

City Cherry Hills Village of  
2450 E Quincy Ave  
Cherry Hills Vlg, Co 80110

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4/08/2002 13:34:09  
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25.00 DOC FEE: 0.00  
TRACY K. BAKER  
ARAPAHOE COUNTY

**ORDINANCE 3**  
**SERIES 2002**

November 20, 2001: Introduced as Council Bill 24 Series of 2001 by Jan Steiert, seconded by John Love, and considered by the title only on first reading. Passed unanimously.

March 5, 2002: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 08, Series 2002.

**A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE VACATING THE CITY'S INTEREST, IF ANY, TO CERTAIN PROPERTY WITHIN CHENANGO AVENUE AND RESERVING A PUBLIC PEDESTRIAN AND BRIDLE TRAIL EASEMENT AND PROHIBITING PARKING ALONG OTHER PORTIONS OF CHENANGO AVENUE**

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., 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 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 and other property; and

WHEREAS, the City is authorized to exercise its legislative power to vacate all or any portion of a right-of-way in accordance with Chapter 4 of Title 8 of the City Code for the City of Cherry Hills Village; and

WHEREAS, the City Council determines that neither a preliminary nor formal petition for vacation is necessary for this vacation and the vacation may be processed without conformance with the application requirements of Chapter 4 of Title 8 of the City Code for the City of Cherry Hills Village; and

WHEREAS, by recordation of the Clark Colony subdivision plat (recorded at Book 1, Page 24 on or about August 23, 1906 in the office of the Clerk and Recorder for Arapahoe County), an open street access system was reserved or otherwise dedicated to provide access throughout the subdivision to and from public streets and the City has maintained and/or asserted some claim to ownership or control of, or some form of public interest in, certain portions of the street access system in the Clark Colony subdivision; and

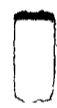
WHEREAS, the Clark Colony subdivision plat (recorded at Book 1, Page 24) expressly dedicated to the occupants of the lots described in the Clark Colony Plat a private right of access to the streets, including Fairfax Street, and

WHEREAS, private property within the Clark Colony plat have historically obtained access via private drives and private streets located within and adjacent to the property described in this Ordinance; and

WHEREAS, the City Council, by vacation of any public interest that may exist in Fairfax Street, does not intend to impair or affect in any way the private access rights dedicated by the Clark Colony plat; 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

MNB302



WHEREAS, some portions of Chenango Avenue that are not subject to the vacation proposed by this Ordinance have been controlled and maintained as a public thoroughfare by the City of Cherry Hills Village for more than 20 years; and

WHEREAS, a portion of Chenango Avenue is not necessary for use by the public; and

WHEREAS, the City desires to vacate a portion of Fairfax Street 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 Chenango Avenue lying within the area described below is no longer necessary for use by the general public and that no land would, by such vacation of right-of-way, be left without access (via public or private drive or thoroughfare) to an established public road. The Council further finds that the vacation of the portion of Chenango Avenue described herein serves the public interest of the City of Cherry Hills Village. Based upon such findings; the City's title to or claim to ownership of the portion of Chenango Avenue described in Exhibits A & B is hereby vacated subject to the reservation of easement described below:


RESERVING unto the City of Cherry Hills Village a permanent and perpetual easement in, to, over, through, and across the property described above for the construction, maintenance, operation, use, removal, repair, and replacement of a public recreational trail, which easement shall include use for non-motorized recreational trail activities such as but not limited to pedestrian, bicycle, and equestrian use.

Section 2. Nothing in this Ordinance or the City's vacation is intended to modify, annul, or otherwise affect any private right of access to Fairfax Street as such rights may be described in the Clark Colony plat (recorded at Book 1, Page 24 on or about August 23, 1906 in the office of the Clerk and Recorder for Arapahoe County) or as such rights may exist as the result of historic use of Fairfax Street.

Section 3. Parking shall be prohibited, and signs shall be erected by the City to prohibit parking, within and along the portion of the public right-of-way that is accessible to public vehicular traffic and known as Chenango Avenue located east of the westernmost boundary of Fairfax Street and west of Holly Street.

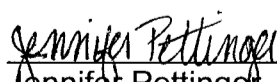
Section 4. Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable.

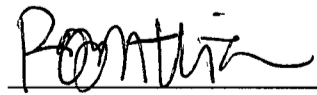
Adopted as Ordinance No. 8 Series 2002, by the City Council of the City of Cherry Hills Village, Colorado this 5<sup>th</sup> day of March, 2002.

  
\_\_\_\_\_  
John F. Welborn, Mayor

ATTEST:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jennifer Pettinger, City Clerk

  
\_\_\_\_\_  
Robert C. Widner, City Attorney

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3-5

# EXHIBIT A

## PART OF E. CHENANGO AVE. BETWEEN S. HOLLY ST. AND S. FAIRFAX ST.

### LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ARAPAHOE, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

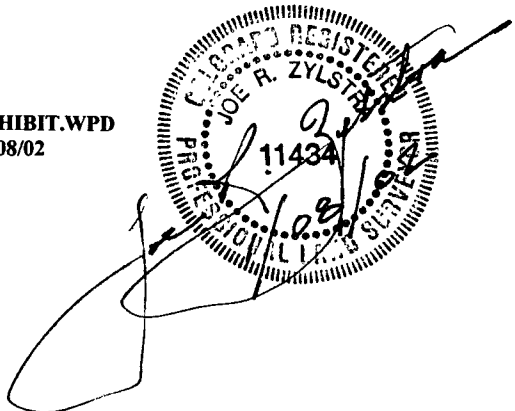
COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 7; THENCE S 89°28'22" W, A DISTANCE OF 30.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH HOLLY STREET EXTENDED; THENCE S 00°00'25" E, ALONG SAID WEST RIGHT-OF-WAY LINE EXTENDED AND SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 1307.21 FEET TO THE NORTH RIGHT-OF-WAY LINE OF EAST CHENANGO AVENUE, SAID POINT BEING THE POINT OF BEGINNING; THENCE S.00°00'25" E, ALONG SAID WEST RIGHT-OF-WAY, A DISTANCE OF 30.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SAID EAST CHENANGO AVENUE; THENCE S 89°29'54" W, ALONG SAID SOUTH RIGHT-OF-WAY, A DISTANCE OF 1027.20 FEET TO A POINT OF NON-TANGENT CURVE; THENCE ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 71°01'58", A RADIUS OF 45.00 FEET, CHORD WHICH BEARS N 54°29'01" E, 52.28 FEET, AN ARC DISTANCE OF 55.79 FEET TO THE NORTH RIGHT-OF-WAY OF SAID EAST CHENANGO AVENUE AND A NON-TANGENT LINE; THENCE N 89°29'54" E, ALONG SAID NORTH RIGHT-OF-WAY, A DISTANCE OF 984.64 FEET TO THE POINT OF BEGINNING.

CONTAINING 30,475 SQUARE FEET OR 0.700 ACRES, MORE OR LESS.

BASIS OF BEARINGS: THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN WAS FOUND TO BEAR N 89°28'22" E, PER THE ARAPAHOE COUNTY HORIZONTAL CONTROL NETWORK PHASE VI, AS PREPARED BY MOUNTAIN SURVEYING AND MAPPING, INC., ON NOVEMBER 4, 1997.

ZYLSTRA BAKER SURVEYING, INC.  
1510 W. TUFTS AVE.  
ENGLEWOOD CO 80110  
303-781-0700

EXHIBIT.WPD  
01/08/02

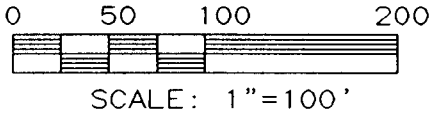




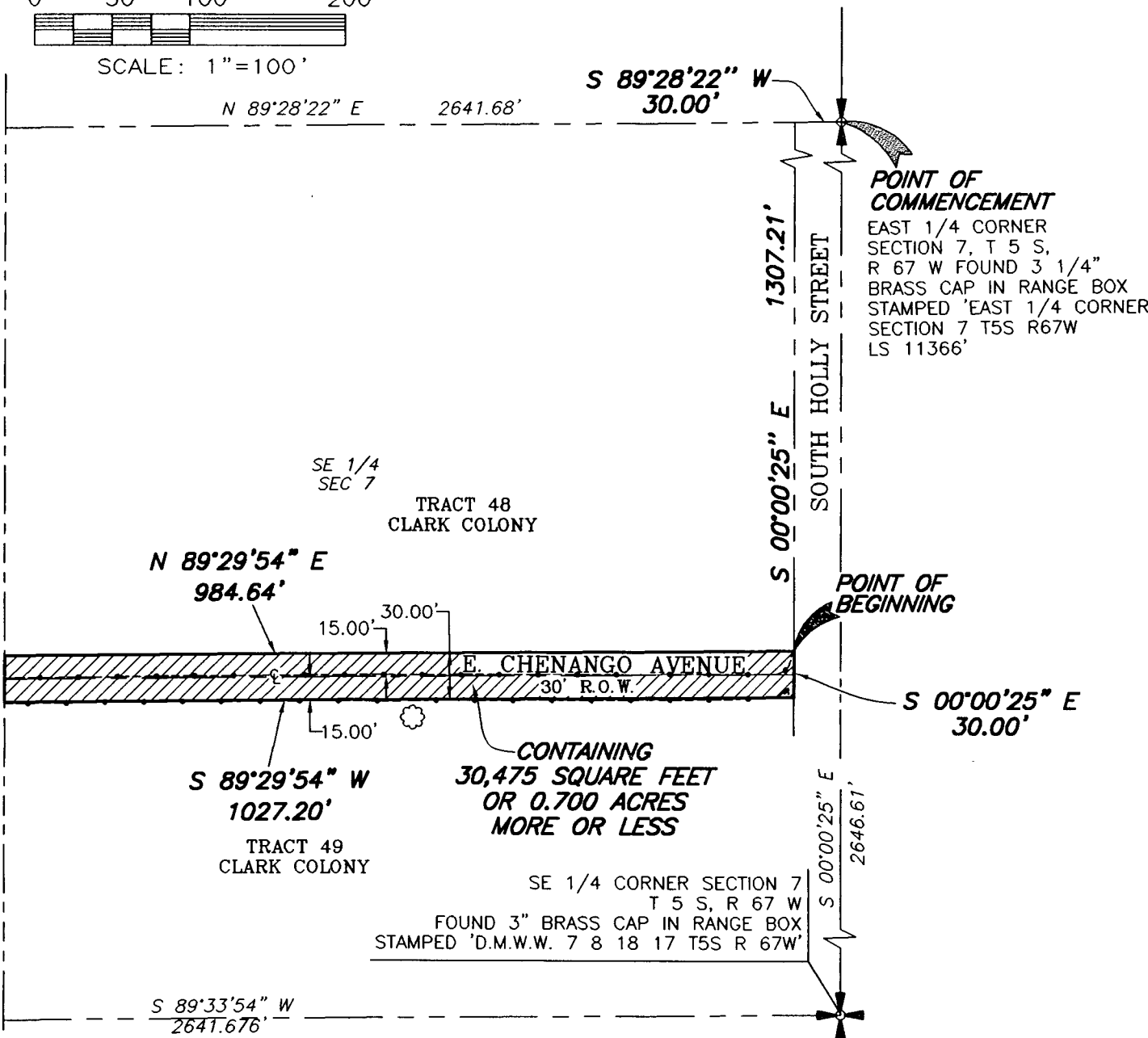
# EXHIBIT B

4-5

SOUTHEAST QUARTER, SECTION 7  
 T. 5 S., R. 67 W., 6TH P.M.  
 CITY OF CHERRY HILLS VILLAGE  
 ARAPAHOE COUNTY, COLORADO



MATCH LINE - SEE SHEET 3 OF 3



**POINT OF COMMENCEMENT**  
 EAST 1/4 CORNER  
 SECTION 7, T 5 S,  
 R 67 W FOUND 3 1/4"  
 BRASS CAP IN RANGE BOX  
 STAMPED 'EAST 1/4 CORNER  
 SECTION 7 T5S R67W  
 LS 11366'

**POINT OF BEGINNING**

SE 1/4 CORNER SECTION 7  
 T 5 S, R 67 W  
 FOUND 3" BRASS CAP IN RANGE BOX  
 STAMPED 'D.M.W.W. 7 8 18 17 T5S R 67W'

ZYLSTRA BAKER SURVEYING INC. 1510 WEST TUFTS AVENUE ENGLEWOOD, CO 80110 PHONE (303) 781-0700			
CITY OF CHERRY HILLS VILLAGE			
PART OF E. CHENANGO AVE. BETWEEN S. HOLLY ST. AND S. FAIRFAX ST.			
SCALE: 1"=100'		DATE: 01/08/02	
DRN. JRT	TR.	CK. JRZ	
JOB NO. MM1-1206	PG. 2 OF 3		

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

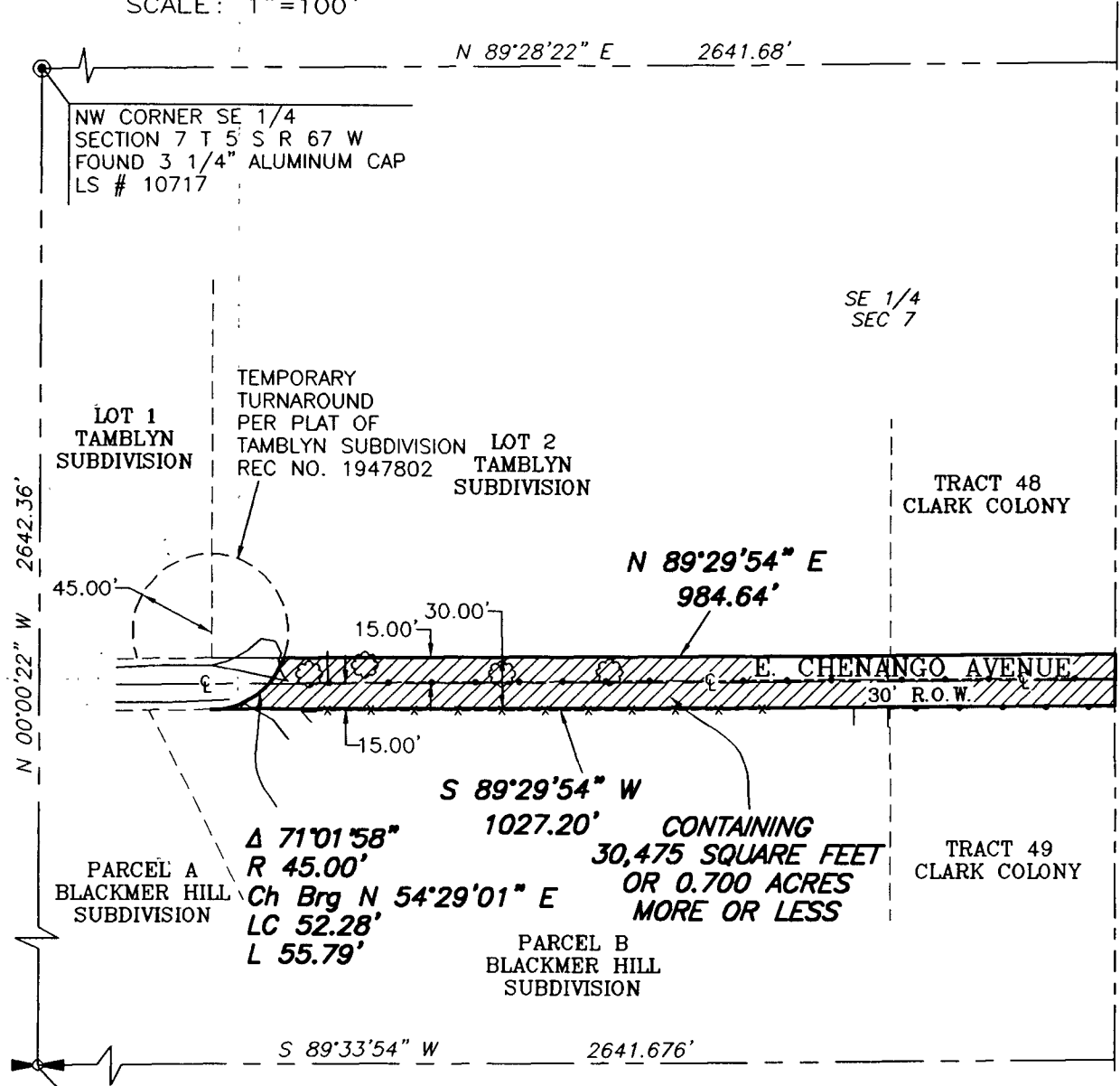
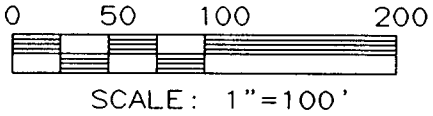
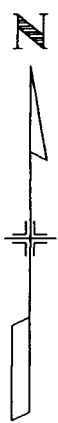




# EXHIBIT B

5-5

SOUTHEAST QUARTER, SECTION 7  
 T. 5 S., R. 67 W., 6TH P.M.  
 CITY OF CHERRY HILLS VILLAGE  
 ARAPAHOE COUNTY, COLORADO



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