

CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO. 34-21

**A RESOLUTION CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO
KENNEDY OZ LLC TO ALLOW FOR PARKING AND LANDSCAPING
IMPROVEMENTS WITHIN THE PUBLIC RIGHT-OF-WAY OF WEST KENNEDY
AVENUE/POPLAR DRIVE**

Recitals.

A. Kennedy OZ LLC, hereinafter referred to as the Petitioner, is the owner of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

A parcel of land situated in the SW ¼ of the SE ¼ of Section 10, Township 1 South, Range 1 West of the Ute Meridian being more particularly described as follows:

Commencing at the Southeast Corner of the NE ¼ of the SW ¼ of the SE ¼ of Section 10, Township 1 South Range 1 West of the Ute Meridian and considering the East line of the NE ¼ of the SW ¼ of said Section 10 to bear South 00°07'21" West from the Northeast Corner of the SW ¼ of the SE ¼ of said Section 10 to the Southeast Corner of the NE ¼ of the SW ¼ of the SE ¼ of said Section 10 and with all bearings contained herein relative thereto: thence North 89°40'55" West 76.00 feet to the Point of Beginning on the South line of said Parcel; thence North 89°40'55" West 12.00 feet; thence North 00°07'21" East 439.27 feet; thence South 89°40'55" East 88.00 feet; thence South 00°07'21" West 127.67 feet; thence South 50°29'00" West 98.69 feet; thence South 00°07'21" West 248.49 feet to the Point of Beginning. County of Mesa, State of Colorado

B. The Petitioner has requested that the City of Grand Junction issue a Revocable Permit to allow for parking and landscaping improvements within the limits of the following described public right-of-way for West Kennedy Avenue/Poplar Drive, to wit (refer to Exhibit B for graphical representation):

A REVOCABLE PERMIT in the SW1/4 SE1/4 Section 10, Township 1 South, Range 1 West of the Ute Meridian being described as follows:

Commencing at the SW corner of Lot 2 of ARNOLD Subdivision (Reception 1074840) and considering the West line Lot 2 of Arnold Subdivision to bear N00°08'29"E with all other bearings contained herein to be relative thereto; thence S50°13'10"W 24.45 feet to the Point of Beginning; thence S39°46'50"E 11.34 feet; thence 80.66 feet along a curve turning to the left with a radius of 153.58 feet and a chord that bears S20°30'33"W 79.74 feet; thence S05°27'45"W 37.91 feet; thence S01°34'25"W 15.64 feet; thence S89°51'26"W 32.11 feet;

thence N00°08'29"W 89.35 feet;
thence N50°13'10"E 74.23 feet to the point of beginning,

all in Mesa County, Colorado.

C. Relying on the information supplied by the Petitioner and contained in File No. RVP-2020-628 in the office of the City's Community Development Department, 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 7th day of April 2021.

Attest:

W Winkelmans
City Clerk

C. E. Steve W. Sarna
President of the City Council



REVOCABLE PERMIT

Recitals.

A. Kennedy OZ, LLC, hereinafter referred to as the Petitioner, is the owner of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

A parcel of land situated in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 10, Township 1 South, Range 1 West of the Ute Meridian being more particularly described as follows:

Commencing at the Southeast Corner of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 10, Township 1 South Range 1 West of the Ute Meridian and considering the East line of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 10 to bear South $00^{\circ}07'21''$ West from the Northeast Corner of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 10 to the Southeast Corner of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 10 and with all bearings contained herein relative thereto: thence North $89^{\circ}40'55''$ West 76.00 feet to the Point of Beginning on the South line of said Parcel; thence North $89^{\circ}40'55''$ West 12.00 feet; thence North $00^{\circ}07'21''$ East 439.27 feet; thence South $89^{\circ}40'55''$ East 88.00 feet; thence South $00^{\circ}07'21''$ West 127.67 feet; thence South $50^{\circ}29'00''$ West 98.69 feet; thence South $00^{\circ}07'21''$ West 248.49 feet to the Point of Beginning. County of Mesa, State of Colorado

B. The Petitioner has requested that the City of Grand Junction issue a Revocable Permit to allow for parking and landscaping improvements within the limits of the following described public right-of-way for West Kennedy Avenue/Poplar Drive, to wit (refer to Exhibit B for graphical representation):

A REVOCABLE PERMIT in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10, Township 1 South, Range 1 West of the Ute Meridian being described as follows:

Commencing at the SW corner of Lot 2 of ARNOLD Subdivision (Reception 1074840) and considering the West line Lot 2 of Arnold Subdivision to bear $N00^{\circ}08'29''E$ with all other bearings contained herein to be relative thereto; thence $S50^{\circ}13'10''W$ 24.45 feet to the Point of Beginning; thence $S39^{\circ}46'50''E$ 11.34 feet; thence 80.66 feet along a curve turning to the left with a radius of 153.58 feet and a chord that bears $S20^{\circ}30'33''W$ 79.74 feet; thence $S05^{\circ}27'45''W$ 37.91 feet; thence $S01^{\circ}34'25''W$ 15.64 feet; thence $S89^{\circ}51'26''W$ 32.11 feet; thence $N00^{\circ}08'29''W$ 89.35 feet; thence $N50^{\circ}13'10''E$ 74.23 feet to the point of beginning,

all in Mesa County, Colorado.

B. Relying on the information supplied by the Petitioner and contained in File No. RVP-2020-628 in the office of the City's Community Development Department, 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.

Dated this 14 day of April, 2021.

Attest:

W Winkelmans
City Clerk

The City of Grand Junction,
a Colorado home rule municipality

[Signature]
City Manager



Acceptance by the Petitioner:

[Signature] - Levi Piro
Kennedy OZ, LLC

AGREEMENT

Kennedy OZ, LLC, for itself and for its 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 approving 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 to the City of Grand Junction;
- (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 ^{4th} 3rd day of May, 2021.

By: [Signature] - Levi Pino - Manager
Kennedy OZ, LLC

State of Colorado)
)ss.
County of Mesa)

The foregoing Agreement was acknowledged before me this 3rd day of May, 2021, by Kennedy OZ, LLC. Levi Pino - Manager

My Commission expires: 3/13/2025
Witness my hand and official seal.

[Signature]
Notary Public

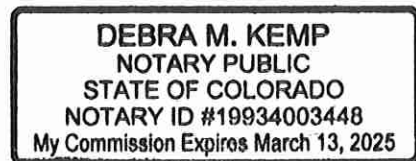


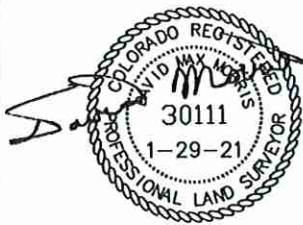
EXHIBIT B

LIST OF ABBREVIATIONS

PC POINT OF CURVATURE
PT POINT OF TANGENCY



All Lineal Units used on this plat are U.S. Survey feet.



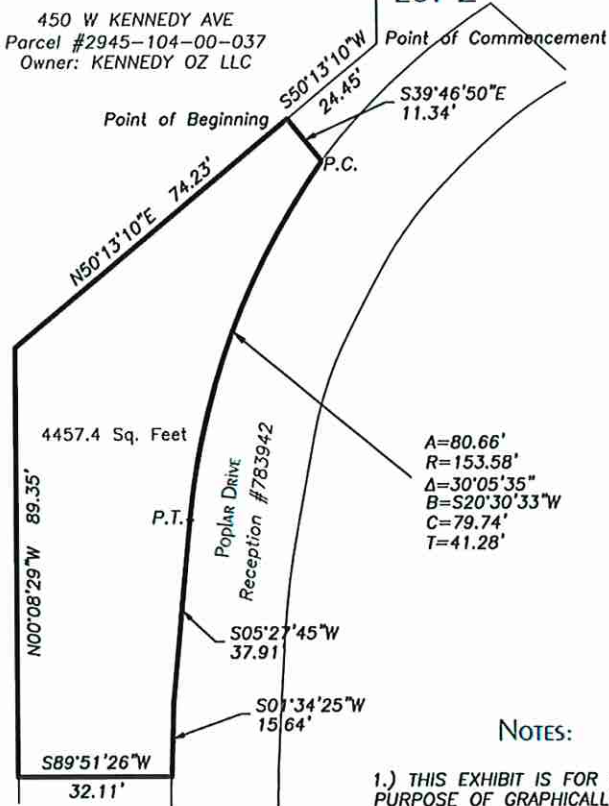
N00°08'29"W (Basis of Bearings)

448 W KENNEDY AVE
Parcel #2945-104-18-002
Owners: TERESA SHIELDS
PATRICK SHIELDS

Amended Subdivision
(Reception 1074840)

Lot 2

450 W KENNEDY AVE
Parcel #2945-104-00-037
Owner: KENNEDY OZ LLC



NOTES:

1.) THIS EXHIBIT IS FOR THE PURPOSE OF GRAPHICALLY REPRESENTING A WRITTEN DESCRIPTION- IT DOES NOT REPRESENT A MONUMENTED BOUNDARY SURVEY

REVOCABLE PERMIT

SITUATED IN THE SW1/4 SE1/4 SECTION 10, T1S, R1W OF THE UTE MERIDIAN

FOR: SMART CHOICE RES, LLC	 Q.E.D. SURVEYING SYSTEMS Inc. 2718 Sierra Vista GRAND JUNCTION COLORADO 81503 (970) 241-2370 464-7568	SURVEYED BY: MSM
SCALE: 1" = 30'		DRAWN BY: DMM
DATE: 10/20/2020		ACAD ID: 450 W KENNEDY SITE
		SHEET NO.
		FILE: 2019-312