

V-03-014

542.05

**VACATION
PORTION OF PALMER PARK BOULEVARD**

A request by C & M Group Ltd, No. III and C & O Equity Realty to vacate an unimproved, 632-foot length of the right-of-way of Palmer Park Boulevard. This portion of the road extends from approximately 1,320 feet to 1,952 feet west of Marksheffel Road. The property has no tax schedule number.

PREPARED BY

Barry Holmes
7/21/04

APPLICABLE RESOLUTIONS

Approval Page 15
Disapproval Page 16

PLANNING DIVISION RECOMMENDATION: The Development Services Department - Planning Division recommends that this request be continued to September 21, 2004. Should the Planning Commission decide to not continue this request, and to approve this request, the Planning Division recommends the following conditions and notations:

CONDITIONS

1. The vacation drawing of the area shall be recorded with the approval Resolution.
2. Applicant shall be responsible for relocating any utilities as a result of this Vacation.

NOTATION

1. Pursuant to C.R.S. 43-2-302 (1) (c and d) title to the vacated portion of Templeton Gap Road shall vest with the owners of land on either side of the vacated road.

PUBLIC NOTICE: The property was posted on July 2, 2004.

PUBLIC NOTIFICATION: The Planning Division notified adjoining property owners of applicant's intent on July 2, 2004. A summary of their responses will be given at the meeting.

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ADJOINING LAND USE AND ZONING: The surrounding area is undeveloped vacant land. Zoning to the north, east and south is M (Industrial) District. Zoning on the west is PBP (Planned Business Park) District.

SUMMARY OF THE PROPOSAL: The applicant is proposing to vacate a portion of the right-of-way of Palmer Park Boulevard that has never been improved. This portion is approximately ¼ mile west of Marksheffel Road and approximately 660 feet east of the current end of Palmer Park Boulevard pavement on the north side of Cimarron-Eastridge Filing No. 2.

The vacated right-of-way is proposed to be incorporated into single-family lots in the Jessica Heights development.

AGENCY COMMENTS

DEVELOPMENT SERVICES DEPARTMENT - Engineering Division

- 1) At this time DOT cannot recommend approval of the vacation due to the potential need for access onto this roadway from properties to the east of this site. At the time the properties to the east demonstrate other appropriate access DOT would consider the vacation.
- 2) Should a future vacation be considered, easements for any utilities and drainage would be required prior to the vacation.

CHEROKEE METROPOLITAN DISTRICT: Cherokee Metropolitan District has no problem with the petition request to vacate a portion of Palmer Park Boulevard.

COMPREHENSIVE PLANNING SECTION

Master Plan Elements

El Paso County Policy Plan (1998)

Goal 9.1 – Plan, develop, and maintain a safe and efficient transportation system to meet the present and future mobility needs, of people, goods, materials, and services.

Policy 9.1.1 – Identify and preserve the functional integrity of the corridors necessary to meet the County’s potential future surface transportation needs.

Policy 9.2.2 – Require advance right-of-way preservation and/or dedication for transportation facilities as part of the land development process.

Comprehensive Planning Comments

Vacating the existing Palmer Park Boulevard right-of-way (ROW) creates several problems and is not recommended. Vacating the ROW land-locks several adjacent parcels to the east and precludes connections and access for several developments in the area, including Jessica Heights.

Without a southerly connection to Palmer Park Boulevard, the adjacent Jessica Heights Subdivision was designed with a cul-de-sac serving 56 lots, far in excess of the 10 lots allowed. A southerly Palmer Park connection would help rectify the roadway network deficiency.

Additionally, because of a 100-year floodplain and deeply incised channel, the industrial parcels east of the ROW do not have ready access to Marksheffel Road and require continued access to Palmer Park Boulevard. While some concern has been raised about the prospect of industrial traffic adjacent to a residential area, it should be noted that many acres of vacant industrial zoned properties in the area have already been converted to residential uses or are being contemplated for conversion to residential. It is reasonable to assume that the parcels to the east of the Palmer Park ROW in question will ultimately undergo the same conversion, precluding concerns about industrial traffic in residential areas. Additionally, in the interest of equity, these industrial parcels should be given the opportunity to continue their current uses.

Summary

Vacating the portion of Palmer Park Boulevard in question would land-lock several adjacent parcels and preclude connections and access for several developments in the area, including Jessica Heights. The vacation request should be denied.

Mountain view electric - See attached letter.

The following other agencies were notified and their comments will be provided at the meeting, if available:

- Regional Building Department
- El Paso County Attorney's Office
- City of Colorado Springs
- Major Thoroughfare Task Force
- Falcon Fire Department
- 911

PLANNING DIVISION COMMENTS:

- 1) This vacation is for an area of 37,991 square feet. If vacated, title to the vacated portion of Palmer Park Boulevard shall vest with the owners of land on either side of the vacated road.

The adjacent owners have apparently agreed that the owner on the north will eventually acquire all of the vacated right-of-way, and that owner has proposed that the vacated area be included in the Jessica Heights subdivision as part of single-family lots. The right-of-way has also been included in the Jessica Heights PUD Development Plan proposal, being shown therein for proposed residential use.

- 2) The Planning Division is recommending that this request be continued at this time. If all of the proposals for the surrounding area are approved and certain staff concerns resolved, staff would support this request. As it is, there is not enough of a degree of certainty to adjacent land use plans for the staff to support vacating this right-of-way.

Staff concerns with related land use proposals are discussed in two other requests on this agenda, PUD-03-008, the Jessica Heights PUD Development Plan and SP-03-013, the Jessica Heights Preliminary Plan. The major concerns related to this vacation request are:

Two parcels have their only public access by means of this right-of-way. (See attached map, identifying tax parcels 54050-00-010 and 54050-00-019) There are plans to convert these parcels into a school site, but at the present time they are legal parcels adjacent to a public right-of-way and should not be cut off from access. It has been argued that these are not very developable parcels, which may be true, but does not justify leaving them without legal access.

The two parcels mentioned above are proposed for a school site. The school site is proposed to be accessed from the south, through Wilshire Development, and from the west, through Jessica Heights. At this time, Wilshire Development has been denied by the Board of County Commissioners. It seems possible that it will be favorably reconsidered by the Board, but this will not be addressed until August 26, 2004. Should a favorable reconsideration not be made, it is unlikely that the parcels would become a school site and they would still need access. If a favorable decision is made on Wilshire, and the two parcels become a school site, staff believes the school site should have two access roads, or be on a through road, for emergency access purposes.

At the present time, it appears that Mr. Grant Langdon, the representative of Wilshire Development has agreed to provide an access through the Wilshire Development and is in agreement with the request to vacate the Palmer Park right-of-way. However, there is no binding agreement at this time, hence no second access guaranteed.

Discussions of a development agreement that would include mention of the second access are in process. Even this agreement would delay the guarantee of the access until a second phase of the Wilshire Development. Staff believes that until the second access is ready to be provided, that Palmer Park should not be vacated.

If all other concerns were resolved, staff would support the Palmer Park right-of-way vacation in this area. However, staff does not believe we can vacate right-of-way and have it revert back if other events do not come to pass. Therefore, we need to be relatively sure of the resolution of other concerns prior to vacating this right-or-way. These assurances can not be made at this time and this request should be continued.

As discussed for the prior two (2) items, (PUD rezoning and Preliminary Plan), it is possible to contingently approve those items without concurrent approval of this vacation request. It will likely not be possible to approve a Final Plat for the Jessica Heights Subdivision as proposed without this Vacation being approved.

ENCLOSURES

Vicinity Map
Letter of Intent
Vacation Map
MVEA Letter, dated 7/19/04
Map Showing School Site Parcels

El Paso County Parcel Information

Parcel Number: 5405000011; 013; 015; 016; 028; 029

File Name: V-03-014

Parcel Address: 0 05-14-65

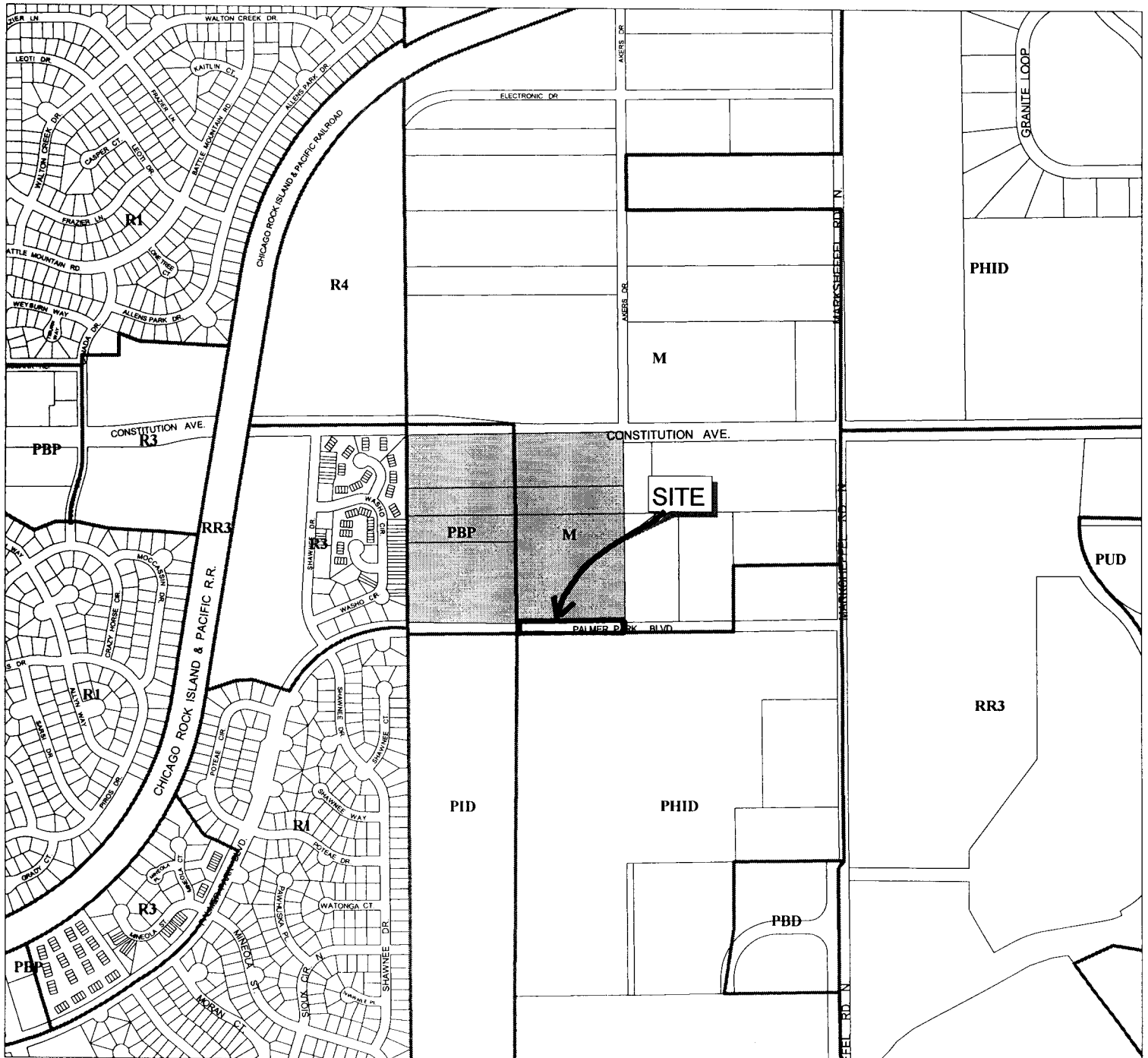
Zone Map No.: 542.05

Parcel Owner: P & J GROUP LTD

Parcel Owner 2: C/O EQUITY REALTY

Parcel Owner 3: ATTN DANNY MIENTKA

Owner Mailing Address: 90 S CASCADE AVE STE 1500, COLORADO SPRINGS, CO 80903



Please report any discrepancies to:
 El Paso County GIS/Mapping
 325 S. Cascade
 Colorado Springs, CO 80903
 (719)520-6523

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September 3, 2003

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**LETTER OF INTENT
Palmer Park Boulevard – Vacation Request**

- ❑ **SUBDIVISION NAME:** Jessica Heights
- ❑ **OWNER/APPLICANT AND CONSULTANT, INCLUDING ADDRESSES AND TELEPHONE NUMBER:** Equity, 90 S. Cascade Ave., Ste. 1500, Colorado Springs, CO 80903 (attn: Danny Mientka, 719-475-7621), William Guman & Associates, Ltd., 815 North Weber Street, Colorado Springs, CO 80903 (attn: J. Matthew Spidell, 719-633-9700)
- ❑ **TOTAL NUMBER OF ACRES IN THE REQUESTED AREA:** 34 Acres
- ❑ **TOTAL NUMBER OF RESIDENTIAL UNITS AND DENSITIES FOR EACH DWELLING TYPE:** 106 Units/ 4.81 du/acre.
- ❑ **EXISTING AND PROPOSED FACILITIES, STRUCTURES, ROADS, ETC.:** Existing roads – Constitution Blvd. (120' ROW), Palmer Park Boulevard (ROW varies) and proposed Jessica (80' ROW). Proposed residential streets are designed with a (50' row) connecting to Jessica.
- ❑ **VACATION REQUESTS AND JUSTIFICATION:** We are proposing to vacate a portion of Palmer Park Boulevard as described in the deed in book 2779 at page 566 of the records of El Paso County. The area of Palmer Park to be vacated is adjacent to the southeastern portion of our proposed Jessica Heights Subdivision. See attached legal description for exact property boundary.

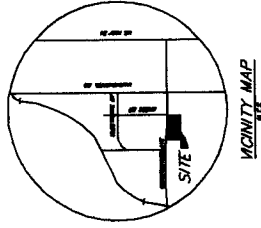
ADJACENT LAND

The owner to the south has verbally agreed to the vacation request and has been notified through certified mail. The owner of the five acre parcel to the east has also been notified through certified mail. The owner to the east has not been responsive to previous invitations to become involved in the development process. No response was provided from the attached letter sent to Jay Williams regarding participation in the planning and development of this application.

JUSTIFICATION

The other parcels to the east are zoned industrial and will be accessed of existing Marksheffel Road, service roads parallel Marksheffel Road or from the proposed Acres Drive. These current and future access locations will enable the county to separate industrial traffic from residential traffic. We feel that this is the best solution based on the health, safety and welfare of citizens that will occupy this proposed development.

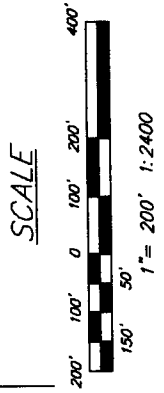
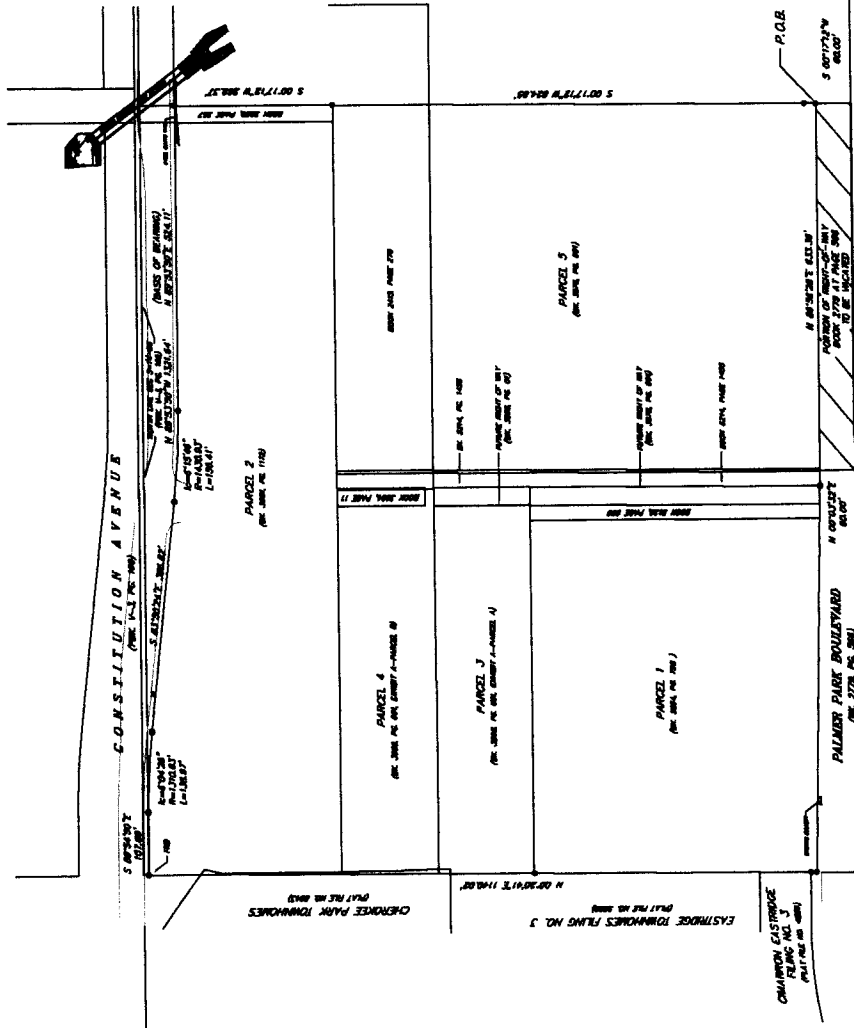
PALMER PARK BOULEVARD VACATION MAP



LEGAL DESCRIPTION (A PORTION OF PROPOSED PALMER PARK BLVD.)
 A STRIP OF LAND 60 FEET WIDE BEING A PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6TH P.M. OF EL PASO COUNTY, COLORADO, SAID STRIP OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

(BEARING REFERRED TO HEREIN ARE BASED ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 3, ASSUMED TO BEAR N89°53'30"E.)
 COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER, SAID CORNER BEING ON THE SOUTHERLY LINE OF CONSTITUTION AVENUE AS DESCRIBED IN "CONSTITUTION AVENUE / PETERSON ROAD RIGHT-OF-WAY" RECORDED IN PLAT BOOK 14-3 AT PAGE 189 OF THE RECORDS OF SAID COUNTY (THE FOLLOWING FIVE (5) COURSES ARE ALONG SAID SOUTHERLY LINE.);

- 1.) THENCE S89°54'30"E, 107.09 FEET;
- 2.) THENCE ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 6°14'26", A RADIUS OF 1,310.93 FEET, FOR AN ARC DISTANCE OF 1,38.97 FEET;
- 3.) THENCE S87°30'24"E, 306.82 FEET;
- 4.) THENCE ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 6°15'46", A RADIUS OF 14,803.3 FEET, FOR AN ARC DISTANCE OF 156.41 FEET;
- 5.) THENCE N89°53'30"E, 524.11 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER;
- THENCE S00°17'12"W, 268.37 FEET ALONG THE SAID EAST LINE TO THE NORTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED IN BOOK 3876 AT PAGE 691;
- THENCE CONTINUE S00°17'12"W, 824.85 ALONG THE EASTERLY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 3876 AT PAGE 691 TO THE POINT OF BEGINNING OF THE STRIP OF LAND HEREIN DESCRIBED;
- THENCE CONTINUE S00°17'12"W, 50.00 FEET TO THE NORTHERLY LINE OF THAT TRACT OF LAND AS DESCRIBED UNDER RECEIPTION NO. 202006608 OF SAID RECORDS;
- THENCE S89°56'28"W, 631.00 FEET ALONG SAID NORTHERLY LINE;
- THENCE N00°15'37"W, 80.00 FEET TO THE SOUTHERLY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 3876 AT PAGE 691;
- THENCE N89°56'28"E, 633.36 FEET ALONG SAID SOUTHERLY LINE TO THE POINT OF BEGINNING AND CONTAINING 37,391 SQUARE FEET MORE OR LESS.



PROJECT: JESSICA HEIGHTS

DATE: 8/15/03

MONUMENT VALLEY ENGINEERS INC.
 ENGINEERS & SURVEYORS
 1215 S. AVENUE 101
 DENVER, COLORADO 80202
 PHONE (313) 838-8738

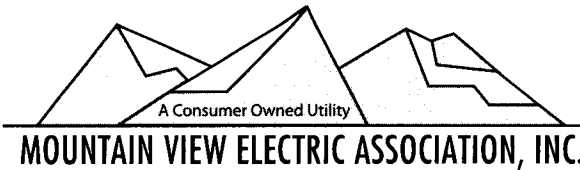
SHEET 1 OF 1

DRAWING NO. 60742004

RECEIVED

SEP 03 2003
 PLANNING DEPARTMENT

- 659 -



Limon 719-775-2861 • Falcon 719-495-2283 • www.mvea.coop

P.O. Box 1600 • Limon, Colorado 80828-1600

July 19, 2004

RECEIVED

JUL 21 2004

PLANNING DEPARTMENT

Barry Holmes
El Paso County Planning Department
27 E. Vermijo Street
Colorado Springs, CO 80903

Dear Mr. Holmes:

Mountain View Electric Association, Inc. (MVEA) has these comments about the following:

- 1) **V-03-014** **542.05**
VACATION
PORTION OF PALMER PARK BLVD.

It is requested by C & M Group Ltd. No III and C & O Realty to vacate a portion of unimproved 632 feet of right of way, also known as Palmer Park Blvd. It has been proposed to vacate this portion of Palmer Park Blvd to control traffic thru the Jessica Heights Subdivision to Marksheffel Road. It is suggested there is justification for this request. This will separate industrial traffic and residential traffic. The road would be vacated in the southeasterly portion of the proposed Jessica Heights Subdivision. Also known as a strip of land 60 feet in width in the NW ¼ of the NE ¼ of Section 5, Township 14 South, Range 65 West, El Paso County, State of Colorado.

This area is within MVEA certificated service area. MVEA will serve this area according to our existing extension policy.

MVEA has an existing 3-phase underground line within or in close proximity to the area of the proposed platted Right of Way vacation. It *appears* the underground facilities are within an easement to the south of Palmer Park Blvd and does not lie within the platted lots of Jessica Heights Subdivision. However if there would be any reconfiguration that would necessitate the moving of this line it would be the financial responsibility of the developer.

Please find enclosed a map of the defined electrical facilities. If additional information is required, please contact our office at (719) 495-2283.

Sincerely,

AvelynUllom
Engineering Clerk

Cc; Danny Mientka, William, Guman & Associates

-657-

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The power of human connections



CONSTITUTION AVE.

JESSICA
HEIGHTS

5405000019

SCHOOL
SITE

5405000010

7440

7580

7770

PALMER PARK BLVD.

WILSHIRE

7575

7720

VENTURE S

7715

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