

RESOLUTION NO. 81-01

**CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO
BARBARA J. MARTINEZ**

Recitals.

1. Barbara J. Martinez, hereinafter referred to as the Petitioner, represents that she is the owner of that certain real property located at 520 Highway 50 in the City of Grand Junction, County of Mesa, State of Colorado, as identified by Mesa County Tax Schedule Number 2945-262-00-019, and has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioner to fence, use, occupy and prevent access by the general public within the limits of the following described public right-of-way Unawep Avenue, to wit:

Beginning at a point on the north line of the Northwest $\frac{1}{4}$ of Section 26, Township 1 South, Range 1 West of the Ute Meridian, City of Grand Junction, Mesa County, Colorado, which point is common with the intersection of the south right-of-way line for Unawep Avenue and the centerline of a 20-foot wide public alley right-of-way dedicated with the plat of Fairley Addition to the City of Grand Junction as recorded in Plat Book 6 at Page 14 in the office of the Mesa County Clerk and Recorder, from whence the Northwest Corner of Lot 6, Block 1 of said Fairly Addition to the City of Grand Junction bears East a distance of 10.83 feet; thence West along the north line of the Northwest $\frac{1}{4}$ of said Section 26 (said line being common with the south right-of-way line for Unawep Avenue) a distance of 10.83 feet to a point which is common with the south right-of-way line for Unawep Avenue and the westerly right-of-way line for said dedicated alley right-of-way; thence West along the south right-of-way line for Unawep Avenue (said line being common with the north line of the Northwest $\frac{1}{4}$ of said Section 26) a distance of 240.6 feet to a point which is the intersection of the south right-of-way line for Unawep Avenue with the easterly right-of-way line for U.S. Highway No. 50; thence Northeasterly a distance of 30.0 feet to a point which is 2.66 feet South of the back-of-sidewalk for Unawep Avenue; thence Easterly and Southeasterly, parallel with and 2.66 feet South of the back-of-sidewalk for Unawep Avenue, a distance of 173.60 feet, more or less; thence Southeasterly a distance of 30.0 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 the above-named Petitioner for the purposes 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 15th day of August, 2001.

Attest:

/s/ Janet Terry
President Pro Tem of the City Council

/s/ Stephanie Nye
City Clerk

REVOCABLE PERMIT
Recitals

1. Barbara J. Martinez, hereinafter referred to as the Petitioner, represents that she is the owner of that certain real property located at 520 Highway 50 in the City of Grand Junction, County of Mesa, State of Colorado, as identified by Mesa County Tax Schedule Number 2945-262-00-019, and has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioner to fence, use, occupy and prevent access by the general public within the limits of the following described public right-of-way UnawEEP Avenue, to wit:

Beginning at a point on the north line of the Northwest $\frac{1}{4}$ of Section 26, Township 1 South, Range 1 West of the Ute Meridian, City of Grand Junction, Mesa County, Colorado, which point is common with the intersection of the south right-of-way line for UnawEEP Avenue and the centerline of a 20-foot wide public alley right-of-way dedicated with the plat of Fairley Addition to the City of Grand Junction as recorded in Plat Book 6 at Page 14 in the office of the Mesa County Clerk and Recorder, from whence the Northwest Corner of Lot 6, Block 1 of said Fairly Addition to the City of Grand Junction bears East a distance of 10.83 feet; thence West along the north line of the Northwest $\frac{1}{4}$ of said Section 26 (said line being common with the south right-of-way line for UnawEEP Avenue) a distance of 10.83 feet to a point which is common with the south right-of-way line for UnawEEP Avenue and the westerly right-of-way line for said dedicated alley right-of-way; thence West along the south right-of-way line for UnawEEP Avenue (said line being common with the north line of the Northwest $\frac{1}{4}$ of said Section 26) a distance of 240.6 feet to a point which is the intersection of the south right-of-way line for UnawEEP Avenue with the easterly right-of-way line for U.S. Highway No. 50; thence Northeasterly a distance of 30.0 feet to a point which is 2.66 feet South of the back-of-sidewalk for UnawEEP Avenue; thence Easterly and Southeasterly, parallel with and 2.66 feet South of the back-of-sidewalk for UnawEEP Avenue, a distance of 173.60 feet, more or less; thence Southeasterly a distance of 30.0 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, 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 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 roadways, sidewalks, 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 herself and for her heirs, successors and assigns, agrees that she shall not hold, nor 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 she 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 concurrent execution by the Petitioner of an agreement that the Petitioner and the Petitioner's heirs, 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 expense and cost 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 her 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 _____ day of _____, 2001.

The City of Grand Junction,
A Colorado home rule municipality

Attest:

City Clerk

City Manager

Acceptance by the Petitioner:

Barbara J. Martinez

AGREEMENT

Barbara J. Martinez, for herself and for her heirs, 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 rights-of-way to the City of Grand Junction and, at her sole cost and expense, 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 _____ day of _____, 2001.

Barbara J. Martinez

State of Colorado)
)ss.
County of Mesa)

The foregoing Agreement was acknowledged before me this _____ day of _____, 2001, by Barbara J. Martinez.

My Commission expires: _____

Witness my hand and official seal.

Notary Public