

## RESOLUTION NO. 131-06

### A RESOLUTION CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO WRIGHTS MESA LLC FOR A RETAINING WALL CONSTRUCTED WITHIN THE FOX RUN RIGHT-OF-WAY LOCATED NORTH OF G ROAD AND WEST OF 26 ROAD

#### Recitals.

A. Wrights Mesa LLC, hereinafter referred to as the Petitioner, represent it 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 situate in the SE 1/4 Section 34, Township 1 North, Range 1 West of the Ute Meridian, City of Grand Junction, Mesa County, Colorado, also being in the right-of-way of Fox Run as dedicated on Fox Run At The Estates, a subdivision being recorded in Book 4086 at Pages 707, 708 and 709 of the records of said Mesa County:

Beginning at the northeast corner of Lot 6, northwest corner Lot 7, Fox Run at the Estates;

thence N00°00'00"E a distance of 21.89 feet;

thence N44°36'46"E a distance of 33.82 feet to the easterly right of way of said Fox Run located on Lot 5;

thence along the arc of a non-tangent curve to the left 6.82 feet, having a central angle of 06°13'36" and a radius of 62.77 feet, the chord of which bears S02°33'07"E a distance of 6.82 feet along said right of way;

thence S44°36'46"W a distance of 27.14 feet;

thence S00°00'00"W a distance of 18.55 feet to the southerly right of way of said Fox Run located on Lot 7;

thence along the arc of a non-tangent curve to the right 5.16 feet, having a central angle of 01°28'47" and a radius of 200.00 feet, the chord of which bears S75°29'27"W a distance of 5.16 feet along said right of way to the point of beginning.

#### PARCEL No. 1

Beginning at the southwest corner of Lot 1 of said subdivision, the basis of bearing being N17°04'00"W to an angle point of said Lot 1;

thence S86°10'26"E a distance of 109.70 feet along the southerly line of said Lot 1;

thence along the arc of a curve to the left a distance of 46.11 feet having a central angle of 33°52'04" and a radius of 78.00 feet, the chord of which bears N76°53'31"E a distance of 45.44 feet along said southerly line;

thence S30°02'03"E a distance of 1.50 feet;

thence along the arc of a curve to the right a distance of 46.99 feet, having a central angle of 33°52'02" and a radius of 79.50 feet, the chord of which bears S76°53'32"W a distance of 46.31 feet;

thence N86°10'26"W a distance of 116.87 feet;

thence N03°13'46"W a distance of 1.60 feet;

thence S86°10'26"E a distance of 6.00 feet to the Point of Beginning:

PARCEL No. 2

Beginning at the northwest corner of Lot 6 of said subdivision, the basis of bearing being  $S01^{\circ}44'00''W$  to an angle point of said Lot 6;  
thence  $S86^{\circ}10'26''E$  a distance of 106.26 feet along the northerly line of said Lot 6;  
thence along the arc of a curve to the left a distance of 36.92 feet having a central angle of  $17^{\circ}20'22''$  and a radius of 122.00 feet, the chord of which bears  $N85^{\circ}09'22''E$  a distance of 36.78 feet;  
thence  $N13^{\circ}30'49''W$  a distance of 2.00 feet;  
thence along the arc of a curve to the right a distance of 36.32 feet, having a central angle of  $17^{\circ}20'22''$  and a radius of 120.00 feet, the chord of which bears  $S85^{\circ}09'22''W$  a distance of 36.18 feet;  
thence  $N86^{\circ}10'26''W$  a distance of 106.33 feet to the westerly line of said subdivision;  
thence  $S01^{\circ}44'00''W$  a distance of 2.00 feet to the Point of Beginning;

PARCEL No. 3

Commencing at the northeast corner of Lot 7 of said subdivision, the basis of bearing being  $S00^{\circ}00'00''W$  to the southeast corner of said Lot 7;  
thence along the arc of a non-tangent curve to the right a distance of 13.22 feet having a central angle of  $3^{\circ}47'19''$  and a radius of 200.00 feet, the chord of which bears  $S70^{\circ}36'31''W$  a distance of 13.22 feet along the northerly line of said Lot 7 to the Point of Beginning;  
thence along the arc of a non-tangent curve to the right a distance of 3.20 feet having a central angle of  $0^{\circ}54'56''$  and a radius of 200.00 feet, the chord of which bears  $S72^{\circ}57'39''W$  a distance of 3.20 feet along said northerly line;  
thence  $N03^{\circ}51'12''E$  a distance of 28.90 feet;  
thence  $N12^{\circ}24'12''E$  a distance of 17.25 feet;  
thence  $N28^{\circ}25'17''E$  a distance of 34.95 feet;  
thence  $N31^{\circ}33'09''E$  a distance of 63.24 feet;  
thence  $S58^{\circ}26'51''E$  a distance of 1.50 feet to the westerly line of Lot 5 of said subdivision;  
thence  $S31^{\circ}33'09''W$  a distance of 63.24 feet along said westerly line;  
thence along the arc of a curve to the left a distance of 16.34 feet, having a central angle of  $14^{\circ}55'07''$  and a radius of 62.77 feet, the chord of which bears  $S24^{\circ}05'45''W$  a distance of 16.30 feet along said westerly line;  
thence  $S27^{\circ}34'49''W$  a distance of 18.17 feet;  
thence  $S12^{\circ}24'12''W$  a distance of 16.64 feet;  
thence  $S03^{\circ}52'49''W$  a distance of 27.53 feet to the Point of Beginning.

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 and repair retaining walls located in the Fox Run right-of-way within the following described public right-of-way:

A parcel of land situate in the SE 1/4 Section 34, Township 1 North, Range 1 West of the Ute Meridian, City of Grand Junction, Mesa County, Colorado, also being in the

right-of-way of Fox Run as dedicated on Fox Run At The Estates, a subdivision being recorded in Book 4086 at Pages 707, 708 and 709 of the records of said Mesa County:

Beginning at the northeast corner of Lot 6, northwest corner Lot 7, Fox Run at the Estates;

thence N00°00'00"E a distance of 21.89 feet;

thence N44°36'46"E a distance of 33.82 feet to the easterly right of way of said Fox Run located on Lot 5;

thence along the arc of a non-tangent curve to the left 6.82 feet, having a central angle of 06°13'36" and a radius of 62.77 feet, the chord of which bears S02°33'07"E a distance of 6.82 feet along said right of way;

thence S44°36'46"W a distance of 27.14 feet;

thence S00°00'00"W a distance of 18.55 feet to the southerly right of way of said Fox Run located on Lot 7;

thence along the arc of a non-tangent curve to the right 5.16 feet, having a central angle of 01°28'47" and a radius of 200.00 feet, the chord of which bears S75°29'27"W a distance of 5.16 feet along said right of way to the point of beginning.

#### PARCEL No. 1

Beginning at the southwest corner of Lot 1 of said subdivision, the basis of bearing being N17°04'00"W to an angle point of said Lot 1;

thence S86°10'26"E a distance of 109.70 feet along the southerly line of said Lot 1;

thence along the arc of a curve to the left a distance of 46.11 feet having a central angle of 33°52'04" and a radius of 78.00 feet, the chord of which bears N76°53'31"E a distance of 45.44 feet along said southerly line;

thence S30°02'03"E a distance of 1.50 feet;

thence along the arc of a curve to the right a distance of 46.99 feet, having a central angle of 33°52'02" and a radius of 79.50 feet, the chord of which bears S76°53'32"W a distance of 46.31 feet;

thence N86°10'26"W a distance of 116.87 feet;

thence N03°13'46"W a distance of 1.60 feet;

thence S86°10'26"E a distance of 6.00 feet to the Point of Beginning:

#### PARCEL No. 2

Beginning at the northwest corner of Lot 6 of said subdivision, the basis of bearing being S01°44'00"W to an angle point of said Lot 6;

thence S86°10'26"E a distance of 106.26 feet along the northerly line of said Lot 6;

thence along the arc of a curve to the left a distance of 36.92 feet having a central angle of 17°20'22" and a radius of 122.00 feet, the chord of which bears N85°09'22"E a distance of 36.78 feet;

thence N13°30'49"W a distance of 2.00 feet;

thence along the arc of a curve to the right a distance of 36.32 feet, having a central angle of 17°20'22" and a radius of 120.00 feet, the chord of which bears S85°09'22"W a distance of 36.18 feet;

thence N86°10'26"W a distance of 106.33 feet to the westerly line of said subdivision;

thence S01°44'00"W a distance of 2.00 feet to the Point of Beginning:

PARCEL No. 3

Commencing at the northeast corner of Lot 7 of said subdivision, the basis of bearing being S00°00'00"W to the southeast corner of said Lot 7;  
thence along the arc of a non-tangent curve to the right a distance of 13.22 feet having a central angle of 3°47'19" and a radius of 200.00 feet, the chord of which bears S70°36'31"W a distance of 13.22 feet along the northerly line of said Lot 7 to the Point of Beginning;  
thence along the arc of a non-tangent curve to the right a distance of 3.20 feet having a central angle of 0°54'56" and a radius of 200.00 feet, the chord of which bears S72°57'39"W a distance of 3.20 feet along said northerly line;  
thence N03°51'12"E a distance of 28.90 feet;  
thence N12°24'12"E a distance of 17.25 feet;  
thence N28°25'17"E a distance of 34.95 feet;  
thence N31°33'09"E a distance of 63.24 feet;  
thence S58°26'51"E a distance of 1.50 feet to the westerly line of Lot 5 of said subdivision;  
thence S31°33'09"W a distance of 63.24 feet along said westerly line;  
thence along the arc of a curve to the left a distance of 16.34 feet, having a central angle of 14°55'07" and a radius of 62.77 feet, the chord of which bears S24°05'45"W a distance of 16.30 feet along said westerly line;  
thence S27°34'49"W a distance of 18.17 feet;  
thence S12°24'12"W a distance of 16.64 feet;  
thence S03°52'49"W a distance of 27.53 feet to the Point of Beginning.

C. Relying on the information supplied by the Petitioner and contained in File No. RVP-2006-247 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 18<sup>th</sup> day of October, 2006.

Attest:

\_\_\_\_\_  
President of the City Council

\_\_\_\_\_  
Deputy City Clerk

## REVOCABLE PERMIT

### Recitals.

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C. Relying on the information supplied by the Petitioner and contained in File No. RVP-2006-247 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 19<sup>th</sup> day of October, 2006.

Attest:

The City of Grand Junction,  
a Colorado home rule municipality

\_\_\_\_\_  
Deputy City Clerk

\_\_\_\_\_  
City Manager

Acceptance by the Petitioner:

\_\_\_\_\_  
Wrights Mesa LLC

**AGREEMENT**

Wrights Mesa 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 \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Wrights Mesa LLC

By: \_\_\_\_\_  
Ted Martin, Managing Member

State of Colorado )  
                                  )ss.  
County of Mesa     )

The foregoing Agreement was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2006, by Ted Martin, Managing Member of Wrights Mesa LLC.

My Commission expires: \_\_\_\_\_  
Witness my hand and official seal.

\_\_\_\_\_  
Notary Public