

PALMER LAKE, COLORADO

ORDINANCE NO. 18 OF 2017

AN ORDINANCE VACATING A PORTION OF CLARENCE STREET BETWEEN RIO GRANDE STREET AND ESTABROOK STREET, PALMER LAKE, COLORADO

WHEREAS, PURSUANT TO C.R.S. § 43-2-303, THE TOWN HAS THE AUTHORITY TO VACATE ANY ROADWAY WITHIN ITS JURISDICTION BY ORDINANCE; AND

WHEREAS, THE TOWN OF PALMER LAKE, BY ORDINANCE NO. 3 OF 2011, VACATED THE NORTHEASTERLY HALF OF CLARENCE STREET BETWEEN RIO GRANDE STREET AND ESTABROOK STREET ADJOINING LOTS 1 AND 28, BLOCK 2 EAST PALMER LAKE, PALMER LAKE, EL PASO COUNTY, COLORADO ("2011 VACATION"); AND

WHEREAS, THE TOWN OF PALMER LAKE HAS RECEIVED A REQUEST FROM AN OWNER OF PROPERTY ADJACENT TO CLARENCE STREET TO VACATE THE REMAINING PORTION OF CLARENCE STREET BETWEEN RIO GRANDE STREET AND ESTABROOK STREET ("SUBJECT PROPERTY" OR "RIGHT-OF-WAY") WHICH PORTION OF CLARENCE STREET WAS NOT PREVIOUSLY VACATED IN THE TOWN'S 2011 VACATION AS MORE FULLY DESCRIBED IN EXHIBIT A ATTACHED HERETO; AND

WHEREAS, BY OPERATION OF C.R.S. § 43-2-303, TITLE TO THE SUBJECT PROPERTY SHOULD VEST ONE HALF TO EACH OF THE ADJOINING PROPERTY OWNERS AT THE CENTERLINE OF THE VACATED ROADWAY; AND

WHEREAS, THE OWNER OF THE ADJOINING PROPERTY TO THE SOUTHWEST OF THE SUBJECT PROPERTY (LEVEL 3 COMMUNICATIONS, LLC) DESIRES TO DISCLAIM ITS INTEREST IN THE SUBJECT PROPERTY AS AND IF VACATED AND WAIVES ALL RIGHTS AND PROPERTY INTERESTS THAT WOULD ACCRUE TO SUCH OWNER CONSISTENT WITH C.R.S. § 43-2-303 AS SET FORTH IN THE ATTACHED CONSENT AND WAIVER LABELED AS EXHIBIT B ("CONSENT AND WAIVER"); AND

WHEREAS, ACCORDINGLY, THE TITLE TO THE ENTIRETY OF THE SUBJECT PROPERTY SHALL VEST SOLELY IN THE ADJOINING PROPERTY OWNER TO THE NORTHEAST OF THE SUBJECT PROPERTY (JKERR PROPERTIES, LLC); AND

WHEREAS, THE TOWN HAS DETERMINED THAT THE RIGHT OF WAY SOUGHT TO BE VACATED HAS NEVER BEEN USED AS PUBLIC RIGHT OF WAY AND IS NOT NEEDED OR DESIRED FOR PUBLIC RIGHT OF WAY PURPOSES; AND

WHEREAS, THE VACATION EFFECTED HEREBY WILL NOT RESULT IN LEAVING ANY LAND ADJOINING SAID ROADWAYS WITHOUT AN ESTABLISHED PUBLIC ROAD OR PRIVATE ACCESS EASEMENT CONNECTING SAID LAND WITH ANOTHER ESTABLISHED PUBLIC ROAD; AND

WHEREAS, THE TOWN SHALL REQUIRE, AS A CONDITION OF THE VACATION EFFECTED HEREBY, THE RECORDING OF A TOWN APPROVED SUBDIVISION PLAT SHOWING THE VACATION OF THE SUBJECT PROPERTY; AND

WHEREAS THE TOWN OF PALMER LAKE HAS DETERMINED THAT NO SIGNIFICANT PUBLIC IMPROVEMENTS LIE WITHIN THE PROPOSED VACATED RIGHT OF WAY.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, EL PASO COUNTY, COLORADO, AS FOLLOWS:

Section 1. Pursuant to applicable state statute and satisfaction of the conditions set forth in Section 3 hereof, as shown on **Exhibit A**, the Town of Palmer Lake hereby vacates:

The entire width of that portion of Clarence Street between Rio Grande Street and Estabrook Street

Section 2. Pursuant to state statute, and conditioned upon recordation of the Consent and Waiver and this Ordinance, and the satisfaction of all conditions set forth in Section 3, the title to the entire Subject Property vacated hereby shall vest solely to the adjoining property owner (JKerr Properties, LLC).

Section 3. This ordinance will be effective and recorded only upon satisfaction of the following condition:

Submittal and recordation with the Clerk and Recorder and with the Assessor for El Paso County of a Town approved surveyed plat showing the vacation of Clarence Street, with the land vacated thereby being made a part of Lots 1 and 28 of Block 2, East Palmer Lake, Palmer Lake, El Paso County, Colorado and the title of the Subject Property vested in adjoining property owner JKerr Properties, LLC.

Section 4. Severability. It is hereby declared to be the intention of the Board of Trustees of the Town of Palmer Lake that the sentences, clauses and phrases of this ordinance are severable, and if any sentence, clause or phrase of this ordinance be declared unconstitutional or invalid by the valid judgment or decree of Court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sentences, clauses or phrases of this ordinance since the same would have been enacted by the Board of Trustees without the incorporation of any unconstitutional or invalid sentence, clause or phrase.

Section 5. Publication. The Town Clerk shall certify to the passage of this ordinance and cause notice of its contents and passage to be published by title only. This ordinance shall become effective thirty (30) days after the date of publication.

PASSED AND ADOPTED THIS 14th DAY OF Sept, 2017 by a vote of 6 for and 0 against.





JOHN CRESSMAN, MAYOR

ATTEST:



TARA BERRETH, TOWN CLERK

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Palmer Lake at its meeting of 9.24, 2017, and ordered published by title only by Gazette newspaper on 10.24, 2017.



Tara Berreth, Town Clerk

AFFIDAVIT OF PUBLICATION

STATE OF COLORADO
COUNTY OF El Paso

I, Rachel Johnson, being first duly sworn, deposes and says that she is the Legal Sales Representative of The Colorado Springs Gazette, LLC., a corporation, the publishers of a daily/weekly public newspapers, which is printed and published daily/weekly in whole at the city of Colorado Springs in the County of El Paso, and the State of Colorado, and which is called Colorado Springs Gazette; that a notice of which the annexed is an exact copy, cut from said newspaper, was published in the regular and entire editions of said newspaper 1 time(s) to wit 10/25/2017

PALMER LAKE, COLORADO
ORDINANCE NO. 18 OF 2017
AN ORDINANCE VACATING A PORTION OF
CLARENCE STREET BETWEEN RIO GRANDE
STREET AND ESTABROOK STREET, PALMER
LAKE, COLORADO

PALMER LAKE, COLORADO
ORDINANCE NO. 20 OF 2017
AN ORDINANCE CHANGING THE ZONING
CLASSIFICATION OF CERTAIN LANDS LOCATED
IN THE TOWN OF PALMER LAKE, UNDER
THE AUTHORITY GRANTED BY THE TOWN OF
PALMER LAKE ZONING REGULATIONS

PALMER LAKE, COLORADO
ORDINANCE NO. 21 OF 2017
AN ORDINANCE APPROVING THE MINOR
SUBDIVISION OF LOTS 1 TO 16 INCLUDING
BLOCK 12 TRINITY ADDITION, PALMER LAKE,
COLORADO

PALMER LAKE, COLORADO
ORDINANCE NO. 22 OF 2017
AN ORDINANCE APPROVING AN AMEND-
MENT TO THE PLANNED UNIT DEVELOPMENT
AT 95 GREELEY BOULEVARD

Published in Colorado Springs Gazette
October 25, 2017

That said newspaper has been published continuously and uninterruptedly in said County of El Paso for a period of at least six consecutive months next prior to the first issue thereof containing this notice; that said newspaper has a general circulation and that it has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879 and any amendment thereof, and is a newspaper duly qualified for the printing of legal notices and advertisement within the meaning of the laws of the State of Colorado.

Rachel Johnson
Sales Center Agent

Subscribed and sworn to me this 10/25/2017, at said City of Colorado Springs, El Paso County, Colorado.
My commission expires November 1, 2020.

Mary Heifner
Notary Public
The Gazette

MARY HEIFNER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164041634
MY COMMISSION EXPIRES NOV. 1, 2020