



Department of Public Works
Engineering Regulatory & Analytics
201 W. Colfax Avenue, Dept. 507
Denver, CO 80202
720-865-3001
www.denvergov.org/survey

REQUEST FOR ORDINANCE TO RELINQUISH EASEMENT

TO: Caroline Martin, City Attorney's Office

FROM: Robert J. Duncan, P.E.
Manager 2, Development Engineering Services

PROJECT NO: 2016-RELINQ-0000019

DATE: September 19, 2016

SUBJECT: Request for an Ordinance to relinquish the easement, in its entirety, established in the Permanent Easement document with recordation number 2008163403 and in the Correction Permanent Easement document with recordation number 2009048553. Located at 16161 E. 40th Ave.

NOTE: This easement is being relinquished in its entirety, thus, no new legal description is needed.

It is requested that the above subject item be placed on the next available Mayor Council Agenda.

This office has investigated the request of Brian Krombein, dated May 18, 2016 on behalf of WPB Hospitality, LLC, for the relinquishment of said easements.

This matter has been checked by this office and has been coordinated with Asset Management; Comcast; the City Councilperson; CPD: Planning Services; Historic Preservation/Landmark; Denver Water; Denver Fire Department; City Forestry; Parks and Recreation; Engineering, Regulatory, and Analytics Transportation and Wastewater; Public Works: Construction Engineering; Public Works – Policy and Planning; Metro Wastewater Reclamation District; Survey; CenturyLink; and Xcel Energy, all of whom have returned our questionnaires indicating their agreement.

As a result of the investigations, it has been determined that there is no objection to relinquishing the subject easement.

A map of the area and a copy of the document creating the easement are attached.

RJD:cs

cc:

City Councilperson & Aides
City Council Staff – Shelley Smith
Department of Law – Brent Eisen
Department of Law – Shaun Sullivan
Public Works, Manager's Office – Alba Castro
Public Works, Legislative Services – Angela Casias
Public Works, Survey – Paul Rogalla

ORDINANCE/RESOLUTION REQUEST

Please email requests to Angela Casias
at angela.casias@DenverGov.org by 12:00 pm on **Monday**.

**All fields must be completed.*
Incomplete request forms will be returned to sender which may cause a delay in processing.*

Date of Request: September 19, 2016

Please mark one: **Bill Request** or **Resolution Request**

1. Has your agency submitted this request in the last 12 months?

Yes **No**

If yes, please explain:

2. Title: *(Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: **grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.**)*

Request for an Ordinance to relinquish the easement, in its entirety, established in the Permanent Easement document with recordation number 2008163403 and in the Correction Permanent Easement document with recordation number 2009048553. Located at 16161 E. 40th Ave.

3. Requesting Agency: Public Works – Right of Way Services – Engineering, Regulatory, and Analytics

4. Contact Person: *(With actual knowledge of proposed ordinance/resolution.)*

- **Name:** Chaunda Sinn
- **Phone:** 720-865-3036
- **Email:** chaunda.sinn@gmail.com

5. Contact Person: *(With actual knowledge of proposed ordinance/resolution who will present the item at Mayor-Council and who will be available for first and second reading, if necessary.)*

- **Name:** Angela Casias
- **Phone:** 720-913-8529
- **Email:** Angela.Casias@denvergov.org

6. General description/background of proposed ordinance including contract scope of work if applicable:

Request for an Ordinance to relinquish the easement, in its entirety, established in the Permanent Easement document with recordation number 2008163403 and in the Correction Permanent Easement document with recordation number 2009048553. Located at 16161 E. 40th Ave. This easement is being relinquished in its entirety, thus, no new legal description is needed

****Please complete the following fields:** *(Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field – please do not leave blank.)*

- a. Contract Control Number:** N/A
- b. Contract Term:** N/A
- c. Location:** 16161 E. 40th Ave.
- d. Affected Council District:** Council District 11, Stacie Gilmore
- e. Benefits:** N/A
- f. Contract Amount (indicate amended amount and new contract total):** N/A

7. Is there any controversy surrounding this ordinance? *(Groups or individuals who may have concerns about it?)*
Please explain.

None.

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: _____

Date Entered: _____

EASEMENT RELINQUISHMENT EXECUTIVE SUMMARY

Project Title: 2016-RELINQ-0000019 16161 E 40th Ave

Owner name: WPB Hospitality, LLC

Description of Proposed Project: Request for an Ordinance to relinquish the easement, in its entirety, established in the Permanent Easement document with recordation number 2008163403 and in the Correction Permanent Easement document with recordation number 2009048553. Located at 16161 E. 40th Ave.

Explanation of why the public right-of-way must be utilized to accomplish the proposed project: The permanent easement was initially obtained for a storm sewer. The storm sewer was never installed and therefore, the Permanent Easement and Corrected Permanent Easement are no longer required.

Background: None.

Location Map:



Asset Mgmt. #: 09-022

2009048553
Page: 1 of 5
04/21/2009 01:04P
City & County Of Denver EAS R0.00 D0.00

CITY & COUNTY OF DENVER
ASSET MANAGEMENT
201 W. COLFAX AVE DEPT ~~100~~ 904
DENVER, CO 80202

This easement is to correct the Grantor name as found in the Permanent Easement that was recorded Dec. 3, 2008 at Reception #2008163403.

CORRECTION PERMANENT EASEMENT

THIS PERMANENT EASEMENT, made this 16th day of April, 2009 between **Indano Holdings, LLC, by Finney Investments, LLC its sole member-manager**, 8101 E. Prentice Avenue, Suite 400, Greenwood Village, Colorado 80111, ("Grantor") and the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, whose address is 1437 Bannock Street, Denver, Colorado 80202 ("City" or "Grantee").

WITNESSETH:

That for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor has this day bargained and sold and by these presents does hereby bargain and sell and transfer and convey to the Grantee, its successors and assigns, an exclusive and perpetual right to enter upon the lands hereinafter described to locate, construct, inspect, operate, maintain, repair, remove, replace, relocate and reconstruct facilities for storm water and sewage and other uses, including related underground and surface facilities and appurtenances thereto ("Improvements"), into, within, over, upon, across, through and under the following described parcel of land ("Property"):

*See Exhibit(s) A
Attached and incorporated by this reference*

To have and hold such permanent easement unto the Grantee and unto its successors and assigns forever.

The Grantor warrants and covenants with the Grantee that it is lawfully seized and possessed of the Property, and that it has a good and lawful right to grant this permanent easement in the Property and there are no other known interests in the Property that could impair the rights granted by this easement. Grantor further covenants and agrees that no building, structure, wall, fence, tree, irrigation system, utility installation or other above or below ground obstruction that may interfere with the purposes for which this easement is granted is now or may be placed, erected, installed or permitted upon the Property. Grantee shall also have the right to trim or remove trees, bushes, undergrowth and other obstructions on or adjacent to the Property interfering with or presenting a hazard to the location, construction, inspection, operation, maintenance, repair, removal, replacement, relocation and reconstruction of the Improvements.

40th & Memphis St.

Project No. 2008-0158

File No. 01160.17-DE

Asset Management #: 4-21-09
Date: 4-21-09

Prepared: [Signature]

Project Description: [Signature]

Grantor agrees that in the event the terms of this easement are violated, that such violation shall immediately be corrected by the Grantor upon receipt of written notice from the Grantee, or the Grantee may itself elect to correct or eliminate such violation at the Grantor's expense. In the event Grantee repairs, reconstructs, maintains or services the Improvements, the Grantor shall promptly reimburse the Grantee for any costs or expenses incurred by the Grantee in enforcing the terms of this easement.

The Grantor grants to the Grantee the right of ingress to and egress over and across adjacent lands owned by Grantor by such route or routes as shall occasion the least practical damage and inconvenience to the Grantor, for the purpose of locating, constructing, inspecting, operating, maintaining, repairing, removing, replacing, relocating and reconstructing Improvements.

Grantor releases the Grantee from any and all claims for damages arising in any way or incident to the construction, reconstruction, repair, replacement, and/or maintenance by the Grantee, or its agents, of the Improvements within of the Property.

Grantor, its successors and assigns, may use the Property in any lawful manner that will not interfere with and is consistent with the easement granted herein. The Grantee, to the extent practicable, agrees to restore landscaping on the Property to a condition similar to what it was prior to the Grantee's activities, except as necessarily modified to accommodate the Improvements. All obligations of the Grantee are subject to prior appropriation of monies expressly made by City Council and paid into the Treasury of the City.

Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with the provisions of Colorado law, any applicable State or federal law, the Charter of the City and County of Denver and the ordinances, regulations, and Executive Orders enacted and/or promulgated pursuant thereto. Such applicable law, together with the Charter, Revised Municipal Code and regulations of the City and County of Denver, as the same may be amended from time to time, is hereby expressly incorporated into this Agreement as if fully set out herein by this reference. Venue for any action arising hereunder shall be in the Denver District Court in the City and County of Denver, Colorado.

Grantor shall indemnify, defend and hold harmless the Grantee from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses arising from the condition of the Property, including the existence of any hazardous material, substance or waste.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto and all covenants herein shall apply to and run with the land.

"GRANTOR"

Signed and delivered this 16th day of April, 2009.

GRANTOR: **Indano Holdings, LLC**

By: [Signature] Finney Investments, LLC its sole member-manager

By: [Signature]

Printed Name: Bridget Quandt

Title: Assistant Manager

STATE OF COLORADO)

) ss.

COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 16 day of April, 20 09, by Bridget Quandt as Assistant Manager of Indano Holdings, LLC through Finney Investments, LLC a Colorado limited liability company.

My commission expires: 8/19, 20 12.

WITNESS my hand and official seal.

[Signature]
Notary Public

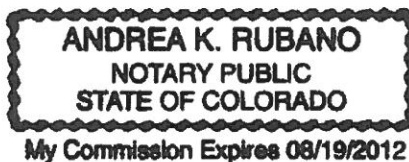


EXHIBIT "A"

DRAINAGE EASEMENT

LEGAL DESCRIPTION

A portion of Plot 1, Block 1, Gateway Park IV, Denver Filing No. 7 as platted in the records of Denver County, Colorado at Reception Number 2002017281, being located in the S 1/2, Section 20, Township 3 South, Range 66 West of the Sixth Principal Meridian. Said easement is more particularly described as follows:

Commencing at the SW Corner of said plot;
Thence N89°52'04"E, 254.63 feet along the south line of said plot;
Thence N00°07'54"W, 50.00 feet to the Point of Beginning on the north line of a 50-foot sidewalk, landscape & utility easement as created by said plat;
Thence N00°07'54"W along said west line, a distance of 13.66 feet;
Thence through said Plot along the following four (4) courses:

- 1) N89°59'51"E, 26.27 feet;
- 2) N84°19'20"E, 261.55 feet;
- 3) N14°49'02"E, 196.28 feet;
- 4) N44°48'37"E, 51.64 feet to a non-tangent, 315.00-foot radius curve in the east line of said plot;

Thence along said east line through the following two (2) courses;
1) Southerly along said 315.00-foot radius curve (from which the center bears S89°37'04"E), concave easterly through a central angle 00°30'49", a distance of 2.82 feet;
2) S00°07'54"E, 25.50 feet;

Thence through said plot along the following three (3) courses:

- 1) S44°48'37"W, 26.23 feet;
- 2) S14°49'02"W, 204.80 feet;
- 3) S84°19'20"W, 210.18 feet to said north line;

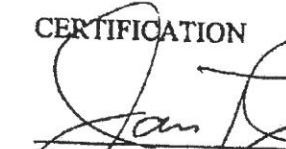
Thence S89°52'05"W along said north line, 93.17 feet to the Point of Beginning

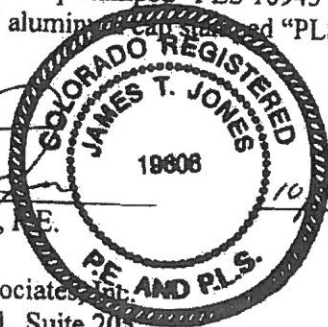
Said parcel contains an area of 9,895 square feet or 0.23 acres, more or less.

BASIS OF BEARINGS

The east line, N 1/2, SW 1/4 Section 20 bears N00°01'59"W per the final plat for Gateway Park IV, Denver Filing 7. It is monumented at the Center 1/4 Corner, Section 20 by a 2-1/2" aluminum cap stamped "PLS 10945" and at the SE Corner, N 1/2, SW 1/4 Section 20 by a 3-1/4" aluminum cap stamped "PLS 10945".

CERTIFICATION


James T. Jones, P.L.S., P.E.
For and on behalf of
Jones Engineering Associates, Inc.
2120 W. Littleton Blvd., Suite 205
Littleton, Colorado 80120



10/14/04
Date

TOWN PLACE SUITES DEVELOPMENT (BY OTHERS)



CENTER 1/4 CORNER, SEC 20, T3S., R66W., 6TH P.M. FOUND 2 1/2" ALUMINIUM CAP PLS 10945

S89°37'4"E (R)
Δ=0°30'49"
R=315'
L=2.82'

S00°07'54"E 25.50'
N44°48'37"E 51.64'

S44°48'37"W 26.23'

PLOT 1, BLOCK 1, GATEWAY PARK IV - DENVER FILING NO. 7. REC. NO. 2002017281

BASIS OF BEARING EAST LINE N 1/2, SW 1/4 SEC. 20
N00°01'59"W 1324.39'

N89°59'51"E 26.27'

N14°49'02"E 196.28'
S14°49'02"W 204.80'

MEMPHIS CT.
(PRIVATE DRIVE)

N00°07'54"W 13.66'

N84°19'20"E 261.55'

S84°19'20"W 210.18'

POINT OF BEGINNING

S89°52'05"W 93.17'

N00°07'54"W 50.00'

50' SIDEWALK, LANDSCAPE & UTILITY EASEMENT PER GATEWAY PARK IV - DENVER FILING NO. 5

40TH AVENUE
(110' R.O.W.)

POINT OF COMMENCEMENT SW COR. PLOT 1, BLOCK 1 GATEWAY PARK IV-DENVER FIL. NO. 7

N89°52'04"E 254.63'

SE COR. N 1/2, SW 1/4 SEC. 20 T3S, R66W, 6TH P.M. FOUND 3 1/4" ALUMINIUM CAP IN RANGE BOX PLS 10945



0 30 60
SCALE: 1" = 60'

DRAINAGE EASEMENT
BEST WESTERN-DIA
JOB NO. 8074
DATE: 10/14/08
SHEET 2 OF 2

JONES ENGINEERING
ASSOC., INC.

2120 W. Littleton Blvd., Suite 205
Littleton, Colorado 80120
Phone: 303-738-0283 Fax: 303-738-0285

08-078
Asset Mgmt. #:



CITY & COUNTY OF DENVER
ASSET MANAGEMENT
201 W. COLFAX AVE DEPT 1842 #909
DENVER, CO 80202

PERMANENT EASEMENT

THIS PERMANENT EASEMENT, made this 3RD day of DEC, 2008 between **Alpine Hospitality**, 5466 S. Hannibal Court, Aurora, Colorado 80015, ("Grantor") and the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, whose address is 1437 Bannock Street, Denver, Colorado 80202 ("City" or "Grantee").

WITNESSETH:

That for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor has this day bargained and sold and by these presents does hereby bargain and sell and transfer and convey to the Grantee, its successors and assigns, an **exclusive** and perpetual right to enter upon the lands hereinafter described to locate, construct, inspect, operate, maintain, repair, remove, replace, relocate and reconstruct facilities for storm water and sewage and other uses, including related underground and surface facilities and appurtenances thereto ("Improvements"), into, within, over, upon, across, through and under the following described parcel of land ("Property"):

*See Exhibit(s) A
Attached and incorporated by this reference*

To have and hold such permanent easement unto the Grantee and unto its successors and assigns forever.

The Grantor warrants and covenants with the Grantee that it is lawfully seized and possessed of the Property, and that it has a good and lawful right to grant this permanent easement in the Property and there are no other known interests in the Property that could impair the rights granted by this easement. **Grantor further covenants and agrees that no** building, structure, wall, fence, tree, irrigation system, **utility installation** or other above or below ground obstruction that may interfere with the purposes for which this easement is granted is now or **may be placed, erected, installed or permitted upon the Property.** Grantee shall also have the right to trim or remove trees, bushes, undergrowth and other obstructions on or adjacent to the Property interfering with or presenting a hazard to the location, construction, inspection, operation, maintenance, repair, removal, replacement, relocation and reconstruction of the Improvements.

Grantor agrees that in the event the terms of this easement are violated, that such violation shall immediately be corrected by the Grantor upon receipt of written notice from the Grantee, or the Grantee may itself elect to correct or eliminate such violation at the Grantor's expense. In the event Grantee repairs, reconstructs, maintains or services the Improvements, the Grantor shall promptly reimburse the Grantee for any costs or expenses incurred by the Grantee in enforcing the terms of this easement.

Asset Management: 12-3-08
Approved: [Signature]
Project Description: FOR W. MEMPHIS ST.

The Grantor grants to the Grantee the right of ingress to and egress over and across adjacent lands owned by Grantor by such route or routes as shall occasion the least practical damage and inconvenience to the Grantor, for the purpose of locating, constructing, inspecting, operating, maintaining, repairing, removing, replacing, relocating and reconstructing Improvements.

Grantor releases the Grantee from any and all claims for damages arising in any way or incident to the construction, reconstruction, repair, replacement, and/or maintenance by the Grantee, or its agents, of the Improvements within of the Property.

Grantor, its successors and assigns, may use the Property in any lawful manner that will not interfere with and is consistent with the easement granted herein. The Grantee, to the extent practicable, agrees to restore landscaping on the Property to a condition similar to what it was prior to the Grantee's activities, except as necessarily modified to accommodate the Improvements. All obligations of the Grantee are subject to prior appropriation of monies expressly made by City Council and paid into the Treasury of the City.

Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with the provisions of Colorado law, any applicable State or federal law, the Charter of the City and County of Denver and the ordinances, regulations, and Executive Orders enacted and/or promulgated pursuant thereto. Such applicable law, together with the Charter, Revised Municipal Code and regulations of the City and County of Denver, as the same may be amended from time to time, is hereby expressly incorporated into this Agreement as if fully set out herein by this reference. Venue for any action arising hereunder shall be in the Denver District Court in the City and County of Denver, Colorado.

Grantor shall indemnify, defend and hold harmless the Grantee from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses arising from the condition of the Property, including the existence of any hazardous material, substance or waste.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto and all covenants herein shall apply to and run with the land.

"GRANTOR"

Signed and delivered this 10th day of November, 2008.

GRANTOR: **Alpine Hospitality**

By: Wanda Bertola
Printed Name: WANDA BERTOIA
Title: PRESIDENT

STATE OF COLORADO)
) ss.
COUNTY OF Denver)

The foregoing instrument was acknowledged before me this 10th day of NOVEMBER, 20 08, by ~~LOUISE ODOM~~ WANDA BERTOIA as PRESIDENT of ALPINE HOSPITALITY, a Colorado LLC.

My commission expires: 7-28, 2009

WITNESS my hand and official seal.

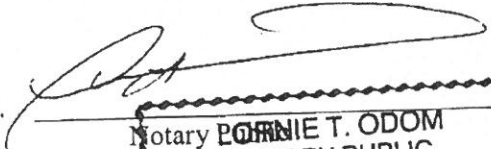

Notary **LOUISE T. ODOM**
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires 07/28/2009

EXHIBIT "A"

DRAINAGE EASEMENT

LEGAL DESCRIPTION

A portion of Plot 1, Block 1, Gateway Park IV, Denver Filing No. 7 as platted in the records of Denver County, Colorado at Reception Number 2002017281, being located in the S 1/2, Section 20, Township 3 South, Range 66 West of the Sixth Principal Meridian. Said easement is more particularly described as follows:

Commencing at the SW Corner of said plot;
Thence N89°52'04"E, 254.63 feet along the south line of said plot;
Thence N00°07'54"W, 50.00 feet to the Point of Beginning on the north line of a 50-foot sidewalk, landscape & utility easement as created by said plat;
Thence N00°07'54"W along said west line, a distance of 13.66 feet;
Thence through said Plot along the following four (4) courses:

- 1) N89°59'51"E, 26.27 feet;
- 2) N84°19'20"E, 261.55 feet;
- 3) N14°49'02"E, 196.28 feet;
- 4) N44°48'37"E, 51.64 feet to a non-tangent, 315.00-foot radius curve in the east line of said plot;

Thence along said east line through the following two (2) courses;

- 1) Southerly along said 315.00-foot radius curve (from which the center bears S89°37'04"E), concave easterly through a central angle 00°30'49", a distance of 2.82 feet;
- 2) S00°07'54"E, 25.50 feet;

Thence through said plot along the following three (3) courses:

- 1) S44°48'37"W, 26.23 feet;
- 2) S14°49'02"W, 204.80 feet;
- 3) S84°19'20"W, 210.18 feet to said north line;

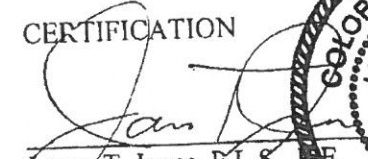
Thence S89°52'05"W along said north line, 93.17 feet to the Point of Beginning

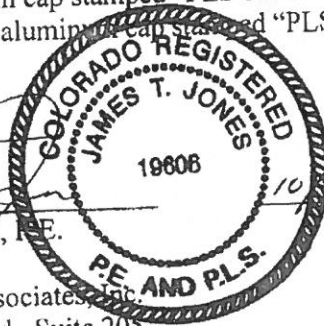
Said parcel contains an area of 9,895 square feet or 0.23 acres, more or less.

BASIS OF BEARINGS

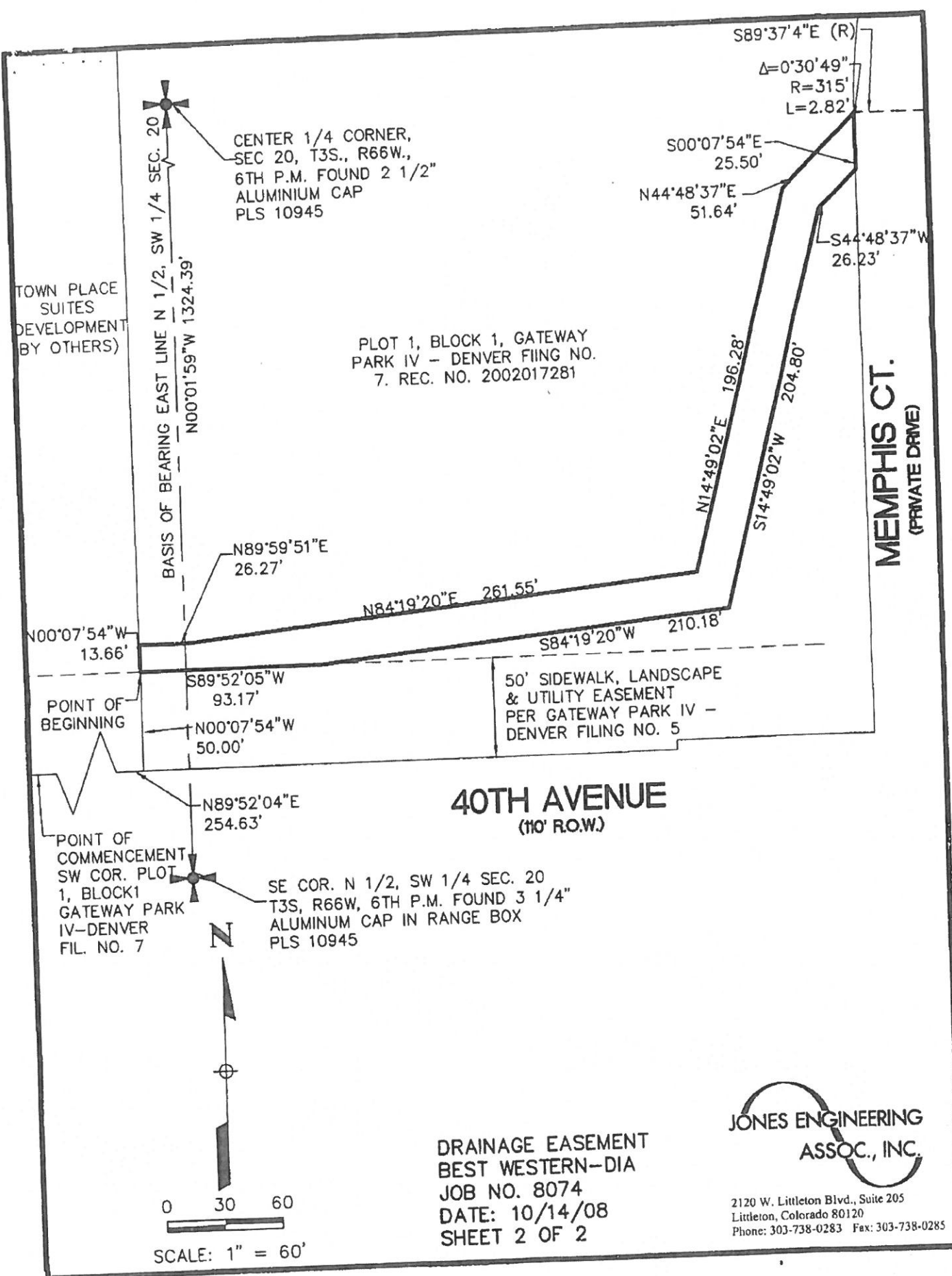
The east line, N 1/2, SW 1/4 Section 20 bears N00°01'59"W per the final plat for Gateway Park IV, Denver Filing 7. It is monumented at the Center 1/4 Corner, Section 20 by a 2-1/2" aluminum cap stamped "PLS 10945" and at the SE Corner, N 1/2, SW 1/4 Section 20 by a 3-1/4" aluminum cap stamped "PLS 10945".

CERTIFICATION


James T. Jones, F.L.S., P.E.
For and on behalf of
Jones Engineering Associates, Inc.
2120 W. Littleton Blvd., Suite 205
Littleton, Colorado 80120



10/14/04
Date



TOWN PLACE SUITES DEVELOPMENT (BY OTHERS)

BASIS OF BEARING EAST LINE N 1/2, SW 1/4 SEC. 20
 N00°01'59"W 1324.39'

CENTER 1/4 CORNER, SEC 20, T3S., R66W., 6TH P.M. FOUND 2 1/2" ALUMINIUM CAP PLS 10945

PLOT 1, BLOCK 1, GATEWAY PARK IV - DENVER FILING NO. 7. REC. NO. 2002017281

S89°37'4"E (R)
 $\Delta=0°30'49"$
 R=315'
 L=2.82'

S00°07'54"E 25.50'
 N44°48'37"E 51.64'

S44°48'37"W 26.23'

MEMPHIS CT. (PRIVATE DRIVE)

N89°59'51"E 26.27'

N84°19'20"E 261.55'

N14°49'02"E 196.28'

S14°49'02"W 204.80'

N00°07'54"W 13.66'

S84°19'20"W 210.18'

POINT OF BEGINNING

S89°52'05"W 93.17'
 N00°07'54"W 50.00'

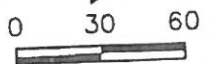
50' SIDEWALK, LANDSCAPE & UTILITY EASEMENT PER GATEWAY PARK IV - DENVER FILING NO. 5

40TH AVENUE (110' R.O.W.)

N89°52'04"E 254.63'

POINT OF COMMENCEMENT SW COR. PLOT 1, BLOCK 1 GATEWAY PARK IV-DENVER FIL. NO. 7

SE COR. N 1/2, SW 1/4 SEC. 20 T3S, R66W, 6TH P.M. FOUND 3 1/4" ALUMINIUM CAP IN RANGE BOX PLS 10945



SCALE: 1" = 60'

DRAINAGE EASEMENT
 BEST WESTERN-DIA
 JOB NO. 8074
 DATE: 10/14/08
 SHEET 2 OF 2

JONES ENGINEERING ASSOC., INC.

2120 W. Littleton Blvd., Suite 205
 Littleton, Colorado 80120
 Phone: 303-738-0283 Fax: 303-738-0285