

BY AUTHORITY

ORDINANCE NO. 571
SERIES OF 2000

COUNCIL BILL NO. 522
COMMITTEE OF REFERENCE:
PUBLIC WORKS AND AMENITIES

A BILL

FOR AN ORDINANCE GRANTING A REVOCABLE PERMIT SUBJECT TO CERTAIN TERMS AND CONDITIONS, TO BCN DEVELOPMENT, LLC, THEIR SUCCESSORS AND ASSIGNS, TO ENCROACH INTO WEST 11TH AVENUE, CHEROKEE STREET AND THE ALLEY IN BLOCK D, SOUTH SUBDIVISION OF EVANS ADDITION WITH VARIOUS ITEMS.

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

Section 1. The City and County of Denver hereby grants BCN Development LLC, its successors and assigns ("Permittee"), a revocable permit to encroach with cornice band, awnings, landscaping trees with sprinklers and electrical outlets, pedestrian lights, balconies, and shoring ("Encroachments") in the following described area ("Encroachment Area"):

Two parcels of land located in the NW ¼ of Section 3, Township 4 South, Range 68 West of the 6th P.M., City and County of Denver, State of Colorado, also being parts of Block "D", SOUTH SUBDIVISION OF EVANS ADDITION, being more particularly described as follows:

PARCEL "A"

Beginning at the N.W. Corner of said Block "D"; thence S 0°41'09" E along the West Line of said block, 183.33 feet; thence S 89°18'51" W, 3.00 feet; thence N 0°41'09" W, 183.33 feet; thence N 89°18'51" E, 3.00 feet to the POINT OF BEGINNING. The above described parcel contains 550 square feet more or less.

PARCEL "B"

Beginning at the N.W. Corner of said Block "D"; thence N 0°00'00" E, 16.19 feet to the existing flowline of the 6 inch vertical curb and gutter for West 11th Avenue; thence S 89°57'51" E along said existing flowline, 146.86 feet to a point of curve; thence on a curve to the right along said existing flowline whose radius is 15.00 feet, central angle is 89°56'33", chord distance is 21.21 feet, and chord bearing is S 45°01'43" E, an arc distance of 23.55 feet; thence S 0°05'36" E along the existing flowline of the 6 inch vertical curb and gutter for Cherokee Street which is contiguous with the existing flowline of West 11th Avenue, 183.33 feet; thence S 89°52'09" W, 17.77 feet to the West Line of said Block "D"; thence N 0°07'51" W along said West Line, 183.33 feet to the N.E. Corner of said Block "D"; thence S 90°00'00" W along the North Line of said Block "D", 143.98 feet to the POINT OF BEGINNING. The above described parcel contains 5,833 square feet more or less.

BASIS OF BEARINGS:

An assumed bearing of N 90°00'00" E for the North Line of Block "D", SOUTH SUBDIVISION OF EVANS ADDITION, City and County of Denver, State of Colorado, between a disc stamped L.S. # 10717 on a two foot offset to the West of the N.W. Corner of said block and a disc stamped L.S. #10717 at the N.E. Corner of said block.

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Section 2. The revocable permit ("Permit") granted by this ordinance is expressly granted upon and subject to each and all of the following terms and conditions:

(a) Permittee shall obtain a street occupancy permit from the Right of Way Permit Counter at 200 West 14th Avenue, First Floor, Denver, Colorado prior to commencing construction.

(b) Permittee shall be responsible for obtaining all other permits and shall pay all costs that are necessary for installation and construction of items permitted herein.

(c) Permittee shall join the Statewide Notification Association of Owners and Operators of Underground Facilities by contacting the Utility Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215.

(d) Permittee is fully responsible for any and all damages incurred to facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver due to activities authorized by the permit. Any and all replacement or repair of facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be made by the Water Department and/or the City and County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are damaged or destroyed due to the Water Department's or the City and County of Denver's repair, replacement and/or operation of its facilities, repairs will be made by the Permittee at its sole expense.

(e) Permittee shall comply with all requirements of affected utility companies and pay for all costs of removal, relocation, replacement or rearrangement of utility company facilities. Existing telephone facilities shall not be utilized, obstructed or disturbed.

(f) All construction in, under, on or over the Encroachment Area shall be accomplished in accordance with the Building Code of the City and County of Denver. Plans and Specifications governing the construction of the Encroachments 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 Encroachments shall be filed with the Manager of Public Works.

(g) The sidewalk and street/alley over the Encroachment Area shall be capable of withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The installations within the Encroachment Area shall be constructed so that the paved section of the street/alley can be widened without requiring additional structural modifications. The sidewalk shall be constructed so that it can be removed and replaced without affecting structures within the

1 Encroachment Area.

2 (h) Permittee shall pay all costs of construction and maintenance of the Encroachments.
3 Upon revocation of the permit or upon abandonment Permittee shall pay all costs of removing the
4 Encroachments from the Encroachment Area and return the Encroachment Area to its original
5 condition under the supervision of the City Engineer.

6 (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and
7 curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that
8 become broken, damaged or unsightly during the course of construction. In the future, Permittee
9 shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that
10 become broken or damaged when, in the opinion of the City Engineer, the damage has been
11 caused by the activity of the Permittee within the Encroachment Area. All repair work shall be
12 accomplished without cost to the City and under the supervision of the City Engineer.

13 (j) The City reserves the right to make an inspection of the Encroachments contained
14 within the Encroachment Area. An annual fee of \$100.00 shall be assessed.

15 (k) This revocable permit shall not operate or be construed to abridge, limit or restrict the
16 City and County of Denver in exercising its right to make full use of the Encroachment Area and
17 adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies
18 in exercising their rights to construct, remove, operate and maintain their facilities within the
19 Encroachment Area and adjacent rights-of-way.

20 (l) During the existence of the Encroachments and this permit, Permittee, its successors
21 and assigns, at its expense, and without cost to the City and County of Denver, shall procure and
22 maintain a single limit comprehensive general liability insurance policy with a limit of not less than
23 \$500,000.00. All coverages are to be arranged on an occurrence basis and include coverage for
24 those hazards normally identified as X.C.U. during construction. The insurance coverage required
25 herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit
26 or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All
27 insurance coverage required herein shall be written in a form and by a company or companies
28 approved by the Risk Manager of the City and County of Denver and authorized to do business in
29 the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager
30 of Public Works, and each such policy shall contain a statement therein or endorsement thereon
31 that it will not be canceled or materially changed without written notice, by registered mail, to the
32 Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or

1 material change. All such insurance policies shall be specifically endorsed to include all liability
2 assumed by the Licensee hereunder and shall name the City and County of Denver as an additional
3 insured.

4 (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination
5 in Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions
6 and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of
7 the City and County of Denver. The failure to comply with any such provision shall be a proper basis
8 for revocation of this permit.

9 (n) The right to revoke this permit is expressly reserved to the City and County of Denver.

10 (o) Permittee shall agree to indemnify and always save the City and County of Denver
11 harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and
12 privileges granted by this permit.

13 (p) Construction must be accomplished in accordance with the approved plans as filed
14 with the Zoning Department, City and County of Denver.

15 (q) Shoring must support HS-20 AASHTO loading. The cornice band and lights must
16 support the appropriate Universal Building Code loading conditions.

17 (r) All shoring and tiebacks must be cut off and removed to at least five (5) feet below
18 finished grade.

19 (s) Permittee shall pay for any relocation of cable facilities which may be required for this
20 project.

21 **Section 3.** That the Permit hereby granted shall be revocable at any time that the Council
22 of the City and County of Denver shall determine that the public convenience and necessity or the
23 public health, safety or general welfare require such revocation, and the right to revoke the same
24 is hereby expressly reserved to the City and County of Denver; provided however, at a reasonable
25 time prior to Council action upon such revocation or proposed revocation, opportunity shall be
26 afforded to Licensee, its successors and assigns, to be present at a hearing to be conducted by the
27 Council upon such matters and thereat to present its views and opinions thereof and to present for
28 consideration action or actions alternative to the revocation of such Permit.

29 **Section 4.** That this Permit shall be of no force or effect until the following things have
30 been done and performed:

31 (a) Licensee shall have filed with the Manager of Public Works a written
32 acceptance of the terms and conditions of this ordinance together with a fee for filing with the Clerk

1 and Recorder in and for the City and County of Denver. The acceptance shall be in substantially the
2 following form:

3
4 Date: _____

5
6 We, the undersigned do hereby accept all of the terms and conditions recited
7 in Ordinance No. _____, Series of 20____.

8
9 Signed by: _____
10 (Licensee)

11
12 By: _____
13 (Name of Officer)

14
15 (b) Licensee shall have filed with the Manager of Public Works all insurance
16 policies and certificates required herein; and

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

19 PASSED BY THE COUNCIL _____ July 17, 2000

20 Ramona E. Martinez - PRESIDENT

21 APPROVED: Walter S. White - MAYOR July 18, 2000

22 ATTEST: Grandy G. Galt - CLERK AND RECORDER,
23 EX-OFFICIO CLERK OF THE
24 CITY AND COUNTY OF DENVER

25
26 PUBLISHED IN THE DEN. ROCKY MTN. NEWS July 14, 2000 July 21, 2000

27 PREPARED BY: DAVID BROADWELL, ASSISTANT CITY ATTORNEY 7/5/00

28 REVIEWED BY: Thomas J. Galt - CITY ATTORNEY 7/5/ 2000

29 SPONSORED BY COUNCIL MEMBER(S) _____

