

RESOLUTION NO. 12-97

CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO
RUBY VARELA AND IGNACIO VARELA

Recitals

1. Ruby Varela and Ignacio Varela, hereinafter referred to as "the Petitioners", represent that they are the owners of that certain real property described as Lots 10 and 11, Block 4 of Carpenters Subdivision No. 2 situate in the Northeast 1/4 of Section 15, Township 1 South, Range 1 West of the Ute Meridian in the City of Grand Junction, County of Mesa, State of Colorado, also known as 317 West Ouray Avenue in the City of Grand Junction, and have requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioners to install a chain link fence within and utilize the following described public right-of-way for West Ouray Avenue and Peach Street, located adjacent to the North and West of the above described property, for landscape purposes, to wit:

Beginning at a found rebar and cap in place for the Southwest corner of Lot 11, Block 4 of Carpenters Subdivision No.2 as recorded in Plat Book 1 at Page 14 of the records of the Mesa County Clerk and Recorder, whence a found rebar and cap in place for the Southeast corner of Lot 10, Block 4 of said Carpenters Subdivision No.2 bears N 89°51'27" E with all bearings contained herein being relative thereto; thence along an existing chain link fence the following three (3)courses:

- 1) S 86°40'07" W a distance of 18.89 feet;
- 2) N 00°12'45" W a distance of 127.46 feet;
- 3) N 86°31'59" E a distance of 69.69 feet;

thence leaving said existing chain link fence, S 05°41'11" W a distance of 5.48 feet to the Northeast corner of said Lot 10, Block 4; thence along the north line of said Lots 10 and 11, S 89°51'27"W a distance of 50.00 feet to the Northwest corner of said Lot 11, Block 4; thence S 00°08'33" E along the West line of said Lot 11, Block 4 a distance of 125.00 feet to the point of beginning.

2. Based on the foregoing, 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:

That the City Manager, on behalf of the City and as the act of the City, is hereby authorized and directed to issue the attached Revocable Permit to Ruby Varela and Ignacio Varela for the purposes aforescribed and within the public right-of-way aforescribed, subject to each and every term and condition contained in the attached Revocable Permit.

PASSED and ADOPTED this 5th day of February, 1997.

Attest:

/s/ Stephanie Nye
City Clerk

/s/ Linda Afman
President of the City Council

REVOCABLE PERMIT

Recitals

1. Ruby Varela and Ignacio Varela, hereinafter referred to as "the Petitioners", represents that they are the owners of that certain real property described as Lots 10 and 11, Block 4 of Carpenters Subdivision No. 2 situate in the Northeast 1/4 of Section 15, Township 1 South, Range 1 West of the Ute Meridian in the City of Grand Junction, County of Mesa, State of Colorado, also known as 317 West Ouray Avenue in the City of Grand Junction, and have requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioners to install a chain link fence within and utilize the following described public right-of-way for West Ouray Avenue and Peach Street, located adjacent to the North and West of the above described property, for landscape purposes, to wit:

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2. Based on the representations of the Petitioners, the City Council of the City of Grand Junction 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 Petitioners a Revocable Permit for the purposes aforescribed and within 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 City, on behalf of itself, the State of Colorado, the County of Mesa and all other public utilities, hereby reserves and retains a perpetual right to utilize all of the aforescribed public right-of-way for any City or public utility purposes, including, but not limited to, the installation, operation, maintenance and repair of existing and future street improvements and utilities, including the right of ingress and egress on, along, over, under, through and across said right-of-way.

2. The Petitioners, for themselves and for their heirs, successors and assigns, agree that they shall not hold, nor attempt to hold, the City of Grand Junction, its officers, employees and agents, the State of Colorado, the County of Mesa or any public utility liable for damages caused to the improvements situated within said public right-of-way (including the removal thereof), or any other property of the Petitioners 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 or repair of public improvements, including, but not limited to, street improvements and utilities.

3. This Revocable Permit shall be issued only upon the concurrent execution by the Petitioners of an agreement that the Petitioners, and the Petitioner's heirs, 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 Petitioners shall, at the sole expense and cost of the Petitioners, 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 their own expense, remove any encroachment so as to make the public right-of-way available for use by the City of Grand Junction, the State of Colorado, the County of Mesa or any other public utility. The provisions concerning holding harmless and indemnity shall survive the expiration, termination or other ending of this Permit.

4. The Petitioners, for themselves and for their heirs, successors and assigns, agree that they shall be solely responsible for maintaining and repairing the condition of the existing and all other future improvements installed by the Petitioners.

5. This Revocable Permit, the related Resolution and the following Agreement shall be recorded by the Petitioners, at the Petitioner's expense, in the office of the Mesa County Clerk and Recorder.

Dated this _____ day of _____, 1997.

Attest:

The City of Grand Junction, a
Colorado home rule municipality

City Clerk

City Manager

Acceptance:

Acceptance:

Ruby Varela

Ignacio Varela

AGREEMENT

Ruby Varela and Ignacio Varela, for themselves and for their heirs, successors and assigns, do hereby agree to: Abide by each and every term and condition contained in the foregoing Revocable Permit; As set forth, indemnify the City of Grand Junction, its officers, employees and agents and hold the City of Grand Junction, its officers, employees and agents harmless from all claims and causes of action as recited in said Permit; Within thirty (30) days of revocation of said Permit, peaceably surrender said public right-of-way to the City of Grand Junction and, at their own expense, remove any encroachment so as to make the public right-of-way fully available for use by the City of Grand Junction, the State of Colorado, the County of Mesa, or any public utility.

Dated this _____ day of _____, 1997.

Ruby Varela

Ignacio Varela

State of Colorado)
)ss.
County of Mesa)

The foregoing Agreement was acknowledged before me this ____ day of _____, 1997, by Ruby Varela and Ignacio Varela.

Witness my hand and official seal.

My commission expires: _____

Notary Public