

RESOLUTION NO. 74-96

CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO
SCOTTY INVESTMENTS, A COLORADO PARTNERSHIP

Recitals

1. Scotty Investments, a Colorado Partnership hereinafter referred to as "the Petitioner", represents that it is the owner that certain real property described as Lot 3 of WAL-MART MINOR SUBDIVISION situated at 2881 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 landscape improvements within the following described public right-of-way for North Avenue:

Beginning at the Northwest Corner of WAL-MART MINOR SUBDIVISION as recorded in Plat Book 14 at Page 53 in the office of the Mesa County Clerk and Recorder; thence N 90°00'00" E along a line which is common with the South right-of-way for North Avenue and the North boundary line of said Lot 3 a distance of 118.26 feet to the Northeast Corner of said Lot 3; thence N 00°16'12" W a distance of 5.0 feet; thence S 90°00'00" W a distance of 118.26 feet; thence S 00°16'12" E a distance of 5.0 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 Scotty Investments, a Colorado Partnership, 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 17th day of July, 1996.

Attest:

/s/ Stephanie Nye
City Clerk

/s/ Linda Afman
President of the City Council

REVOCABLE PERMIT

Recitals

1. Scotty Investments, a Colorado Partnership hereinafter referred to as "the Petitioner", represents that they are owners that certain real property described as Lot 3 of WAL-MART MINOR SUBDIVISION situated at 2881 North Avenue in the City of Grand Junction and have requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the encroachment of landscape improvements within the following described public right-of-way for North Avenue:

Beginning at the Northwest Corner of WAL-MART MINOR SUBDIVISION as recorded in Plat Book 14 at Page 53 in the office of the Mesa County Clerk and Recorder; thence N 90°00'00" E along a line which is common with the South right-of-way for North Avenue and the North boundary line of said Lot 3 a distance of 118.26 feet to the Northeast Corner of said Lot 3; thence N 00°16'12" W a distance of 5.0 feet; thence S 90°00'00" W a distance of 118.26 feet; thence S 00°16'12" E a distance of 5.0 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 Petitioners 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 Petitioners, for themselves and for their successors and assigns, agree that they 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 Permittees 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 Permittees of an agreement that the Permittees, 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 Permittees shall, at the sole expense and cost of the Permittees, 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 Permittees, for themselves and for their successors and assigns, agree that they shall be solely responsible for maintaining and repairing the condition of the existing and all other future improvements installed by the Permittees.

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

Dated this _____ day of _____, 1996.

Attest:

The City of Grand Junction, a
Colorado home rule municipality

City Clerk

City Manager

Acceptance:

Acceptance:

Rodney K. Snider, Partner

William L. Shuman, Partner

AGREEMENT

Scotty Investments, a Colorado Partnership, for themselves and for their successors and assigns, do 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 their 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 _____ day of _____, 1996.

Rodney K. Snider, Partner

William L. Shuman, Partner

State of Colorado)
)ss.
County of Mesa)

The foregoing Agreement was acknowledged before me this _____ day of _____, 1996, by Rodney K. Snider and William L. Shuman, Partners in Scotty Investments, a Colorado Partnership.

Witness my hand and official seal.

My commission expires: _____

Notary Public