



Department of Public Works
Engineering Regulatory & Analytics
201 W Colfax Ave, Dept. 507
Denver, CO 80202
p: 720.865.3003
www.denvergov.org/PWpermits

REQUEST FOR REVOCATION OF REVOCABLE ENCROACHMENT PERMIT

TO: Caroline Martin, City Attorney's Office

FROM: Matt Bryner
Senior Engineer Manager
Public Works, Right of Way Services

ROW NO.: 2017-ENCROACHMENT-0000065

DATE: September 26, 2017

SUBJECT: Request for revocation of Ordinance #65, Series of 1968 which granted a revocable permit to Union Pacific Railroad Company, their successors and assigns, to encroach into the right of way with standard gauge railroad crossings over portions of 40th Street and Franklin St.

It is requested that the above subject item be placed on the next available Mayor Council Agenda.

This office has investigated the request from Sam Stevens, dated 9/12/2017, on behalf of Union Pacific Railroad Company for revocation of the above-subject permit. The reason for the revocation is the track lines, and crossings are no longer there.

This matter has been checked by this office and has been coordinated with DES Construction Engineering to ensure the encumbrance in question has been removed.

As a result of the investigations, it has been determined that there is no objection to revocation of the revocable permit.

Therefore, you are requested to initiate Council action for the revocation of a revocable permit granted by Ordinance # 65, Series of 1684.

MB: vw

cc: City Councilperson & Aides
City Council Staff - Zach Rothmier
Department of Law - Brent Eisen
Department of Law - Shaun Sullivan
Public Works - Alba Castro
Public Works - Angela Casias
Public Works Survey - Paul Rogalla
Project File

Agent:
Sam Stevens
City and County of Denver CPM
201 W. Colfax Ave
Denver, Co 80202

ORDINANCE/RESOLUTION REQUEST

Please email requests to Angela Casias
at angela.casias@DenverGov.org by **12:00 pm on Monday.**

****All fields must be completed.****
Incomplete request forms will be returned to sender which may cause a delay in processing.

Date of Request: September 26, 2017

Please mark one: **Bill Request** or **Resolution Request**

1. Has your agency submitted this request in the last 12 months?

Yes **No**

If yes, please explain:

2. Title: *(Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: **grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.**)*

Request for revocation of Ordinance #65, Series of 1968 which granted a revocable permit to Union Pacific Railroad Company, their successors and assigns, to encroach into the right of way with standard gauge railroad crossings over portions of 40th Street and Franklin St.

3. Requesting Agency: PW Right of Way Services
Agency Division: Engineering, Regulatory & Analytics

4. Contact Person: *(With actual knowledge of proposed ordinance/resolution.)*

§ **Name:** Vanessa West
§ **Phone:** 720-913-0719
§ **Email:** Vanessa.west@denvergov.org

5. Contact Person: *(With actual knowledge of proposed ordinance/resolution who will present the item at Mayor-Council and who will be available for first and second reading, if necessary.)*

§ **Name:** Angela Casias
§ **Phone:** 720-913-8529
§ **Email:** angela.casias@denvergov.org

6. General description/background of proposed ordinance including contract scope of work if applicable:

To revoke Ordinance #65, Series of 1968 which granted a revocable permit to Union Pacific Railroad Company, their successors and assigns, to encroach into the right of way with standard gauge railroad crossings over portions of 40th Street and Franklin St.

****Please complete the following fields:** *(Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field – please do not leave blank.)*

- a. Contract Control Number:** N/A
- b. Contract Term:** N/A
- c. Location:** 40th and Franklin
- d. Affected Council District:** Dist #9, Albus Brooks
- e. Benefits:** N/A
- f. Contract Amount (indicate amended amount and new contract total):** N/A

7. Is there any controversy surrounding this ordinance? *(Groups or individuals who may have concerns about it?)* **Please explain.**

None

To be completed by Mayor’s Legislative Team:

SIRE Tracking Number: _____

Date Entered: _____

REVOCATION OF ENCROACHMENT EXECUTIVE SUMMARY

What is an Encroachment: A privately owned improvement that is located in, or project over or under the public Right-of-Way.

Project Title: 2017-ENCROACHMENT-0000065 Revocation

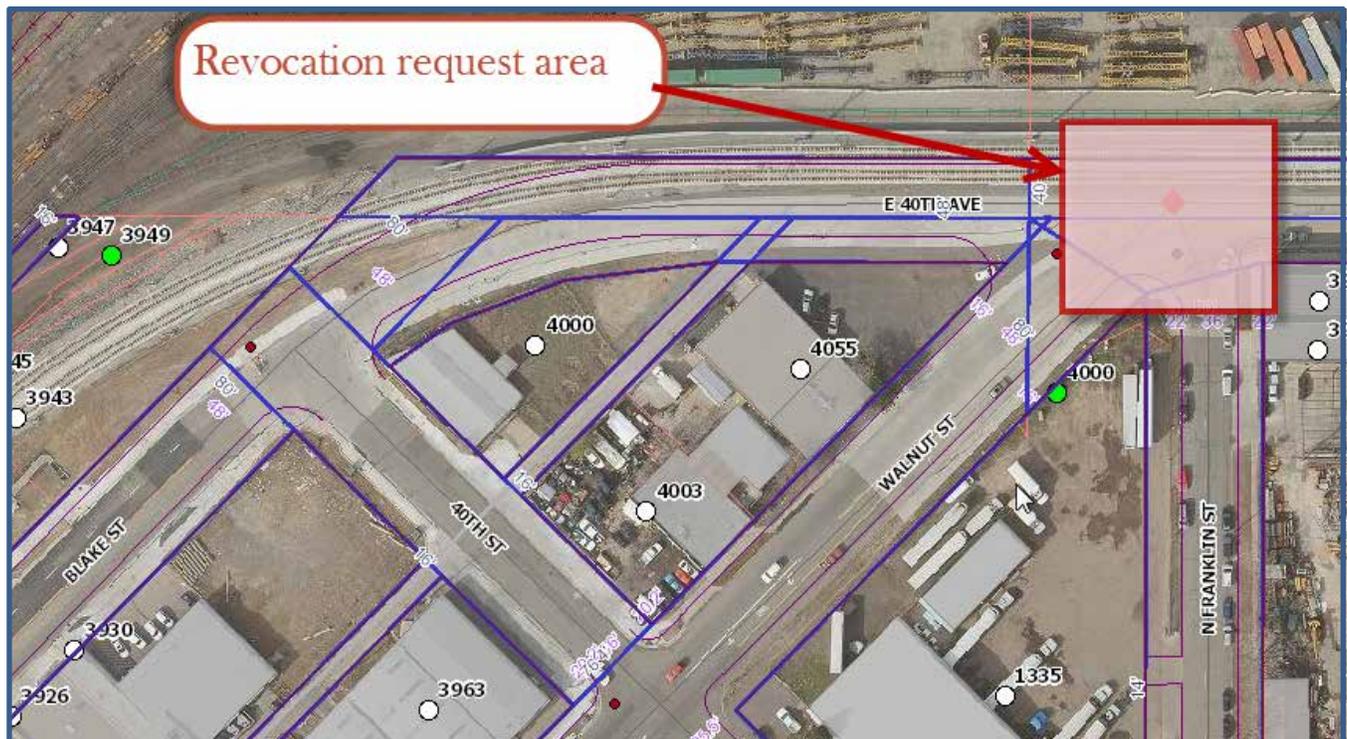
Business name: CCD

Description of Encroachment to be revoked: To revoke Ordinance #65, Series of 1968 which granted a revocable permit to Union Pacific Railroad Company, their successors and assigns, to encroach into the right of way with standard gauge railroad crossings over portions of 40th Street and Franklin St.

Reason for revocation: Tracks no longer there/needed

Additional Information: This is a part of the P2P project, if you have any additional questions please contact Jenn Hillhouse, or Sam Stevens.

Location Map:



BY AUTHORITY

ORDINANCE NO. 65

COUNCILMAN'S BILL NO. 57

SERIES OF 1968

INTRODUCED BY COUNCILMEN

Caldwell, Kelly & Harrison

A BILL

FOR AN ORDINANCE GRANTING TO THE UNION PACIFIC RAILROAD COMPANY, ITS SUCCESSORS AND ASSIGNS, A REVOCABLE PERMIT TO CONSTRUCT, MAINTAIN AND OPERATE STANDARD GAUGE RAILROAD CROSSINGS OVER PORTIONS OF 40TH STREET AT FRANKLIN STREET AND A PORTION OF FRANKLIN STREET AT 40TH AVENUE, IN THE CITY AND COUNTY OF DENVER, 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 The Union Pacific Railroad Company, a corporation, its successors and assigns, a revocable permit or license to construct, lay, maintain and operate standard gauge railroad crossings in, over, upon and across the following described portions of certain streets in the City and County of Denver and State of Colorado, to-wit:

(1) To cross the following described portion of 40th Street with two standard gauge tracks:

Beginning at the intersection of the Southwesterly line of 40th Street and the Southeasterly line of Walnut Street;

thence, Southeasterly on the said Southwesterly line a distance of 31 feet;

thence Northeasterly to a point on the Northeasterly line of 40th Street and 20 feet Southeasterly of the said Southeasterly line of Walnut Street;

thence Northwesterly on the said Northeasterly line to the said Southeasterly line;

thence Southwesterly to the point of beginning;

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(2) To cross the following described portions of Franklin Street and 40th Avenue with one standard gauge track:

A strip of 40th Avenue and Franklin Street, 17 feet wide, and lying 8.5 feet on each side of a centerline described as follows:

Beginning at a point on the West line of Franklin Street and 9 feet Southeasterly by perpendicular measurement of the Southeasterly line of Walnut Street;

thence Northeasterly on a line which is parallel with the said Southeasterly line to a point of tangency which is 2.58 feet East of the West line of Franklin Street and 93.2 feet South of the North line of the South one-half of the Southeast one-quarter of Section 23, Township 3 South, Range 68 West of the Sixth Principal Meridian;

thence Northeasterly on the arc of a circle, convex to the Northwest and having a radius of 338.27 feet to the said North line of the said South one-half of the Southeast one-quarter.

Section 2. That all said trackage shall be constructed so as to conform to the established grade, if any, of said street and in the future conform to the official grade thereof as the same may be established or maintained by the City and County of Denver, and said licensee, its successors and assigns in all matters relating to said track shall at all times conform to the general ordinance now existing or that may in the future be adopted concerning the public health, welfare, safety and convenience.

Section 3. That the revocable permit or license is granted upon the express conditions that the licensee shall:

(a) Construct the street to the top of the rails with surfacing in accordance with standard requirements of the City and as staked by the City Engineer of the City and County of Denver;

(b) Acquire and always carry insurance or post a bond in the amount of \$50,000.00 to indemnify and save harmless the City and County of Denver in all claims and damages arising out of, or which may result from the construction, operation and maintenance of the said tracks, which are not caused by or contributed to by negligence on the part of the City. The insurance policy shall be approved by the City Attorney and shall name the City and County of Denver as the insured. A certified copy of the said policy shall be filed with the Manager of Public Works. This bond or insurance policy is not to be construed as releasing or limiting the liability of the licensee to always save and hold harmless the City in all claims or damages arising out of the construction, operation and maintenance of said tracks;

(c) Install, repair, and maintain the said crossings in accordance with the specifications of the City Engineer;

(d) Bear all expense incurred by affected utilities in repairing, changing, moving or altering their installations when said repairing, changing, moving or altering are caused by the construction, operation and maintenance of the said track;

(e) Protect these crossings by flagmen during the period of construction of said tracks;

(f) Provide proper drainage for said crossings and said tracks without expense to the City;

(g) Install traffic-control devices without cost to the City and County of Denver within a reasonable time after having received a directive or order of the Mayor stating that such devices are required.

Provided that before any such order or directive is issued, the said licensee shall be given reasonable notice of the Mayor's intended action and be afforded an opportunity to be heard.

(h) Provide an employee to flag the crossings when a train of cars is moving onto the said crossings except in cases where the leading vehicle of the train is equipped with a warning whistle. In such case the said whistle shall be sounded in time to provide an adequate warning of the train movement before any part of the train moves onto the said crossings. If automatic warning devices are in operation at crossings, flagmen are not required;

(i) Upon completion of the said tracks at each crossing, the section of the streets adjoining said crossing shall be repaired and returned to its original condition and made usable for traffic;

(j) Do all the work required herein in accordance with plans and specifications of the City Engineer;

(k) Install a reinforced concrete slab over the 120-inch storm sewer in 40th Street of a size and strength specified by the City Engineer.

(l) This revocable permit or license shall not operate to restrict, limit or impair the right of the utility companies to use the streets for the installations.

Section 4. This permit or license is revocable and the right to revoke is expressly reserved to the City and County of Denver.

Section 5. The Council finds this Ordinance is necessary for the immediate preservation of the public health and public safety and determines that it shall take effect immediately upon its final passage and publication.

PASSED BY the Council

February 26

1968

Ray M. DeLoach
President

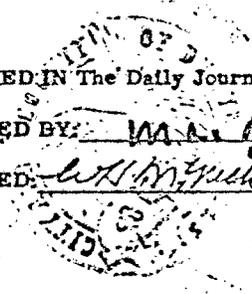
APPROVED: *W. M. Nichols* Mayor February 28, 1968

ATTEST: *F. J. DeGruy* Clerk and Recorder, Ex-Officio
Clerk of the City and County
of Denver

PUBLISHED IN The Daily Journal Feb. 23, 1968 and Mar. 1, 1968

PREPARED BY: *W. M. Nichols* City Attorney

APPROVED: *W. M. Nichols* Manager of Public Works



BY AUTHORITY
Ordinance No. 65
COUNCILMAN'S BILL NO. 57, SERIES OF 1968, INTRODUCED BY COUNCILMEN CALDWELL, KELLY AND MARRANZINO.

A BILL
FOR AN ORDINANCE GRANTING TO THE UNION PACIFIC RAILROAD COMPANY, ITS SUCCESSORS AND ASSIGNS, A REVOCABLE PERMIT TO CONSTRUCT, MAINTAIN AND OPERATE STANDARD GAUGE RAILROAD CROSSINGS OVER PORTIONS OF 40TH STREET AT FRANKLIN STREET AND A PORTION OF FRANKLIN STREET AT 40TH AVENUE, IN THE CITY AND COUNTY OF DENVER, SUBJECT TO CERTAIN TERMS AND CONDITIONS.

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A strip of 40th Avenue and Franklin Street, 17 feet wide, and lying 8.5 feet on each side of a centerline described as follows:

Beginning at a point on the West line of Franklin Street and 9 feet Southeasterly by perpendicular measurement of the Southeasterly line of Walnut Street;

thence Northeasterly on a line which is parallel with the said Southeasterly line to a point of tangency which is 2.56 feet East of the West line of Franklin Street and 93.2 feet South of the North line of the South one-half of the Southeast one-quarter of Section 23, Township 3 South, Range 68 West of the Sixth Principal Meridian;

thence Northeasterly on the arc of a circle, convex to the Northwest and having a radius of 338.27 feet to the said North line of the said South one-half of the Southeast one-quarter.

Section 2. That all said trackage shall be constructed so as to conform to the established grade, if any, of said street and in the future conform to the official grade thereof as the same may be established or maintained by the City and County of Denver, and said licensee, its successors and assigns in all matters relating to said track shall at all times conform to the general ordinance now existing or that may in the future be adopted concerning the public health, welfare, safety and convenience.

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(c) Install, repair, and maintain the said crossings in accordance with the specifications of the City Engineer;

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Section 5. The Council finds this Ordinance is necessary for the immediate preservation of the public health and public safety and determines that it shall take effect immediately upon its final passage and publication.

PASSED BY THE Council February 26, 1968, CARL N. DE TEMPLE, President. Approved: W. H. MCNICHOLS, JR., Acting Mayor, February 28, 1968. Attest: F. J. SERAFINI, Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver. (Seal)

Published in The Daily Journal, Feb. 23 and March 1, 1968. 337