

March 31, 1993

To Whom It May Concern:

The owner of lot 10, Horizon Glen Subdivision, has requested a change to the rear yard setback as approved with the final development plan for that subdivision. Section 7-5-6 of the Zoning and Development Code allow for certain minor changes to a final plan to be authorized by the Administrator. Minor changes are those which do not alter the overall characteristics of the total plan and which create no adverse impacts on adjacent uses or public services and facilities. One example of what may be considered are changes resulting in a decrease of building separation or setbacks as long as those changes will not impact adjacent properties or uses.

In accordance with section 7-5-6 of the Zoning and Development Code, we are required to notify each person who testified concerning the project at any prior public meeting of the proposed minor change. If you have concerns with the proposed change in setback please notify our office no later than 5 p.m. Tuesday, April 6, 1993.

Sincerely,



Katherine M. Portner
Planning Supervisor

244-1446

Planning Department
City of Grand Junction
Attn: Kathy Fortner, Planner

Dear Kathy,

Per the building permit application for my home on Lot 10 of Horizon Glen Subdivision, we need to get a minor change to the back yard setback. This lot has a significant preservation easement on the front (see Plat), as well as steep slopes and a relatively small building envelope. The change to a 10' setback would allow a corner of my home to approach said setback, and is necessary to allow construction of a home meeting the square footage requirements of the covenants of the subdivision.

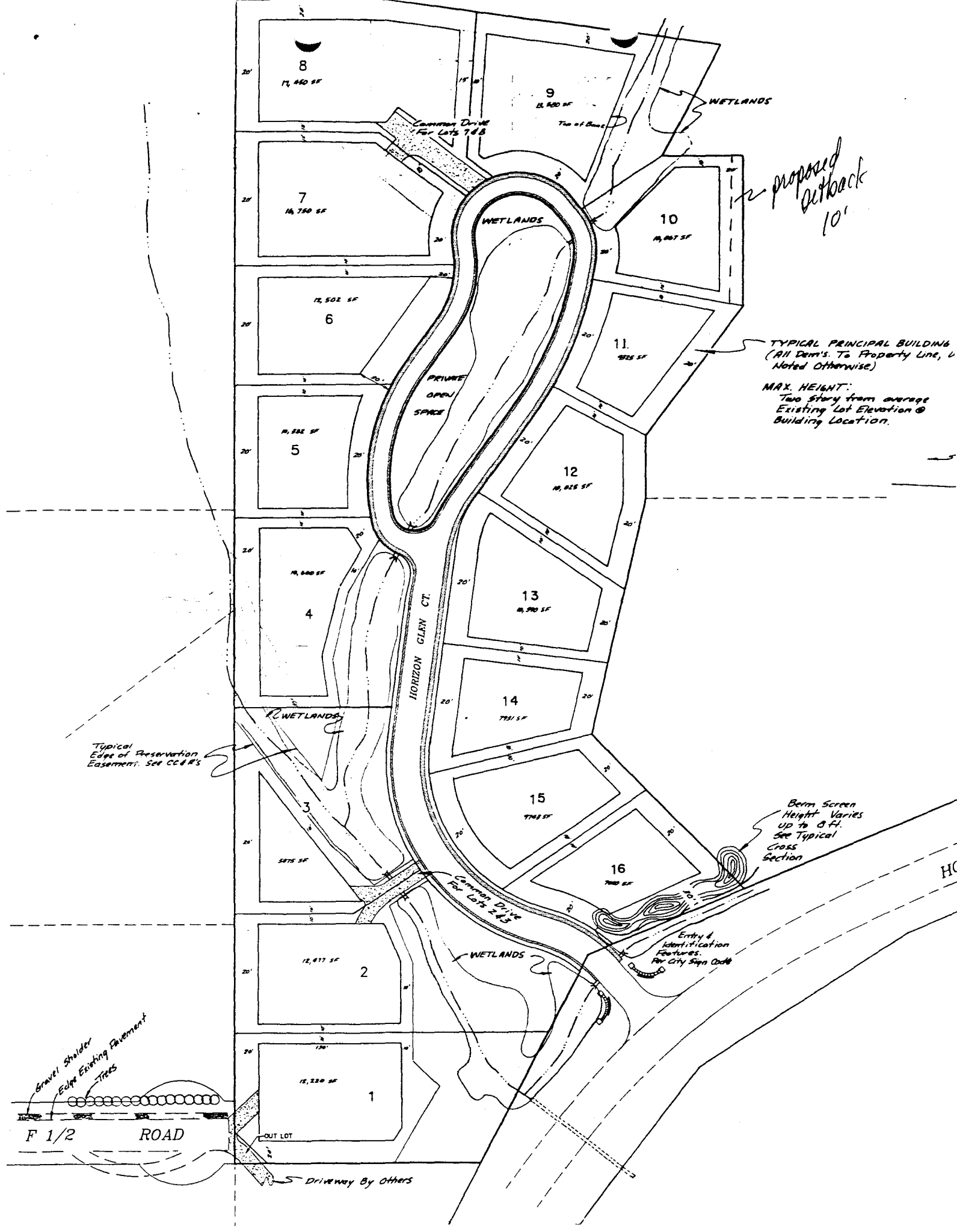
This has been already been approved by the Horizon Glen ACCO along with the proposed plans & specs for my home. I appreciate your explanation of the process and hopefully we can complete this in a timely manner as I am anxious to begin construction.

Sincerely,



Virginia C. Rice

ROUND HILL ADJACENT



8
17,450 SF

9
15,900 SF

7
16,750 SF

10
15,807 SF

6
12,502 SF

11
9725 SF

5
14,826 SF

12
10,825 SF

4
14,600 SF

13
14,790 SF

3
5875 SF

14
7781 SF

15
7743 SF

16
7740 SF

2
12,877 SF

1
12,220 SF

F 1/2 ROAD

Driveway By Others

WETLANDS

WETLANDS

HORIZON GLEN CT

Common Drive
For Lots 2-15

Common Drive
For Lots 7-9

TYPICAL PRINCIPAL BUILDING
(All Dem's. To Property Line, &
Noted Otherwise)

MAX. HEIGHT:
Two Story from average
Existing Lot Elevation @
Building Location.

proposed
setback
10'

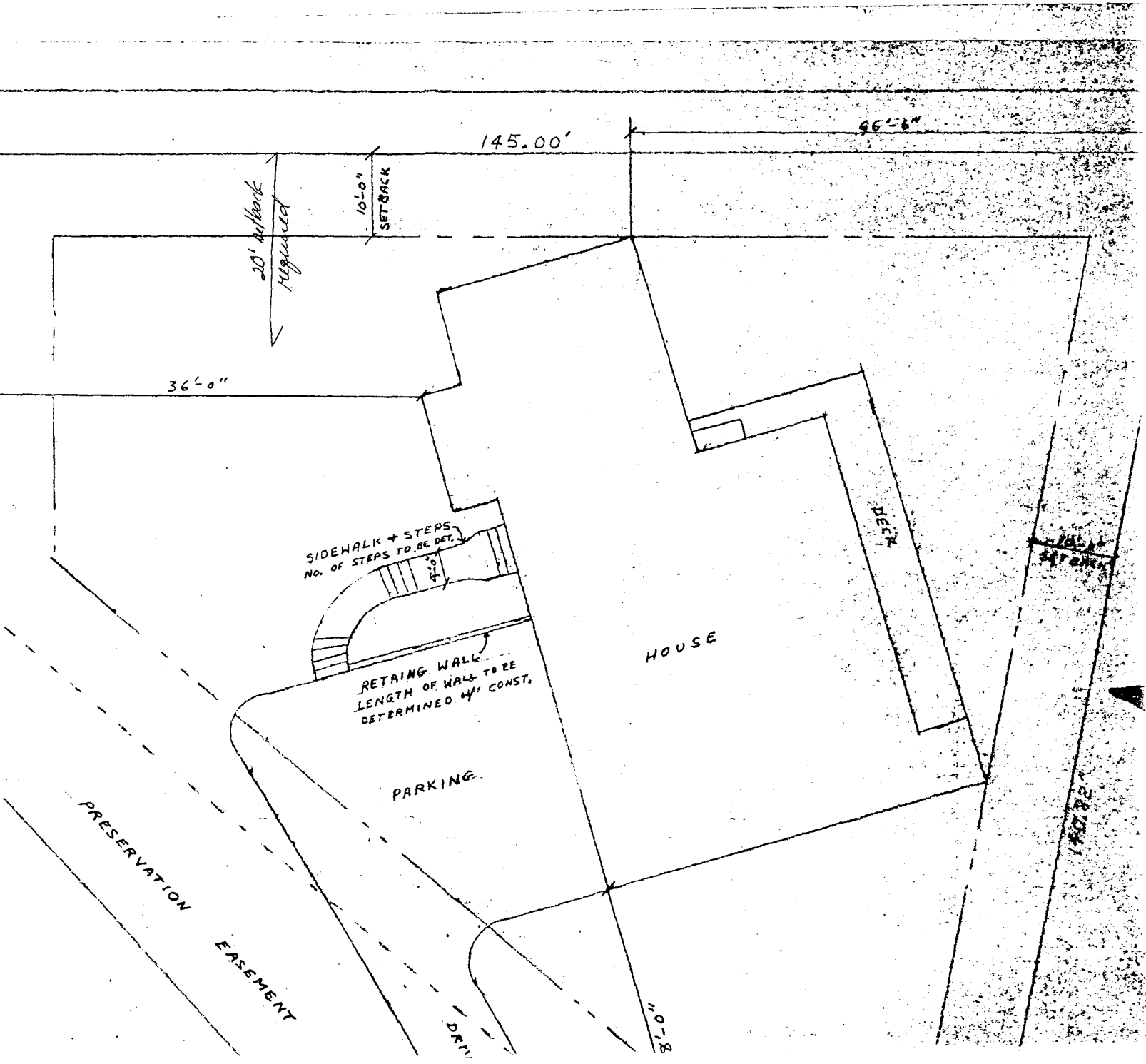
Typical
Edge of Preservation
Easement: See CC&R's

Berm Screen
Height Varies
up to 8 ft.
See Typical
Cross
Section

Entry &
Identification
Features.
For City Sign Code

Gravel Shoulder
Edge Existing Pavement
Trees

OUT LOT



Walter L. Dalby
555 Pinyon Avenue
Grand Junction, CO 81501

April 6, 1993

HAND DELIVERY

Katherine M. Portner, Planning Supervisor
Community Development Department
City of Grand Junction
250 North Fifth Street
Grand Junction, CO 81501

RE: Horizon Glen Lot 10 Rear Setback.

Dear Ms. Portner:

Since you could not make yourself available, I thank you for arranging for Planner Dave Thorton to meet with me yesterday afternoon to explain subject setback change request and Community Development Department procedures.

Mr. Thorton stated that unless your office had received a written response from me by 5:00 P.M. today, as specified in your letter I received only last Friday evening, the change in setback will automatically be approved.

Therefore, I hereby inform the Community Development Department of the City of Grand Junction that I vigorously and strenuously object to any change in the required rear yard setback of Lot 10 of the Horizon Glen Subdivision (also known as 3830 Horizon Glen Court) for the following reasons:

1. It is my understanding that it was a requirement of the Community Development itself that resulted in 20-foot rather than the 10-foot rear setbacks contained on the initially submitted plan of Horizon Glen Subdivision.

I would conclude that the Community Development Department had carefully considered reasons for requiring 20-foot rear setbacks for this Subdivision.

2. The most desirable and most likely location for a dwelling on the Dalby property is immediately adjacent to the rear of Lot 10 of Horizon Glen Subdivision.

The placement of a large residential dwelling within 10-feet of the most desirable lot on the Dalby property will have substantial damaging effects. Three that come immediately to mind after visiting the site last evening are below.

3. The value of the Dalby lot will be reduced substantially due to the existence of a dwelling 10-feet closer to it than the spacing of all the other dwellings in the neighborhood.
4. The views and quality of peaceful enjoyment of the future house and grounds on the Dalby property will be substantially and adversely effected by the existence of a large dwelling located 10-feet closer to the Dalby property.

5. The safety from fire and other hazards will be reduced by reducing the spacing between dwellings.

Since the proposed dwelling on Lot 10 and the dwelling I visualize on the Dalby property will be of substantial value, I do not think it prudent to reduce the safety and security of two valuable homes due to reduced setbacks.

6. A Mesa County mandated AMENDED Replat of Lot Two of the Foster Subdivision has been in the hands of S. L. Ventures, Inc., the developer of Horizon Glen Subdivision, since early December of 1992 and awaits only the developer's compliance with Mesa County requirements in order to be recorded.

An AMENDED Plat of Horizon Glen Subdivision has been in the custody of the Community Development Department for a similar period awaiting developer's compliance with Mesa County requirements in order for the AMENDED City Plat to be properly recorded in proper sequence.

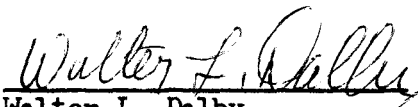
7. It is entirely inappropriate for amendments to occur in the Horizon Glen Subdivision until the AMENDED County and AMENDED City Plats are both properly recorded in proper sequence.

I have identified the above objections in one day.

Had you chosen something more reasonable than the two-business-day notice you provided me, my prepared response could have been more carefully considered and complete.

Once I have had the time and opportunity to reflect on the matter, I shall make any further objections at the proper time in the proper forum.

Sincerely,


Walter L. Dalby

Walter L. Dalby



Grand Junction Community Development Department
Planning • Zoning • Code Enforcement
250 North Fifth Street
Grand Junction, Colorado 81501-2668
(303) 244-1430 FAX (303) 244-1599

April 14, 1993

Ginger and George Rice
2436 Applewood Circle
Grand Junction, CO 81506

Dear Ms. and Mr. Rice:

This letter will serve as notice that your request for a minor change to the Horizon Glen development plan to change the rear yard setback on lot 10 from 20' to 10' has been denied. Section 7-5-6.A.d of the Zoning and Development Code states that changes resulting in a decrease of building separation or setbacks as long as those changes will not impact adjacent properties or uses may be considered as a minor change. Because the adjacent property owner feels the decrease in setback will adversely affect his property, we feel the criteria for a minor change has not been met. I have attached a copy of the letter received from Mr. Dalby.

An appeal of this decision may be made to the Planning Commission. A written request must be received by our office by noon on April 19th to be placed on the May 4, 1993 Planning Commission agenda. There is also a \$50 processing fee for the appeal due at the time of submittal.

If you have further questions please contact me at 244-1446.

Sincerely,

A handwritten signature in cursive script that reads "Katherine M. Portner".

Katherine M. Portner
Planning Supervisor



April 19, 1993

Planning Commission
City of Grand Junction
250 North 5th. Street
Grand Junction, CO 81501

RE: Modification to Development Plan,
Horizon Glen Subdivision

Dear Members:

On the behalf of the owner of Lot 10, Horizon Glen Subdivision, and the applicant of the original subdivision submission we are requesting a minor modification to the minimum rear yard setback for Lot 10, Horizon Glen Subdivision. The current rear yard setback requirement is 20 feet, the proposed change for is 10 feet. The accompanying Site Plan depicts the relationship of the proposed dwelling to the property boundary and setbacks.

The requested change will allow the following:

1. Construction of the structure in a manner which is sensitive to the existing topography.
2. A flatter driveway grade at the intersection with the street.
3. Avoidance of the existing drainage course located along the northerly boundary of the lot.
4. Locating the dwelling in a manner which avoids a large expanse of wall parallel to the lot line.
5. Less than a 10% change to the original setback requirement.

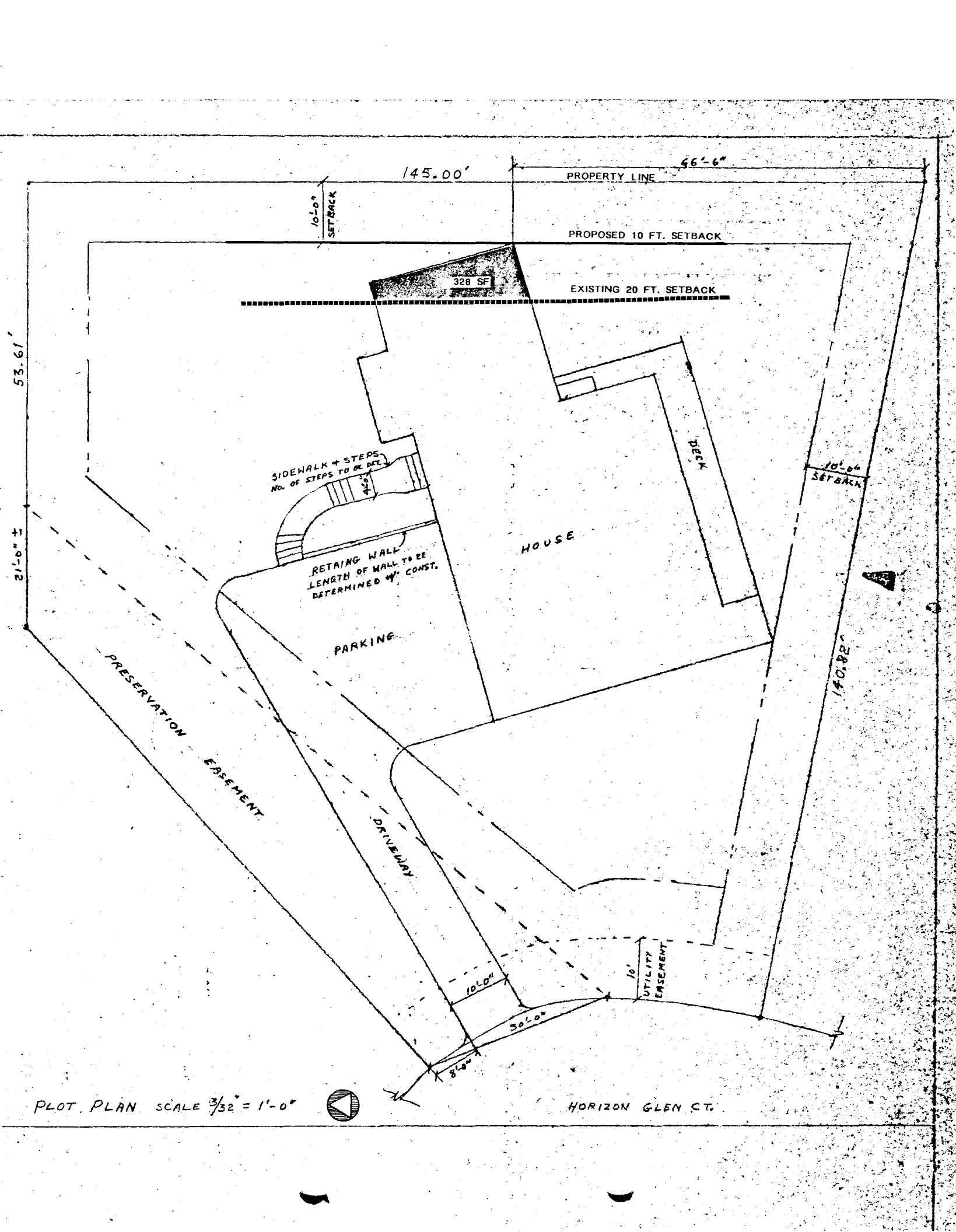
The applicants and myself will be in attendance at your regularly scheduled meeting to discuss the proposed change and answer any questions which may arise. We would like to take this opportunity to thank you in advance for your timely response, since the applicant is most anxious to start construction on their new home.

Respectfully,


Thomas A. Logue

xc: V. Rice
S.L. Ventures

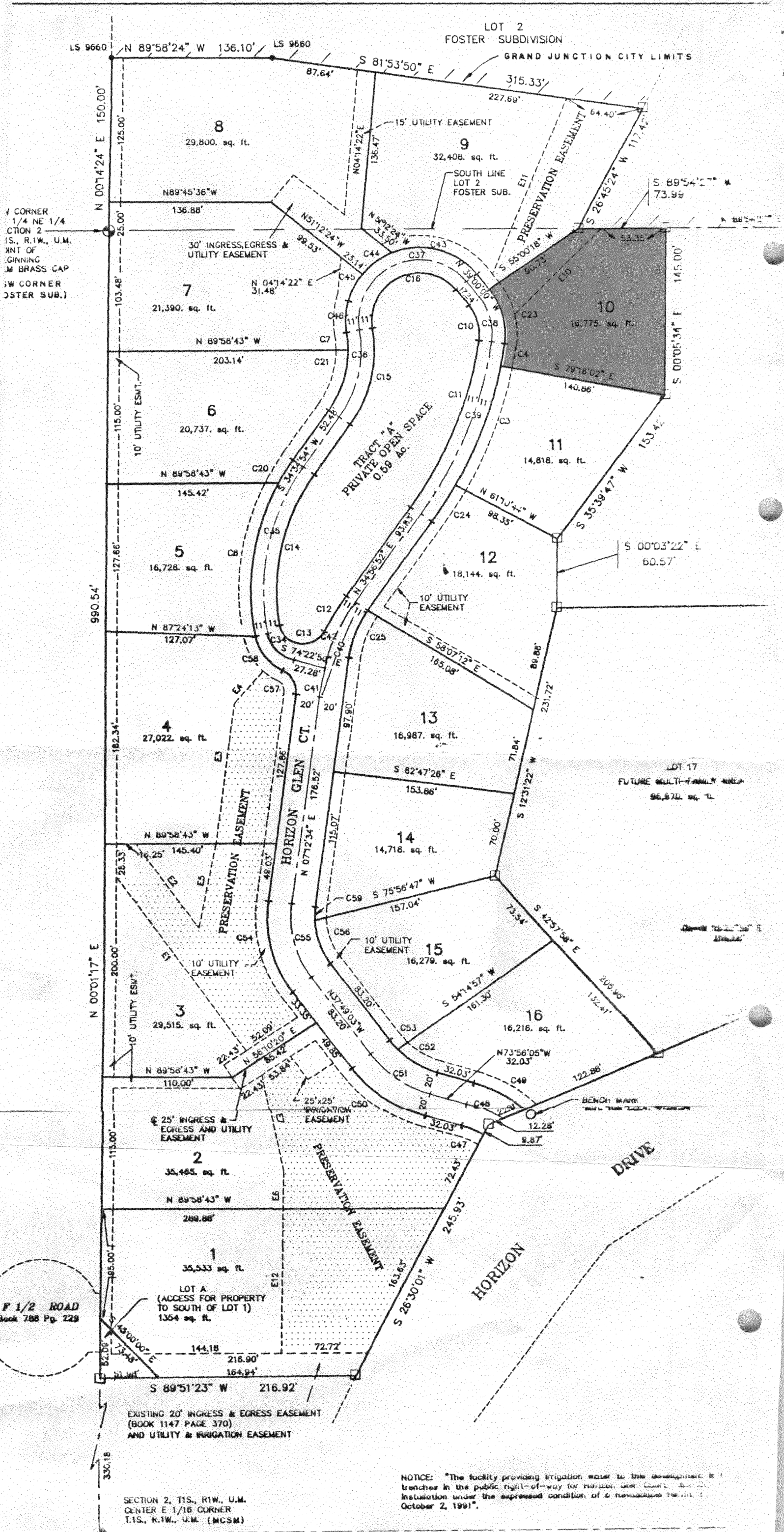
Ginger Rice
242-6060/246-5215



PLOT PLAN SCALE $\frac{3}{32}'' = 1'-0''$



HORIZON GLEN CT.



1/4 CORNER
 SECTION 2
 T1S., R1W., U.M.
 POINT OF BEGINNING
 IRON BRASS CAP
 (1/4 CORNER
 FOSTER SUB.)

F 1/2 ROAD
 Book 788 Pg. 229

EXISTING 20' INGRESS & EGRESS EASEMENT
 (BOOK 1147 PAGE 370)
 AND UTILITY & IRRIGATION EASEMENT

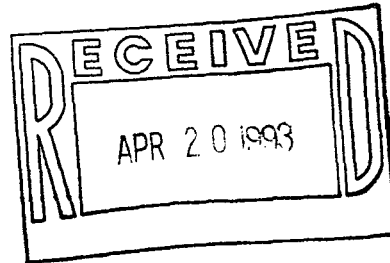
SECTION 2, T1S., R1W., U.M.
 CENTER E 1/16 CORNER
 T1S., R1W., U.M. (MCSM)

NOTICE: "The facility providing irrigation water to this development is a trench in the public right-of-way for horizon. user. consent. the installation under the expressed condition of a new easement for the 1 October 2, 1991".

KE: J. H. 4/20/93
cf

2436 Applewood Circle
Grand Junction CO 81506
19 April 1993

Mr. Dan Wilson
City Attorney
and Mr. Lawrence Timms
Community Development Director
250 N. Fifth St.
Grand Junction CO 81501-2668



Dear Mr. Wilson and Mr. Timms,

Given the concerns that have surfaced over the validity of the Horizon Glen Subdivision where we are trying to construct a house, I would appreciate having a clear statement from the city verifying that the subdivision is valid and that we have all the legal protections that a proper subdivision filing normally provides.

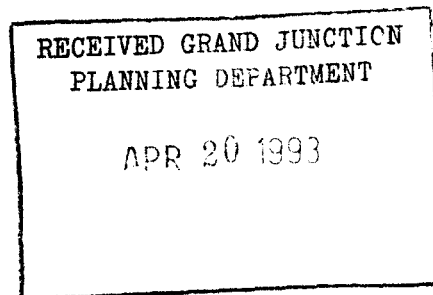
Our building permit already has been held up for several weeks even as the clock ticks on our construction loan and our builder's calendar becomes more crowded. So your prompt attention to resolving the issues surrounding the subdivision's legality would be very much appreciated.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Virginia C. Rice".

Virginia C. Rice



Walter L. Dalby
555 Pinyon Avenue
Grand Junction, CO 81501
(303) 242-2992 & 434-2608

April 20, 1993

HAND DELIVERY

Richard H. Krohn
Dufford, Waldeck, Milburn & Krohn
900 Valley Federal Plaza
Grand Junction, CO 81501
(303) 242-4614

RE: Horizon Drive Property.

Dear Rich:

Having exhausted, during the course of the last 21-months, all reasonable means to have the City Of Grand Junction and the County Of Mesa perform their functions to achieve valid Subdivision Plats which provide secure boundaries and secure access to adjacent property owners, I hereby direct you to perform the following task:

Inform, in writing, Grand Junction City Attorney Dan Wilson and Mesa County Attorney Lyle Dechant that:

1. Unless a Notice Of Prohibition on the issuance of building permits for Horizon Glen Subdivision lot numbers 1 thru 18 inclusive is recorded in the Records of the Mesa County Clerk and Recorder's Office by close of business on Friday, April 23, 1993, I shall immediately institute legal action in the appropriate Court of Law.
2. If any building permit is issued for any lot in Horizon Glen Subdivision before the version of the AMENDED Replat Of Lot 2 Foster Subdivision which I reviewed on September 18, 1992 is:
 - a. Revised to contain exactly the language specified by Lyle Dechant for the notation on Lot A as documented in the Mesa County Department Of Public Works' Division Of Planning letter to Timothy E. Foster of December 2, 1992.
 - b. Revised to contain all signatures of legal ownership of the property.
 - c. Not changed in any other regard.
 - d. Recorded in the Records of the Mesa County Clerk and Recorder's Office.

I shall immediately institute legal action in the appropriate Court of Law.

3. If any building permit is issued for any lot in Horizon Glen Subdivision before the version of the AMENDED Plat Of Horizon Glen Subdivision which I reviewed at the Community Development Department on December 14, 1992 is:
- a. Revised to contain all signatures of legal ownership of the property.
 - b. Not changed in any other regard--including the recorded Final Development Plan Of Filing No. 1.
 - c. Recorded in the Records of the Mesa County Clerk and Recorder's Office.

I shall immediately institute legal action in the appropriate Court of Law.

I state to you that time is of the essence in this matter.

Sincerely,



Walter L. Dalby

DUFFORD, WALDECK, MILBURN & KROHN

ATTORNEYS AT LAW

900 VALLEY FEDERAL PLAZA

P. O. BOX 2188

GRAND JUNCTION, COLORADO 81502-2188

TELEPHONE (303) 242-4614

TELECOPIER (303) 243-7738

BETTY C. BECHTEL
WILLIAM H. T. FREY
ELIZABETH K. JORDAN
WILLIAM M. KANE
RICHARD H. KROHN
LAIRD T. MILBURN
LINDA E. WHITE

D. J. DUFFORD
OF COUNSEL
WILLIAM G. WALDECK
OF COUNSEL

STEPHAN B. SCHWEISSING

April 20, 1993

HAND DELIVERY

Dan Wilson
Grand Junction City Attorney
250 North Fifth Street
Grand Junction, CO 81501

Lyle Dechant
Mesa County Attorney
750 Main Street
Grand Junction, CO 81501

Re: Horizon Glen Subdivision - Lot 2 Foster Subdivision

Gentlemen:

Enclosed is a copy of a letter I received this morning from Mr. Dalby concerning his directions of the actions I am to take relative to the above problem. I will not attempt to summarize or restate the long and incredibly complicated history of this problem. The simple fact remains that, more than a year after recording of the plats for these two projects, and almost two years after approval of these two petitions, neither one has been properly documented or platted.

The amended plat of Horizon Glen does not contain the signatures of all of the current property owners. Much more significantly, the developer has repeatedly and continually refused to meet the county attorney's requirements for the proper dedication language on an amendment of the replat of Lot 2 of Foster Subdivision.

The problem of having the proper parties sign an amended plat of Lot 2 of the Foster Subdivision is more significant than merely obtaining the signature on the Horizon Glen plat of the current owners of the lots which have been sold. In Lot 2 of Foster Subdivision, there apparently remains an illegal subdivision of Lot 2. This was an issue prior to the approval of the replat of Lot 2, and prior to the approval of Horizon Glen, which the developer was to have rectified. The current assessor's plat of the area of Lot 2 of Foster Subdivision shows two different schedule numbers. This means not only that the proper parties have never signed the original or amended replat of Lot 2, but that an illegal subdivision situation has continued to exist throughout the course of this entire County Replat - Annexation City Subdivision process.

Dan Wilson
Lyle Dechant
April 20, 1993
Page Two

It remains my feeling that the only way to resolve these problems of obtaining the developer's compliance with the approval process of both the city and the county is to immediately institute a building permit hold on all lots in Horizon Glen Subdivision until these issues have been resolved. I know it will be apparent to both of you that the level of cooperation by the developer has changed significantly since its attention has been focused by the building permit issues relative to Lot 10 of Horizon Glen.

I know you will be discussing this matter with the developer in the next day or so. I would very much like to be advised of the position of the city and the county relative to these issues prior to that conversation.

Sincerely,



Richard H. Krohn

RHK/jmc

Enclosure

pc: John Shaver
Kathy Portner

34D/19/7060-002

HORIZON GLEN SUBDIVISION
INTERESTED CITIZENS FROM HEARINGS

Jack Ludwig
667 Roundhill Drive

Walter Dalby
owner of the property north of the development
555 Pinyon Ave. N.J. 81501

Rich Krohn (speaking for Walter & Gertrude Dalby)
900 Valley Federal Plaza

David Dardin
698 Roundhill

*submit notice of proposed change in addressed, stamped
envelops (unsealed) to Community Development. (see
attached requirements for Minor change).*

STAFF REVIEW

FILE: #52-93
DATE: April 28, 1993
STAFF: Kathy Portner
REQUEST: Amend required rear yard setback from 20' to 10'
LOCATION: Lot 10, Horizon Glen Subdivision
APPLICANT: George and Virginia Rice

1991

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Residential

SURROUNDING LAND USE:

NORTH: Residential
SOUTH: Residential
EAST: Undeveloped
WEST: Residential

EXISTING ZONING: Planned Residential (PR)

PROPOSED ZONING: No Change

SURROUNDING ZONING:

NORTH: R-1-A (County)
SOUTH: PR
EAST: RSF-4
WEST: PR

RELATIONSHIP TO COMPREHENSIVE PLAN:

Not Applicable

P.C. 5-4-93
Denied 5-0
FOR REASONS stated ...
(see minutes of
Planning
Commission)

STAFF ANALYSIS:

The owners of lot 10 of Horizon Glen Subdivision had requested a minor change to the approved development plan for the subdivision to change the rear yard setback from 20' to 10'. This type of appeal falls under section 7-5-6 of the Zoning and Development Code-- Amendments to the Final Plan. A minor change to the plan, such as a decrease in setbacks as long as those changes will not impact adjacent properties or uses, can be considered and approved administratively. However, the adjoining property owner to the east has objected to the proposed change to the setback. The request for a minor change was therefore denied and has been appealed to the Planning Commission by the lot owner.

The original proposal for Horizon Glen Subdivision included 20' rear yard setbacks for all lots except for 2 lots for which 10' was proposed. Staff comments were that those 2 lots should continue the 20' rear yard setback as established for the rest of the lots. The developer agreed to that comment and recorded a site plan with the plat showing building envelopes for all lots which included 20' rear yard setbacks. The covenants recorded with the plat (which are not enforceable by the City) indicate rear yard setbacks of 10'. The current owner of lot 10 believed the required setback was 10' instead of 20' based on those covenants and designed their house accordingly. The lot is constrained by a large preservation easement in the front and steep slopes resulting in a relatively small buildable area. As proposed, only a corner of the house, approximately 328 s.f., would extend into the 20' setback to within 10' of the property line. The visual impact to the adjacent property would be minimal.

STAFF RECOMMENDATION:

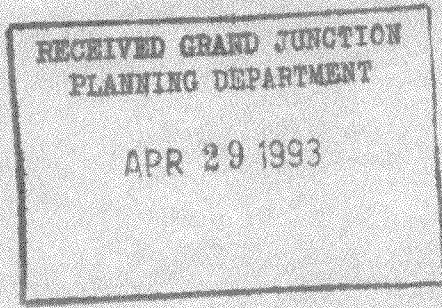
Because of the constraints of the lot and the minimal encroachment into the setback, staff recommends approval of the request to revise the rear yard setback from 20' to 10' to accommodate the proposed house.

on April 29th we received a letter from Thomas Burleigh. Mr. Burleigh is opposed to this request to reduce the setback from 20' to 10'.

#52-93

3150 Lakeside Dr 301
Grand Junction Co 81506
April 26, 1993

City of Grand Junction
Community Development
250 N 5th St
Grand Jct. Co. 81501



Dear Sirs:

I understand the owners of Lot 10 Horizon Glen Development are applying for a waiver to allow them to build to within 10 feet of their property line. This will allow them to build at about the top of the hill.

I am one of the owners of the property just north of Lot 10, Horizon Glen, & am opposed to their application. If they intend to build to within 10 feet of the north line that would be too close to my property. If they intend to build to within 10 feet of their east line, they would be at the top of the hill and interfere with the view from my property.

My property is parcel number
2945-021-00-055

Sincerely,
Thomas D. Bewleigh

DUFFORD, WALDECK, MILBURN & KROHN

ATTORNEYS AT LAW

900 VALLEY FEDERAL PLAZA

P. O. BOX 2188

GRAND JUNCTION, COLORADO 81502-2188

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 LINDA E. WHITE

D. J. DUFFORD
 OF COUNSEL
 WILLIAM G. WALDECK
 OF COUNSEL

STEPHAN B. SCHWEISSING

May 4, 1993

To Stephan
 Dalby T
 /
 file

HAND DELIVERY

Dan Wilson
 Grand Junction City Attorney
 250 North Fifth Street
 Grand Junction, CO 81501

Re: Item #52-93 (Amendment to Rear Yard Setback - Lot 10,
 Horizon Glen Subdivision)
 Grand Junction Planning Commission Agenda May 4, 1993

Dear Dan:

This letter confirms our telephone conversation earlier today. As you know, our firm represents Walter Dalby and his mother relative to property owned by them adjoining (on the east) property which is the subject of the above item scheduled to be heard by the Planning Commission this evening. The substance of our discussion was as follows:

1. Dalbys plan to appeal to City Council as permitted by the Zoning and Development Code if the amendment which is the subject of the above item is granted by the Planning Commission this evening.
2. Dalbys object to preadvertisement of the hearing on appeal and scheduling of that hearing on appeal before the City Council on May 5, 1993.
3. Dalbys understand they will be required to file an appeal in writing with the Community Development Department staff within three days after tonight's hearing, and that an appeal will be heard by City Council on May 19, 1993, if either party appeals.

Thank you for confirming that these are the procedures which will be followed and for the update on the amended plat of all of Horizon Glen Subdivision.

Sincerely,


 Richard H. Krohn

RHK/jmc

34D/32



RECEIVED GRAND JUNCTION
PLANNING DEPARTMENT
MAY 07 1993

May 7, 1993

Community Development Department
City of Grand Junction
250 North 5th. Street
Grand Junction, CO 81501

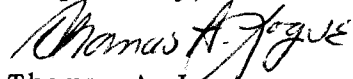
RE: FILE NO.: 52-93 AMENDMENT TO REAR YARD SETBACK
LOT 10 HORIZON GLEN SUBDIVISION

Dear Staff:

On behalf of the petitioner of the above indicated application, George and Virginia Rice, consider this a request to schedule the application for consideration by the City Council at their next Public Hearing.

If you have any further questions do not hesitate to contact myself, or the Rices'.

Respectfully,


Thomas A. Logue

xc: George and Virginia Rice
~~XXXXXXXXXXXXXXXXXXXX~~