

City of Cherry Hills Village
2450 E. Quincy Ave
CHV CO 80113

46

Arapahoe County Clerk & Recorder, Nancy A. Doty
Reception #: B4039200
Receipt # 5193493
Pages Recorded: 9
Recording Fee \$46.00
Date Recorded: 3/3/2004 2:23 48 PM

RESOLUTION NO. 6
SERIES OF 2004

INTRODUCED BY: Doug Tisdale
SECONDED BY: John Love

**A
RESOLUTION
OF THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE
APPROVING A CONDITIONAL USE
for
3530 SOUTH LAFAYETTE STREET
(C-2 ZONED PROPERTY)**

WHEREAS, the owner of the property commonly addressed as 3530 South Lafayette Street, (the "Owner"), through its agent DPC Development Company, represented to the City of Cherry Hills Village that it is the owner of the following generally described property located in the City of Cherry Hills Village, County of Arapahoe, State of Colorado:

Property addressed as 3530 South Lafayette Street, a triangular shaped property located between Colorado State Highway 70 (Hampden Avenue) on the south and southeast, Old Hampden Avenue on the north, and South Lafayette Street on the west and including all property described in an application for Conditional Use submitted to the City of Cherry Hills Village, Colorado, on or about October 17, 2003,

such property to hereinafter be generally referred to as the "Property";

WHEREAS, the Owner is planning the redevelopment and renovation of the Property to accomplish a plan for specific commercial retail development and the Owner submitted to the City a list of retail uses (both permitted and prohibited); and

WHEREAS, the Property is zoned within the Limited Commercial District (C-2) of the City of Cherry Hills Village and, pursuant to Section 16-13-20 of the City Code, retail use of the Property is only permitted as a conditional use approved in accordance with Article XVIII of Chapter 16 of the City Code; and

WHEREAS, the Owner, through its agent, submitted an application pursuant to Article XVIII of Chapter 16 of the City Code seeking the approval of a Conditional Use for the Property to permit retail use of property within the Limited Commercial District (C-2) of the City of Cherry Hills Village; and

WHEREAS, the Owner's application as described above included supporting plans, documents, mapping, drawings, landscaping plans, and other illustrations; and further included requests for variances to: (A) applicable provisions of the sign code (Article XV of Chapter 16); (B) applicable provisions of the supplementary district regulations pertaining to landscaping areas adjacent to rights-of-ways; and (C) applicable provisions of lighting requirements, as more specifically described in this Agreement. The application with all supporting materials and requests being hereinafter referred to as the "Application"); and

WHEREAS, the Application proposes the renovation, remodeling, and construction of one (1) building within the Property (excepting the trash enclosure) and such building is proposed to enclose 7,905 square feet of total floor area (the "Building"); and



WHEREAS, pursuant to Section 16-18-60(2)(c) of the City Code, the City Council is authorized to impose reasonable conditions upon a conditional use to implement the provisions of the City Code and to protect the health, safety, and welfare of the City; and

WHEREAS, pursuant to Section 16-18-10 (as amended January 2004), applicants for conditional uses may request as a part of an application for conditional use variances to standards imposed by Chapter 16 of the City Code and the City Council is authorized to grant such request as part of the approval of the conditional use upon a finding that all criteria for approval of a variance are met as set forth by Section 16-3-50; and

WHEREAS, following a public hearing before the Planning and Zoning Commission, the Commission recommended approval of the Application (including the requested variances) subject to written documentation describing with detail the extent of the permitted development; and

WHEREAS, the City Council desires to approve the Application provided that the conditions of approval are memorialized in this Resolution and such Resolution is recorded against the Property.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE:

Section 1. Retail Use Conditionally Approved.

Subject to the conditions and requirements stated in Section 2 and Section 3, the City Council hereby approves the following conditional use of the Property:

Retail Use to include one or more of the following:

- Antique store
- Apparel and accessory stores
- Appliance stores
- Art galleries or studios
- Bakeries, retail
- Barber shops
- Beauty shops
- Bicycle stores
- Book stores, not including adult bookstores
- Business machine or computer stores
- Camera and photographic service and supply stores
- Candy, nut and confectionery stores
- Caterers
- Childcare center
- China, crystal and glassware store
- Collection and distribution station for laundry and dry cleaners
- Dairy products store
- Dance studios for private instructions
- Delicatessen stores
- Department stores
- Drug stores
- Dry goods stores
- Eating or drinking establishments, which need not be enclosed, which may include "drive thru" facilities, but not including drive-in eating or drinking establishments
- Financial institutions (not to exceed 2400 sq. ft.)
- Floral shops
- Furniture stores
- Garden supplies stores
- Gift, novelty or souvenir stores
- Grocery stores
- Hardware stores
- Hobby supply store
- Home furnishings stores
- Interior decorators
- Jewelry stores
- Laundries
- Leather goods and luggage stores
- Liquor stores (sale by package)
- Linen supply
- Locksmith
- Mail order houses
- Meat, poultry or seafood stores
- Music stores



- Newsstands (for the sale of newspapers, magazines, etc , only)
- Notions stores
- Office building, professional or business
- Office supply showroom
- Optical and scientific instrument shops
- Paint and wallpaper stores
- Painting and decorating contractors
- Pet stores
- Picture framing photographic studios
- Photostating and blueprinting
- Physical fitness center
- Religious institutions
- Secondhand stores
- Shoe repair or shoe shine shops or stand
- Shoe stores
- Sporting goods stores
- Stationery stores
- Tailoring and dressmaking shops
- Telegraph offices
- Tobacco stores
- Toy stores
- Upholstering shops

Retail use is defined by the City Code as "an establishment for the retail sale of goods or merchandise to the general public for personal or household consumption and rendering services incidental and related to the sale of such goods or merchandise, including eating and drinking establishments." City Code Section 16-1-10.

The City Manager shall be authorized to approve additional retail uses proposed by the Owner if the City Manager determines that the proposed retail use is: (1) substantially similar as one or more of the above listed uses; and (2) the impacts of the proposed use in terms of parking demand, customer visitation, delivery schedules, loading and unloading demands, hours of operation, lighting, noise, and odor will be similar to the impacts of one or more of the listed uses; provided, however, that the property shall not be used for any one or more of the following uses:

- Any form or type of adult business, including but not limited to an adult bookstore, adult novelty store, adult video store, adult cabaret, adult club, adult motel or hotel, adult theater or adult motion picture theater, as these terms and phrases are commonly defined or interpreted in regulations for municipalities within the Denver metropolitan area
- Manufacturing or assembly
- Outdoor display, storage, or sale of clothing or household appliances, furniture or other items, whether on private or public property
- Warehousing of products or items not sold on the premises.
- Wholesale sales
- Sales or service activity from a tent, trailer, temporary structure, or vehicle.
- Automotive related businesses such as automobile sales or leasing, automotive repair or servicing, and/or gasoline station, but not including retail sale of automotive parts.
- Educational institution, trade school, or business school.
- Electrical contractor services, unless secondary and incidental to a sales and display room offering electrical fixtures for retail sale
- Utility station or substation (such as stations for the transfer, regulation, switching, monitoring, gauging, or bill payment) associated with any public or private utility (including but not limited to electric, gas, water, wastewater, or telephone)
- Private clubs, lodges, sororities, fraternities or other facilities providing space for meetings, gatherings, or other social activities (not including churches or other religious facilities)
- Hotels and motels
- Laboratories (dental, medical, or optical except optical laboratory when associated with retail sales of eyeglasses and eyewear)
- Library or reading rooms.
- Parking facilities not associated with a permitted use
- Plumbing service shop, unless secondary and incidental to a sales and display room offering plumbing fixtures for retail sale
- Public buildings and public facilities
- Residential use of any kind or type.
- Taxicab stand or transit center
- Telegraph office
- Theater or theatrical studio unaffiliated with a permitted retail sales business (excepting from this prohibition, e.g., a theater or theatrical studio associated with a restaurant commonly called a "dinner theater")
- Veterinary hospital or clinic.
- Diaper service
- Health treatment facilities



4:9

Section 2. Conditions of Approval.

The Conditional Use approval granted by this Resolution shall be conditioned upon the Owner's compliance or conformance with the following:

- A. Only one (1) building (the "Building") shall be permitted within the Property (excepting the trash enclosure). Such building shall not exceed a total aggregate of 8,000 square feet gross floor area.
- B. Parking spaces shall not be reduced below 41 parking spaces (not more than 12 being compact spaces) without City approval. Such approval shall require an application for, and processing of, an amendment to the Conditional Use granted by this Resolution.
- C. The Owner shall cause a revised drainage plan to be submitted to the City prior to issuance of any building permit for the Property. Such revised drainage plan shall consider and incorporate, if necessary, a cross-pan to direct surface water from the Property across South Lafayette Street to the drainage system located on the west side of South Lafayette Street. The City's approval of the drainage plan and the Owner's construction of the improvements illustrated in the plan in accordance with applicable construction requirements shall constitute conformance with this condition of approval.

Section 3. Variances Granted.

Pursuant to the authority granted by Section 16-18-10 of the City Code for the City of Cherry Hills Village, the City Council hereby grants the following variances as part of the Conditional Use approved by this Resolution:

- A. Definitions. For purposes of identifying the variances approved by this Resolution, the following terms shall have the meaning indicated:
 - 1. "Unit" shall mean a segregated or discrete unit of the Building intended for lease or occupancy by a single commercial tenant.
 - 2. "Interior Unit" shall mean a Unit that is interior to the Building and is not bounded by either the northeast side or the southwest side of the Building.
 - 3. "End Unit" shall mean a Unit that is bounded by either the northeast side or the southwest side of the Building. In the event that the Building is used for two or more Units, there shall be only two End Units.

B. Interior Unit Sign Variance Granted.

Section 16-15-40(b)(2)(b)(1) of the City Code permits only one sign not to exceed six (6) square feet for a lot within the C-2 Zone District. By this Resolution, the City hereby grants the following variance to this standard:

An Interior Unit shall be permitted not more than two (2) permanently mounted exterior wall signs; one sign located on the northwest side of the Building and one sign located on the southeast side of the Building. A wall sign shall not exceed a height of three (3) feet in height and each sign shall be limited by and



located within the "Potential Sign Area" illustrated or depicted by dashed lines on the attached **Exhibit A** to this Resolution. No sign shall be located above the parapet or roofline of the portion of the Building to which the sign is attached.

C. End Unit Sign Variance Granted.

Section 16-15-40(b)(2)(b)(1) of the City Code permits only one sign not to exceed six (6) square feet for a lot within the C-2 Zone District. By this Resolution, the City hereby grants the following variance to this standard:

An End Unit shall be permitted not more than three (3) permanently mounted exterior wall signs; one sign located on the northwest side of the Building, one sign located on the southeast side of the Building, and one sign located on the northeast or southwest wall (end) of the Building immediately adjacent to the End Unit. A wall sign shall not exceed a height of three (3) feet in height and each sign shall be limited by and located within the "Potential Sign Area" illustrated or depicted by dashed lines on the attached **Exhibit A** to this Resolution. No sign shall be located above the parapet or roofline of the portion of the Building to which the sign is attached.

D. Monument Sign Variance Granted.

Section 16-15-40(b)(2)(b)(2) of the City Code permits only two ground signs each not to exceed eighteen (18) square feet of sign face for any lot within the C-2 Zone District. By this Resolution, the City hereby grants the following variance to this standard:

The Owner of the Property may erect up to three (3) permanently mounted monument signs within the Property; one sign located at the locations illustrated or depicted on the attached **Exhibit B** to this Resolution. No monument sign shall exceed eighteen (18) square feet of sign face. Such sign(s) may be illuminated in accordance with standards established by the City Code for the City of Cherry Hills Village. Provided however, that no so-called "can" lighting (e.g., internally illuminated panels but not to include internally illuminated individual letters) may be utilized for any wall signs with the exception of one publicly recognized or trademarked logo signs for tenants, such logo sign not to exceed twenty-five percent (25%) of maximum allowable sign space for such tenant.

D. Sign Illumination Variance Granted.

Section 16-15-40(c) of the City Code prohibits illumination of *wall signs* and, where illumination of signs is permitted, that such illumination be turned-off between the hours of 11:00 p.m. and sunrise the following morning. By this Resolution, the City hereby grants the following variance to this standard:

Wall signs authorized by this Resolution may be internally illuminated. The use of an exterior illumination source for a wall sign shall be prohibited. Wall sign lighting shall be turned off during any hours the associated business or tenant is closed to the general public.



6-9

E. Landscaping Along Street Frontage Variance Granted.


Section 16-16-10(d)(5) of the City Code requires a landscaped area a minimum of ten (10) feet in width along any street frontage between a street and a parking area. By this Resolution, the City hereby grants the following variance to this standard:

No minimum landscaped area between the street frontage and a parking area shall be required along limited portions of the Property's boundary with South Lafayette Street and with Old Hampden Avenue as illustrated on **Exhibit C** to this Resolution.

Section 4. Miscellaneous Provisions.

- A. Binding Effect. This Resolution shall, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns of the Property and shall constitute covenants running with the described Property. This Resolution shall be recorded against the Property.
- B. Amendment. Amendment of the Conditional Use approved by this Resolution shall be made only in accordance with any process or procedure for amendment provided by the City Code for the City of Cherry Hills Village, as such Code may be amended.
- C. City Code Provisions To Remain Effective. Provisions of the City Code, as the Code may be amended, shall remain applicable to the Property except as otherwise expressly approved or varied by this Resolution, including but not limited to, provisions governing Conditional Uses (currently Article 18 of Chapter 16 of the City Code).

DONE AND RESOLVED THIS 17th DAY OF FEBRUARY, 2004.



Douglas Scott, Mayor

ATTEST:



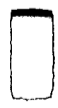
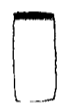
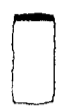
Jennifer Pettinger, City Clerk

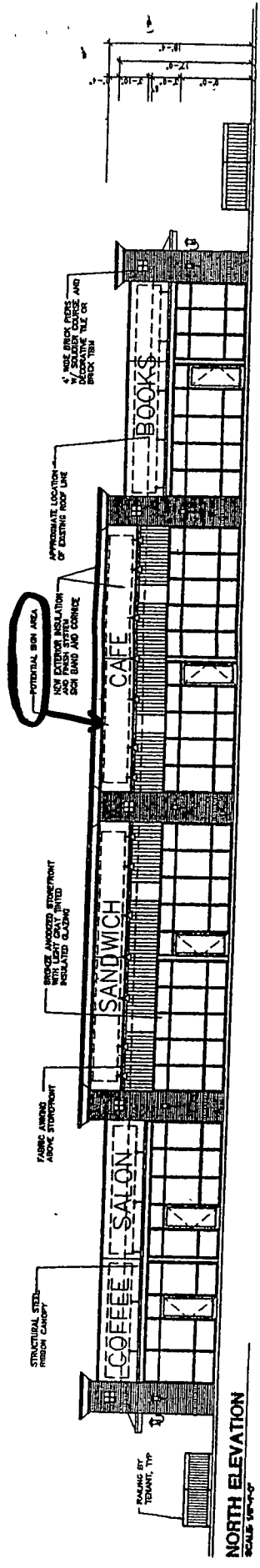
APPROVED AS TO FORM:



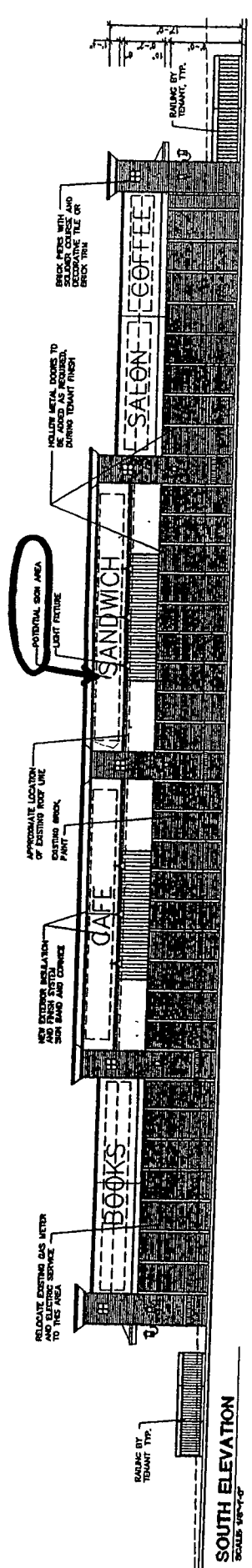
Robert C. Widner, City Attorney

(SEAL)

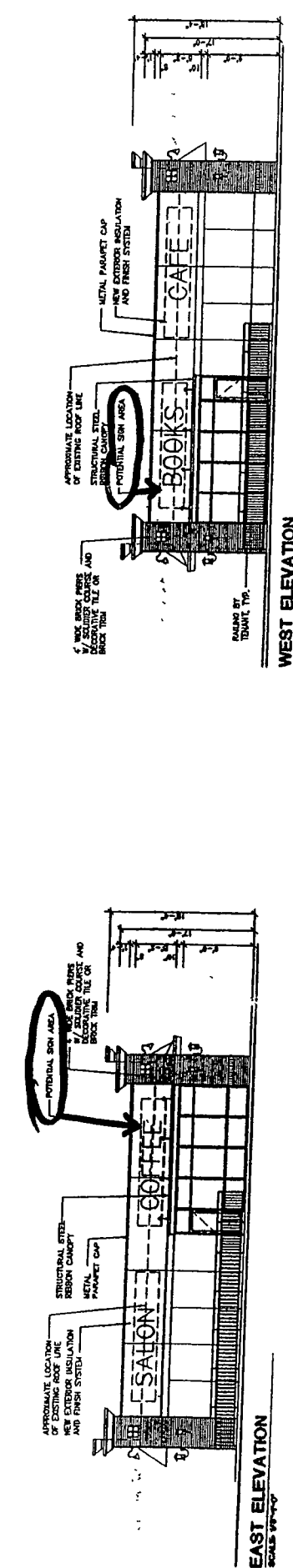




NORTH ELEVATION
SCALE: 1/8"=1'-0"



SOUTH ELEVATION
SCALE: 1/8"=1'-0"



EAST ELEVATION
SCALE: 1/8"=1'-0"

7-9

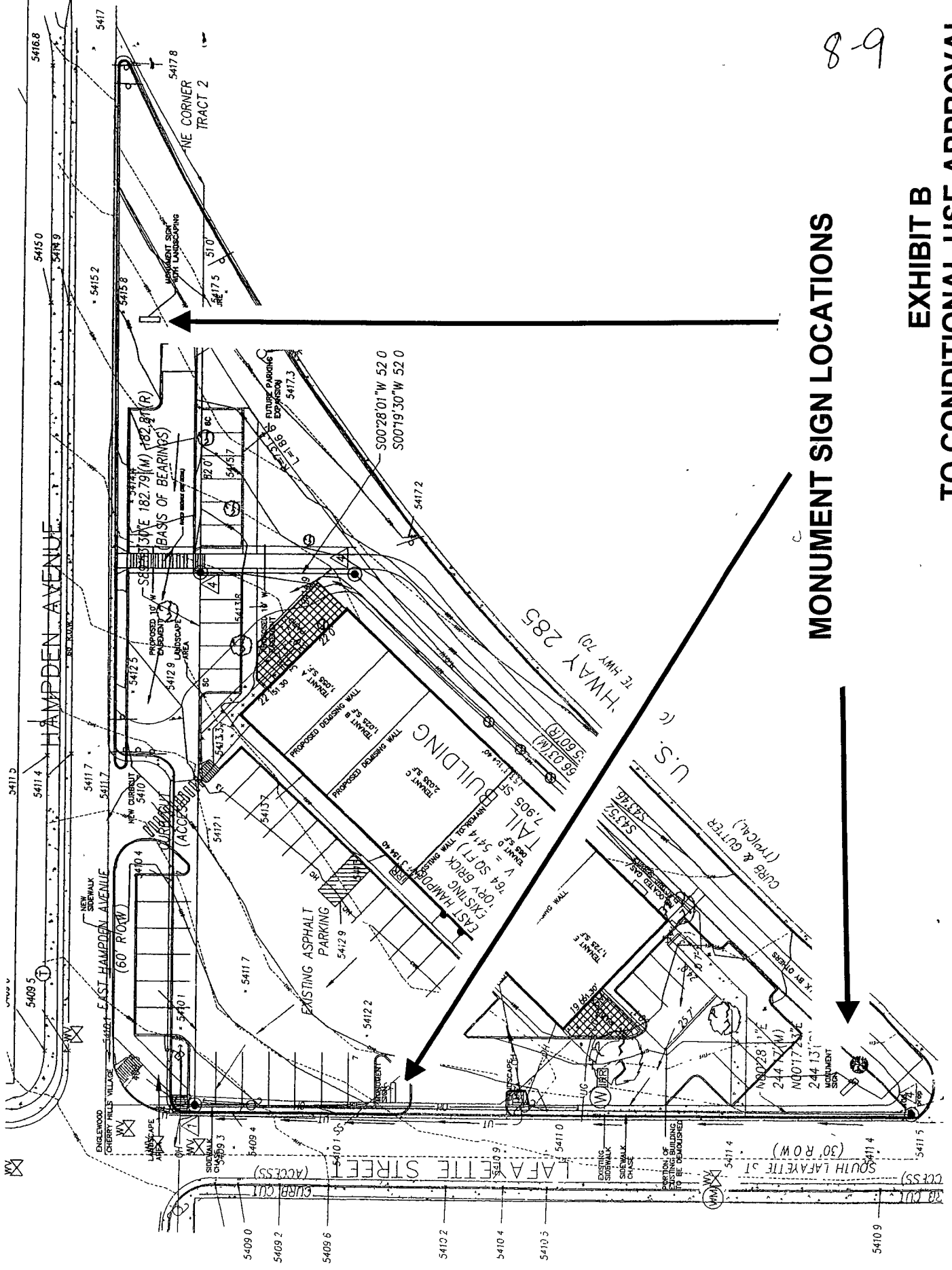
**WALL SIGN LOCATIONS
AND "POTENTIAL SIGN AREA"
DASHED AREAS AROUND WALL SIGNS**

**EXHIBIT A
TO CONDITIONAL USE APPROVAL
3530 SOUTH LAFAYETTE STREET**

11.11.11



8-9



MONUMENT SIGN LOCATIONS

EXHIBIT B TO CONDITIONAL USE APPROVAL 3530 SOUTH LAFAYETTE STREET

1. 2. 3. 4. 5.



Shoppes at Cherry Hills
 Hampden Avenue and Lafayette Street
 Arapahoe County, Colorado

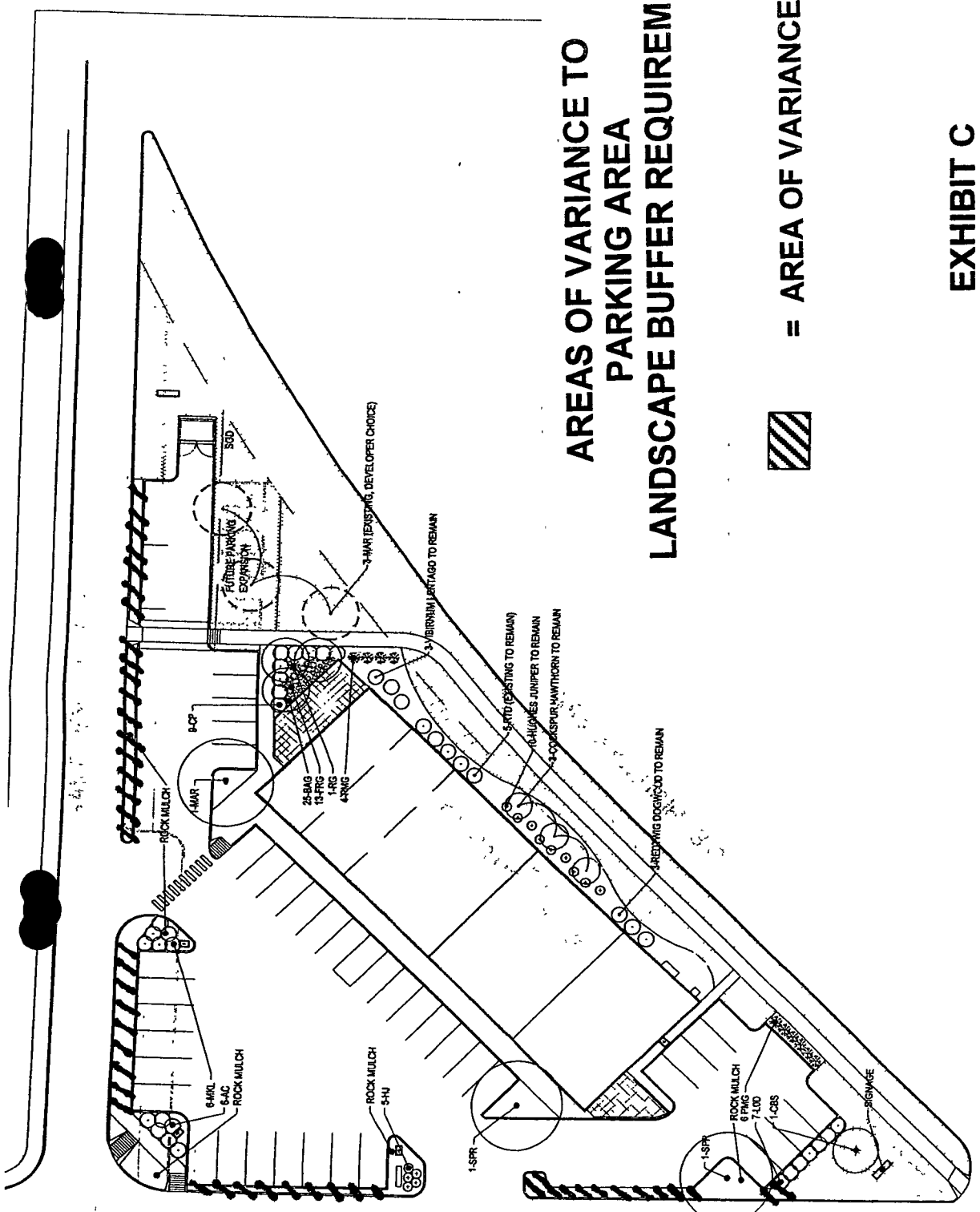
DATE

AREAS OF VARIANCE TO PARKING AREA LANDSCAPE BUFFER REQUIREMENT

 = AREA OF VARIANCE

EXHIBIT C TO CONDITIONAL USE APPROVAL 3530 SOUTH LAFAYETTE STREET

9-9



1. 2. 3. 4. 5. 6. 7. 8. 9. 10.

