

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 100-06

AN ORDINANCE

authorizing the City Manager to execute a right of use permit with Rabbit Ears, LLC to allow the construction, improvement, operation and maintenance of landscaping, including an irrigation system, lighting, electrical conduits and water service lines, within a portion of Yeoman Way right-of-way; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute a right of use permit with Rabbit Ears, LLC to allow the construction, improvement, operation and maintenance of landscaping, including an irrigation system, lighting, electrical conduits and water service lines, within a portion of Yeoman Way right-of-way. The form and content of the permit shall be substantially as set forth in "Attachment A" attached hereto and made a part hereof as fully as if set forth herein verbatim.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2006.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

RIGHT OF USE PERMIT

KNOW ALL MEN BY THESE PRESENT that the City of Columbia, in consideration of the sum of ten dollars (\$10.00) and other considerations to it paid, does hereby permit **Rabbit Ears, LLC**, their heirs and/or assigns (hereinafter referred to as "Permittee") to enter upon the following described lands owned by the City of Columbia and located within the County of Boone, State of Missouri, and more particularly described as follows, to wit:

The street right-of-way of Yeoman Way between stations 0+33 and 0+90 and between stations 1+02 and 1+45 located within the Brookside Square Plat 1 Subdivision, within the limits of the City of Columbia, further described by Exhibit "A" attached to this right of use permit.

This permit is subject to the following conditions and stipulations:

1. This permit is for the exclusive purpose of construction, improvement, operation, and maintenance of landscaping, including the irrigation system, and lighting in an island within Yeoman Way pavement and electrical conduits and water service lines under the Yeoman Way pavement.
2. This permit does not grant Permittee or any of its officers, agents or employees the right to cut, break, excavate or damage the street pavement of Yeoman Way without City consent
3. Permittee will be responsible for the costs of any future repairs, maintenance or replacements which is the result from Permittee's use under this Right of Use Permit.
4. Permittee agrees that the lights and conduits will be installed with at least a 24-inch separation from any gas lines operated by Ameren UE which may be in place at the time of the execution of this agreement.
5. Prior to exercising its right granted herein, the Permittee shall present its construction plans or diagrams locating the proposed lights, including conduit, and landscaping, including irrigation system to the City Public Works Department and City Water and Light Department and any existing utility company using facilities located within the limits of the Permit.
6. Prior to exercising its right granted hereunder, Permittee agrees to obtain all necessary permits required by the City of Columbia pertaining to the work being done in the right-of-way.
7. If the lights, conduit, landscaping and irrigation systems are abandoned, all rights herein granted shall cease and terminate and Permittee shall have no further right of interest therein except that, upon abandonment, Permittee remains responsible for all of Permittee's underground utility facilities and structures left in place and any costs to remove them or store them or to otherwise clean up the right-of-way.
8. If at any time construction, repair, modification or relocation of the lights and conduit or of any utility existing in the right of way of Yeoman Way at the time this permit is granted, is

necessary which would require the relocation of the lights and conduit or the removal of any portion of the landscaping or irrigation system, the Permittee shall relocate the lights, conduit, landscaping and irrigation system at its expense.

9. The Permittee agrees by exercising its rights under this permit that if its lights, conduit, landscaping and irrigation system are damaged in anyway, whether negligently or intentionally by the construction, repair, modification or relocation of Yeoman Way or of any utility existing in the right-of-way of said city street at the time this permit is granted it will repair or replace the lights, conduit, landscaping and irrigation system at its own cost and hold the City of Columbia harmless for any of the costs associated with the repair or replacement or any other costs associated with the damage to the facilities.

10. This permit shall remain in effect until canceled by the City of Columbia, which shall be obligated to notify Permittee six (6) months in advance of the cancellation.

IN WITNESS WHEREOF, this permit has been executed this ____ day of _____, 2006.

City of Columbia, Missouri

By: _____
Bill Watkins
City Manager

Attest:

By: _____
Sheela Amin
City Clerk

COPY

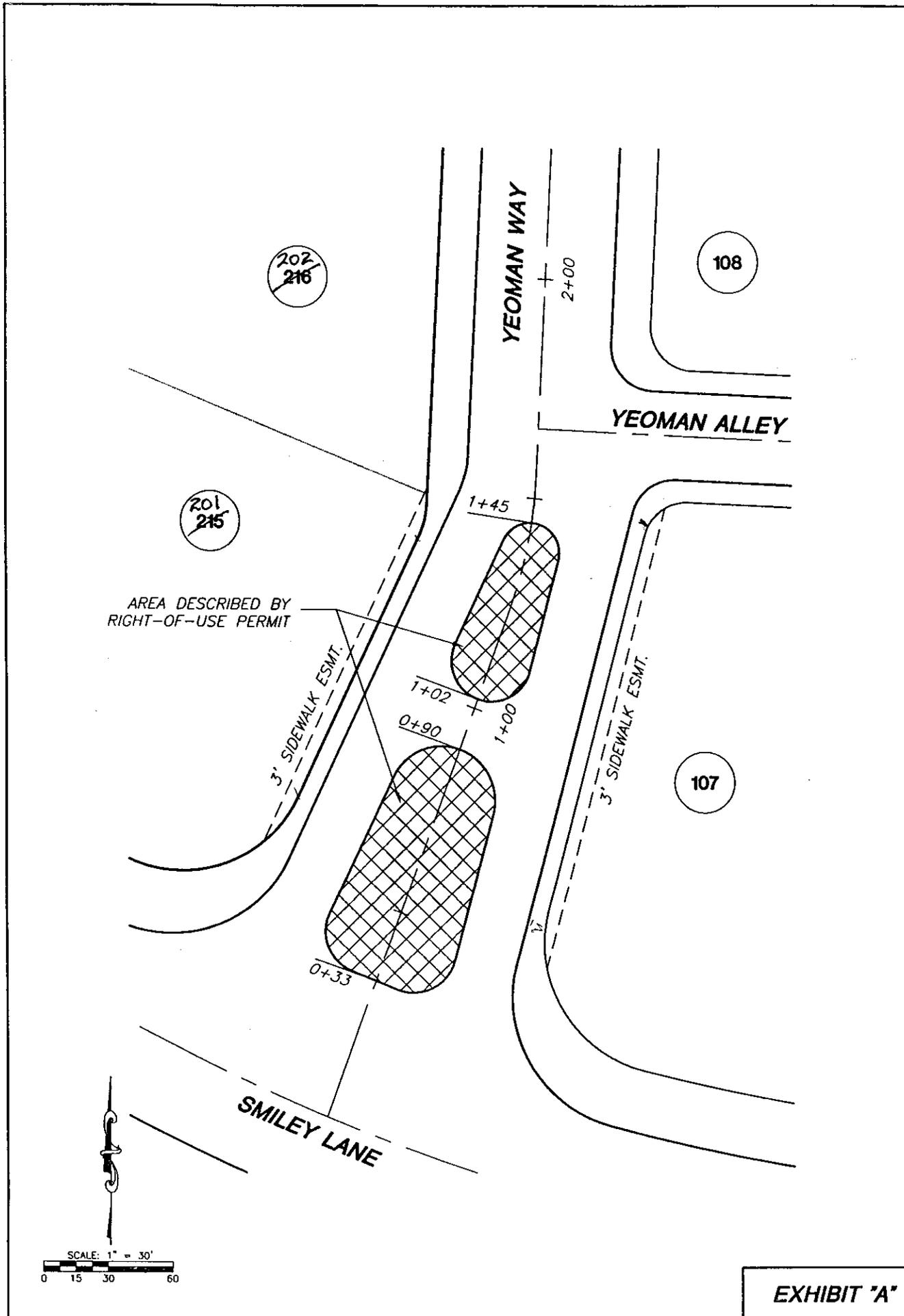
Approved as to form:

By: _____
Fred Boeckmann
City Counselor

Rabbit Ears, LLC



Tom Bass
Member



AREA DESCRIBED BY
RIGHT-OF-USE PERMIT

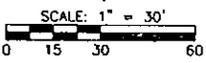


EXHIBIT "A"

Source
John Glascock



TO: City Council

FROM: City Manager and Staff



DATE: February 21, 2006

SUBJECT: Right of Use Permit for Rabbit Ears, LLC in a portion of the street right-of-way in Brookside Square, Plat 1.

Fiscal Impact

Yes

No

Executive Summary

Staff has prepared for Council consideration an ordinance authorizing the City Manager to execute an agreement with Rabbit Ears, LLC to allow construction, improvement, operation and maintenance of landscaping, including an irrigation system and lighting within a portion of the Yeoman Way right-of-way. A diagram of the area described is attached to the right of use permit.

Discussion

Rabbit Ears, LLC has proposed the installation of a landscape island including an irrigation system and lighting in a portion of the right-of-way of Yeoman Way. This proposal has been reviewed by staff with no objections.

The right of use permit stipulates the responsibilities and duties of Rabbit Ears, LLC and is similar to other right of use permits granted for maintaining landscaping in street rights-of-way.

Suggested Council Action

Approval of the ordinance.

Other Info.