

CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO. 19-21

**A RESOLUTION CONCERNING
THE ISSUANCE OF A REVOCABLE PERMIT TO DAVID N BERRY AND A
MICHELLE BERRY TO ALLOW FOR THE ENCROACHMENT OF EXISTING MOTOR
VEHICLE PARKING STALLS WITHIN THE PUBLIC RIGHT-OF-WAY OF N. 7TH
STREET AND THE ENCROACHMENT OF PORTIONS OF WALL AND ROOF
OVERHANG INTO THE WALNUT AVENUE PUBLIC RIGHT-OF-WAY, ADJACENT
TO THE EAST OF 2103 N. 7TH STREET**

Recitals.

A. David N Berry with A Michelle Berry, hereinafter referred to as the Petitioner, represents it is the owner of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

LOT 5 BLK 1 BOOKCLIFF PARK

B. The Petitioner has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioner to maintain portions of a permanent private structure including wall and roof overhang within the following described public right-of-way as identified on Exhibit A:

A tract of land situated in the Southwest Quarter of the Northeast Quarter of Section 11, Township 1 South, Range 1 West of the Ute Meridian, Mesa County, Colorado and being more particularly described as follows:

Commencing at the Block Corner offset monument at the intersection of Walnut Avenue and N Seventh Street, from whence the Block Corner offset monument at the intersection of Bookcliff Avenue and N Seventh Street bears N0°03'42"E a distance of 539.72 feet for a Basis of Bearings, all bearings herein related thereto; thence N64°51'37"W a distance of 47.25 feet to a point on the South line of Lot 5 Block 1 Bookcliff Park Subdivision as recorded at Reception Number 448498 of the Mesa County Records, and the Point of Beginning;

thence S0°19'45"E a distance of 3.54 feet;
thence N89°56'12"W a distance of 37.17 feet;
thence N0°10'31"W a distance of 3.56 feet to said South line of Lot 5 Block 1;
thence S89°54'12"E along said South line of Lot 5 Block 1 a distance of 37.16 feet to The Point of Beginning.

Said tract of land contains 132 square feet as described.

C. The Petitioner has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioner to maintain a series of private motor vehicle parking stalls within the following described public right-of-way as identified on Exhibit B:

A tract of land situated in the Southwest Quarter of the Northeast Quarter of Section 11, Township 1 South, Range 1 West of the Ute Meridian, Mesa County, Colorado and being more particularly described as follows:

Commencing at the City Block Corner 20 foot offset monument at the intersection of Walnut Avenue and N Seventh Street, from whence the City Block Corner 20 foot offset monument at the intersection of Bookcliff Avenue and N Seventh Street bears N0°03'42"E a distance of 539.72 feet for a Basis of Bearings, all bearings herein related thereto; thence N56°13'27"W a distance of 36.07 feet to the Southeast Corner of Lot 5 Block 1 Bookcliff Park Subdivision as recorded at Reception Number 448498 of the Mesa County Records, and the Point of Beginning;

thence N0°03'42"E along the East boundary line of said Lot 5 a distance of 134.96 feet to the Northeast Corner of said Lot 5;

thence S89°55'13"E parallel with the North line of said Lot 5 a distance of 16.50 feet;

thence S0°02'10"W a distance of 130.26 feet;

thence S40°52'21"W a distance of 6.21 feet;

thence N89°54'12"W parallel with the South line of said Lot 5 a distance of 12.50 feet to the Point of Beginning.

Said tract of land contains 2,221 square feet as described.

D. Relying on the information supplied by the Petitioner and contained in File No. RVP-2020-769 in the office of the City's Community Development Division, the City Council has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

1. That the City Manager is hereby authorized and directed to issue the attached Revocable Permit to the above-named Petitioner for the purpose aforescribed and within the limits of the public right-of-way aforescribed, subject to each and every term and condition contained in the attached Revocable Permit.

PASSED and ADOPTED this 3rd day of March 2021.

Attest:

W Winkelmann
City Clerk

C. S. [Signature]
President of the City Council



REVOCABLE PERMIT

Recitals.

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LOT 5 BLK 1 BOOKCLIFF PARK

B. The Petitioner has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioner to maintain portions of a permanent private structure including wall and roof overhang within the following described public right-of-way as identified on Exhibit A:

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thence $N89^{\circ}56'12''W$ a distance of 37.17 feet;
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thence S0°02'10"W a distance of 130.26 feet;

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D. Relying on the information supplied by the Petitioner and contained in File No. RVP-2020-769 in the office of the City's Community Development Division, the City Council has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

NOW, THEREFORE, IN ACCORDANCE WITH THE ACTION OF THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

There is hereby issued to the above-named Petitioner a Revocable Permit for the purpose aforescribed and within the limits of the public right-of-way aforescribed; provided, however, that the issuance of this Revocable Permit shall be conditioned upon the following terms and conditions:

1. The Petitioner's use and occupancy of the public right-of-way as authorized pursuant to this Permit shall be performed with due care or any other higher standard of care as may be required to avoid creating hazardous or dangerous situations and to avoid damaging public improvements and public utilities or any other facilities presently existing or which may in the future exist in said right-of-way.

2. The City hereby reserves and retains a perpetual right to utilize all or any portion of the aforescribed public right-of-way for any purpose whatsoever. The City further reserves and retains the right to revoke this Permit at any time and for any reason.

3. The Petitioner, for itself and for its successors, assigns and for all persons claiming through the Petitioner, agrees that it shall defend all efforts and claims to hold, or attempt to hold, the City of Grand Junction, its officers, employees and agents, liable for damages caused to any property of the Petitioner or any other party, as a result of the Petitioner's occupancy, possession or use of said public right-of-way or as a result of any

City activity or use thereof or as a result of the installation, operation, maintenance, repair and replacement of public improvements.

4. The Petitioner agrees that it shall at all times keep the above described public right-of-way in good condition and repair.

5. This Revocable Permit shall be issued only upon the concurrent execution by the Petitioner of an agreement that the Petitioner and the Petitioner's successors and assigns shall save and hold the City of Grand Junction, its officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents, with respect to any claim or cause of action however stated arising out of, or in any way related to, the encroachment or use permitted, and that upon revocation of this Permit by the City the Petitioner shall, at the sole cost and expense of the Petitioner, within thirty (30) days of notice of revocation (which may occur by mailing a first class letter to the last known address), peaceably surrender said public right-of-way and, at its own expense, remove any encroachment so as to make the aforescribed public right-of-way available for use by the City or the general public. The provisions concerning holding harmless and indemnity shall survive the expiration, revocation, termination or other ending of this Permit.

6. This Revocable Permit, the foregoing Resolution and the following Agreement shall be recorded by the Petitioner, at the Petitioner's expense, in the office of the Mesa County Clerk and Recorder.

7. Permittee shall obtain all applicable Planning Clearance's from City Planning and Mesa County Building Department.

Dated this 4 day of March, 2020.

The City of Grand Junction,
a Colorado home rule municipality

Attest:

W Winkelmann

City Clerk

[Signature]

City Manager

Acceptance by the Petitioner:

David N Berry

David N Berry

A. Michelle Berry

A Michelle Berry



AGREEMENT

David N Berry with A Michelle Berry, for themselves and successors and assigns, does hereby agree to:

- (a) Abide by each and every term and condition contained in the foregoing Revocable Permit;
- (b) Indemnify and hold harmless the City of Grand Junction, its officers, employees and agents with respect to all claims and causes of action, as provided for in the approved Resolution and Revocable Permit;
- (c) Within thirty (30) days of revocation of said Permit by the City Council, peaceably surrender said public right-of-way fully available for use by the City of Grand Junction or the general public; and
- (d) At the sole cost and expense of the petitioner, remove any encroachment so as to make said public right-of-way fully available for use by the City of Grand Junction or the general public.

Dated this 10 day of March, 2021.

David N Berry
David N Berry

A Michelle Berry
A Michelle Berry

State of Colorado)
)ss.
County of Mesa)

The foregoing Agreement was acknowledged before me this 10 day of March, 2021, by David N Berry with A Michelle Berry.

My Commission expires: Jan 26, 2025
Witness my hand and official seal.

Patricia J Dunlap
Notary Public

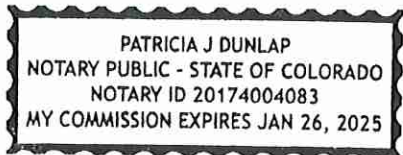
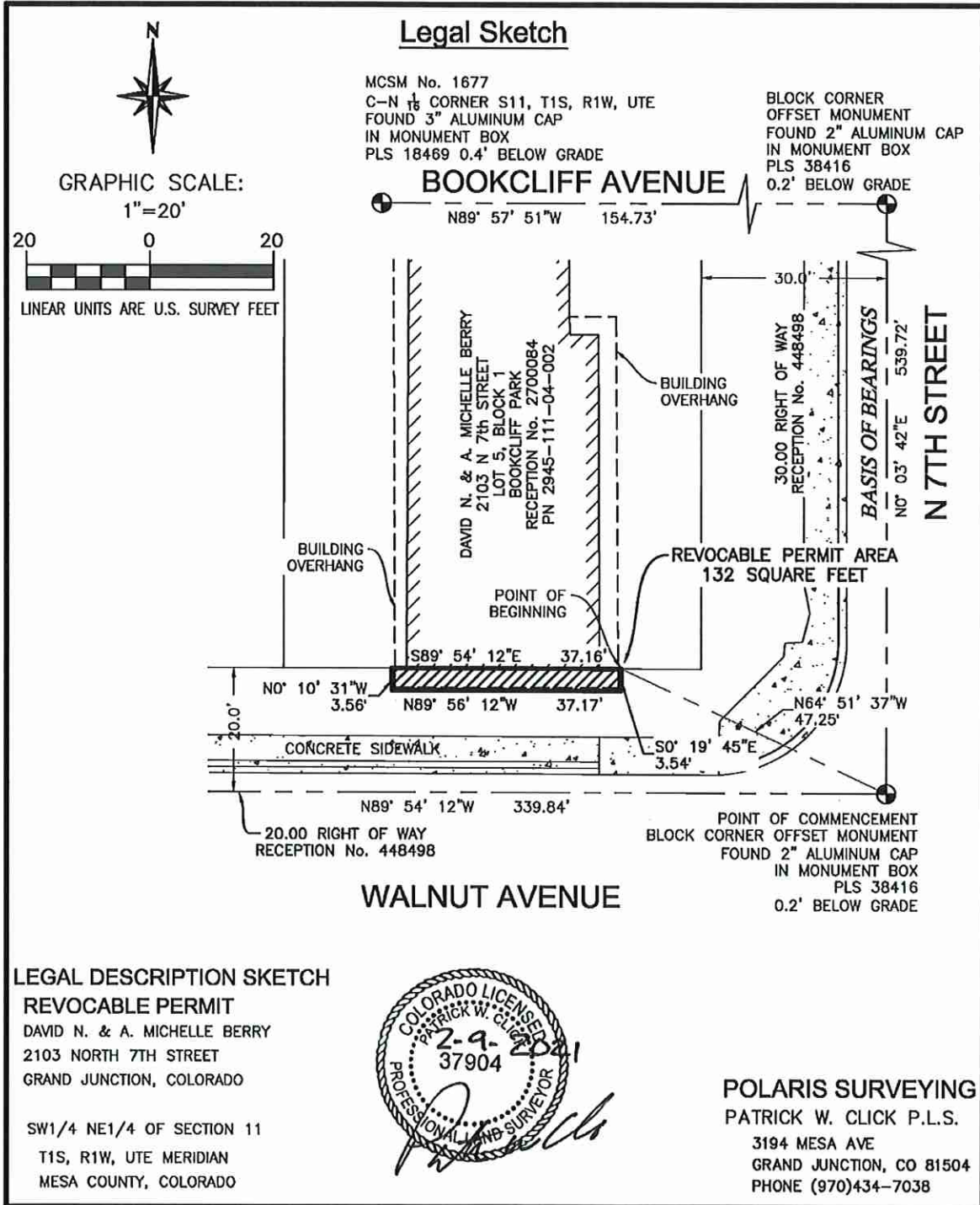


EXHIBIT A



LEGAL DESCRIPTION SKETCH

REVOCABLE PERMIT
DAVID N. & A. MICHELLE BERRY
2103 NORTH 7TH STREET
GRAND JUNCTION, COLORADO

SW1/4 NE1/4 OF SECTION 11
T1S, R1W, UTE MERIDIAN
MESA COUNTY, COLORADO



POLARIS SURVEYING
PATRICK W. CLICK P.L.S.
3194 MESA AVE
GRAND JUNCTION, CO 81504
PHONE (970)434-7038

Exhibit B

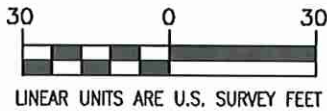
Legal Sketch

MCSM No. 1677
 C-N 1/8 CORNER S11, T1S, R1W, UTE
 FOUND 3" ALUMINUM CAP
 IN MONUMENT BOX
 PLS 18469 0.4' BELOW GRADE

BLOCK CORNER
 OFFSET MONUMENT
 FOUND 2" ALUMINUM CAP
 IN MONUMENT BOX
 PLS 38416
 0.2' BELOW GRADE



GRAPHIC SCALE:
 1"=30'



**LEGAL DESCRIPTION SKETCH
 REVOCABLE PERMIT**

DAVID N. & A. MICHELLE BERRY
 2103 NORTH 7TH STREET
 GRAND JUNCTION, COLORADO

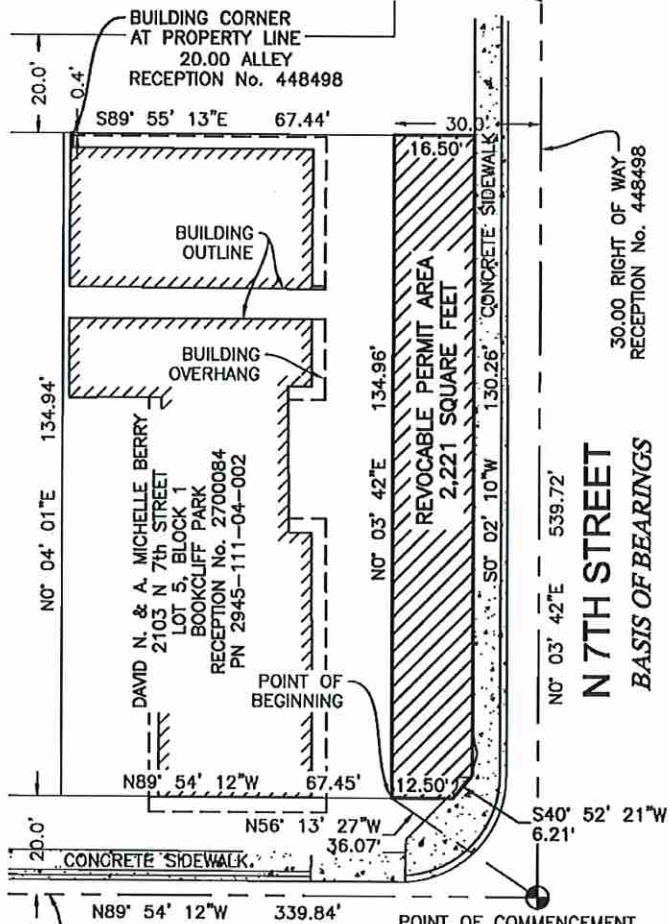
SW1/4 NE1/4 OF SECTION 11
 T1S, R1W, UTE MERIDIAN
 MESA COUNTY, COLORADO

**POLARIS SURVEYING
 PATRICK W. CLICK P.L.S.**

3194 MESA AVE
 GRAND JUNCTION, CO 81504
 PHONE (970)434-7038

BOOKCLIFF AVENUE

N89° 57' 51"W 154.73'



WALNUT AVENUE

20.00 RIGHT OF WAY
 RECEPTION No. 448498

POINT OF COMMENCEMENT
 BLOCK CORNER
 OFFSET MONUMENT
 FOUND 2" ALUMINUM CAP
 IN MONUMENT BOX
 PLS 38416
 0.2' BELOW GRADE

N 7TH STREET
 BASIS OF BEARINGS

30.00 RIGHT OF WAY
 RECEPTION No. 448498