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File 1977-0093

Date 7/18/00

Project Name: 1144 North 12th Street

P r e s e n t	S c a n n e d	<p>A few items are denoted with an asterisk (*), which means they are to be scanned for permanent record on the ISYS retrieval system. In some instances, not all entries designated to be scanned are present in the file. There are also documents specific to certain files, not found on the standard list. For this reason, a checklist has been included.</p> <p>Remaining items, (not selected for scanning), will be marked present on the checklist. This index can serve as a quick guide for the contents of each file.</p> <p>Files denoted with (**) are to be located using the ISYS Query System. Planning Clearance will need to be typed in full, as well as other entries such as Ordinances, Resolutions, Board of Appeals, and etc.</p>
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X	X	*Summary Sheet – Table of Contents
		Application form
		Receipts for fees paid for anything
		*Submittal checklist
		*General project report
		Reduced copy of final plans or drawings
		Reduction of assessor's map
		Evidence of title, deeds
		*Mailing list
		Public notice cards
		Record of certified mail
		Legal description
		Appraisal of raw land
		Reduction of any maps – final copy
		*Final reports for drainage and soils (geotechnical reports)
		Other bound or nonbound reports
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		Individual review comments from agencies
		*Consolidated review comments list
		*Petitioner's response to comments
		*Staff Reports
		*Planning Commission staff report and exhibits
		*City Council staff report and exhibits
		*Summary sheet of final conditions
		*Letters and correspondence dated after the date of final approval (pertaining to change in conditions or expiration date)

DOCUMENTS SPECIFIC TO THIS DEVELOPMENT FILE:

X	X	Follow-Up Form			
X	X	Review Sheets			
X	X	Protective Covenants			
X	X	Declaration of Covenants, Conditions, and Restrictions			
X	X	Avigation Easement			
X	X	Letter from Ron Rish to James Patty – 6/23/78			
X		Power of Attorney			
X	X	Planning Commission Minutes - ** - 12/28/77, 3/28/78			
X	X	Letter from Karl Metzner to Chris Gray – 12/30/77			
X	X	Letter from Kathy Lofink to Chris Gray – 3/20/78			
X	X	Letter from Chris Gray to Karl Metzner – 12/27/77			
X	X	Petition and Application for Rezoning			
X		Deed			
X	X	Preliminary Submittal – 11/30/77			

Subdivision Applecrest - Final Plat/Plan

Date 2 Mar 1978 Item # 94-77

Petitioner Chris Gray

Review Agencies Comments

Review Agencies Comments

① Parks & Rec. - prefer some alt. plantings for Western Chokecherry & "Roseum".

② City Utilities - C.O.'s should not be issued until sewer line is accepted by city.

③ Fire Dept. - move two hydrants.

④ City Eng. - ^{sub} P of A for F3/4. No easement shown between lots 4 & 5 where they have storm sewer.

Action Taken

P.C. Approved 3/28/78

C.C. Approved 19 April 78

Comments

Subject to all prior cond. + obligation easement.

Action Taken

P.C. _____

C.C. _____

Comments

ITEMS REQUIRED FROM DEVELOPER

- Check
- Drainage
- Improvements
- Utility Agreement
- Landscaping
- Guarantee
- Title Investigation
- Covenants
- Annexation
- Other (Specify)

Common Loc.
NE F 3/4, 27 3/4

Subdivision Preliminary Plan - PD-8 (Apple Crest,

Date 1 Dec 77 Item # 94-77

Petitioner CHRIS GRAY

Review Agencies Comments

Review Agencies Comments

① City Utilities - try to avoid sewer line running under

⑤ MW Bell - requires add'l easmts.

Building. Show fire hydrants Homeowners assoc. will be responsible for maint. of sewer line within condo complex.

⑥ Fire Dept - recommend a Tee looped 8" water system be placed instead of looping the system back by itself. Looped back into 18" main at F H. rd. 5 hydrants

Tanks required for Wash/pu for condo complex. Radius of turn on private rd. to be 35' inside & 50' outside.

be installed on this system. One at each corner outside of the condominium setup & one inside the complex - near the center

② Park & Rec. - recommend species other than Balapple

③ Eng. - need info on streets

④ P.S. - needs add'l easements.



Action Taken

Action Taken

P.C. Approved 28 Dec 77

P.C. _____

C.C. Approved 18 JAN 78

C.C. _____

Comments

Comments



ITEMS REQUIRED FROM DEVELOPER

- Check
- Drainage
- Improvements
- Utility Agreement
- Landscaping
- Guarantee
- Title Investigation
- Covenants
- Annexation
- Other (Specify)

PETITION AND APPLICATION FOR REZONING

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

TO THE PLANNING COMMISSION OF THE CITY OF GRAND JUNCTION

Gentlemen:

We, the undersigned, being the owners of the following described property, situated in the City of Grand Junction, County of Mesa, State of Colorado, to-wit:

Lot 19 of Jaynes Subdivision, excluding the East 172.0'

Containing 7 acres, more or less, do respectfully petition and request that the Planning Commission amend the zoning ordinance of the City of Grand Junction by changing said above described land from R1-A zone to Pd-8 zone.

Respectfully submitted,

Chris Gray

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 30th day of November, 1977 By Chris Gray for the purposes therein set forth.

My commission expires: September 10, 1979
Elizabeth P. Root
Notary Public

*NOTE: Filing of a petition to rezone requires a deposit of \$270.00 with the Planning Office to defray the cost of the amendment.

APPLE CREST

Condominiums and Home Sites

Preliminary Submittal

November 30, 1977

November 30, 1977

Grand Junction Planning Commission
Mesa County Courthouse
Grand Junction, Colorado 81501

Dear Members:

Transmitted herewith are plans and text material for a
Planned Unit Development and Zone Change request on 7 acres
of ground North of F 3/4 Road between 27 1/2 and 28 Roads.

The zone change request is for a zone change from R1-A to
PD8 with a resulting density of 4 units per acre.

I will be at your next public hearing to discuss this
submittal in further detail with you.

Very truly yours,


Chris Gray

APPLE CREST CONDOMINIUMS AND HOME SITES

INTRODUCTION

Apple Crest Condominiums and Home Sites is a Planned Unit Development with 28 units on 7 acres located North of F 3/4 Road between 27 1/2 and 28 Roads.

The zoning request is to change the existing R1-A to PD-8.

The plan presented is a preliminary plan, the developer having elected to forego the outline development plan.

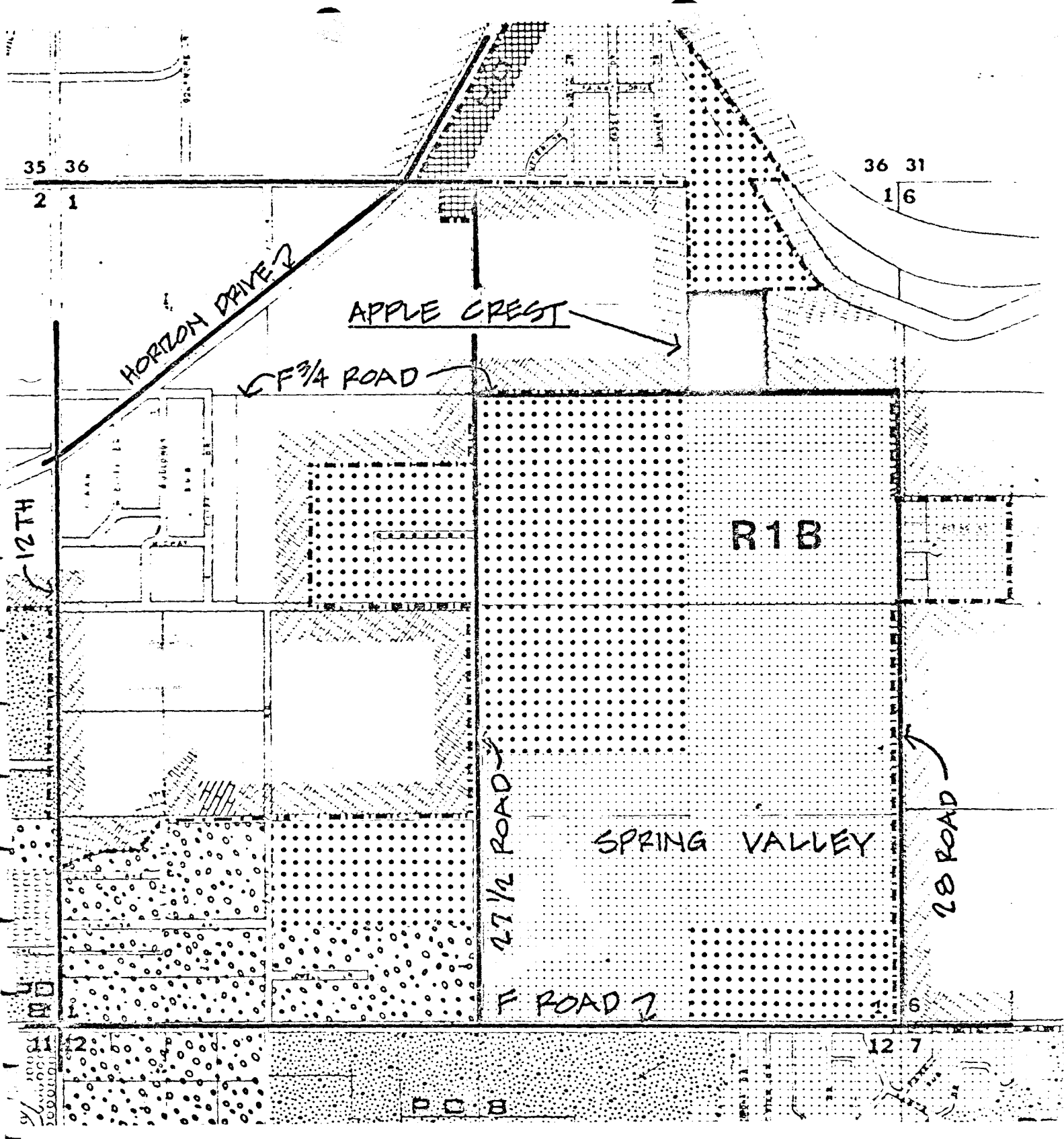
VICINITY

The subject property is located in Northeast Grand Junction and shares a common boundary with Mesa County on the East and West. North of this property is undeveloped land zoned Grand Junction R1-A. To the East is zoned Mesa County R2 where there is a single family residence on 2 acres. Future extensions of Spring Valley border to the South, zoned Grand Junction R1-B. An apple orchard exists to the West on land zoned Mesa County R2.

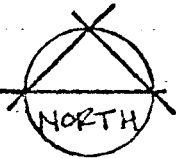
EXISTING CONDITIONS

The site is 7 acres of ground with a badly deteriorated old home in the South East corner, which will be removed. General slope of the land runs from East to West, at a little greater than 1% slope. An existing ditch cutting across the very South East corner will be routed to run along the outer property line. The better specimens of existing trees surrounding the house will be saved where possible.

The location map and geologic report immediately follow this page. Radiologic and soils report will be submitted at the Final Development Plan stage.



LOCATION MAP



WALLACE G. BELL
CONSULTING GEOLOGIST
591 RAMBLING ROAD
GRAND JUNCTION, COLORADO 81501

303-242-7896

REPORT OF GEOLOGIC INVESTIGATION

G. S. N. PARCEL

The proposed subdivision consists of a 7 acre parcel of irrigated land located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 1, T. 1 S., R. 1 W., Ute Principal Meridian, about one mile north of the northeast corner of the city of Grand Junction in Mesa County, Colorado. An abandoned farmhouse and several associated sheds are located in the southeast corner of the parcel.

The parcel is situated on a remnant of an old alluvial plain constructed by the Colorado River and its local tributaries during a previous erosion cycle. The surface of the parcel is covered by alluvial deposits that rest upon bedrock consisting of strata in the middle part of the Mancos Shale.

There are no geologic factors present that might produce or contribute to a situation hazardous to life, health, or property in the proposed use of the tract. There are no slopes in or near the tract, so there is no danger from landslide or other type of gravity-induced movement of soil or rock. The tract is over 100 feet above the level of the river, and no water courses cross it, so no problems from surface water should be expected. There are no existing artificial hazards, and there is little likelihood that any might arise in the general area from development of natural resources.

The thickness of the alluvial deposits in the parcel is not known. They probably consist largely of very sandy, somewhat clayey silt which has never been compacted by the weight of overlying sediment and can be expected to exhibit a moderate to strong tendency to settle at load points. The middle part of the Mancos Shale is quite bentonitic, so, if bedrock is encountered in excavations for structures, it can be expected to manifest a moderate to strong tendency to swell. Since no definite information is available, the physical properties of the material upon which structures will rest should be determined accurately by a professional engineer before construction is undertaken.

Development of the tract as planned should have no adverse effect upon the environment. Water will be provided by the Ute Water Conservancy and waste disposal by a community system.

27 November 1977

Wallace G. Bell

Wallace G. Bell

Consulting Geologist

PROJECT DESCRIPTION

The plan calls for an even mix of single family home sites and condominium units, there being 14 units of each. The condominiums will be constructed and sold by the developer, while the single family lots will mostly be sold to individuals but fully served by utilities and streets.

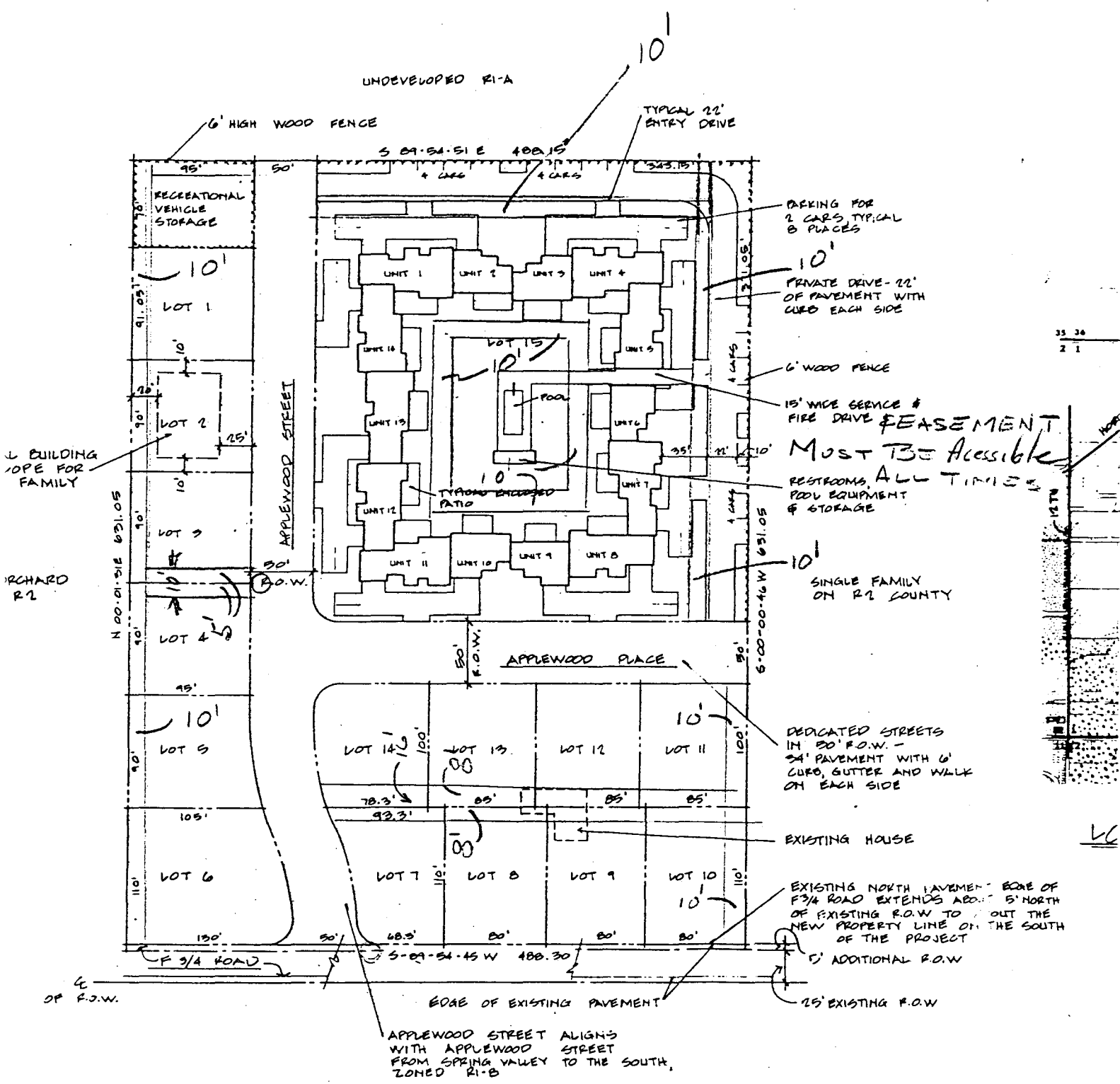
The condominium cluster sets in the North East corner surrounded on two sides by single family sites. Streets within the 50 foot right-of-ways will be dedicated public streets. The drive on the North and East of the condominiums will be private with all necessary easements given to complete the circulation route for emergency vehicles, trash pick-up, and public right-of-way, so no dead ends exist.

Condominiums completely front on a private and secure interior court. A swimming pool will be at the center of the court. A system of walkways will connect all units with the pool area and each other through the inner court. Family living areas will open onto the court with individual unit patios for personal privacy. This concept is a very important design feature of the project. The "back yard" will face vehicle circulation and parking areas on the perimeter. All units will have double garages. The condominiums will vary in size from 1300 to 1800 square feet. About two thirds of the units will be single story, the remaining are two story. A total of 60 parking spaces on site, including garages, are provided for the 14 units. Recreational vehicles will be parked in a special area provided in the North West corner. It is anticipated that a restriction will be placed on young children in the condominiums.

Architectural controls will be adapted to protect owners within the development and surrounding areas. To achieve this, a set of covenants, conditions and restrictions will be adapted on the single family sites. The condominium design itself will follow the intent of the restrictions and all applicable parts to protect adjacent residences. Documents on the above will be submitted at the Final Development Plan stage. The following is a list of anticipated subjects and possible regulations:

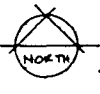
- Setbacks: 20 foot rear
10 foot each side
25 foot front
- Minimum 1200 S.F. living area
- Double garage required
- Required landscaping and screening will be noted
- Building height limited to 25 feet
- Building materials will be restricted to preserve some continuity within the development
- Designs approved by a homeowner and condo-owner board, as well as other required submittals under a PUD
- Others as may be required:

A rendering of the proposed condominiums follows:



PRELIMINARY SITE PLAN

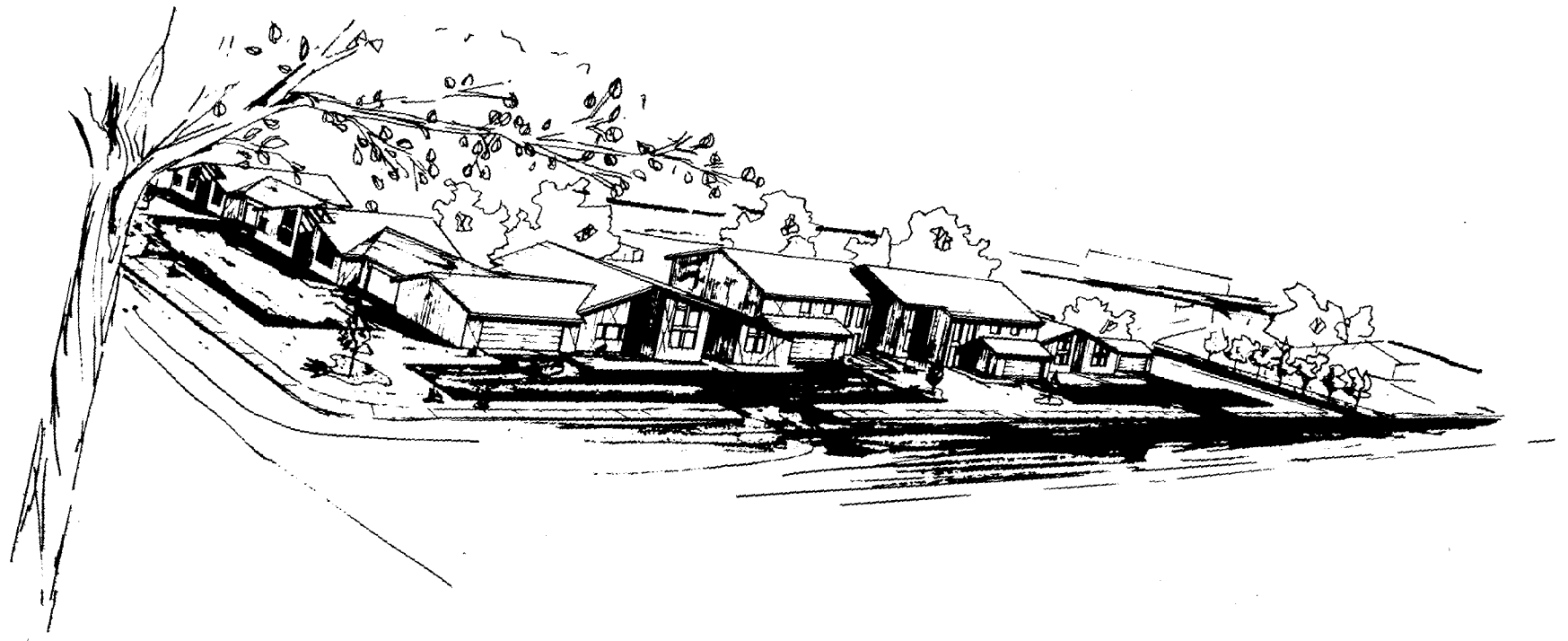
1" = 50'



Apple Crest.

Common Areas also to be dedicated as utility easements.

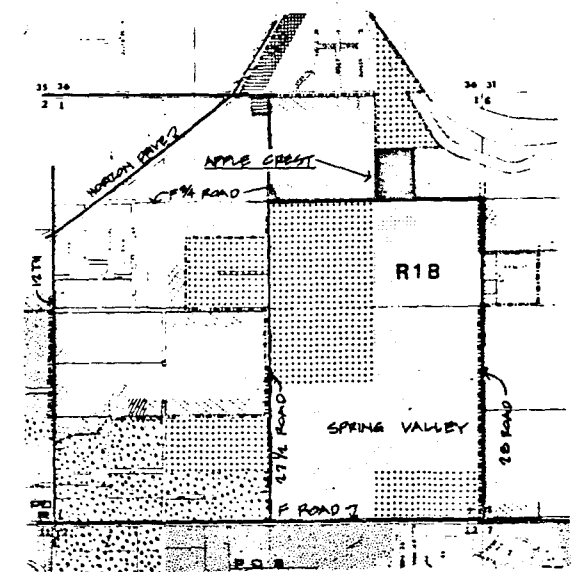
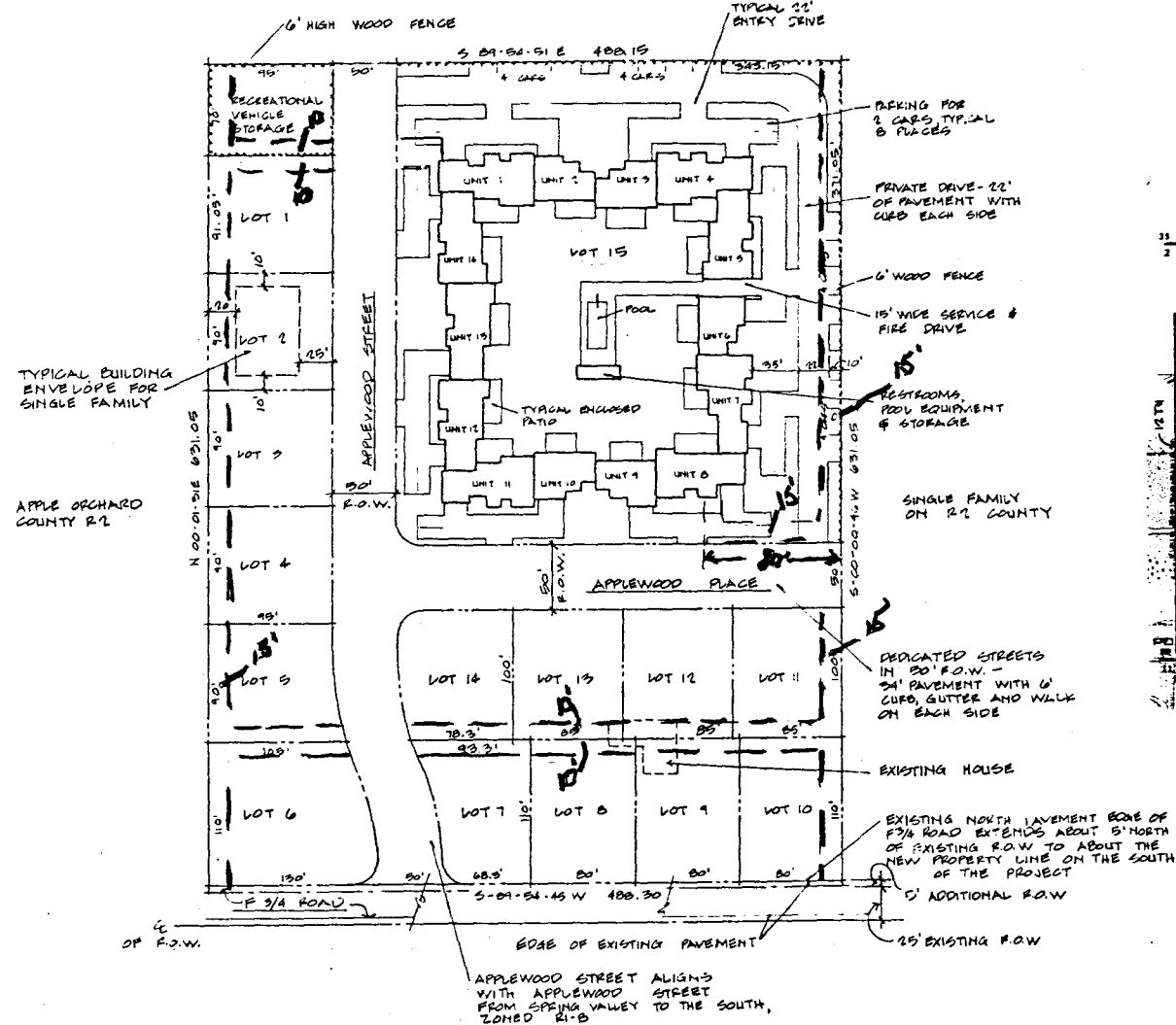
Send



PERSPECTIVE - SOUTHWEST CORNER

APPLE CREST
CHRIS ARAY - ARCHITECT

UNDEVELOPED R1-A



PRELIMINARY SITE PLAN

1" = 50'



PROPERTY OWNERSHIP

Title to the subject parcel is currently in the name of Chris Gray, a partner in G.S.N., a Colorado partnership, who will be the developer.

DRAINAGE AND GRADING

The site presents no special grading problems. All areas will be drained to existing drainage ditches or to new streets and then discharged in a controlled manner.

UTILITIES

This project is currently served by a Ute Water Conservancy line in F 3/4. Water requirements are estimated to be 14,700 gallons per day.

Currently the site is not served by sewer. The developers will install an 8 inch line as required either down F 3/4 Road to 27 1/2 Road and then down 27 1/2 Road to connect with sewer at Bell Ridge Subdivision, or due South to hook up with sewer in Spring Valley. Negotiations are currently underway with Spring Valley concerning such a line. Sewage treatment requirements are estimated to be 9000 gallons per day. The developers intend to provide sewer to the site and begin development, not wait for sewer to make its own way to the site.

Irrigation water will be provided to each unit and to the open areas. Approximately 23 acre feet of water is available to the site from the Highline Canal.

Mountain Bell, Comtronics and Public Service provide utilities to this site. All utilities will be underground.

Paragon Engineering, Inc. will be retained by the developers for engineering and final plats required for Final Development Stage plans.

LANDSCAPING

The entire condominium site will be landscaped. Covenants and regulations previously mentioned will control landscaping on the single family sites. The landscaping plan along with a plant list describe the proposed landscaping.

Other maps such as plot plan, utility plan, grading plan and landscaping plan follow:

CIRCULATION

F 3/4 Road served by 27 1/2 Road and 28 Road provide current access to the site. Applewood Street, running North and South within the project, aligns with Applewood Street to the South, as proposed in Spring Valley, Applewood Street runs to the North property line, providing a future tie on North to the proposed East extension of G Road.

F 3/4 Road is currently paved and without curb, gutter, and sidewalks. The developers will grant power of attorney to the City for the necessary improvements when F 3/4 Road is upgraded.

Pedestrian access is by 4 foot concrete sidewalks.

The dedicated road will be 34 feet of pavement with a 6 foot curb/walk on each side, within a 50 foot right-of-way.

The private drive will be 22 feet of pavement with a curb on each side.

PROJECT SCHEDULING

The project will be developed all at one time. Construction is scheduled to begin shortly after final approval has been granted. All condominiums will be constructed at one time, with streets and utilities developed prior to and concurrently with construction.

A total buildout of the condominiums is anticipated in one year, with three years for the single family sites.

HOMEOWNERS ASSOCIATION

An association will be formed by the condominium owners for the purpose of administration and maintenance of common facilities, open space, irrigation system, and exterior maintenance. All facilities and landscaping will be built by the developer.

The Homeowners Association and covenants will be in accordance with the "Suggested Legal Documents for Planned Unit Development" FHA form 1400 prepared by the U.S. Department of Housing and Urban Development Federal Housing Administration.

The single family homeowners will be a part of the Association. Individually they will be responsible for all maintenance, administration, etc. of their own property.

A copy of the proposal will be furnished at the Final Development Plan stage.

APPENDIX

- Legal Description
- Adjoining Property Owners
- Preliminary Plan Application
- Petition and Application for Rezoning
- Development Summary Form

LEGAL DESCRIPTION

Lot 19, Jaynes Subdivision, excluding the East 172.0' and the South 25' of said Lot 19.

ADJOINING LANDOWNERS

2945-011-00-002
Henry Patterson
2410 W. 6th
Topeka, Kansas

2945-011-00-003
Charles Roberts
681 28 Road
Grand Junction, Colo.

2945-011-00-004
Jose Chavez
2784 $\frac{1}{2}$ F 3/4 Road
Grand Junction, Colo.

2945-011-00-005
George Hubbard
c/o Lester Kasten
2784 F 3/4 Road
Grand Junction, Colo.

2945-011-00-007
Charlotte Schindel
688 27 $\frac{1}{2}$ Road
Grand Junction, Colo.

2945-011-00-035
K. M. Matchett
2844 F Road
Grand Junction, Colo.

2945-011-00-036
Barru Homes, Inc. and
Discovery 76, Inc.
519 Grand Avenue
Grand Junction, Colo.

2945-011-00-066
Jay Whittier
3046 E $\frac{1}{2}$ Road
Grand Junction, Colo.

- g) Screening and landscaping plans identifying the type, location, and quantity of all proposed and existing landscaping and screening.
 - h) A preliminary drainage plan showing proposed directions of flow and ultimate off site disposal.
 - i) Location and type of any site limitations such as existing easements, ditches, extreme slopes, etc.
 - j) Adjacent land uses and locations.
- 3) In addition to the development plan the following textual material must be provided.
- a) 18 copies of a statement of intent explaining the character of the Planned Development, its proposed uses and impact on the neighborhood and community.
 - b) 1 copy of a certificate of title on the subject property.
 - c) A development schedule indicating:
 - 1) The approximate date on which construction will begin.
 - 2) The stages in which the project will be built and approximate date of construction of each stage.
 - 3) Approximate date of completion of each stage as well as the total project.
 - d) One copy of names and addresses of all adjacent property owners.

Note: This application form is a summary of the requirements in Section 15 of the Grand Junction Zoning Ordinance and Development Regulations. It does not relieve an applicant from the responsibility of complying with the requirements of Section 15 but is intended as a guide to aid the applicant and those responsible for reviewing the application.

Chris Gray
Name of person completing application

2721 North 12th, Suite 13

address

245-1308

phone

PETITION AND APPLICATION FOR REZONING

STATE OF COLORADO))
COUNTY OF MESA) ss.

TO THE PLANNING COMMISSION OF THE CITY OF GRAND JUNCTION

Gentlemen:

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Respectfully submitted,

Chris Gray

STATE OF COLORADO))
COUNTY OF MESA) ss.

The foregoing instrument was acknowledged before me this 30th day of November 1977 By Chris Gray for the purposes therein set forth.

My commission expires: September 10, 1979

Elizabeth P. Root

Notary Public

*NOTE: Filing of a petition to rezone requires a deposit of \$270.00 with the Planning Office to defray the cost of the amendment.

DEVELOPMENT SUMMARY FORM

CITY OF GRAND JUNCTION

Date: 11/30/77

Development Name: Apple Crest

Filing 1 of 1

Location of Development: TOWNSHIP 1S RANGE 1W SEC 1 1/4 NW

Owner(s) NAME Chris Gray

ADDRESS 2721 North 12th, #13, Grand Junction, Colorado

Developer (s) NAME G.S.N. Partners

ADDRESS Box 1814, Grand Junction, Colorado

Type of Development	Number of Dwelling Units	Area* (Acres)	% of * Total Area
(x) Single Family Building envelope	<u>14</u>	<u>1.3</u>	<u>18.5</u>
() Apartments	<u>--</u>	<u>--</u>	<u>---</u>
(x) Condominiums	<u>14</u>	<u>.58</u>	<u>8.2</u>
() Mobile Homes	<u>--</u>	<u>--</u>	<u>---</u>
() Commercial	<u>N. A.</u>	<u>--</u>	<u>---</u>
() Industrial	<u>N. A.</u>	<u>--</u>	<u>---</u>
() Other (specify)	<u>---</u>	<u>--</u>	<u>---</u>
Street(dedicated)		<u>1.13</u>	<u>16.0</u>
Patio/Private Drive/Walkways @ condo		<u>1.2</u>	<u>17.0</u>
Dedicated School Sites		<u>--</u>	<u>---</u>
Reserved School Sites		<u>--</u>	<u>---</u>
Dedicated Park Sites		<u>--</u>	<u>---</u>
Reserved Park Sites		<u>--</u>	<u>---</u>
Private Open Areas Single Family		<u>1.60</u>	<u>22.6</u>
Condo.		<u>1.11</u>	<u>15.7</u>
Easements		<u>---</u>	<u>---</u>
Other (Specify)		<u>0.15</u>	<u>2</u>
Recreational vehicle storage		<u>---</u>	<u>---</u>

TOTAL

*By Map Measure

7.07 100

Estimated Water Requirements 14,700 gallons/day.

Proposed Water Source(s) Ute Water

Estimated Sewage Disposal Requirement 9000 gallons/day.

ACTION:

Planning Commission Recommendation

Approval ()

Disapproval ()

Remarks _____

Date _____, 19____.

City Council

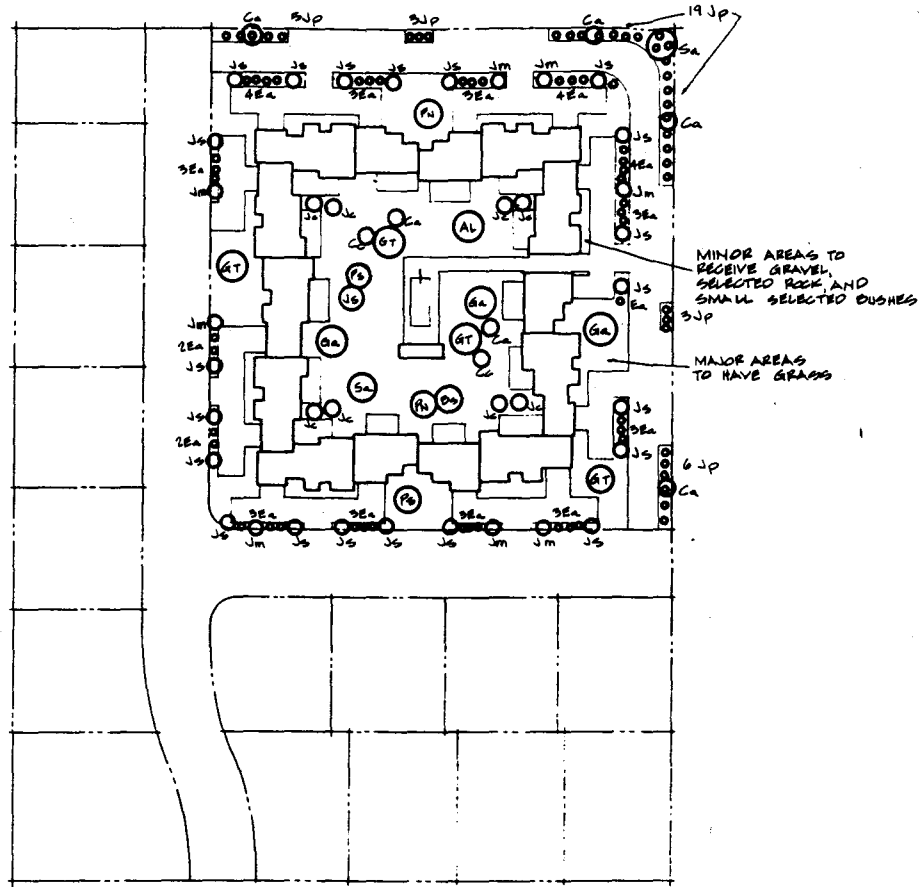
Approval ()

Disapproval ()

Remarks _____

Date _____, 19____.

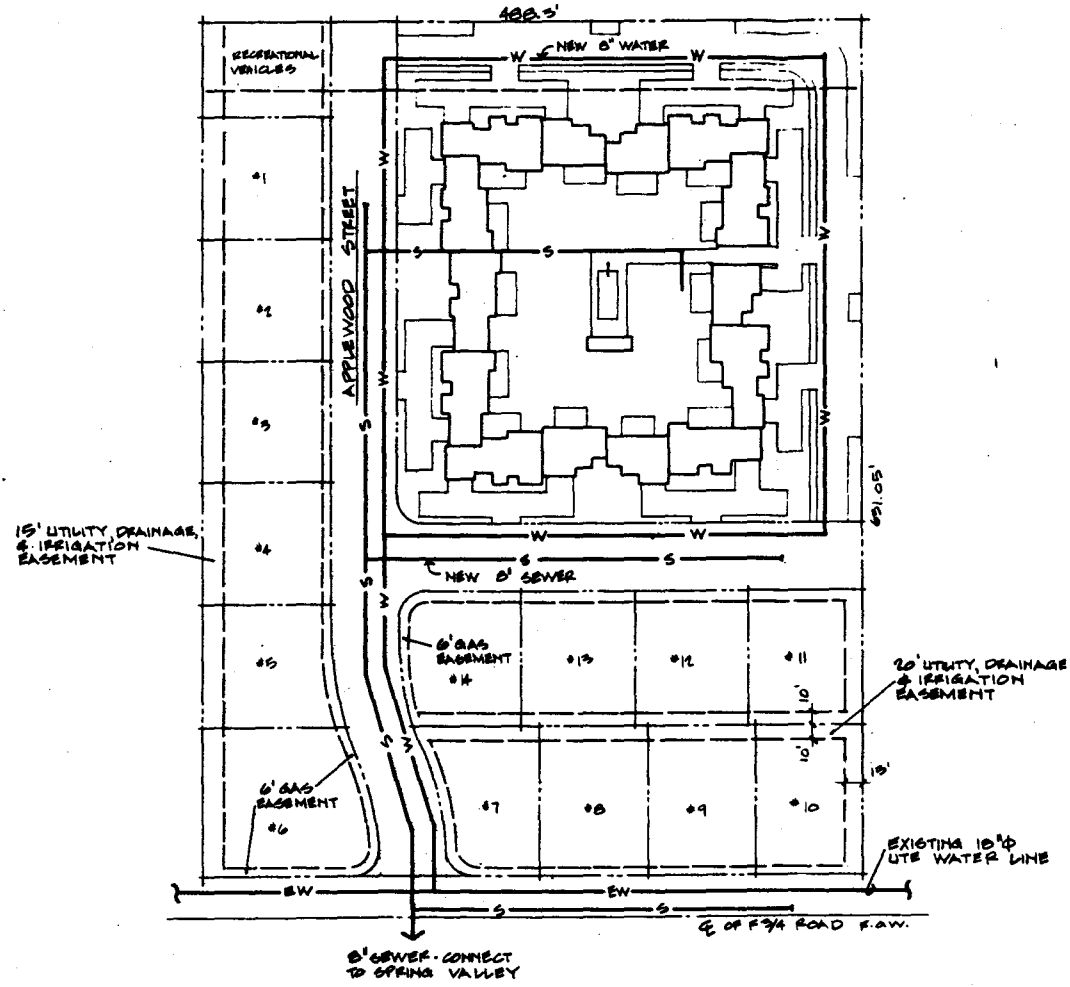
Note: This form is required by C.R.S. 106-3-37 (4) but is not a part of the regulations of the City of Grand Junction.



PLANT LIST				
KEY	COMMON NAME	BOTANICAL NAME	SIZE	NO
Jc	GAMBEL JUNIPER	JUNIPERUS VIRGINIANA CANADENSIS	6'-0"	8
Ga	MARSHAL GREEN ASH	FRAXINUS PENNSYLVANICA SUBPITREBESIMA	2 1/2'-0"	3
Gt	SHADENASTER HONEYLOCUST	GLIOTTIS TRIACANTHOS INERMIS	2 1/2'-0"	4
Al	AMERICAN LINDEN	TILIA AMERICANA REBOLIDA	2 1/2'-0"	1
Sa	AMERICAN Sycamore	PLATANUS OCCIDENTALIS	2 1/2'-0"	2
Bc	Colo. BLUE SPRUCE	PICEA PUNGENS	8'-0"	1
Js	ROCKY MT. JUNIPER	JUNIPERUS SLOPHERUM	4'-0"	22
Ps	SCOTCH PINE	PINUS SYLVESTRIC	4'-0"	1
Pn	AUSTRIAN PINE	PINUS NIGRA	4'-0"	2
Ca	FLOWERING CRABAPPLE	MALUS HOPA	6'-0"	6
Cc	REDBUD	CERCIS CANADENSIS	6'-0"	2
Ea	BURNING BUSH	EUONYMUS ATROPURPUREUS	6'-0"	44
Jm	ONE-SEED JUNIPER	JUNIPERUS MONOSPERMA	6'	8
Jp	PFTZLER JUNIPER	JUNIPERUS CANADENSIS PITREBESIMA	6'	36

PRELIMINARY LANDSCAPING
1" = 30'

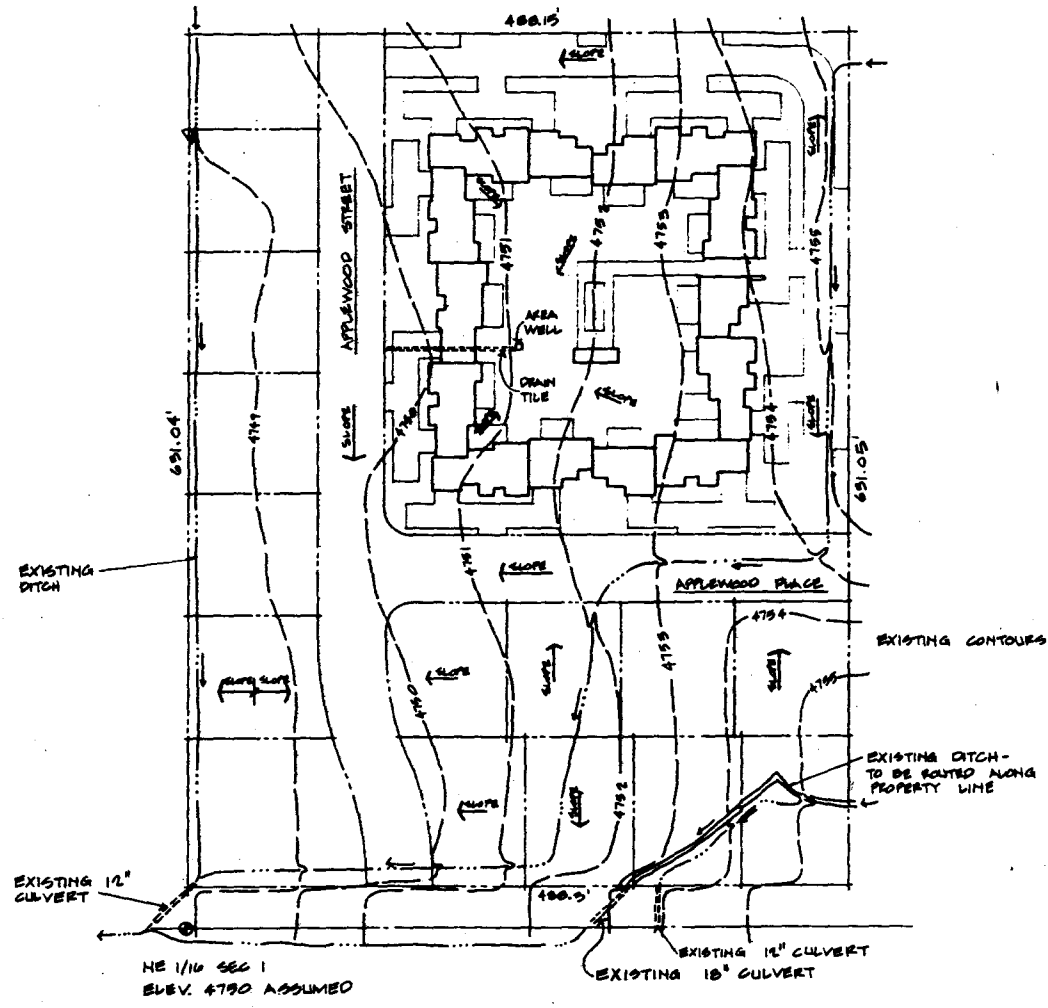
APPLE CREST
CHRIS GRAY - ARCHITECT



PRELIMINARY UTILITIES



APPLE CREST
CHRIS GRAY - ARCHITECT



EXISTING DITCH

EXISTING 12" CULVERT

NE 1/4 SEC 1
ELEV. 4790 ASSUMED

EXISTING 12" CULVERT
EXISTING 18" CULVERT

EXISTING CONTOURS

EXISTING DITCH - TO BE SAVED ALONG PROPERTY LINE

PRELIMINARY GRADING
P-50

APPLE CREST
CHRIS GRAY - ARCHITECT

PROTECTIVE COVENANTS

APPLE CREST SUBDIVISION

Grand Junction, Colorado

1. All of said lots shall be used for residential purposes.
2. Restrictions on height of structures set forth hereafter shall be determined by measuring from the high point on the lot to the highest point of the structure, including any chimneys or extrusions, either temporary or permanent.
3. Detached single family dwellings only may be constructed on lots 1 through 14. The maximum height of any structure shall be 27 feet.
4. Each detached single family dwelling shall be constructed in such a manner as to provide off street parking for at least two motor vehicles.
5. Each detached single family dwelling shall be constructed so that the dwelling space in the first floor area, exclusive of open porches, patios and garages shall be not less than 1200 square feet floor area. If the structure is tri-level or the main living area is spread over two continuous and adjacent levels, the combination of such levels shall be construed as the first floor area. If the structure is two-story, the minimum first floor square footage shall be 900.
6. Each dwelling unit shall be required to have a double garage.
7. No structure, including garages, shall be located nearer than 25 feet to the front lot line, or nearer than 15 feet to a side street line, or nearer than 10 feet to an interior lot line, or nearer than 20 feet to the rear lot line. Eaves, steps, and patios shall not be considered as part of the building. Roofed porches and patios, all balconies, and enclosed porches and patios shall be considered as part of the building.
8. No structure of a temporary nature, tent, garage, barn or other out building or basement shall be used on any lot at any time as a residence either temporarily or permanently. Trailer houses or mobile homes will be permitted during the actual construction period not to exceed six months provided that sanitary facilities are installed and utilized and that such trailers or mobile homes shall be removed within 10 days after construction has been completed. No old building shall be moved upon any lot within the platted area to insure that all structures placed thereon shall be new construction.
9. No lot shall be resubdivided unless approved in writing by the architectural control committee established hereafter.

10. No lot shall be used or maintained as a dumping ground for rubbish or storage area for junk. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of refuse shall be kept in a clean and sanitary condition. No noxious or offensive activity shall be carried on upon any lot nor anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood.

11. No oil, natural gas, mining, quarrying or other similar development of any kind shall be permitted upon the platted area nor shall survey stakes pertinent to these operations be permitted on any portion of the platted area.

12. No sign of a promotional nature shall be displayed to the public view except that one sign of no more than 6 square feet may be used to advertise property for sale or rent and signs of any dimensions may be used by the developer or any builder to advertise during the development construction and sales period and further except street signs and signs at the entrances to the development area which may be of any design and size as determined by the developer.

13. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for commercial purposes. Any such household pets shall be limited to the aggregate of two per family.

14. No fence or hedge shall be constructed closer than 25 feet from the front lot line. Any fence or hedge shall be limited to a height of 6 feet. No planting shall be made on any lot so as to obstruct the view of any street at any intersection.

15. All electrical service and telephone lines shall be placed under ground, except temporary lines installed for construction purposes.

16. An architectural control committee is hereby established which shall consist of three persons to be designed by the Developer who shall serve subject to the pleasure of the Developer. The majority of the committee may act for the whole committee. No person or persons, association or corporation shall commence construction, remodeling, alteration, adding to any private road, driveway, building, fence, wall or structure within the subdivision without first obtaining written approval of the plans and specifications therefor. Two complete sets of plans and specifications (which shall include the proposed location of any structure upon any lot) shall be submitted to such committee and approval shall be evidenced by written endorsement on such plans and specifications signed by at least two members of the said committee. Plans shall include proposed landscaping for a minimum of 2000 square feet of lot area per lot. Quality and quantity of landscaping shall be a judgement decision based on the condominium landscaping as a guide. No changes or deviations in or from such plans and specifications as approved shall be made without the prior written

consent of the said committee. Neither the said committee nor any member thereof shall be responsible for any structural defects in such plans or specifications or in any building or structure erected according to such plans and specifications.

17. No plans or specifications shall be approved which do not provide for at least 50 percent of the front and two ends of any structure to be constructed of masonry, the roof to be covered with shake or cedar or cypress shake material commonly known as split shakes. Exterior paints shall be colors known to be earth shades. No bright or garish colors shall be permitted on the exterior of any structure in the subdivision.

18. Each residence constructed in the subdivision shall be connected to a sewer system to be installed by the developer. The owner or owners of each lot shall pay an assessment or a prorata share of the cost of operation and maintenance of the irrigation water, sewer as required, street lighting, street signs and signs identifying the area and any other purpose which shall be determined to be a proper assessment for operation and maintenance of common facilities of the area. The assessments shall be paid promptly as the same become due and each assessment shall constitute a lien on the premises against which the same is assessed from the date of such assessment, which shall be subject only to a first lien on each lot, if any there be, and may be enforced as in the case of any lien foreclosure. Such assessments shall accrue to the benefit of and may be enforced jointly and severally by the other property owners in the subdivision or by the homeowners association referred to hereafter.

19. Irrigation water shall be made available to each lot for use thereon through a system to be installed by the developer. The developer will not be obligated to maintain the system and will transfer all rights to such system and the water to the homeowners association referred to hereafter at any time in the future to be determined by the developer.

20. The Developer shall hereafter organize a Homeowners Association under the Non-Profit Corporation Act of the State of Colorado. In accepting a deed or contract for any lot the grantee therein agrees to and shall be a member of and be subject to the obligations and duly enacted by-laws and rules thereof. At a time to be hereafter determined by the developer, which shall be solely in the discretion of the Developer, the duties of appointing the architectural control committee and of handling all common community services of every kind and nature required or desired within the subdivision and the duties of levying and collecting the assessments referred to in paragraph 18 above shall be transferred from the Developer to the said Association. The transfer thereof shall be evidenced in writing.

21. Each and every one of the covenant, restrictions, reservations and servitudes contained herein shall be considered to run with the land and to be an independent and separate covenant and agreement and in the event that any one or more of such covenants,

restrictions, reservations and servitudes shall for any reason be held to be invalid or unenforceable all remaining covenant, restrictions, reservations and servitudes shall nevertheless remain in full force and effect. The developer, its successors, grantees and assigns and the homeowners association referred to hereinabove to be hereafter formed shall be privileged, jointly or severally, to enforce the provisions hereof.

22. These covenants shall remain in full force and effect until June 1, 1983 or at any time thereafter the then owners of a majority of the lots in the subdivision shall be written instrument duly recorded terminate or modify the same.

23. The provisions contained in paragraphs 2, 5, 6, 9, 16, 17, 18 and 20 hereinabove may be altered or amended by unanimous agreement of the architectural control committee and the homeowners association and evidence of such agreement and such alterations or amendments be recorded in the office of the Clerk and Recorder of Mesa County, Colorado.

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

OF

APPLE CREST

PREAMBLE

THIS DECLARATION, made on the date hereinafter set forth, by G.S.N., a partnership, hereinafter referred to as the "Declarant,"

WITNESSETH:

WHEREAS, Declarant is the owner of the following described property, situate in the county of Mesa, State of Colorado, more particularly described as;

Lot 19 of Jaynes Subdivision, excluding the East 172.0'

And desires to create thereon a residential community with open spaces, and other common facilities for the benefit of the said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of open spaces and other common facilities; and to this end, desires to subject the real property described in Article II to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof;

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant will convey the said property subject to the protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth,

NOW THEREFORE, Declarant hereby declares that the property described above shall be sold, and conveyed subject to the following covenants, conditions, restrictions, uses and obligations, all of which are declared and agreed to be for the protection of the value of the property and for the benefit of any person having any right, title or interest in the described property, and which shall be deemed to run with the land, and shall be a burden and benefit to any persons acquiring such interests,

their grantees, successors, heirs, legal representatives and assigns.

ARTICLE I
DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to APPLECREST HOMEOWNERS ASSOCIATION, its successors and assigns.

(b) "The Properties" shall mean and refer to all such properties as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.

(c) "Common Area" shall mean the properties herein described and defined, together with all facilities and improvements placed hereon, and any and all interest which the Association may acquire in adjacent lands, any easements granted to the Association and the Owners and, in general, all apparatus and installations existing for common use, including Private Streets, Auto Courts and all other parts of the Properties necessary or convenient to its existence, maintenance and safety, but not including single family lots or Dwelling Units herein described.

(d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of common properties as heretofore defined.

(e) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(f) "Member" shall mean and refer to every person or entity who holds membership in the Association.

(g) "Architectural Control Committee" shall mean the committee appointed by the Board of Directors of APPLECREST HOMEOWNERS ASSOCIATION.

(h) "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, duly elected pursuant to the Bylaws of the Association or appointed by Declarant as therein provided.

(i) "Common Area Expenses" shall mean the Owners' prorata share of the general common expenses including, but not limited to, the Common Area maintenance, repairs, utilities, management costs, maintenance and operation of recreational facilities, reserves, capital improvements, assessments and all other charges

which the Association may levy upon the Owners in accordance with this Declaration.

(j) "Declarant" shall mean G.S.N., a partnership, its successors and assigns.

(k) "Declaration" shall mean this document of Declaration of Covenants, Conditions and Restrictions of Applecrest, as may be amended from time to time.

(l) "Drainway" shall mean and refer to all swales, channels, watercourses, draws, depressions, ditches, whether or not any of these shall constitute recognizable ravines or gorges of any size, and whether natural or artificial, over and in which surface water flows or is meant to flow.

(m) "Bylaws" shall mean the Bylaws adopted by the Association as amended from time to time.

(n) "Dwelling Unit" shall mean and refer to the single family residence constructed or to be constructed on each lot and any replacement thereof, including the garage, patio and fence, along with the real property as described in the deed to such Dwelling Unit.

(o) "Dwelling Unit Exterior" shall mean and refer to the roof, foundation, steps, footings, patios, fences, drainways, balconies, crawl spaces and outer surface of exterior walls of the Dwelling Unit, including, without limitation, those portions which serve more than one Dwelling Unit.

(p) "Condominium Unit" shall mean and refer to a condominium unit constructed around the central courtyard, including the garage, patio and fence along with the real property underlying the same as described in the deed to such Condominium Unit.

(q) "Condominium Unit Exterior" shall mean and refer to the roof, foundation, steps, patios, fences, crawl spaces, and outer surfaces of exterior walls.

(r) "Party Wall" shall mean the entire wall or fence, including the foundations thereof, which is built as a part of the original improvements on a Lot and is intended to be placed on the boundary line between adjoining Lots.

(s) "Private Street" shall mean and refer to that part of the Common Area which is paved road provided for automobile traffic as shown on the recorded Plat thereof and not dedicated to a public governmental entity as a public street, except Auto Courts.

(t) "Rules" shall mean the Rules and Regulations adopted by the Association as amended from time to time.

(u) "Unit" shall mean collectively all Dwelling Units and Condominium Units.

ARTICLE II

SCOPE OF DECLARATION AND RIGHTS RESERVED BY DECLARANT

Section 1. PROPERTY SUBJECT TO DECLARATION.

Declarant, as the owner of fee simple title to the Properties, expressly intends to and, by recording this Declaration, does hereby subject the Properties to the provisions of this Declaration. Declarant shall have the right to subject additional portions of the development area to the provisions of this Declaration as provided in Article III. Declarant shall not be obligated to subject to this Declaration as Properties any real property other than that described herein which is presently subject to these Declarations.

Section 2. CONVEYANCES SUBJECT TO DECLARATION.

All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land, and shall at all times inure to the benefit of and be binding on any person having at any time any interest or estate in the Properties, and their respective heirs, successors, representatives or assigns. Reference is any deed of conveyance, lease, mortgage, deed of trust, other evidence of obligation of any other instrument or the provisions of this Declaration shall be sufficient to create and reserve all of the easements, restrictions, conditions, covenants, created, reserved or declared herein as though fully and completely set forth in their entirety in any such documents.

Section 3. OWNER'S RIGHTS SUBJECT TO THE PROVISIONS OF THIS DECLARATION.

Each owner shall own his Dwelling Unit or Condominium Unit in fee simple for use as such Owner's primary residence, and shall have full and complete dominion thereof, subject to the provisions of this Declaration.

ARTICLE III

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional property shall require the assent of two-thirds (2/3) of the Class A members called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement

set forth above, and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat. Annexation under this Section requires that consent of two-thirds (2/3) of each class of members.

ARTICLE IV

PROPERTY RIGHTS

Section 1. OWNER'S EASEMENTS OF ENJOYMENT

Every Owner of a Condominium Unit and his immediate family shall have a non-exclusive right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to the Lot of such Owner, subject to the following rights:

- (a) The non-exclusive right and easement of the Association to make such use of the Properties as may be necessary or appropriate for the performance of the duties and functions which it is obligated or permitted to perform under this Declaration. The association, in its sole discretion, may from time to time grant easements and rights of way on, across, under and over the Common Area to any district or other entity providing water, sewer, gas, electricity, telephone, cable television, or other similar service to the Properties or any part made an addition thereto.
- (b) The rights of the Association to make such reasonable Rules regarding the use of the Common Area and facilities located thereon by members any other persons entitled to such use, including but not limited to the following:
 - (1) To limit the number of guests of Owners permitted to use the recreational facilities.
 - (2) To fix reasonable admission or other fees for the use of any recreational facility by the guests of any owner, which fees may be charged only for actual use of the facilities.
 - (3) To suspend the voting rights and the right of an Owner to use the recreational facilities for any period during which any assessment against his Dwelling Unit remains unpaid, and for a period not to exceed thirty (30) days for any infraction of the Rules.
 - (4) To regulate parking on all Private Streets.

- (c) The rights reserved in this Declaration to Declarant, Owners, other persons and the Association.

Section 2. DELEGATION OF USE.

Any Condominium Owner may delegate his right of enjoyment of the Common Area to the members of his family, to his tenants or to contract purchasers who may reside in the Dwelling Unit. All such persons shall be subject to the Rules concerning such use. Any Condominium Owner not residing in his Dwelling Unit may not use the recreational facilities except as may be provided otherwise by the Rules.

Section 3. LEASE OF DWELLING UNIT OR DONCOMINIUM UNIT

Any Owner shall have the right to lease his Unit upon such terms and conditions as the Owner may deem advisable, subject to the following. Any such leases shall be in writing and shall provide that the lease is subject to the terms of this Declaration and the Rules. Only an entire Unit may be leased, not any portions thereof, and only to a single family at any one time for residential use. Any failure of a lessee to comply with the terms of this Declaration, Articles of Incorporation or Bylaws of the Association, or the Rules shall be a default under the lease enforceable by the Association.

Section 4. RIGHTS OF DWELLING

Units

Any Owner of a dwelling unit shall have exclusive right to all benefits of private ownership of his Lot, subject to the following:

- (a) The Association, at its sole discretion, may from time to time have rights of way on, across, under and over the Lot for the purpose of common maintenance of service to irrigation lines, water, sewer, electricity, telephone, or other similar services as may be deemed necessary by the association.
- (b) Owners of dwelling units shall have no access or right to use of Condominium Unit common areas or recreational facilities except they maintain the right to use the recreational vehicle storage area.

ARTICLE V

EASEMENTS

Section 1. ACCESS.

Each Condominium Owner shall have a nonexclusive easement in, on and through the Common Area for access to said Owner's Dwelling Unit, provided that access by vehicle shall be only over Private Streets, public streets and Auto Courts provided therefor.

Section 2. BLANKET EASEMENTS.

There is hereby created a blanket easement upon, across, over and under all the Common Area for ingress and egress, installation, replacement, repair and maintenance of all utilities, including but not limited to water, sewers, gas, telephones and electricity. By virtue of this easement, it shall be expressly permissible for the electrical and/or telephone company providing service to erect and maintain the necessary poles and other necessary equipment on said Common Area and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roof and exterior walls of the buildings upon the Common Area. An easement is further granted to all police, fire protection and ambulance personnel, and all similar persons to enter upon the Common Area in the performance of their duties. Further, an easement is hereby granted to the Association to enter in, onto, above, across or under the Common Area and any Unit to perform the duties of maintenance and repair to the Common Area. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on said Common Areas except as approved by Declarant of the Association. Should any utility furnishing a service covered by the general easement herein provided request a specific easement, Declarant or the Association may grant such an easement to the Common Area by a separate recorded instrument without conflicting with the terms hereof and without consent of the Owners being required. The easements provided for in this Article shall in no way affect any other recorded easement to said Common Area.

Section 3. EASEMENTS FOR ENCROACHMENTS.

If any part of the Common Area encroaches or shall hereafter encroach upon a Condominium Unit adjacent thereto, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Condominium Unit unintentionally encroaches or shall hereafter (whether because of reconstruction, settling, shifting or otherwise) encroach upon the Common Area, the Owner of the encroaching Unit shall and does have a perpetual easement for such encroachment and for the maintenance of the same.

Section 4. EASEMENTS FOR DRAINAGE

The association is hereby granted an easement and right of access in, on and through and Lot for the purposes of maintenance, repair, replacement or construction of Drainways as it deems necessary in order to promote the best and most reasonable flow of surface water across the Properties. Pursuant to said easement, the Association shall have the right to divert, accentuate or otherwise alter any Drainway across any of the Properties.

Section 5. EASEMENTS DEEMED APPURTENANT.

The easements and rights herein created for an Owner shall be appurtenant to the Unit of that Owner, and all conveyances and instruments affecting title to a Unit shall be deemed to grant and reserve the easements and rights as provided herein, as though set forth in said document in full, even though no specific reference to such easements or restrictions appears.

ARTICLE VI

USE AND OTHER RESTRICTIONS

Section 1. USE.

All of the Properties shall be used for residential purposes; for services, activities and recreational facilities in conjunction with said residential use; and for the maintenance and administration of the aforementioned. All structures erected upon the Properties shall be of new construction and none shall be moved from other locations onto the Properties. No structures of a temporary character, trailer, tent, shack, garage, barn or other out-buildings shall be placed on any portion of the Properties.

Section 2. TEMPORARY USE BY DECLARANT

Notwithstanding any provision herein contained to the contrary, during the period of construction or sale, it shall be expressly permissible for Declarant to maintain upon the Common Area such facilities as in the sole opinion of Declarant may be reasonable required, convenient or incidental to the construction and sale of Units, including, but not limited to, a business office, storage area, construction yards and structures, signs, model Dwelling Units and sales offices. Declarant, its agents and prospective purchasers also shall have the right of ingress, egress and parking in and through, and the right to use and enjoy the Common Area at any and all reasonable times, without permission from any Owner or the Association being required.

Section 3. PROHIBITIONS.

All use and occupancy of the Common Area shall be subject to and governed by the Rules. No damage or waste shall be committed to the Properties. No Owner shall alter any of the Common Area or any Unit Exterior without the prior written consent of the Association. Nothing shall be done within the Properties which would impair the structural integrity of any improvement located on the Properties.

Section 4. NO IMPERILING OF INSURANCE.

Nothing shall be done within the Properties which might result in an increase in the premiums of insurance obtained for any portion of the Properties or which might cause cancellation of such insurance, except with the prior written consent of the Board.

Section 5. NO VIOLATION OF LAW.

Nothing shall be done within the Properties which would be in violation of any statute, rule, ordinance, regulation, permit or validly imposed requirement of any governmental body.

Section 6. NUISANCES.

No noxious or offensive activity shall be carried on upon the Common Area, nor shall anything be done thereon which may be, or may become an annoyance or nuisance to the neighborhood. No activity shall be conducted on any part of the Properties which is or might be unsafe or hazardous to any person. No part of the Common Area may be used as a dumping ground for garbage, trash or other waste, and the same shall be disposed of in a sanitary manner. All equipment for the storage or disposal of garbage, trash and waste shall be kept in a clean and sanitary condition. Garbage, trash or waste disposal shall be made in such a manner as may be established by the Association, and the burning of garbage, trash or waste in outside incinerators, barbecue pits or the like is strictly prohibited.

Section 7. SIGNS.

No signs billboards or advertising devices of any nature shall be erected or maintained on any part of the Properties, provided, however, the foregoing shall not apply to the business activities, advertising, or to the construction and maintenance of structures, if any, of Declarant while any portion of the Properties remains unsold. The Association may erect signs or notices for identification purposes in accordance with the applicable State and municipal laws or codes.

Section 8. PETS.

No animals, levestock or poultry of any kind shall be raised, bred or kept on any of the Properties except that dogs, cats, or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose, and shall be subject to the Rules and any governmental ordinances or laws. Dogs shall be leashed at all times when outside a Unit and the pet's owner shall confine his dog for excretion to such areas as may be designated by the Association. Pets constituting a nuisance may be ordered by the Board to be kept within the Unit of the Owner or ordered expelled from the Properties.

Section 9. UNSIGHTLY USES.

Refuse piles or other unsightly objects and materials shall not be placed or remain upon the Common Area or any Unit Exterior. The Association shall have the right to enter upon any Unit Exterior and to remove such refuse piles or other unsightly objects and materials at the expense of the Owner, and upon dues notice to Owner and failure of Owner to comply with this Section such entry shall not be deemed a trespass.

Section 10. MINERAL EXPLORATION.

No portion of the Properties shall be used to explore for or to remove any water, soil, hydrocarbons, or other materials of any sort.

Section 11. TREES, SHRUBS AND WATER.

The removal of trees, shrubs, and other improvements from the Common Area shall be prohibited without the express written approval of the Board. No person shall permit water to be introduced or placed into or on the soil anywhere with the Common Area without the express written approval of the Board. No person other than the Association shall alter any Drainway anywhere on the Properties or permit the same, by act or omission, to become obstructed in any manner, but nothing herein shall relieve any Owner of his duty to maintain Drainways as otherwise provided.

Section 12. PARKING.

No vehicle of any type shall be parked anywhere on the Common Area except on such portions of Private Street as may be designated by the Association. No commercial type of vehicle, trucks or recreational vehicle shall be parked on the Common Area, except in areas designated for such purpose by the Association, unless engaged in transport to or from a building. For purposes of this Declaration, a Recreational Vehicle shall include: motor homes, motor coaches, buses, pickup trucks with camper tops or similar accessories, camping trailers or trailers of any type. Except as hereinafter provided, no unused vehicle shall be stored or parked on the Common Area except in areas as may be designated by the Association. "Unused vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of one (1) week or longer. A written notice describing the "unused vehicle" and requesting removal thereof may be personally served upon the owner, and if such vehicle has not been removed within seventy-two (72) hours thereafter, the Board shall have the right to remove the same without liability to it, and the expense thereof shall be charged against the owner. If such owner shall be a member of the Association, the cost thereof may be added to his regular assessment.

Section 13. MECHANIC'S LIENS.

No labor performed or materials furnished with the consent or at the request of an Owner, his agent, contractor, or subcontractor shall create any right in file a mechanic's lien against the Unit of any other Owner who does not consent to or request the same or against any interest in the Common Area. Each contracting or consenting Owner shall indemnify, defend and hold harmless the Association and each of the other Owners from and against liability arising from the claim of any lienor against the Dwelling Units for labor performed or for materials furnished at the request of the contracting or consenting Owner. At the written request of any Owner, the Association shall enforce such indemnity by

collecting from the contracting or consenting Owner the amount necessary to discharge any such lien and all costs incidental thereto including attorney's fees and expenses. Said expenses may be added to his regular assessments.

Section 14. GARAGE DOORS.

Owners of all Units shall keep their garage doors closed at all times except when necessary for ingress or egress.

Section 15. RULES

Every Owner, his guests, members of his family, servants, employees, invitees, lessees and licensees shall adhere strictly to the Rules.

ARTICLE II

ARCHITECTURAL CONTROL COMMITTEE

Section 1. REVIEW BY COMMITTEE.

No structure, whether residence, accessory building, tennis court, swimming pool, antenna (On a structure or on a lot), flag poles, fences, walls, exterior lighting, or other improvements, shall be constructed or maintained upon any lot and no alteration or repainting to the exterior of a structure shall be made and no landscaping performed unless complete plans, specifications, and lot plans therefore, showing the exterior design, height, building material and color scheme thereof, the location of the structure plotted horizontally and vertically, the location and size of driveways, the general plan of landscaping fencing, walls and windbreaks, and the grading plan shall have been submitted to and approved in writing by the Architectural Control Committee, and a copy of such plans, specifications; and lot plans as finally approved deposited with the Architectural Control Committee. When and if furnished, only those house numbers and mail boxes which are installed by the Developer shall be used and maintained in the properties. The Architectural Control Committee shall be composed of three or more representatives appointed by the Board of Directors of the Association.

Section 2.

The Architectural Control Committee shall exercise its best judgment to see that all improvements, construction, landscaping and alteration on lands within the properties conform to and harmonize with existing and surrounding structures.

Section 3. PROCEDURES.

The Architectural Control Committee shall approve or disapprove all plans and requests within thirty (30) days after submission. In the event the Architectural Control Committee fails to take any action within thirty (30) days after requests have been submitted, approval will not be required, and this Article will be deemed to have been fully complied with.

Section 4. A majority vote of the Architectural Control Committee is required for approval or disapproval of proposed improvements.

Section 5. The Architectural Control Committee shall maintain written records of all applications submitted to it and of all actions it may have taken.

Section 6. The Architectural Control Committee shall not be liable in damage to any person submitting requests for approval or to any owner within the properties by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests.

ARTICLE VIII

THE ASSOCIATION

Section 1. DUTIES AND RESPONSIBILITIES OF THE HOMEOWNERS ASSOCIATION OF APPLECREST.

Declarant has caused to be incorporated as a non-profit corporation. The Homeowners Association of Applecrest, and has designated such Association to be the owner and manager of the Common Area. Any purchaser of a Unit shall be deemed to have assented to, ratified and approved such designation and management. Said Association, by its signature approving this Declaration, has agreed to perform the duties required of it hereunder. Said Association shall have the following duties, rights and powers:

- (a) To collect monthly or periodic assessments, equitably prorated, from Owners; to collect delinquent assessments by suit or otherwise; and to collect such other assess as are herein authorized.
- (b) From funds collected, to provide for maintenance, management, insurance and such other expenses as are enumerated in these Declarations.
- (c) To lease, acquire and sell real or personal property in pursuance of its obligations.
- (d) To enter into and upon the Units when necessary with as little inconvenience as possible to the occupants concerned in connection with the duties outlined in these Declarations.
- (e) To enjoin or seek damages from the Owners for violation of the Declaration, the Articles or Incorporation of the Association, the Bylaws or the Rules.

- (f) To employ workmen, and others; to contract for services to be performed, including those of a Manager; to purchase supplies and equipment; to enter into contracts; and generally to have the powers of an apartment house or property manager in connection with the matters herein set forth, except that the Association may not encumber or dispose of the fee title of any Owner except to satisfy a lien, award or judgment against such owner for violation of the Owner's covenants imposed by this Declaration. The Association shall not enter into any contract or management agreement for the furnishing of services (other than utility or laundry services), material or supplies, the term of which is in excess of one year; and further provided that any contract or management agreement entered into (excluding those for utilities and laundry services) by the Association shall be terminable by the Association for cause upon thirty (30) days written notice and any management agreement or contract for services from Declarant without cause upon ninety (90) days written notice.
- (g) To protect and defend the Properties from loss and damage by suit or otherwise.
- (h) To employ counsel, attorneys and auditors in connection with legal matters of the Association and in connection with the audit of its books and records, which audit shall be available to Owners and first mortgagees, as hereinafter provided, for inspection at the Association office.
- (i) To deposit funds in the hands of the Board which are not necessary for immediate disbursements in savings accounts of National or State Banks earning the standard rate of interest and insured by FDIC.
- (j) To file legal protects, formal or informal, with authorities against the granting by authorities of zoning ordinances or variances as to any property within a reasonable proximity of the Properties which might affect the value of any Owner's interest in the Properties.
- (k) To designate and assign to Owners available storage facilities within the Common Area for the exclusive use or otherwise of Owners.

Section 2. THE BOARD OF DIRECTORS.

The Board of Directors shall consist of not less than three individuals, each of whom shall be a voting member, and said Board shall be elected at each annual meeting of the members of the Association as provided in the Bylaws.

Section 3. MEMBERSHIP.

Every person or entity who is a record owner of a fee or undivided fee interest in any lot shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership.

Section 4. VOTING RIGHTS.

The Association shall have two classes of voting membership.

Class A. Class A members shall be all those owners as defined in Section 3 with the exception of the Developer. Class A members shall be entitled to one vote for each lot in which they hold the interests required for membership by Section 3. When more than one person holds such interest or interests in any lot all such persons shall be members, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such lot.

Class B. The Class B member shall be the Developer. The Class B member shall be entitled to three votes for each lot in which it holds the interest required for membership by Section 3, Article VIII, provided that the Class B membership shall cease and become converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) April 1, 1988.

Section 5. INDEMNIFICATION.

The Manager, employees of the Association, and each director and officer of the Association, shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon them in connection with any proceeding to which they may be a party, or in which they may become involved, by reason of being or having acted as such upon behalf of the Association, provided that this indemnification shall not apply if the said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided further that in the event of a settlement, the indemnification herein shall apply only when the Board approves such settlement and reimbursement as being for the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such person may be entitled.

Section 6. LIMITATION UPON LIABILITY OF ASSOCIATION.

Notwithstanding the duty of the Association to maintain and repair parts of the Properties, the Association shall not be liable for injury or damage, other than the normal costs of the maintenance and repair, caused by any latent condition of the Properties or by the conduct of other Owners or persons or by casualties for which insurance pursuant to these Declarations is not required, or for which insurance is not provided by the Association.

ARTICLE IX

ASSESSMENTS

Section 1. ASSESSMENTS.

Each owner, by acceptance of a deed, agrees to pay the Association (1) assessments or charges, and (2) special assessments to be fixed, established and collected from time to time as herein provided. Such assessments, together with interest and the cost of collection in the event of delinquency in payment as allowed in Article IX, Section 6, also shall be the personal obligation of the person who was the Owner, or of the persons jointly and severally who were the Owners at the time when the assessment was made. Payment of the assessments made shall be paid by the Owners to the Association as of the date of closing the original purchase of an Owner's Unit and prorated if upon a date other than the due date of an assessment, and thereafter in monthly or other periodic installments commencing on the first day of each month or period following the closing.

Section 2. PURPOSE OF ASSESSMENTS.

The assessments levied by the Association shall be used exclusively for the management and maintenance of the Common Area, and for the performance of all other duties and obligations incurred by the Association pursuant to this Declaration, including but not limited to: the provision of services and facilities related to the use and enjoyment of the Common Area; for the maintenance, repair and replacement of underground utilities, Private Streets, Auto Courts, Drainways, lighting, walkways, and Condominium Unit Exteriors; provision for snow removal, grounds upkeep, sprinkler systems, landscaping, garbage pickup, water and sewer service, recreational programs; for the operation and maintenance, administration expenses, working capital, rental and acquisition of real or personal property, and such expenses as the Association, in its opinion, shall determine to be necessary and desirable including the establishment and maintenance of a cash reserve and a sinking fund for all of the foregoing purposes. In the event repairs are required resulting from negligent acts of an Owner, the Owner's family, guests, employees, invitees or lessees, the Association shall be reimbursed forthwith by such Owner therefor.

Section 3. COVENANT FOR MAINTENANCE ASSESSMENTS.

(a) Creation of Lien and Personal Obligation of Assessments and Special Assessments. Declarant for each lot owned within the properties shall be deemed to covenant and agree, and each owner of any lot, except those exempt under Section II of this Article, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to the Association monthly assessments or charges and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, and said amounts shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment or special assessment is made. Each such assessment and special assessment, together with such interest thereon, cost of collection and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment or special assessment fell due. The personal obligation for delinquent assessment or special assessment shall not pass to his successors in title unless expressly assumed by them.

(b) Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the properties and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the common properties and of the homes situated upon the properties.

(c) Basis and Maximum of Assessments. Each single family lot shall, as of the date set under paragraph h hereof, be subject to a monthly assessment of not more than \$20. Each condominium owner shall, as of the date set under paragraph h hereof, be subject to a monthly assessment of not more than \$100. The Board of Directors shall fix the monthly assessment within the maximum amount and may raise or lower said monthly assessment amount within said maximum as they may deem necessary in their discretion. The initial monthly assessment is established at \$5 for each single family lot and at \$50 for each condominium owner.

(d) Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 3 hereof, the Association may change the maximum of the assessment fixed by Section 3 hereof provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

(e) Special Assessments of Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any calendar year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common area, including the necessary fixtures and personal property related thereto, provided that, any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

(f) Uniform Rate of Assessment. Both monthly and special assessments must be fixed at a uniform rate for all lots, provided that, the rate set for the lots owned by Developer shall be fixed at one-third (1/3) of the assessment rate for the other lots.

(g) Quorum for any Action Authorized Under Sections 4 and 5. The quorum required for any action authorized by Sections 4 and 5 hereof, shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of members or of proxies, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting another meeting may be called, subject to the notice requirements set forth in Section 4 and 5 and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

(h) Date of Commencement of Monthly Assessments: Due Dates. The monthly assessment provided for herein shall commence as to all lots on the first day of the month following the conveyance of the common properties. The Board of Directors shall fix the amount of the monthly assessment at least 30 days in advance of said commencement of the changed assessment amount. Written notice of the assessment shall thereupon be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. Such certificate shall be conclusive evidence of the facts stated therein.

(i) Effect of Non-Payment of Assessment: The Personal Obligation of the Owner: The Lien Remedies of the Association. If the assessments are not paid on the date when due (being the dates specified in Section 8 hereof), then such assessment shall become delinquent and shall, together with such interest thereon, and cost of collection thereof as hereinafter provided, thereupon become a

continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within 30 days after the delinquent date, the assessment shall bear interest from the date of delinquency at the rate of eight percent per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action, and in the event a judgement is obtained, such judgement shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

No owner shall waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his lot.

(j) Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and to any executory land sales contract owned by the Veterans Administration or its assigns, wherein the named seller is the administrator of Veterans affairs, whether such contract is recorded or not. The lien of the assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado. Sale or transfer of any lot shall not affect the assessment liens. However, the sale or transfer of any lot pursuant to mortgage foreclosure of any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

(k) Section II. Exempt Property. The following property subject to the Declaration shall be exempt from the assessments, charges and liens created herein:

- (a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use.
- (b) All common area as defined in Article 1, Section 1 hereof.

Section 4. WILLFUL OR NEGLIGENT ACTS.

In the event that any maintenance, repair or other work is required because of the willful or negligent action or lack of action of any Owner, his family, guests, tenants, invitees, lessees or licensees and such maintenance, repair or other work is not covered

or paid for by insurance for the benefit of the Association, the Board may perform such work or cause the same to be performed at such Owner's cost and expense and may make an assessment to recover payment thereof against such Owner, provided, except in event of emergency, such Owner shall be given ten (10) days prior notice within which to perform the required maintenance, repair or work.

Section 5. INITIAL CAPITAL CONTRIBUTION.

The Association shall levy and collect from each Owner at the closing when the Owner acquires a Dwelling Unit or Condominium Unit, the sum equal to six (6) times the original estimated monthly Common Area Expenses apportioned to his Dwelling Unit. Said sum may be used by the Association for working capital, for application against a delinquent account of an Owner, or for emergency needs, and shall be refunded to the Owner (except as hereinafter provided) upon the sale or transfer of his Dwelling Unit less any amount then due by said Owner to the Association. Such amount may be transferred to a new Owner upon a settlement sheet adjustment between a seller and purchase. Deficiency amounts in any Owner's account shall be promptly restored upon request by the Board to maintain an amount equal to six (6) times the original estimated monthly Common Area Expense for such Dwelling Unit. The existence of this reserve account shall in no way relieve any Owner from his duty to pay his assessments when due.

ARTICLE X
MAINTENANCE

Section 1. MAINTENANCE OF COMMON AREAS.

The Association shall provide for the care, operation, management and repair of the Common Area. Without limiting the generality of the foregoing and by way of illustration, the Association shall keep the Common Area in good, clean, attractive and sanitary order and repair; may arrange to be furnished to the Common Area and each of the Condominium Units, water, sewer, electric, gas and all other necessary utility services. (Units may be separately metered for any or all of such services, in which event the obligation to pay for such services shall be that of the Owners with respect to their Unit); may maintain and replace all or any portion of the landscaping; may provide for rubbish collection; may remove snow, ice and other materials from the Streets and walkways; shall keep the Properties safe, attractive and desirable; and may make necessary or desirable alterations, or improvements to the Common Area. Nothing herein shall be construed as a waiver of any right by the Association to recover for any damage or expense incurred as the result of the willful or negligent action or omission of any person.

Section 2. MAINTENANCE OF DWELLING UNITS.

Except as otherwise provided in this Article, each Owner shall be responsible for the maintenance, repair, and replacement of his Dwelling Unit and Dwelling Unit Exterior (including Drainways). The Association shall have the duty, upon reasonable determination of the necessity therefor and reasonable notice to the Owners affected thereby,

to provide for the maintenance, repair and replacement of the Condominium Unit Exteriors including, but not limited to, the following:

- (a) Maintenance, repair and replacement of water, sewer, electrical and other systems which serve more than one Unit, but not including those portion of such systems which serve only one Unit, such as an air conditioning unit, electrical or plumbing fixtures.
- (b) Maintenance, repair and replacement of Drainways.

ARTICLE XI

EXTERIOR MAINTENANCE

Section 1. DWELLING UNIT

(a) The structures and ground of each lot and Dwelling Unit shall be maintained in a neat and attractive manner. Upon the Owner's failure so to do the Architectural Control Committee may, at its option, after giving the owner thirty (30) days written notice sent to his last known address, have the grass, weeds, and vegetation cut when, and as often as, the same is necessary in its judgement, and have dead trees, shrubs and plants removed from any lot.

(b) Upon the Owner's failure to maintain the exterior of any structure in good repair and appearance the Architectural Control Committee may, at its option, after giving the owner six (6) months written notice, make repairs and improve the appearance in a reasonable and workmanlike manner.

Section 2. CONDOMINIUM UNIT

Structures and ground surrounding the Condominium Unit shall be maintained by the Association in a neat, clean and attractive manner at all times. Maintenance, repairs, paintings and other services required to maintain property value will be done on individual units or collectively as may be deemed necessary by the Association from time to time.

Section 3. ASSESSMENT OF COST.

(a) The cost of such maintenance referred to in Section 1 of this Article shall be assessed against the lot upon which such maintenance is done and shall be added to and become part of the monthly assessment or charge to which such lot is subject under Article IX hereof.

(b) The cost of such maintenance referred to in Section 2 of this Article shall be made apart of Association monthly dues accessed against all Condominium Units equally.

Section 4. ACCESS AT REASONABLE HOURS.

For the purpose solely of performing the maintenance referred to in Section 1 and 2 of this Article, the Association, through its duly authorized agents or employees shall have the right, after reasonable notice to the owner, to enter upon any lot at reasonable hours on any business day.

ARTICLE XII

PARTY WALLS

Section 1. GENERAL RULES OF LAW TO APPLY.

Each wall which is built as part of the original construction of the Condominium upon the properties and placed on the dividing line between the lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

Section 2. SHARING OF REPAIR AND MAINTENANCE.

The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. DESTRUCTION BY FIRE OR OTHER CASUALTY.

If a party wall is destroyed or damaged by fire or other casualty any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. WEATHERPROOFING.

Notwithstanding any other provision of this article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. RIGHT TO CONTRIBUTION RUNS WITH LAND.

The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 6. ARBITRATION.

In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and the decision shall be by a majority of all the arbitrators

ARTICLE XIII

INSURANCE

Section 1. ASSOCIATION INSURANCE.

The association shall be required and empowered to obtain and maintain the following insurance:

- (a) Insurance coverages upon the Common Area and all property owned or leased by the Association:
- (b) Insurance coverages against loss or damage by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, fire and all other casualty as are covered under standard coverage provisions for the full insurable replacement cost of the Common Area.
- (c) Comprehensive public liability insurance in a minimum amount of \$1,000,000 per single occurrence and Workmen's Compensation coverage upon employees and other liability insurance insuring the Association, Board of Directors, Managers and agents in connection with the Properties.
- (d) Fidelity bonds to protect against dishonest acts on the part of Association officers, directors, trustees and employees, and all others who handle or are responsible for handling Association funds. Such bonds shall (1) name the Association as an obligee; (2) be written in an amount equal to at least 150% of the estimated annual operating expenses of the Properties, including reserves; (3) contain waivers of any defense based upon the exclusion of persons serving without compensation from any definition of "employee" or similar expression; (4) provide that no modification in any substantial manner, or cancellation shall be had without 30 days prior written notice to the holders of the first deeds of trust on the Properties.
- (e) Such other insurance as the Board may deem desirable for the benefit of the Owners.

ARTICLE XIV

MORTGAGEE'S RIGHTS

Section 1. NOTICE TO MORTGAGEE.

Each holder of a first deed of trust on any Dwelling Unit or Condominium Unit shall, upon written request by such holder to the Board, receive any of the following:

- (a) Copies of budgets, notices of assessments, or any other notices or statements provided under this Declaration by the Association to the Owner of the Dwelling Unit covered by the deed of trust;
- (b) Any audited or unaudited financial statements of the Association within ninety (90) days following the end of any fiscal year, which are prepared for the Association and distributed to the Owners;
- (c) Copies of notices of meetings of the Owners and the right to be represented at any such meetings by a designated representative;
- (d) Notice of the decision of the Owners or the Association to make any material amendment to this Declaration, the By-Laws, or the Articles of Incorporation of the Association;
- (e) Notice of commencement of any condemnation or eminent domain proceedings with respect to any part of the Common Area;
- (f) Notice of any default of the holder's Owner which is not cured by the Owner within thirty (30) days after the giving of notice by the Association to the Owner of the existence of the default;
- (g) The rights to examine the books and records of the Association at any reasonable time.

Section 2. FORM OF REQUEST.

The request of a holder shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association. Failure of the Association to provide any of the foregoing to a holder who has made a proper request therefor shall not affect the validity of any action which is related to any of the foregoing. The Association need not inquire into the validity of any request made by a holder hereunder and in the event of multiple requests from purported holders of the same Dwelling Unit, the Association shall honor the most recent request received.

Section 3. PROTECTION.

No violation or breach of or failure to comply with any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any mortgage taken in good faith and for value and perfected by recording in the appropriate office, prior to the time of recording in said office of an instrument describing the Lot and listing the name or names of the Owner or Owners thereof and giving notice of such violation, breach of failure to comply. However, any purchaser on foreclosure or person accepting a deed in lieu thereof shall take subject to this Declaration.

ARTICLE XV

CONDEMNATION PROCEDURE

Section 1. CONDEMNATION OF COMMON AREA.

In the event of a proceeding in condemnation or partial condemnation of any Common Area by any governmental authority authorized so to do, then the proceeds from such condemnation attributable to the Common Area shall be distributed unto the Owners based upon the proportionate Assessable Area of each Dwelling Unit in relation to the sum total of the Assessable Area of the Properties.

Section 2. CONDEMNATION OF CONDOMINIUM UNITS.

If a building in which a Condominium Unit is housed is condemned, then the proceeds of any such condemnation shall be distributed as agreed to by each Owner and the entity performing the condemnation, without prejudice to the right of such Owners to negotiate or agree jointly.

Section 3. LIEN HOLDERS.

When a condemnation occurs and a Condominium Unit is subject to an encumbrance, the Association shall send written notice forthwith to all holders of first deeds of trust covering any Dwelling Unit affected thereby. The proceeds due the Owner by reason of such condemnation shall be paid to the holder of the encumbrance. The holder of a first deed of trust shall be entitled to priority over all other parties with respect to any distribution of condemnation proceeds. Any excess amount not required to clear the encumbrance shall be paid to Owner.

ARTICLE XVI

COMPULSORY ARBITRATION

All controversies, claims and matters of difference, including all questions as to whether the right to arbitrate any question exists, excepting those matters for which this Declaration specifically provides another method of settlement or enforcement, arising between or among the Owners, the Association, the Board, the Manager and any agent or committee of the Association or Board, shall be settled by arbitration in Grand Junction, Colorado, according to the rules and practices of the American Arbitration Association from time to time in force, except that if such rules and practices shall conflict with the Colorado Rules of Civil Procedure or any other provision of Colorado law then in force, such Colorado rules and provisions shall govern. This submission and agreement to arbitrate shall be specifically enforceable. Arbitration may proceed in the absence of either party if notice of the proceedings has been given to such party. The parties agree to abide by all awards rendered in such proceedings. Such awards shall be final and binding on all parties to the extent and

in the manner provided by the Colorado Rules of Civil Procedure, and the costs of arbitration including reasonable attorney's fees shall be borne by the losing party thereto unless the arbitrators specify otherwise. All awards of the arbitrators may be filed with the Clerk of the District Court of Mesa, County, State of Colorado, as a basis of declaratory or other judgement and for the issuance of execution, and, at the election of the party making such filing, with the clerk of one or more other courts, state or federal, having jurisdiction over the party against whom such an award is rendered or its property. No party shall be considered in default hereunder during the pendency or arbitration proceedings relating to such default.

ARTICLE XVII

DURATION AND AMENDMENTS

Section 1. AMENDMENTS.

This Declaration shall remain in full force and effect for as long as the Properties remain as a detached and attached home development. Except as hereinafter provided, the Declaration may not be amended or revoked, nor may any Common Area used or held for the benefit of Condominium Units on the Properties be abandoned, partitioned, subdivided, sold, encumbered or transferred except by a vote of Owners representing not less than seventy-five percent (75%) of all Owners' interests in the Units. Whenever an Owner's interest is subject to an encumbrance in the nature of a first mortgage, his vote shall be included in said required percentage only upon concurrence of the holder of the encumbrance. Such amendments shall be effective only upon the recordation of the certificate setting forth the amendment signed by the Owners and the first mortgagees representing not less than seventy-five percent (75%) of all the interests in the Units. No amendments to this Declaration shall be in conflict with the laws of the State of Colorado. No amendments shall affect the rights of Declarant herein unless approved and consented to by Declarant in writing.

Section 2. MORTGAGEE'S RIGHTS.

The above notwithstanding, the prior written approval of all holders of first deeds of trust on the Dwelling Units will be required for any of the following:

- (a) An amendment to the Declaration which (i) changes the ratios of assessments against Owners or (ii) amends this Article Section or any other provision which specifically grants rights to Mortgagees hereunder.
- (b) The alienation, release, transfer, hypothecation or other encumbrance of the Common Area after such Common Area has been conveyed to the Association subject to Declarant's rights herein; except that the consent of Mortgagees shall not be required for action by the

Association to (i) grant easements for utilities and similar or related purposes, or (ii) to lease or grant licenses.

- (c) The abandonment of the planned unit development or the removal of any part or all of the Properties from the provisions of this Declaration.
- (d) The effectuation of any decision by the Association to terminate professional management, and to assume self-management, of the Common Area.
- (e) The waiver or abandonment of the scheme of Architectural Control or the enforcement thereof.
- (f) The failure to maintain insurance on the Common Area or any decision not to use the proceeds of such insurance to rebuild or replace or reconstruct the Common Area all as provided in Article XI.

Section 3. SPECIAL AMENDMENTS.

Declarant hereby reserves and is granted the right and power to record a Special Amendment to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities and/or (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering Dwelling Units. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Owner. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to make, execute and record Special Amendments. No Special Amendment made by Declarant shall affect or impair the lien of any first mortgagee in order to induce any of the above agencies or entities to make, purchase, insure, or guarantee the first mortgage on such Owner's Unit.

ARTICLE XVIII

GENERAL PROVISIONS

Section 1. DURATION

The Covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this

Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument terminating these Covenants and restrictions signed by the then Owners of seventy-five percent of the Lots has been recorded prior to the commencement of any ten-year period.

Section 2. AMENDMENTS.

These Covenants and restrictions may be amended during the first twenty years from the date of the Declaration, by an instrument signed by not less than ninety percent (90%) of the Lot Owners and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be properly recorded.

Section 3. NOTICES.

Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 4. CONSTRUCTION EASEMENT.

If any portion of an exterior wall of a residence is situated within three feet of any adjoining lot line, a valid easement shall and does exist, three feet in width along the adjoining lot and adjacent to the said lot line which easement may be used for the purpose of construction, reconstruction and maintenance of said exterior wall of a residence that is situated within three feet from the nearest point of said easement. The Owner of any lot subject to this easement shall not erect or build any structure upon or over said easement which will interfere with the purposes of said easement.

Section 5. MAINTENANCE EASEMENT.

If any portion of a residence encroaches upon the Common Properties or upon the easement of any adjoining lot established under the provisions of Section 4 above, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist.

Section 6. ENFORCEMENT.

Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to

enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction therein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 7. SEVERABILITY.

Invalidation of any one of these covenants or restrictions by judgement or court order shall in no wise affect any other provisions which shall remain in full force and effect.

In witness whereof, the undersigned, being the Declarant herein, has hereunto set its hand this _____ day of _____, 19____.

Declarant

by: _____

4/12/79

PROTECTIVE COVENANTS
APPLE CREST SUBDIVISION
Grand Junction, Colorado

1. All of said lots shall be used for residential purposes.

2. Detached single family dwellings only may be constructed on lots 1 through 14 of 1st filing and Lots 1 through 4 Block 2 and 1 through 6 Block 1, Replat Lot 15. The maximum height of any structure shall be 27 feet.

3. Each detached single family dwelling shall be constructed in such a manner as to provide off street parking for at least two motor vehicles.

4. Each detached single family dwelling shall be constructed so that the dwelling space in the first floor area, exclusive of open porches, patios and garages shall be not less than 1200 square feet floor area. If the structure is tri-level or the main living area is spread over two continuous and adjacent levels, the combination of such levels shall be construed as the first floor area. If the structure is two-story, the minimum first floor square footage shall be 700.

5. Each dwelling unit shall be required to have a double garage.

6. No structure, including garages, shall be located nearer than 25 feet to the front lot line, or nearer than one foot to a side street line, or nearer than one foot to an interior lot line, or nearer than 15 feet to an existing house, or nearer than 10 feet to the rear lot line. Eaves, steps, and patios shall not be considered as part of the building. Roofed porches and patios, all balconies, and enclosed porches and patios shall be considered as part of the building.

7. No structure of a temporary nature, tent, garage, barn or other out building or basement shall be used on any lot at any time as a residence either temporarily or permanently.

Trailer houses or mobile homes will be permitted during the actual construction period not to exceed six months provided that sanitary facilities are installed and utilized and that such trailers or mobile homes shall be removed within 10 days after construction has been completed. No old building shall be moved upon any lot within the platted area to insure that all structures placed thereon shall be new construction.

8. No lot shall be used or maintained as a dumping ground for rubbish or storage area for junk. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of refuse shall be kept in a clean and sanitary condition. No noxious or offensive activity shall be carried on upon any lot nor anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood.

9. No oil, natural gas, mining, quarrying or other similar development of any kind shall be permitted upon the platted area nor shall survey stakes pertinent to these operations be permitted on any portion of the platted area.

10. No sign of a promotional nature shall be displayed to the public view except that one sign of no more than 6 square feet may be used to advertise property for sale or rent and signs of any dimensions may be used by the developer or any builder to advertise during the development construction and sales period and further except street signs and signs at the entrances to the development area which may be of any design and size as determined by the developer.

11. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for commercial purposes. Any such household pets shall be limited to the aggregate of two per family.

12. All fences shall be of wood or masonry or approved by architectural committee.

13. All electrical service and telephone lines shall be placed under ground, except temporary lines installed for construction purposes.

14. An architectural control committee is hereby established which shall consist of three persons to be designed by the Developer who shall serve subject to the pleasure of the Developer. The majority of the committee may act for the whole committee. No person or persons, association or corporation shall commence construction, remodeling, alteration, adding to any private road, driveway, building, fence, wall or structure within the subdivision without first obtaining written approval of the plans and specifications therefor. Two complete sets of plans and specifications signed by at least two members of the said committee. Plans shall include proposed landscaping for a minimum of 2000 square feet of lot area per lot. No changes or deviations in or from such plans and specifications as approved shall be made without the prior written consent of the said committee. Neither the said committee nor any member thereof shall be responsible for any structural defects in such plans or specifications or in any building or structure erected according to such plans and specifications.

15. No plans or specifications shall be approved which do not provide for at least 20 percent of the front of any structure to be constructed of masonry, the roof to be covered with shake or cedar or cypress shake material commonly known as split shakes or as approved by architectural committee. Exterior paints shall be colors known to be earth shades. No bright or garish colors shall be permitted on the exterior of any structure in the subdivision.

16. Each residence constructed in the subdivision shall

be connected to a sewer system to be installed by the developer. The owner or owners of each lot shall pay an assessment or a prorata share of the cost of operation and maintenance of the irrigation water, sewer as required, street lighting, street signs and signs identifying the area and any other purpose which shall be determined to be a proper assessment for operation and maintenance of common facilities of the area. The assessments shall be paid promptly as the same become due and each assessment shall constitute a lien on the premises against which the same is assessed from the date of such assessment, which shall be subject only to a first lien on each lot, if any there be, and may be enforced as in the case of any lien foreclosure. Such assessments shall accrue to the benefit of and may be enforced jointly and severally by the other property owners in the subdivision or by the homeowner association referred to hereafter.

17. Irrigation water shall be made available to each lot for use thereon through a system to be installed by the developer. The developer will not be obligated to maintain the system and will transfer all rights to such system and the water to the homeowners association referred to hereafter at any time in the future to be determined by the developer.

18. The Developer shall hereafter organize a Homeowners Association under the Non-Profit Corporation Act of the State of Colorado. Developer reserved the right to include in the Homeowners Association, owners of adjacent property and in exception of a deed or a contract on any lot, the Grantee understands that owners of adjacent property may be made a member of the Homeowners Association. In accepting a deed or contract for any lot the Grantee therein agrees to and shall be a member of and be subject to the obligations and duly enacted by-laws and rules thereof. At a time to be hereafter determined by the Developer, which shall be solely in the discretion of the Developer, the duties of appointing the architectural control committee and of handling all common community services of every kind and nature required or desired within the subdivision and

the duties of levying and collecting the assessments referred to in paragraph 16 above shall be transferred from the Developer to the said Association. The transfer thereof shall be evidenced in writing.

19. Each and every one of the covenants, restrictions, reservations and servitudes contained herein shall be considered to run with the land and to be an independent and separate covenant and agreement and in the event that any one or more of such covenants, restrictions, reservations and servitudes shall for any reason be held to be invalid or unenforceable all remaining covenants, restrictions, reservations and servitudes shall nevertheless remain in full force and effect. The developer, its successors, grantees and assigns and the homeowners association referred to hereinabove to be hereafter formed shall be privileged, jointly or severally, to enforce the provisions hereof.

20. These covenants shall remain in full force and effect until June 1, 1983 or at any time thereafter the then owners of majority of the lots in the subdivision shall be written instrument duly recorded terminate or modify the same.

21. The provisions contained in paragraphs 4, 5, 14, 15, 16 and 18 hereinabove may be altered or amended by unanimous agreement of the architectural control committee and the Homeowners Association and evidence of such agreement and such alterations or amendments be recorded in the office of the Clerk and Recorder of Mesa County, Colorado

AUG 8 1978

EARL SAWYER, RECORDER

AVIGATION EASEMENTThis Easement, made and entered into this 31 day ofJuly, 1978, by and between G. S. & N

hereinafter the Grantee, and the WALKER FIELD, COLORADO, PUBLIC AIRPORT AUTHORITY, a political subdivision of the State of Colorado, hereinafter Grantee,

W I T N E S S E T H :

WHEREAS, Grantee is the owner and operator of Walker Field Airport, situated in the County of Mesa, State of Colorado, and in close proximity to the land of Grantor, and Grantee desires to obtain an preserve for the use and benefit of the public a right free and unobstructed flight for aircraft landing upon, taking off from, or maneuvering about said airport;

NOW, THEREFORE, for valuable consideration, the receipt wherof by Grantor is hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey unto Grantee, their successors and assigns, for the benefit of the general public at large, an easement and right-of-way for the free and unobstructed passage of aircraft, by whomsoever owned or operated, in and through the air space over and across those parts of the Grantor's said lands situated in Mesa County and described as follows:

Lot 19, Jaynes Subdivision, excluding the East

172.0 feet and the South 25 feet of said Lot 19.

provided, however, that the air space in which the said easement and right-of-way is herein granted shall be that which lies above an elevation of 4,838 grade feet above mean sea level as established by the United States Geological Survey, which elevation is 88 feet above the highest point of elevation of the above described real property, and in furtherance of the said easement and right-of-way, Grantor, for the consideration hereinabove set forth, does hereby grant and convey to Grantee, their successors and assigns, a right of flight for the passage of aircraft in the airspace above the surface of the real property hereinabove described, together with right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereinafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from, or operating on Walker Feild Airport.

To have and to hold said easement and all rights appertaining thereto unto Grantee, its successors and assigns, until said airport shall be abandoned and shall cease to be used for public airport purposes.

And, further, for the consideration hereinabove set forth, Grantor hereby covenants, both for themselves and their heirs, executors, administrators and assigns, for and during the life of the easement as follows:

(a) Grantor shall not hereafter construct, permit or suffer to maintain upon said land any obstruction that extends above the heights aforesaid;

(b) Grantor shall not hereafter use or permit or suffer use of said land in such a manner as to create electrical or electronic interference with radio communication or radar operation between the installation upon Walker Field Airport and aircraft, to make it difficult for flyers to distinguish between airport lights and others, to result in glare in the eyes of flyers using the said airport, or otherwise to endanger the landing, taking-off or maneuvering of aircraft; and the aforesaid covenants and agreements shall run with the land of Grantor, as hereinabove referred to, for the benefit of Grantee, and their successors and assigns, in the ownership and operation of the aforesaid Walker Field Airport.

IN WITNESS WHEREOF, the Grantor has hereunto subscribed their names on the date first above mentioned.

G. S. & N
by Chris Gray

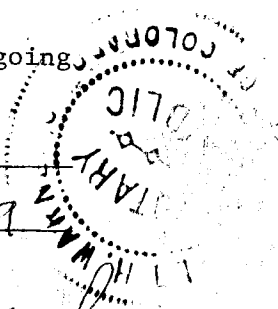
STATE OF COLORADO)
COUNTY OF Mesa) ss:

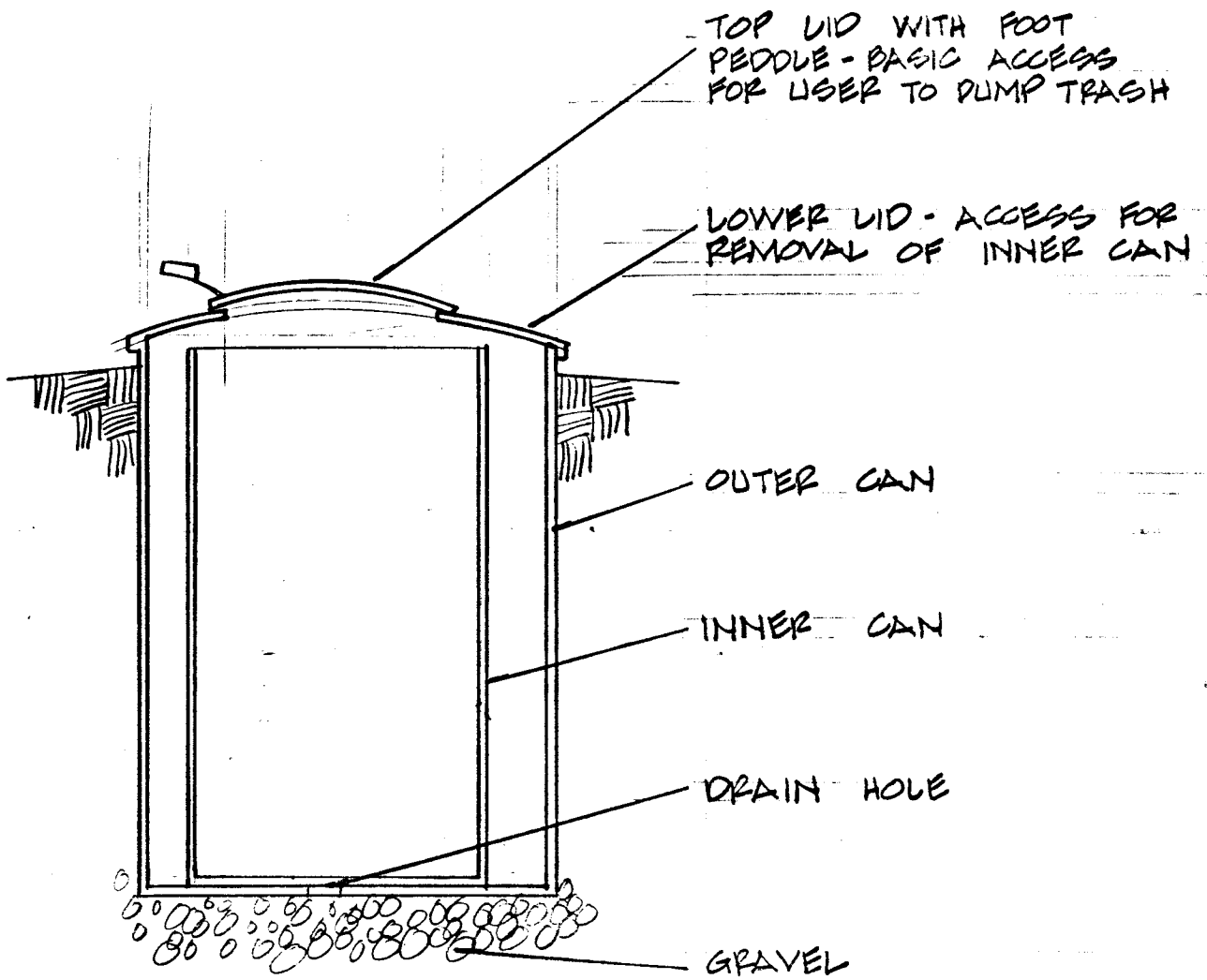
On the 8th day of August, 1978, the foregoing Power of Attorney was acknowledged before me by:

Chris Gray

My notarial commission expires: April 9, 1979
Witness my hand and official seal.

Ronald G. Womack

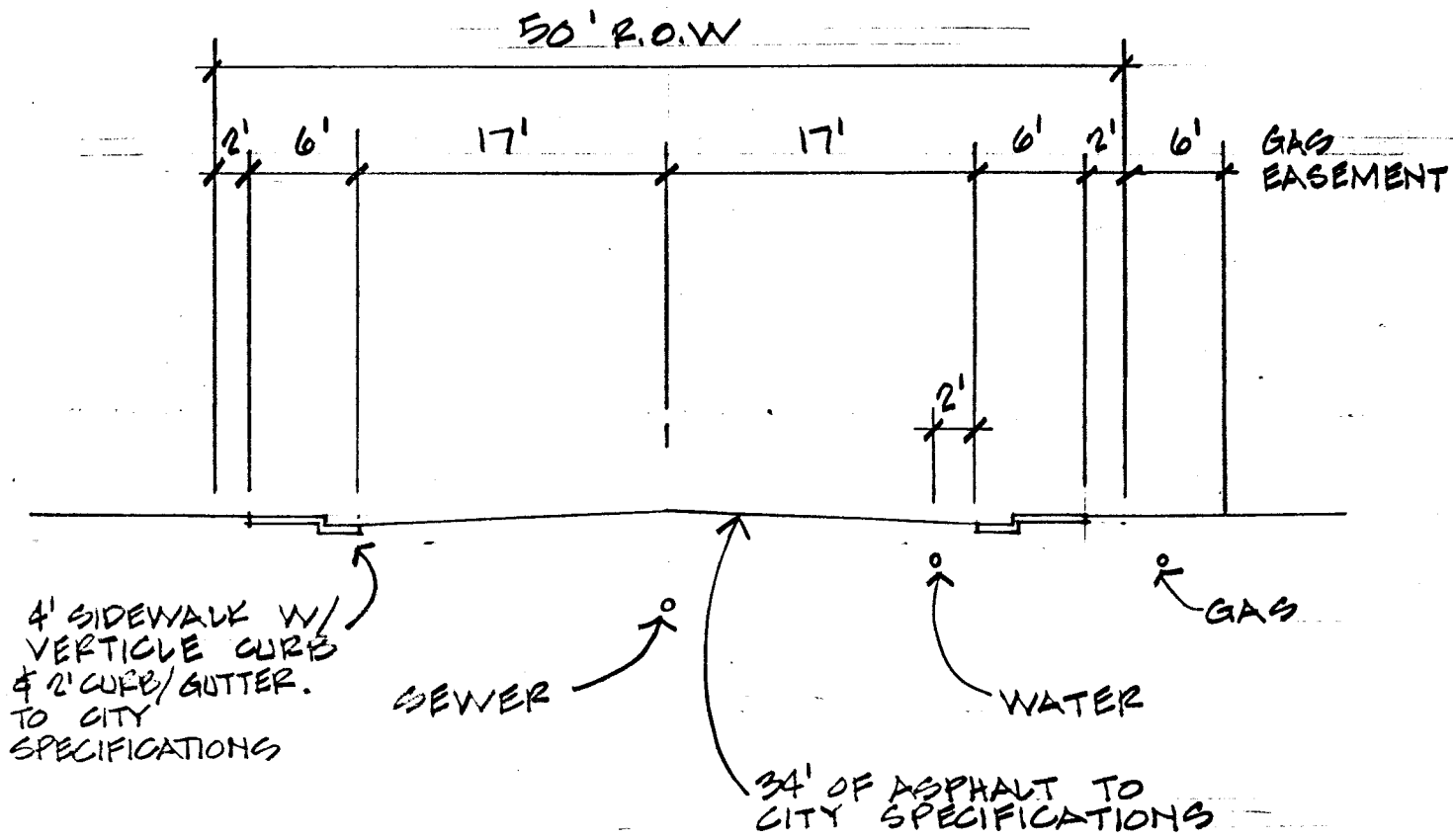




TRASH CONTAINER

NO SCALE

APPLE CREST - PD 8
CHRIS GRAY - ARCHITECT



STREET SECTION

APPLE CREST - PD 8
CHRIS GRAY - ARCHITECT

architect

chris gray
2721 north 12th, suite 13
grand junction, colorado 81501

December 27, 1977

Mr. Karl Metzner
Development Department
City of Grand Junction
P.O. Box 897
Grand Junction, Colorado 81501

Re: Apple Crest, a PD-8
Scheduled for December 28, 1977 Preliminary

Dear Karl,

Enclosed are copies of the proposed basic street section for public roads in the above development. We will install vertical curb as requested by Ron Rich.

Concerning the basic site plan: We agree to move the fire lane access to the west side of the court, off a public street as requested by the Fire Department. We will then run sewer service under this drive, taking care of the Utility Department's concern over sewer running under a building.

We are deleting the flowering crabapple trees and will substitute either the Shubert Chokecherry or the Goldenrain Tree as recommended by the Parks Department.

We will provide the requested minimum 35 foot outer turning radius for the North East corner of the private drive. In discussing this with our engineer, Bob Gerlofs, we now have a 20 foot inner turning radius with a 22 foot drive resulting in a 42 foot radius.

On the trash pick-up question, we propose to furnish each condominium and each single family site with individual, underground trash receptacles as shown on the enclosed sketch. Such units are factory constructed. We find this solution more feasible and much more attractive to screened, trash dumpsters at the condos and the traditional trash mess at single family units with totally exposed cans set out to be picked up.

Thanks for your help.

Sincerely,



Chris Gray

Enclosures

cc: Ron Rich

centennial plaza · 245-1308

December 30, 1977

Mr. Chris Gray
2721 N. 12th Street, Suite #13
Grand Junction, CO 81501

Re: File #94-77 - Preliminary Plan - PD-8, Apple Crest.

Dear Chris:

The Grand Junction City Planning Commission, at their regularly scheduled meeting of December 28, 1977, approved your submittal for PD-8 and plan for Apple Crest. Approval was subject to the following requirements.

1. As per our previous discussion, the fire entrance to the center of the condominium complex should be from Applewood Street.
2. Easements as required by public service and Mountain Bell.
3. Fire hydrants and service lines as required by city fire department.
4. There is a question on drainage treatment of private road. Please contact us on this item.
5. Other requirements have been addressed on your letter of December 27, 1977.

This item will be scheduled for The Grand Junction City Council of January 18, 1978. If you have any questions or comments concerning this approval, please contact our office prior to this date.

Yours truly,

Karl Metzner
Planner I

KM/lld

March 30, 1978

Mr. Chris Gray
2721 North 12th Street #13
Grand Junction, CO 81501

RE: FILE #94-77 FINAL PLAN APPLE CREST PD-8

Dear Chris:

The Grand Junction City Planning Commission, at their regularly scheduled meeting, March 28, 1978 recommended approval of the Final Plat of Apple Crest PD-8.

This item will go before the Grand Junction City Council April 19, 1978 at 7:30 p.m. Please contact us if you have any comments or questions concerning this approval.

Sincerely,

Kathy F. Lofink/cjr
Kathy F. Lofink
Planner I

KFL:bc



Del 94-77
File

City of Grand Junction, Colorado 81501

250 North Fifth St., 303 243-2633

June 23, 1978

Mr. James T. Patty
Paragon Engineering, Inc.
P. O. Box 2872
825 Rood Avenue
Grand Junction, Colorado 81501

Dear Jim:

Re: Applecrest Subdivision.

PD

As requested, I have reviewed the detailed construction plans for streets and storm drains in the above subdivision and have the following comments:

1. The pavement design based on your submitted calculations is satisfactory.
2. All roadway details and grades are satisfactory.
3. I prefer a different type of inlet to that shown. Perhaps by use of one like you have submitted recently on other developments which has a combined grate and manufactured curb-opening, the undesirable feature of having a manhole in the sidewalk could be eliminated.
4. These plans are very well detailed and are a clear message to the contractor.

When the above comments have been addressed, please send me a revised set of prints and consider the detailed plans to be approved by this office for construction. Thanks for your cooperation.

Very truly yours,

Ronald P. Rish, P.E.
City Engineer-Public Works

RPR/hm

cc - Del Beaver ←
John Kenney
Jim Patterson