

RESOLUTION NO. 3-96

CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO
ROCK BOTTOM RESTAURANTS, INC.

Recitals

1. Rock Bottom Restaurants, Inc., a Colorado corporation hereinafter referred to as "the Petitioner", represents that it is the owner that certain real property situated at 120 North Avenue in the City of Grand Junction and has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the encroachment of a sign and landscape improvements within the following described public right-of-way for North Second Street:

For the Sign: Commencing at the Southwest Corner of Section 11, Township 1 South, Range 1 West of the Ute Meridian, thence N 90°00'00" E along the South line of the SW1/4 of said Section 11 a distance of 339.60 feet, thence N 00°00'00" E a distance of 40.00 feet to the intersection of the North right-of-way line for North Avenue with the West right-of-way line for North Second (2nd) Street, thence N 00°15'40" W along the West right-of-way for North 2nd Street a distance of 10.50 feet to the True Point of Beginning; thence N 00°15'40" W along the West right-of-way for North 2nd Street a distance of 17.00 feet; thence leaving said right-of-way line, N 90°00'00" E a distance of 5.0 feet; thence S 00°15'40" E a distance of 17.00 feet; thence S 90°00'00" W a distance of 5.0 feet to the Point of Beginning;

For the Landscape Improvements: Commencing at the Southwest Corner of Section 11, Township 1 South, Range 1 West of the Ute Meridian, thence N 90°00'00" E along the South line of the SW1/4 of said Section 11 a distance of 339.60 feet, thence N 00°00'00" E a distance of 40.00 feet to the intersection of the North right-of-way line for North Avenue with the West right-of-way line for North Second (2nd) Street and the True Point of Beginning; thence N 00°15'40" W along the West right-of-way for North 2nd Street a distance of 360.22 feet; thence leaving said right-of-way line, N 90°00'00" E a distance of 22.0 feet; thence S 00°10'42" E a distance of 346.22 feet; thence 15.61 feet along the arc of a curve to the right having a radius of 19.50 feet, a central angle of 45°52'37", and a long chord bearing S 22°56'19" W a distance of 15.20 feet to the Point of Beginning.

2. Based on the foregoing, 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:

That the City Manager, on behalf of the City and as the act of the City, is hereby authorized and directed to issue the attached Revocable Permit to Rock Bottom Restaurants, Inc., a Colorado corporation, for the purposes aforescribed and within 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 January, 1996.

Attest:

Stephane Nye
City Clerk

Ron Maupin
President of the City Council

REVOCABLE PERMIT

Recitals

1. Rock Bottom Restaurants, Inc., a Colorado corporation hereinafter referred to as "the Petitioner", represents that it is the owner that certain real property situated at 120 North Avenue in the City of Grand Junction and has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the encroachment of a sign and landscape improvements within the following described public right-of-way for North Second Street:

For the Sign: Commencing at the Southwest Corner of Section 11, Township 1 South, Range 1 West of the Ute Meridian, thence N 90°00'00" E along the South line of the SW1/4 of said Section 11 a distance of 339.60 feet, thence N 00°00'00" E a distance of 40.00 feet to the intersection of the North right-of-way line for North Avenue with the West right-of-way line for North Second (2nd) Street, thence N 00°15'40" W along the West right-of-way for North 2nd Street a distance of 10.50 feet to the True Point of Beginning; thence N 00°15'40" W along the West right-of-way for North 2nd Street a distance of 17.00 feet; thence leaving said right-of-way line, N 90°00'00" E a distance of 5.0 feet; thence S 00°15'40" E a distance of 17.00 feet; thence S 90°00'00" W a distance of 5.0 feet to the Point of Beginning;

For the Landscape Improvements: Commencing at the Southwest Corner of Section 11, Township 1 South, Range 1 West of the Ute Meridian, thence N 90°00'00" E along the South line of the SW1/4 of said Section 11 a distance of 339.60 feet, thence N 00°00'00" E a distance of 40.00 feet to the intersection of the North right-of-way line for North Avenue with the West right-of-way line for North Second (2nd) Street and the True Point of Beginning; thence N 00°15'40" W along the West right-of-way for North 2nd Street a distance of 360.22 feet; thence leaving said right-of-way line, N 90°00'00" E a distance of 22.0 feet; thence S 00°10'42" E a distance of 346.22 feet; thence 15.61 feet along the arc of a curve to the right having a radius of 19.50 feet, a central angle of 45°52'37", and a long chord bearing S 22°56'19" W a distance of 15.20 feet to the Point of Beginning.

2. Based on the representations of the Petitioners, the City Council of the City of Grand Junction 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 purposes aforescribed and within 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 City, on behalf of itself, the State of Colorado, the County of Mesa and all other public utilities, hereby reserves and retains a perpetual right to utilize all of the aforescribed public right-of-way for any City or public utility purposes, including, but not limited to, the

installation, operation, maintenance and repair of existing and future street improvements and utilities, including the right of ingress and egress on, along, over, under, through and across said right-of-way.

2. The Petitioner, for itself and for its successors and assigns, agree that it shall not hold, nor attempt to hold, the City of Grand Junction, its officers, employees and agents, the State of Colorado, the County of Mesa or any public utility liable for damages caused to the improvements situated within said public right-of-way (including the removal thereof), or any other property of the Permittee or any other party, as a result of the Permittee'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 or repair of public improvements, including, but not limited to, street improvements and utilities.

3. This Revocable Permit shall be issued only upon the concurrent execution by the Permittee of an agreement that the Permittee, and the Permittee'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 Permittee shall, at the sole expense and cost of the Permittee, 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 public right-of-way available for use by the City of Grand Junction, the State of Colorado, the County of Mesa or any other public utility. The provisions concerning holding harmless and indemnity shall survive the expiration, termination or other ending of this Permit.

4. The Permittee, for itself and for its successors and assigns, agrees that it shall be solely responsible for maintaining and repairing the condition of the existing and all other future improvements installed by the Permittee.

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

Dated this 10th day of January, 1996.



Stephanie Rye
City Clerk

The City of Grand Junction, a
Colorado home rule municipality

Shaul Kleber
City Manager

Acceptance by the Permittee:

Thomas A. Moxcey
Thomas A. Moxcey, President

Attest:

Gary Foreman
Gary Foreman, Vice President & Secretary

AGREEMENT

Rock Bottom Restaurants, Inc., a Colorado corporation, for itself and for its successors and assigns, does hereby agree to: Abide by each and every term and condition contained in the foregoing Revocable Permit; As set forth, indemnify the City of Grand Junction, its officers, employees and agents and hold the City of Grand Junction, its officers, employees and agents harmless from all claims and causes of action as recited in said Permit; Within thirty (30) days of revocation of said Permit, peaceably surrender said public right-of-way to the City of Grand Junction and, at its own expense, remove any encroachment so as to make the public right-of-way fully available for use by the City of Grand Junction, the State of Colorado, the County of Mesa, or any public utility.

Dated this 26th day of February, 1996.

Attest:

Rock Bottom Restaurants, Inc.

Gary Foreman
Gary Foreman, Vice President & Secretary

Thomas A. Moxcey
Thomas A. Moxcey, President

State of Colorado)
County of Boulder)ss.
Mesa)

The foregoing Agreement was acknowledged before me this 26th day of February, 1996, by Thomas A. Moxcey as President and attested to by Gary Foreman as Vice President & Secretary of Rock Bottom Restaurants, Inc., a Colorado corporation.

Witness my hand and official seal.

My commission expires: 4/9/98



John W. [Signature]
Notary Public