest with the then current owners of the underlying fee simple estate, as their ownership interests may appear, only upon satisfaction of the condition of approval set forth in Section 2 hereof.

Section 5. 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. 01 Series 2005, by the City Council of the City of Cherry Hills Village, Colorado this 18th day of January, 2005.




Douglas C. Scott, Mayor

ATTEST:



Jennifer Rettinger, City Clerk

APPROVED AS TO FORM:



Thad Renaud, City Attorney



MILLER ENGINEERING
& SURVEYING, INC.

1100 W LITTLETON BLVD SUITE 210
LITTLETON CO 80120 -2239

CIVIL AND LAND DEVELOPMENT ENGINEERING
LAND SURVEYING

PHONE: 303-770-2015
FAX: 303-770-1272

NOVEMBER 11, 2004

LEGAL DESCRIPTION: AN 8.00 FOOT WIDE UTILITY EASEMENT TO BE VACATED.

AN 8.00 FOOT WIDE UTILITY EASEMENT OVER AND ACROSS A PORTION OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF CHERRY HILLS VILLAGE, COUNTY OF ARAPAHOE, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 1; THENCE N89°13'58"W, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 1, A DISTANCE OF 1156.62 FEET TO THE SOUTHEAST CORNER OF LOT 1 THE RESERVE AT CHERRY HILLS, THE POINT OF BEGINNING; THENCE CONTINUING N89°13'58"W ALONG THE SAID SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 1 A DISTANCE OF 8.00 FEET; THENCE N00°18'01"E A DISTANCE OF 430.21 FEET; THENCE S89°14'40"E A DISTANCE OF 8.00 FEET TO A POINT ON THE EAST LINE OF SAID LOT 1; THENCE S00°18'01"W ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 430.21 FEET TO THE POINT OF BEGINNING.

CONTAINING 3442 SQUARE FEET, OR 0.0790 ACRES, MORE OR LESS.

THE BASIS OF BEARINGS IS THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 1, MONUMENTED AT THE WEST ¼ CORNER WITH A BRASS CAP PLS 11434 AND AT THE CENTER ¼ CORNER WITH AN ALUMINUM CAP PLS 19003, WHICH IS CONSIDERED TO BEAR N89°13'58"W.


STEVEN L. FORVILLY, P.E. & P.L.S. 27011
A circular professional seal for Steven L. Forvilly, Colorado Registered Professional Engineer and Professional Land Surveyor, No. 27011, is stamped over the signature and name. The seal contains the text 'COLORADO REGISTERED', 'STEVEN L. FORVILLY', '27011', and 'P.E. & P.L.S.' with a date stamp '11/11/04'.

MEAS MILLER ENGINEERING & SURVEYING, INC.

CIVIL AND LAND DEVELOPMENT ENGINEERING
LAND SURVEYING

1100 W LITTLETON BLVD SUITE 210

303-770-2015
303-770-1272 FAX

LITTLETON, COLORADO 80120-2239

S89°14'40"E

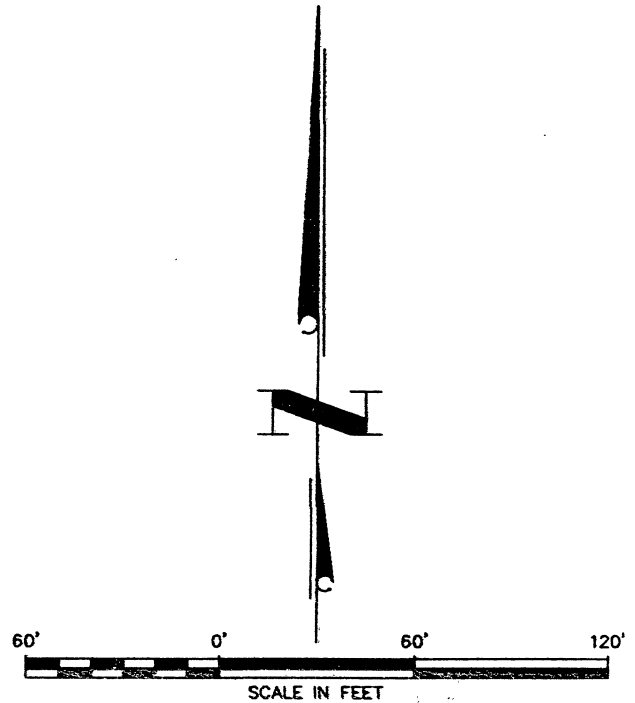
S89°14'40"E
8.00'

8' PLATTED UTILITY
EASEMENT
TO BE VACATED
3442 sq. ft. 0.0790 acres

THE RESERVE
AT CHERRY HILLS
LOT 1

LOT 4A
BUELL MANSION
FILING 2

N00°18'01"E 430.21'
S00°18'01"W 430.21'



THIS DRAWING DOES NOT REPRESENT
A MONUMENTED SURVEY AND IS ONLY

PREPARED UNDER MY DIRECT SUPERVISION

Steven L. Forvilly
STEVEN L. FORVILLY, P.E. & P.L.S. #27011
COLORADO REGISTERED
P.E. & P.L.S.

P.O.B

8.00'

BASIS OF BEARINGS:
S. LINE NW 1/4 SEC. 1,
T5S, R68W, 6th P.M.

N89°13'58"W
CHERRY HILLS PARK I
LOT 5

1156.62'
TO C. 1/4