

RESOLUTION NO. 1751

**A RESOLUTION OF THE GOLDEN CITY COUNCIL  
AUTHORIZING THE EXECUTION OF A LICENSE  
AGREEMENT WITH CANYON POINT RETAIL LLC FOR USE  
OF A PORTION OF TRACT A CANYON POINT COMMERCIAL  
CENTER FILING NO. 2**

WHEREAS, Canyon Point Retail LLC, owner of 103 North Rubey Drive, proposes to construct a retaining wall and landscaping within a storm drainage detention pond within Tract A, Canyon Point Commercial Center, Filing No.2; and

WHEREAS, the City of Golden, Colorado is the owner of Tract A, Canyon Point Commercial Center, Filing No.2; and


WHEREAS, the construction of the retaining wall within Tract A will facilitate improved storm drainage capacity and will not negatively impact operations of the stormwater detention pond in said Tract A; and

WHEREAS, Canyon Point Retail, LLC wishes to agree as to certain conditions and provisions under which a portion of said Tract A may be utilized for the retaining wall and landscaping.

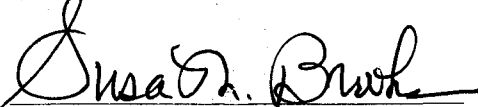
THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

The Mayor is authorized to execute on behalf of the City of Golden, a license agreement with Canyon Point Retail, LLC substantially in the form attached hereto as Exhibit A.

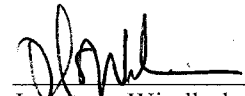
Adopted this 22nd day of February , 2007.

  
\_\_\_\_\_  
Charles J. Baroch  
Mayor

ATTEST:

  
\_\_\_\_\_  
Susan M. Brooks, MMC  
City Clerk

Approved as to form:

  
for \_\_\_\_\_  
James A. Windholz  
City Attorney

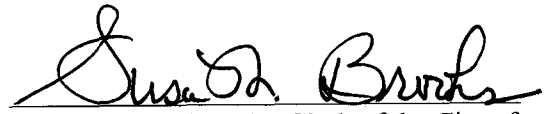
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I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a rescheduled regular meeting thereof held on the 22nd day of February, A.D., 2007.

(SEAL)

ATTEST:

A handwritten signature in black ink, appearing to read "Susan M. Brooks", written over a horizontal line.

Susan M. Brooks, City Clerk of the City of  
Golden, Colorado

# LICENSE AGREEMENT

THIS AGREEMENT is entered into the 22<sup>nd</sup> day of March 2007 by and between the City of Golden, Colorado, a municipal corporation organized under the laws of the State of Colorado (the "City"), with offices at 911 Tenth Street, Golden, Colorado 80401 and Canyon Point Retail, LLC, ("Owner") whose address is 5394 Marshall Street Suite 400, Arvada, CO 80002.

- A. Canyon Point Retail, LLC is the owner of certain property located at 103 North Rubey Drive, more particularly described as Lot 1, Canyon Point Commercial Center Filing No.2, (Lot 1) and the City of Golden is the owner of Tract A Canyon Point Commercial Center Filing No.2 (Tract A).
- B. Owner desires to make certain improvements to its property, which includes construction of a retail shopping center and associated improvements including a retaining wall and associated landscaping within the edges of Tract A.
- C. The parties hereto wish to agree as to the nature, terms and conditions under which the Owner may construct such retaining wall improvements within said Tract A.


THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN, THE CITY AND CANYON POINT RETAIL LLC AGREE AS FOLLOWS:

- 1. License. The City grants to Owner a non-exclusive revocable license to locate, construct and maintain a retaining wall ("improvement") within the affected Tract A area as shown in the attached Exhibit A Sheet 1, and specifically labeled as "proposed wall 2".
- 2. Construction. Plans for the construction of the improvements shall be submitted to and approved by the City prior to commencement of construction activity. The design, construction and maintenance of the improvements shall be the sole responsibility of Owner.
- 3. Maintenance. Owner shall, at his expense, maintain the improvements in good condition including the landscape within the portion of the above described area along the retaining wall, as depicted on Exhibit A Sheet 2.
- 4. General Obligations with Respect to Restoration, Preservation, and Maintenance Work.
  - a. All work performed by Owner pursuant to this Agreement shall be done:
    - 1) In a good workmanlike manner; and
    - 2) In a timely and expeditious manner; and
    - 3) In a manner which minimizes inconveniences to the public and individuals; and
    - 4) In accordance with all applicable codes, rules and regulations of the City.
  - b. Inspection. All work performed by Owner within Tract A shall be subject to inspection by the City. Owner shall promptly perform reasonable remedial action as required by the City pursuant to the inspection.
- 5. Indemnification and Release. Owner shall hold harmless, indemnify and defend the City from and against all liabilities, damages and claims that result from the design, initial construction or maintenance of the improvements.

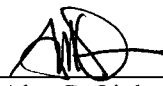
6. Compliance with laws. This Agreement relates only to permission to encroach onto a publicly owned tract under the terms and conditions set forth. The execution of this license agreement shall not relieve Owner from complying with any provision of the Golden Municipal Code, including compliance with zoning ordinances, land use regulations, or building codes, nor shall this Agreement be construed as approval by the City to construct the improvements contemplated by Owner to the extent that City approvals or permits are otherwise required by the Golden Municipal Code or statute. The execution of this license agreement, and the improvements constructed pursuant to this agreement, shall not relieve Owner, or otherwise be construed as a release or waiver, with respect to any obligation of Owner to not interfere with the subjacent lateral support of the City's public property.
7. Police Power Reserved. The rights granted herein shall not limit or otherwise restrict the right of the City to exercise its police power with respect to its control of the public property.
8. Termination. It is intended by the Parties that this Agreement shall remain in effect to provide for the continued stormwater collection purposes of said Tract A. Notwithstanding the foregoing, the City may terminate this agreement with or without cause with one hundred twenty (120) days notice to the Owner, unless the preservation of the City's health, safety and welfare requires immediate termination. If the City Council determines that the City's need to utilize the public property necessitates the termination of this Agreement, the Owner will be required to remove all improvements located within the Tract pursuant to this Agreement.
9. This license granted by this agreement shall be appurtenant to Lot 1 and shall be binding upon, and for the benefit of the subsequent owners of such lot.

CITY OF GOLDEN

Canyon Point Retail LLC


  
\_\_\_\_\_  
Chuck J. Baroch  
Mayor

Date: 3/9/07

  
\_\_\_\_\_  
By: Alan R. Ojala  
Manager and Member

Date: 3/01/07

ATTEST:

  
\_\_\_\_\_  
Susan M. Brooks, MMC  
City Clerk

Date: \_\_\_\_\_

# Exhibit A Sheet 1

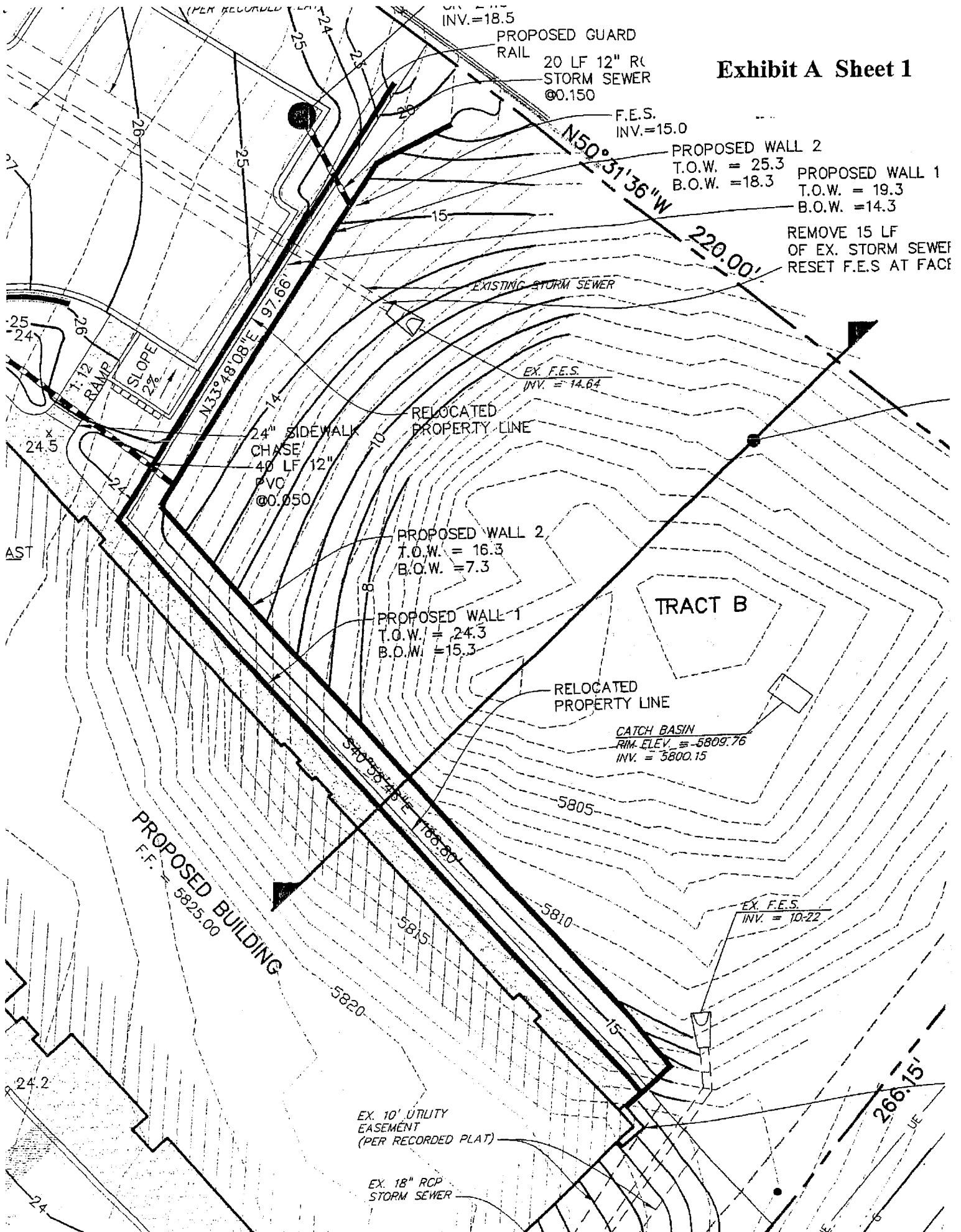


Exhibit A Sheet 2

