

COUNCIL BILL NO. 359, SERIES OF 1979. INTRODUCED BY SCHEITLER, SANDOS, HACKWORTH, DONOHUE, BURKE, REYNOLDS AND CRIDER.

A BILL FOR AN ORDINANCE GRANTING A REVOCABLE PERMIT OR LICENSE TO OXFORD-ANSCO DEVELOPMENT COMPANY, ITS SUCCESSORS AND ASSIGNS, TO ENCROACH WITH DRIVE-THROUGH CANOPY INTO STREET RIGHT-OF-WAY ADJACENT TO FAIRMONT HOTEL AT 1750 WELTON STREET, SUBJECT TO CERTAIN TERMS AND CONDITIONS.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That the City and County of Denver hereby grants to Oxford-Ansco Development Company, its successors and assigns, a revocable permit or license to encroach with drive-through canopy in the following described area in the City and County of Denver and State of Colorado, to-wit:

That part of Welton Street adjacent to Block 175, East Denver, described as follows:

Commencing at the most westerly corner of Block 175, East Denver; thence northeasterly along the northwesterly line of said Block 175, 154.51 feet to the true point of beginning;

thence northwesterly and parallel with the southwesterly line of said Block 175 extended northwesterly 10.52 feet;

thence northeasterly and parallel with the northwesterly line of said Block 175, 35 feet;

thence southeasterly and parallel with the southwesterly line of said Block 175 extended northwesterly 10.52 feet;

thence southwesterly along the northwesterly line of said Block 175 to the point of beginning.

Section 2. The revocable license or permit granted by this Ordinance is expressly granted upon and subject to each and all of the following terms and conditions:

(a) All construction in, on or over the area of encroachment shall be accomplished in accordance with the Building Code of the City and County of Denver. Plans and specifications, governing the construction of the canopy, shall be approved by the Manager of Public Works and the Director of Building Inspection Division prior to construction. Upon completion, a reproducible copy of the exact location and dimensions of the encroachment shall be filed with the Manager of Public Works.

(b) The licensee shall pay all costs of construction and maintenance of said canopy and upon revocation of permit as provided herein or upon abandonment shall pay all costs of removing the said structure from the encroachment area and return the street to its original condition under the supervision of the City Engineer.

(c) This revocable permit or license shall not operate or be construed to abridge, limit or restrict the City and County of Denver in exercising its right to make full use of Welton Street as a public thoroughfare nor shall it operate to restrict the utility companies in exercising their rights to construct, remove, operate and maintain their installations within the said street. Any costs that are incurred relocating facilities for the utility companies during construction within the encroachment area will have to be borne by the licensee.

(d) The licensee shall agree to indemnify and always save the City and County of Denver harmless from all costs, claims or damages arising out of the rights granted by this permit.

(e) During the existence of said encroachment, the licensee or permittee, its successors and assigns, at its or their expense, and without cost to the City and County of Denver, shall procure and maintain a liability policy or include public liability and property damage on an occurrence basis, covering the premises and operations with bodily injury limits of not less than \$50,000.00 as to any one person and \$250,000.00 as to any one occurrence and with the property damage limit of not less than \$25,000.00 for any one occurrence. All coverages are to be arranged on the occurrence basis and include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage hereinabove enumerated constitutes a minimum

licensee or permittee, its successors or assigns, under the terms of this revocable license or permit; all of the insurance coverage required herein shall be written in form and by a company or companies approved by the Manager of Public Works of the City and County of Denver and authorized to do business in the State of Colorado, a certified copy of all such insurance policies shall be filed with the said Manager of Public Works and each such policy shall contain a statement therein or endorsement thereon that it will not be cancelled or materially changed or altered without at least thirty days prior written notice, by registered mail, to the said Manager of Public Works at least thirty days prior to the termination of the term; all such insurance policies shall be specifically endorsed to include all liability assumed by the licensee or permittee hereunder and shall name the City and County as beneficiary.

(f) The licensee shall remove and replace any and all curb and gutter, street paving and sidewalks, both inside the area of encroachment and in the area of the street adjoining thereto, that become broken, damaged or unsightly during the course of construction without cost to the City.

In the future the licensee shall also remove, replace or repair any curb and gutter, street paving and sidewalks in Welton Street adjacent to Block 175, East Denver, that become broken or damaged when in the opinion of the City Engineer the damage has been caused by the construction within the area of encroachment.

The work required to effect the said repairs shall be accomplished without cost to the City and under the supervision of the City Engineer.

(g) The City and County of Denver reserves the right to make an inspection of the canopy and facilities contained within the confines of this encroachment for which an annual fee of \$50.00 shall be assessed.

(h) The said canopy shall be deemed appurtenant to the property known as 1750 Welton Street.

Section 3. That the revocable permit or license hereby granted shall be revocable at any time that the Council of the City and County of Denver shall determine that the public convenience and necessity or the public health, safety or general welfare require such revocation, and the right to revoke the same is hereby expressly reserved to the City and County of Denver, at a reasonable time prior to Council action upon such revocation or proposed revocation opportunity shall be afforded to licensee or permittee, its successors and assigns, to be present at a hearing to be conducted by the Council upon such matters and thereat to present its or their view and opinions thereof and to present for consideration action or actions alternative to the revocation of such license or permit.

Section 4. That this license or permit shall be of no force or effect until the following things have been done and performed:

(a) The licensee or permittee shall have filed with the Manager of Public Works a written acceptance of the terms and conditions of this ordinance together with a fee for filing with the Clerk and Recorder in and for the City and County of Denver; said acceptance shall be in substantially the following form:

Date: \_\_\_\_\_  
We the undersigned do hereby accept all of the terms and conditions recited in Ordinance No. \_\_\_\_\_ Series of \_\_\_\_\_

Signed By: \_\_\_\_\_  
(Permittee or Licensee)

By: \_\_\_\_\_  
(Name of Officer)

(b) The licensee or permittee shall have filed with the Manager of Public Works all insurance policies and certificates herein recited, and

(c) The Manager of Public Works shall have certified in writing that the foregoing requirements have been performed.

PASSED by the Council July 23, 1979. ELVIN R. CALDWELL, President, Approved. W. H. MC-NICHOLS JR., Mayor, July 24, 1979. Attest: F. J. SERAFINI, Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver. (Seal) Published in The Daily Journal July 20, 1979 and July 27, 1979 391 PREPARED BY: MAX P. ZALL, CITY ATTORNEY  
By: W.H.V. 7-10-79