

## RESOLUTION NO. 85-03

### A RESOLUTION CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO DAWAYNE MARTIN AND NEOMA MARTIN

#### Recitals.

1. Dawayne Martin and Neoma Martin, hereinafter referred to as the Petitioners, represent that they are the owners, as joint tenants, of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

Lots 15, Block 4 of Elmwood Plaza According to the Refiled Plat thereof, situate in the Southwest  $\frac{1}{2}$  of Section 12, Township 1 South, Range 1 West of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, as recorded in Plat Book 7 at Page 48 in the office of the Mesa County Clerk and Recorder, also known as 1712 Glenwood Avenue and identified by Mesa County Tax Schedule Number 2945-123-26-026,

and have requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioners to install, operate, maintain and repair fence and landscape improvements within the limits of the following described public right-of-way for Glenwood Avenue, to wit:

Commencing at the Southeast corner of Lot 15, Block 4 of said Elmwood Plaza Refile; thence leaving the Southerly boundary line of said Lot 15, South a distance of 2.44 feet to the True Point of Beginning;  
thence South a distance of 6.73 feet, more or less, to the Northerly line of an existing retaining wall located Northerly of and adjacent to the existing public pedestrian sidewalk for Glenwood Avenue;  
thence along the Northerly line of said existing retaining wall, said line being parallel with and adjacent to the existing public pedestrian sidewalk for Glenwood Avenue, S 64°04'30" W a distance of 37.50 feet;  
thence leaving the Northerly line of said existing retaining wall, North a distance of 9.17 feet, more or less, to the Southerly boundary line of said Lot 15;  
thence along the Southerly boundary line of said Lot 15, N 64°04'30" E a distance of 31.92 feet;  
thence leaving the Southerly boundary line of said Lot 15, East a distance of 5.02 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 the above-named Petitioners for the purposes aforescribed and within the limits of the public right-of-way aforescribed, subject to each and every term and condition contained in the attached Revocable Permit.

PASSED and ADOPTED this 17<sup>th</sup> day of September, 2003.

Attest:

/s/ Stephanie Tuin  
City Clerk

/s/ Harry Butler  
President of the City Council Pro Tem

## REVOCABLE PERMIT

### Recitals

1. Dawayne Martin and Neoma Martin, hereinafter referred to as the Petitioners, represent that they are the owners, as joint tenants, of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

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and have requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioners to install, operate, maintain and repair fence and landscape improvements within the limits of the following described public right-of-way for Glenwood Avenue, to wit:

Commencing at the Southeast corner of Lot 15, Block 4 of said Elmwood Plaza Refile; thence leaving the Southerly boundary line of said Lot 15, South a distance of 2.44 feet to the True Point of Beginning;  
thence South a distance of 6.73 feet, more or less, to the Northerly line of an existing retaining wall located Northerly of the existing public pedestrian sidewalk for Glenwood Avenue;  
thence along the Northerly line of said existing retaining wall, said line being parallel with and adjacent to the existing public pedestrian sidewalk for Glenwood Avenue, S 64°04'30" W a distance of 37.50 feet;  
thence leaving the Northerly line of said existing retaining wall, North a distance of 9.17 feet, more or less, to the Southerly boundary line of said Lot 15;  
thence along the Southerly boundary line of said Lot 15, N 64°04'30" E a distance of 31.92 feet;  
thence leaving the Southerly boundary line of said Lot 15, East a distance of 5.02 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, 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 limits of 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 Petitioner's use and occupancy of the public right-of-way as authorized pursuant to this Permit shall be performed with due care or any other higher standard of care as may be required to avoid creating hazardous or dangerous situations and to

avoid damaging public sidewalks, street improvements, utilities or any other facilities presently existing or which may in the future exist in said right-of-way.

2. The City hereby reserves and retains a perpetual right to utilize all or any portion of the aforescribed public right-of-way for any purpose whatsoever. The City further reserves and retains the right to revoke this Permit at any time and for any reason.

3. 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, liable for damages caused to any 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, repair and replacement of public improvements.

4. The Petitioners agree that they shall at all times keep the above described public right-of-way in good condition and repair.

5. This Revocable Permit shall be issued only upon 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 aforescribed public right-of-way available for use by the City or the general public. The provisions concerning holding harmless and indemnity shall survive the expiration, revocation, termination or other ending of this Permit.

6. This Revocable Permit, the foregoing 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 \_\_\_\_\_, 2003.

Attest:

The City of Grand Junction,  
a Colorado home rule municipality

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Manager

Acceptance by the Petitioners:

\_\_\_\_\_  
Dawayne Martin

\_\_\_\_\_  
Neoma Martin

