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File 1979-0012
Date 10/18/00

Project Name: Westwood Subdivision - Final

P	S	<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>
X	X	<p>*Summary Sheet – Table of Contents</p> <p>Application form</p> <p>Receipts for fees paid for anything</p> <p>*Submittal checklist</p>
X	X	<p>*General project report</p> <p>Reduced copy of final plans or drawings</p> <p>Reduction of assessor's map</p> <p>Evidence of title, deeds</p> <p>*Mailing list</p> <p>Public notice cards</p> <p>Record of certified mail</p> <p>Legal description</p> <p>Appraisal of raw land</p> <p>Reduction of any maps – final copy</p> <p>*Final reports for drainage and soils (geotechnical reports)</p> <p>Other bound or nonbound reports</p> <p>Traffic studies</p> <p>Individual review comments from agencies</p> <p>*Consolidated review comments list</p> <p>*Petitioner's response to comments</p> <p>*Staff Reports</p> <p>*Planning Commission staff report and exhibits</p> <p>*City Council staff report and exhibits</p> <p>*Summary sheet of final conditions</p> <p>*Letters and correspondence dated after the date of final approval (pertaining to change in conditions or expiration date)</p>

DOCUMENTS SPECIFIC TO THIS DEVELOPMENT FILE:

X	X	Follow-Up Form	X	X	Letter from Karl Metzner to Dept. of Army re: public notice 6894
X		Review Sheets	X	X	Adjacent Property Owners
X	X	Action Sheet	X	X	Public Notice No. 6894
X	X	Review Sheet Summary	X	X	Letter from Michael Benson to Commun. Dev. – no date
X	X	Condominium Declaration	X	X	Letter from Bruce Marvin to T.L. Benson – 5/16/79
X		Record of Final Plat Recording	X	X	Flood and Drainage Analysis
X		Certification of Plat	X	X	Legal Description
X	X	Planning Commission Minutes - ** - 3/27/79	X	X	Site Plan
X	X	Memo from (can't read writing last name Ray) to Jim Wysocki – 8/28/80	X		Floodway Map
X	X	Power of Attorney			
X	X	Letter from Lori Hill to Michael Benson re: approval of item with conditions – 5/30/79			
X		Letter from Karl Metzner to Michael Benson 4/2/79			
X		Preliminary Development Plan			
X		Deed			

Acres 6.7
Units 60 (9 4-plexes, 2 12-plexes) ACTION SHEET
Density _____

File # 12-79
Zone County - R1B
Tax Area Code _____

Activity Westwood

Phase Preliminary PD12

Date Neighbors Notified _____

Date Submitted 2-1-79

Date CIC/MCC Legal Ad _____

Date Mailed Out 2-2-79

PC Hearing Date _____

Review Agencies _____ Review Period - Return By _____

- | Send | Send |
|--|--|
| <input type="checkbox"/> COUNTY ROAD DEPARTMENT | <input checked="" type="checkbox"/> FIRE <u>6J</u> |
| <input type="checkbox"/> COUNTY HEALTH DEPARTMENT | <input checked="" type="checkbox"/> IRRIGATION <u>6V</u> |
| <input type="checkbox"/> COUNTY SURVEYOR | <input checked="" type="checkbox"/> DRAINAGE <u>6V</u> |
| <input type="checkbox"/> COMTRONICS | <input type="checkbox"/> WATER (UTE, CLIFTON) |
| <input type="checkbox"/> GRAND VALLEY RURAL POWER | <input checked="" type="checkbox"/> SEWER <u>City Util</u> |
| <input checked="" type="checkbox"/> MOUNTAIN BELL | <input checked="" type="checkbox"/> CITY ENGINEER, FRUITA |
| <input checked="" type="checkbox"/> PUBLIC SERVICE | <input type="checkbox"/> MACK, LOMA, MESA, COLLBRAN |
| <input type="checkbox"/> SOIL CONSERVATION SERVICE | <input type="checkbox"/> FRUITA, PALISADE |
| <input type="checkbox"/> SCHOOL DISTRICT 51 | <input checked="" type="checkbox"/> <u>P.D. Ed Vandertook</u> |
| <input type="checkbox"/> STATE HIGHWAY | <input checked="" type="checkbox"/> <u>Parks + Rec.</u> |
| <input type="checkbox"/> STATE GEOLOGICAL | _____ |
| <input type="checkbox"/> STATE HEALTH - RADIOLOGICAL | _____ |
| <input checked="" type="checkbox"/> TRANSAMERICA TITLE | _____ |

Board	Date	Comments
<u>WPC</u>	<u>2/27/79</u>	<u>Refer decision and Continue Public Hearing to 3/27/79</u>
<u>WPC</u>	<u>3-27-79</u>	<u>see app. of rezoning to PD12. see app. of devel. plan subject to staff + review comment, except 2nd access on Horizon Dr.</u>
<u>Council</u>	<u>4-18-79</u>	<u>approved subject to comments</u>

Common Location South of Horizon Dr, West of Lakeside

Staff Comments

Original Documents

____ Imp. Agreement \$ _____ Appraisal x .05 = \$ _____ Open Space;
____ Imp. Guarantee Receipt # _____ Check # _____
____ Covenants _____ Open Space Dedication
____ Power of Attorney
____ Dev. Schedule

Acres 6.7
Units 60
Density _____

ACTION SHEET

File # 12-79
Zone RIB-county
Tax Area Code _____

Activity Westwood

Phase ~~Preliminary~~ Final

Date Neighbors Notified NA

Date Submitted 5-1-79

Date CIC/MCC Legal Ad _____

Date Mailed Out 5-4-79

PC Hearing Date 5-29-79

Review Agencies _____ 10 Review Period - Return By _____

- | Send | Send |
|--|---|
| <input type="checkbox"/> COUNTY ROAD DEPARTMENT | <input checked="" type="checkbox"/> FIRE <u>6-J.</u> |
| <input type="checkbox"/> COUNTY HEALTH DEPARTMENT | <input checked="" type="checkbox"/> IRRIGATION <u>Grand Valley</u> |
| <input checked="" type="checkbox"/> COUNTY SURVEYOR | <input checked="" type="checkbox"/> DRAINAGE <u>AV</u> |
| <input type="checkbox"/> COMTRONICS | <input type="checkbox"/> WATER (UTE, CLIFTON) |
| <input type="checkbox"/> GRAND VALLEY RURAL POWER | <input type="checkbox"/> SEWER |
| <input checked="" type="checkbox"/> MOUNTAIN BELL | <input checked="" type="checkbox"/> CITY ENGINEER/UTILITIES <u>Rish</u> |
| <input checked="" type="checkbox"/> PUBLIC SERVICE | <input type="checkbox"/> MACK, LOMA, MESA, COLLBRAN |
| <input type="checkbox"/> SOIL CONSERVATION SERVICE | <input type="checkbox"/> FRUITA, PALISADE |
| <input type="checkbox"/> SCHOOL DISTRICT 51 | <input checked="" type="checkbox"/> <u>City Utilities</u> |
| <input type="checkbox"/> STATE HIGHWAY | <input checked="" type="checkbox"/> <u>P.D. Ed VanderTook</u> |
| <input type="checkbox"/> STATE GEOLOGICAL | <input checked="" type="checkbox"/> <u>Parks & Rec.</u> |
| <input type="checkbox"/> STATE HEALTH - RADIOLOGICAL | _____ |
| <input type="checkbox"/> TRANSAMERICA TITLE | _____ |

Board	Date	Comments
<u>GPC</u>	<u>5-29-79</u>	<u>inc app sub to staff + review comments.</u>
<u>CC</u>	<u>7-5-79</u>	<u>approved subject to P.C. recommendation</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Common Location South side of Horizon Drive,
West of Lakeside

Staff Comments

Original Documents

_____ Imp. Agreement \$ _____ Appraisal x .05 = \$ _____ Open Space;

_____ Imp. Guarantee Receipt # _____ Check # _____

_____ Covenants _____ Open Space Dedication

_____ Power of Attorney

_____ Dev. Schedule

STATEMENT OF INTENT

Westwood will be a good looking, high quality Planned Unit Development. Set back from Horizon Drive the stately brick buildings and complete maintained landscaping will present an appealing view to all. The personnel of T. L. Benson, Inc. have proven themselves to be builders of fine Subdivisions, Lakeside for example, and Westwood will contain solid and stylish buildings similar to the most attractive structures at Lakeside. The style of the units to be built in Westwood are in demand since they will be similar to the most sought after units in Lakeside. Westwood will attract a mature, responsible clientele demanding the stability and quality that this development will provide.

Westwood is designed to be a pure residential area with few amenities reserved for the condominium residents' use only. The development will contain a Meeting Building, a Promenade, and an Entrance Security Gate. Still, the main purpose of Westwood will be to provide condominium housing in a pleasant and secure environment.

Westwood will increase the value of the neighborhood and enhance the growth and appeal of the community. T. L. Benson, Inc. will turn an undeveloped tract of land into a quality development. Proper land usage is important and the builders will put this tract to good^{use} by increasing its value tremendously. Adjacent land, especially undeveloped plots, values will go up because of Westwood. The development will also generate substantial property tax revenue. Westwood will give newcomers to the area a fine impression of Grand Junction and will make residents proud of the kind of growth happening within our community.

FLOOD AND DRAINAGE ANALYSIS
FOR
WESTWOOD
PLANNED DEVELOPMENT

Client: T.L. Benson
Grand Junction, Colorado

↑
MAY

Prepared by:
Western Engineers, Inc
Grand Junction, Colorado
March, 1979

FLOOD AND DRAINAGE ANALYSIS
WESTWOOD - PLANNED DEVELOPMENT

T.L. BENSON - DEVELOPER

INTRODUCTION

This analysis is for a 6.7 Acre tract of land on the southeast side of Horizon Drive between the Grand Valley Highline Canal and the Main Line Grand Valley Canal. The effects of the 100 year flood and the site drainage are both evaluated. The primary reference is "Flood Hazard Information, Colorado River and Tributaries, Grand Junction, Colorado," November, 1976 (hereafter referred to as the FLOOD STUDY).

CONCLUSIONS

As the developer of this subdivision has planned on leaving the Horizon Drive Channel as it is, with a beaver pond, etc., the flow restrictiveness of the channel in a 100 year flood state will cause the water surface to rise at the upper portions of the proposed development. This potential threat to residential structures can be mitigated by an increase of over lot gradation or by placement of berms.

For the lower portions of the subdivision, the entry road and its culvert will be able to pass the 100 year flood, but the water surface will top the road elevation. To assure that this entry road will not be washed out, it is required that it be wide enough and weigh enough to prevent overturning under the hydraulic load.

In topping the road, the water surface will rise no higher than an elevation of 4,643 feet. As the present natural grades

at building locations are below this water surface elevation, overlot gradation and berms can also mitigate this potential threat of flooding of structures.

The surface improvements of the subdivision will not increase the flow of water from the subdivision to the Horizon Drive Channel and can therefore be considered as negligible.

DISCUSSION

The 100 year flood through this section of the Horizon Drive Channel will have a volume of 620 cubic feet per second according to the FLOOD STUDY (see Attachment 1). The section of the Horizon Drive Channel which is fronted by the Westwood Development, is from FLOOD STUDY Station 14+25 to Station 15+25. The FLOOD STUDY'S plot of flow depths is included as Attachment 2.

The culvert entrance effects of the proposed entry road culvert, as well as the culvert passing under the Main Line Grand Valley Canal, downstream, will both be limiting flow and incurring the water level to rise; thereby topping the road and canal in that sequence.

The proposed buildings in Westwood will be above the high water elevation of the 100 year flood. The only structure which will be within the flood plain will be the culvert for the entry road. The existing culvert under the Main Line Grand Valley Canal is a concrete box culvert, seven feet wide and five feet high. The same size of culvert will be installed for the entry road. The capacity of the entry road culvert is 469 cubic feet per second, based on entrance losses. With this in mind, 151 cubic feet per second will overflow the entry road, after ponding first.

The depth of flow at the mouth of the culvert will be 11 feet compared to the 3.5 feet with the open channel (see Attachments 2 and 3). The additional depth will be contained within the channel and cause no damage to the proposed buildings.

The streets within Westwood will have a combination of gutters with vertical curbs and valley gutters to convey the surface water to the Horizon Drive Channel. This will cause an increased flow off of the parcel. The flow off the existing undeveloped property from the one-hour 100 year storm is 2.7 cfs and for the property when developed is 6.4 cfs:

$$Q = CiA$$

$$C = 0.25 \text{ existing}$$

$$C = 0.60 \text{ developed}$$

$$i = 1.6 \text{ inches/hour}$$

$$A = 6.7 \text{ Acres}$$

Design and Construction of Sanitary and Storm Sewers, ASCE - Manual and Reports on Engineering Practice - No. 37, 1970, Page 51.

The increase in runoff is 3.7 cfs, which is less than one percent of the flood volume. The increased runoff will therefore have a negligible effect upon the features of the channel further downstream.

The Westwood Development will not be impaired by the 100 year flood, in the Horizon Drive Channel. The effects of the development on the flow in the channel will be insignificant.

Prepared by:

WESTERN ENGINEERS, INC.,

William J. Sightler

William J. Sightler

WJS/dc

ATTACHMENT 1

Cross Section Location	Peak Flow (Cubic Feet per Second) / Stage (Feet mean sea level)							
	10-Year Flood		50-Year Flood		100-Year Flood		500-Year Flood	
	Flow	Stage	Flow	Stage	Flow	Stage	Flow	Stage

GUNNISON RIVER

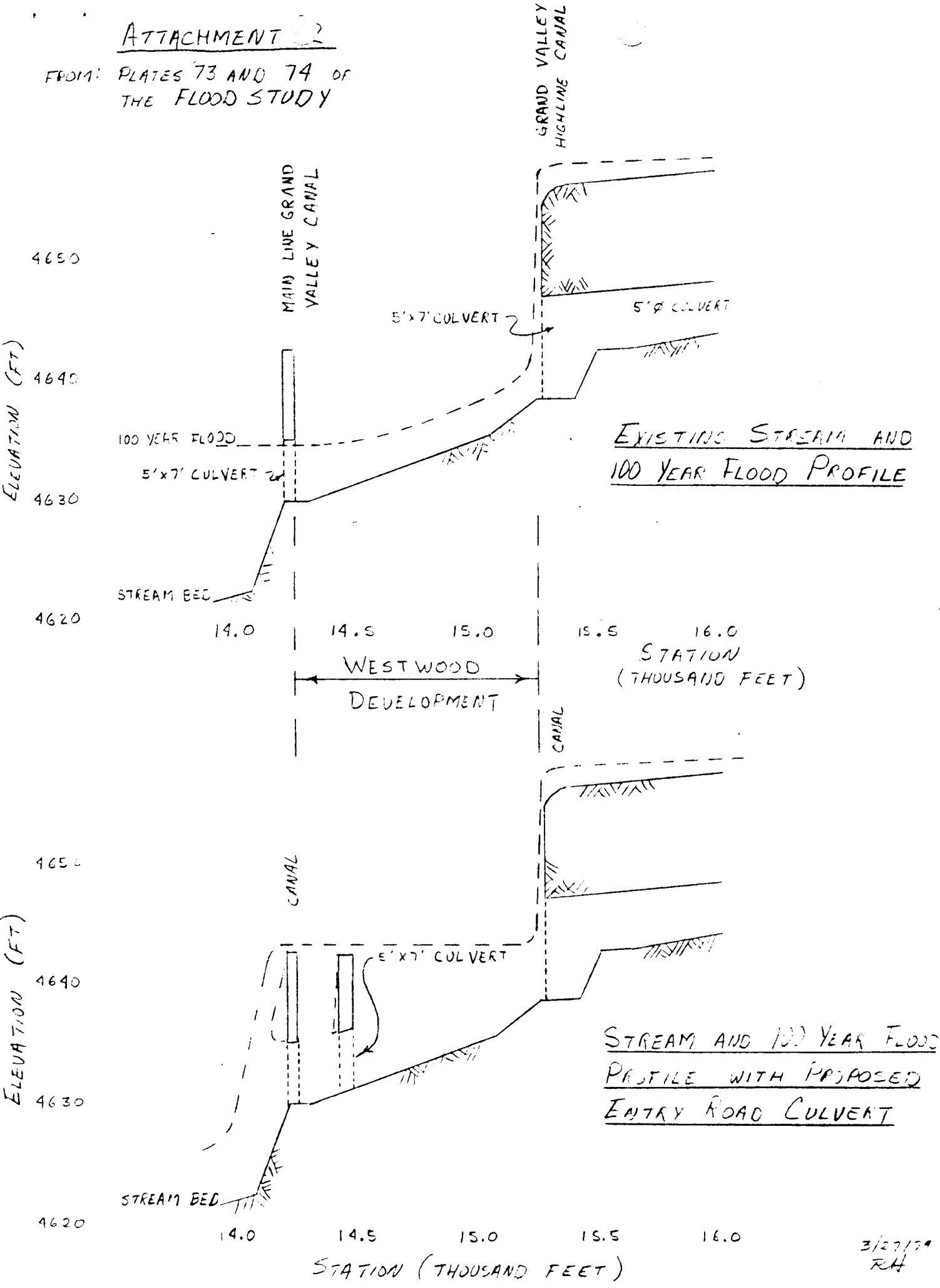
0.80	15,000	4,559.3	17,000	4,560.9	20,000	4,561.6	25,000	4,563.1
1.20	15,000	4,559.8	17,000	4,561.1	20,000	4,562.0	25,000	4,563.5
1.49	15,000	4,561.8	17,000	4,562.8	20,000	4,563.6	25,000	4,564.9
1.52	15,000	4,562.0	17,000	4,563.0	20,000	4,563.7	25,000	4,565.0
1.62	15,000	4,563.1	17,000	4,564.0	20,000	4,565.0	25,000	4,566.5
1.95	15,000	4,564.1	17,000	4,565.0	20,000	4,566.1	25,000	4,567.5
2.35	15,000	4,565.1	17,000	4,566.0	20,000	4,567.1	25,000	4,568.6
2.59	15,000	4,565.8	17,000	4,566.6	20,000	4,567.8	25,000	4,569.3
2.79	15,000	4,566.4	17,000	4,567.2	20,000	4,568.4	25,000	4,569.9
3.15	15,000	4,567.7	17,000	4,568.6	20,000	4,569.5	25,000	4,570.8

HORIZON DRIVE CHANNEL

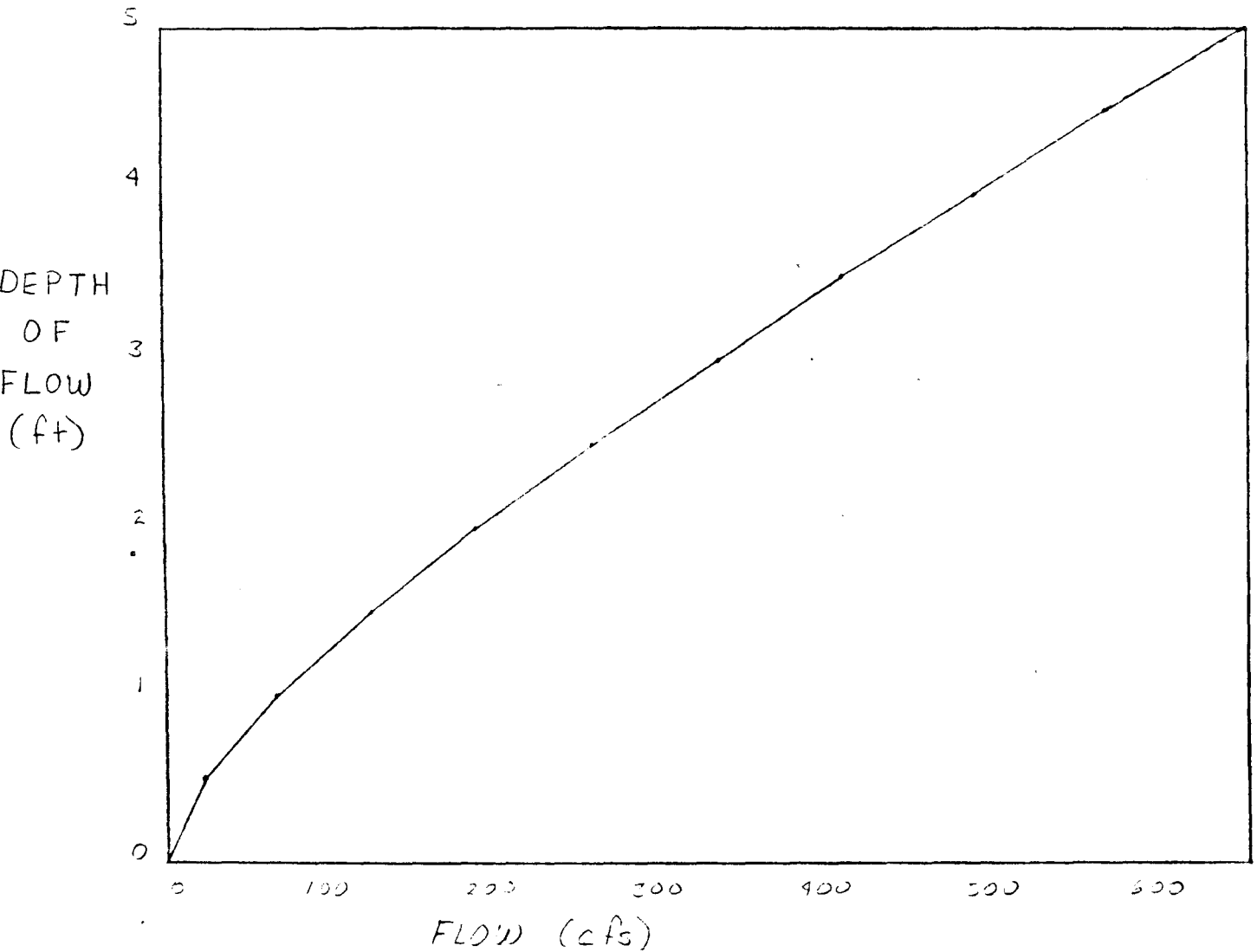
5.45	160	4,561.8	180	4,561.9	200	4,563.1	220	4,563.5
6.06	160	4,562.1	180	4,562.2	200	4,563.2	220	4,563.5
6.08	160	4,566.8	180	4,566.9	200	4,567.2	220	4,567.3
7.48	160	4,570.1	180	4,570.2	200	4,570.4	220	4,570.5
7.85	160	4,572.3	180	4,572.5	200	4,573.0	220	4,573.1
7.93	160	4,572.8	180	4,573.1	200	4,573.3	220	4,573.5
8.62	160	4,576.0	180	4,576.1	200	4,576.8	220	4,577.0
8.67	160	4,577.0	180	4,578.0	200	4,578.2	220	4,578.4
9.19	160	4,582.7	430	4,583.6	670	4,584.2	1,850	4,586.5
9.20	160	4,584.4	430	4,590.3	670	4,590.7	1,850	4,591.0
9.75	160	4,589.5	430	4,592.0	670	4,592.0	1,850	4,595.0
9.77	160	4,591.0	430	4,595.5	670	4,595.8	1,850	4,596.3
9.86	160	4,592.1	430	4,595.6	670	4,596.0	1,850	4,596.5
10.29	160	4,599.5	430	4,601.5	670	4,605.0	1,850	4,606.6
10.55	160	4,605.0	430	4,606.0	670	4,606.5	1,850	4,607.3
10.77	160	4,605.1	430	4,606.1	670	4,606.6	1,850	4,607.8
11.36	160	4,605.3	430	4,606.2	670	4,606.7	1,850	4,608.2
12.00	160	4,607.0	430	4,609.3	670	4,610.7	1,850	4,613.5
13.15	160	4,617.5	430	4,618.2	670	4,619.0	1,850	4,621.8
13.38	160	4,619.0	430	4,620.8	670	4,621.8	1,850	4,624.1
13.52	160	4,624.8	430	4,633.6	670	4,635.1	1,850	4,636.2
14.07	160	4,628.0	430	4,633.6	670	4,635.1	1,850	4,636.3
14.20	160	4,632.3	430	4,633.6	670	4,635.1	1,850	4,636.3
14.30	110	4,633.2	380	4,634.2	620	4,635.1	1,800	4,643.8
15.05	110	4,637.4	380	4,638.5	620	4,639.2	1,800	4,643.9
15.27	110	4,645.5	380	4,656.5	620	4,657.8	1,800	4,659.0
16.19	110	4,648.1	380	4,658.4	620	4,658.9	1,800	4,659.8
16.26	110	4,649.8	380	4,658.5	620	4,658.9	1,800	4,659.8
16.49	110	4,650.0	380	4,658.5	620	4,659.0	1,800	4,660.0
16.60	110	4,653.5	380	4,659.3	620	4,659.9	1,800	4,661.2

ATTACHMENT 2

FROM: PLATES 73 AND 74 OF THE FLOOD STUDY



ATTACHMENT 3



FOR NON-SUBMERGED INLET CASE (NO SURGE)

Flow in concrete box culvert: 7' wide x 5' high

Slope = 1.0 %

Manning's $n = 0.013$

3/26/79 F.H.

STATE OF COLORADO, COUNTY OF MESA
RECORDED AT 8:45 O'CLOCK A.M.
RECEPTION NO. 1205625

OCT 16 1979

EARL SAWYER, RECORDER

BOOK 1223 PAGE 299

CONDOMINIUM DECLARATION

for

WESTWOOD

A Planned Unit Development

RECITALS

A. T. L. Benson, Inc., a Colorado corporation, hereinafter called "Declarant," is the owner of real property situate in the City of Grand Junction, County of Mesa, State of Colorado, which property is described as follows:

Beginning at a point on the South line of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, Township 1 South, Range 1 West of the Ute Meridian from whence the Southwest corner of said NW $\frac{1}{4}$ SE $\frac{1}{4}$ bears South 89°57' West 727.6 feet, thence North 89°57' East 199.0 feet to the West right-of-way line of the Grand Valley Canal; thence along said Canal right-of-way North 11°58'45" East 96.84 feet; thence North 63°45' East 134.6 feet; thence North 68°36'22" East 90.0 feet; thence North 35°27'30" East 67.0 feet; thence North 32°24'30" East 97.7 feet; thence North 20°07' East 67.7 feet; thence North 16°14' East 114.7 feet; thence North 0°34' West 90.0 feet; thence North 04°32' East 210.7 feet to the Southerly right-of-way of the Independent Ranchman's Ditch and the East line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2; thence South 50°49'17" West 108.34 feet; thence South 40°13' West 81.8 feet; thence South 73°35' West 64.6 feet; thence South 51°39' West 150.0 feet; thence South 45°45' West 110.4 feet; thence South 51°56' West 132.5 feet; thence South 49°53' West 60.0 feet to the Westerly right-of-way of the Grand River Valley Railroad (abandoned); thence North 52°33' West 134.06 feet to the Southerly right-of-way of Horizon Drive; thence along said right-of-way line South 53°51' West 220.6 feet to the Easterly right-of-way of the Highline Lateral of the Grand Valley Canal; thence South 50°59' East 70.0 feet; thence South 52°27' East 100.0 feet; thence South 33°11' East 123.8 feet; thence South 22°56' 45" East 109.88 feet to the South line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 2 and the point of beginning (hereinafter "Real Property").

B. Declarant desires to establish a condominium project under the Condominium Ownership Act of the State of Colorado, and

C. Declarant has executed plans for the construction of one and two-story buildings and other improvements appurtenant

thereto on the Real Property which when completed shall consist of sixty (60) separately designated condominium units; and

D. Declarant wishes to and does hereby establish a plan for the ownership in fee simple of real property estates consisting of the area or space contained in each of the units in the buildings and the co-ownership by the individual and separate owners thereof, as tenants in common, of all of the remaining property which is hereinafter defined and referred to as the common elements;

NOW THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land described in Recital A above, and any additional land hereafter annexed and placed under this Declaration in accord with Section 40 of this Declaration, and, shall be a burden and a benefit to Declarant, its successors and assigns and any person acquiring or owning an interest in the Real Property and improvements, their grantees, successors, heirs, executors, administrators, devisees or assigns.

PROVISIONS

1. Definitions. Unless the context shall expressly provide otherwise, the following definitions apply:

(a) "Condominium unit" or "unit" means one individual air space unit which has access to a public street, together with an interest in the general common elements and the limited common elements appurtenant to such unit;

(b) "Owner" means a person, firm, corporation (including Declarant), partnership, association or other legal entity, or any combination thereof, who owns one or more condominium units.

(c) "General common elements" means and includes;

(1) The real property described in Recital A above;

(2) The foundations, columns, girders, beams, supports, perimeter and supporting walls, roofs, halls, corridors, stairs and stairways of the building;

(3) The yards, gardens, walkways, jogging paths, parking areas, and street;

(4) The installations consisting of the equipment and materials making up the central services such as power, light, gas, hot and cold water, and heating and air conditioning;

(5) The tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(6) Such enclosed air spaces as are provided for community or common use, including the Westwood Commons meeting house; and

(7) A security gate on the front entrance, if the Association should hereafter choose to provide one at its own expense;

(8) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

(d) "Limited common elements" means and includes a portion of the common elements set aside and reserved for the exclusive use of the individual owners of the respective units. The limited common elements are the balcony or patio adjoining and associated with such unit, plus a storage space assigned to such unit.

(e) "Entire premises" or "property" or "project" means and includes the Real Property described in Recital A above, the buildings and all improvements and structures thereon, and all rights, easements and appurtenances belonging thereto.

(f) "Common expenses" means and includes:

(1) All sums lawfully assessed against the unit owners by the Managing Agent or Board of Directors for the benefit of the general common elements;

(2) Expenses of administration and management, maintenance, repair or replacement of the general common elements;

(3) Expenses declared common expenses by provisions of this Declaration and the By-Laws; and

(4) Expenses agreed upon as common expenses by the unit owners.

(g) "By-Laws" means the By-Laws of the Association as required by the Colorado Condominium Act, as amended.

(h) "Association of Unit Owners" or "Association" means a Colorado non-profit corporation, the By-Laws of which shall govern, together with these Declarations, the administration of this condominium property, and the members of which shall be all of the owners of the condominium units. The official name of the Association shall be: Westwood Condominium Association, a Colorado Non-Profit Corporation. The Board of Directors shall manage the Association. Unless the By-Laws provide differently, the Board of Directors may appoint a Managing Agent to carry on the day-to-day business of the Association.

(i) "Building" refers to any of the several separate and distinct free standing structures to be constructed on the property, each of which is composed of one or more units, the Westwood Commons meeting house or storage facilities.

(j) "Map" means the drawing or diagrammatic plan depicting a part of or all of the property described in Recital A and the improvements constructed thereon, which map shall be filed for record in accord with Section 2 below.

2. Map. The Map which shall be composed of one or more sheets or documents, shall be filed for record prior to the first conveyance of any condominium unit. Such Map shall consist of and set forth (1) the legal description of the surface of the land; (2) the linear measurements and location, with reference to the exterior boundaries of the land, of the buildings and all other improvements built or to be built on said land by Declarant; and (3) the proper location and designation of each unit.

Prior to the first conveyance of a condominium unit, there shall be filed for record as a part of the Map a certificate of a registered architect or licensed professional engineer certifying that the improvements as constructed conform substantially to the Map and that the Map fully and accurately depicts the layout, measurements and location of all of the improvements on the land, and the unit designations.

The Map may be amended at any time prior to the first conveyance of a unit, at the sole discretion of the Declarant, provided such amendment substantially conforms to the provisions of this Declaration. The Map may be amended at any time subsequent to the first conveyance, provided that a majority of the then owners (including Declarant) consent to any such amendment.

In interpreting the Map, the physical boundaries of each unit, as shown on the Map, shall be conclusively presumed to be the legal boundaries of such unit.

3. Division of Property. The property is hereby divided into the following fee simple estates:

(a) Sixty (60) fee simple estates consisting of sixty separately designated units and their associated limited common elements.

(b) The remaining portion of the entire premises shall be the general common elements and shall be held

in common by the owners, each such undivided interest being one-sixtieth (1/60) of the general common elements and each such undivided interest being appurtenant to one of the sixty units.

5. Inseparability of a Condominium Unit. Each unit, the limited common elements appurtenant thereto, and the undivided interest in the general common elements shall be inseparable and may be conveyed, leased or encumbered only as a condominium unit.

6. Legal Description. Every deed, lease, mortgage, trust deed or other instrument may legally describe a condominium unit by reference to the identifying unit number as shown on the Map followed by the words "Westwood, A Planned Unit Development," with further reference to Book and Pages of the records of the Clerk and Recorder of Mesa County, Colorado where the Map and this Condominium Declaration is recorded. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber, or otherwise affect the general common elements and the limited common elements appurtenant to the particular unit, and each description shall be construed to include a non-exclusive easement for ingress and egress to the unit and for use of the general common elements, together with the right of the particular unit owner to the use of limited common elements.

7. Separate Tax Assessment. Declarant or its successors shall give written notice (as required by the Colorado Condominium Ownership Act) to the assessor of Mesa County, Colorado, of the creation of condominium ownership of this property, so that each unit, its appurtenant limited common elements, and its percentage of undivided interest in the general common elements shall be deemed a parcel and subject to separate assessment and taxation.

8. Title. A condominium unit may be held and owned by more than one person as joint tenants or as tenants in common, or in any other real property tenancy relationship recognized under the laws of the State of Colorado.

9. Non-Partitionability of General Common Elements. The general common elements shall be owned in common by all of the owners of the units and shall remain undivided, and no owner shall bring any action for partition or division of the general common elements. Nothing contained herein shall be construed as a limitation of the right of partition of a condominium unit between the owners thereof (so long as such partition conforms to this Declaration and the By-Laws), but such partition shall not affect any other condominium unit.

10. Use of Units and General and Limited Common Elements. Each owner shall be entitled to exclusive use, ownership and possession of his unit and use of the general common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners and subject to reasonable rules and regulations promulgated by the Association. Uses of the limited common element shall be by the owner of the particular unit to which it is appurtenant.

11. Use and Occupancy. Each unit shall be used and occupied solely for the purpose of lodging or as a dwelling by the owner or by the owner's family, guests, agents, employees, invitees, licensees or tenants. No business shall be conducted in any unit; except that the Declarant and the Association may conduct such business as they deem necessary for the development and operation of the project.

12. Easements for Encroachments. If any portion of the general common elements encroaches upon any unit, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. If any portion of a unit encroaches upon the general common elements

or upon any adjoining unit, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist, so long as that general common element is not rendered nonfunctional. However, for title or other purposes, such encroachment(s) and easement(s) shall not be considered or determined to be encumbrances either on the general common elements or the units.

13. Termination of Mechanic's Lien Rights and Indemnification. Subsequent to the completion of the improvements described on the Map, no labor performed or materials furnished and incorporated in a unit with the consent or at the request of the owner thereof or his agent or his contractor or subcontractor shall be the basis for the filing of a lien against the unit of any other unit owner not expressly consenting to or requesting the same, or against the general common elements. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from an attempted claim of any lien against the unit of any other owner or against the general common elements for construction performed or for labor, materials, services or other products incorporated in, or partly in, the owner's unit at such owner's request.

14. Administration and Management. The administration of the property shall be governed by the Certificate of Incorporation and the By-Laws of the Association. A certified copy of the Certificate of Incorporation of the Association shall be filed for record in the County of Mesa, Colorado. An owner of a condominium unit, upon becoming such an owner, shall be a member of the Association and shall remain a member for the period of his ownership. Each owner shall be entitled to one vote per unit owned, except the Declarant and successors to the Declarant expressly designated in writing by the Declarant to be so entitled. The Declarant

and its designated successors, if any, shall be entitled to one hundred and eighty (180) votes less ~~than~~ three (3) votes per unit actually conveyed of record; provided however, that after January 1, 1982, all owners, including the Declarant and all its successors, shall be entitled to only one vote per unit owned.

15. Maintenance, Repair and Emergencies. The Association shall have the obligation, to be exercised by the Managing Agent or Board of Directors to perform necessary maintenance repair or replacement of any of the general common elements and to make emergency repairs to the units or limited common elements necessary to prevent damage to the general common elements or to any other unit or units. The Association shall have the irrevocable right, to be exercised by the Managing Agent or Board of Directors of the Association, to have reasonable access to each unit from time to time as may be necessary for the performance of its maintenance and repair obligations.

Damage to the interior or any part of any unit resulting from the maintenance, repair, emergency repair or replacement of any of the general common elements or as a result of emergency repairs within another unit at the instance of the Association shall be a common expense of all of the owners; provided however, that if such damage is the result of the negligence or other fault of a unit owner, then such unit owner shall be responsible for all of such damage. Restoration of the damaged improvements shall be made to substantially the same condition in which they existed prior to the damage.

16. Owners' Maintenance Responsibility of Unit. An owner shall maintain and keep in repair the interior of his own unit and the limited common elements appurtenant thereto including the fixtures thereof. All fixtures and equipment installed within the unit, commencing at a point where the utility lines, pipes, wires, conduits or other systems (hereafter referred to as "utilities") enter the unit, shall be maintained and kept in repair by the owner thereof.

17. Limitations on Owner's Alterations. An owner shall do no act nor any work which will impair the structural soundness or integrity of any building or impair any easement or hereditament.

No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition, change, decoration or alteration therein or thereto be made until written plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by an Architectural Committee composed of three (3) or more owners appointed by the Board. In the event said Board or the Committee fails to approve or disapprove such design and location within forty-five (45) days after said plans and specifications have been submitted to it, approval will not be required and this article will be deemed to have been fully complied with. No planting or gardening shall be done, and no fences, hedges, walls or other improvements or structures shall be erected or maintained in or upon the common facilities, except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or the Architectural Committee. Except for the right of ingress and egress, the owners are hereby prohibited and restricted from using any of the Property outside the exterior boundary lines of their respective units, except as may be allowed by the Association's Board of Directors and this Declaration. All parties expressly acknowledge and agree that this Section 17 is for the mutual benefit of all owners and is necessary for their protection.

18. Extent of Ownership for Maintenance Purposes. An owner shall not be deemed to own the undecorated and/or unfinished surfaces of the outside perimeter walls (or the supporting members of such walls), floors and ceilings surrounding his respective unit, nor shall such owner be deemed to own the utilities running through his unit which are utilized for, or serve more than one unit, except as a tenant in common with the other owners. An owner, however, shall be deemed to own and shall maintain the interior decorated and/or finished surfaces of the perimeter walls, floor and ceilings, doors and windows and other elements consisting of paint, wallpaper and other interior finishing materials and the interior non-supporting walls contained within the unit.

19. Compliance with Provisions of Declaration and By-Laws. Each owner shall comply strictly with the provisions of this Declaration, the Certificate of Incorporation and By-Laws of the Association and the decisions and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief, or both, maintainable by the Managing Agent or Board of Directors on behalf of the owners or, in a proper case, by an aggrieved owner.

20. Revocation or Amendment to Declaration. Except as provided in Section 40, this Declaration shall not be revoked nor shall any of the provisions herein be amended (except the Map, which may be amended as provided earlier in Section 2 of this Declaration), unless the owners of seventy-five percent (75%) or more of the condominium units and seventy-five percent (75%) or more of the holders of any recorded mortgage or deed of trust covering or affecting any

condominium units agree to such revocation or amendment by written instruments duly recorded in the records of Mesa County. Prior to the construction and conveyance or record of the units on the property, Declarant shall be considered the owner of all unconveyed units for the purposes of amendment and revocation of this Declaration. However, the percentage of undivided interest in the general common elements (which percentage interest is appurtenant to each unit, as expressed in this Declaration) shall have a permanent character and shall not be altered without the consent of ninety percent (90%) of the condominium unit owners and all holders of any recorded mortgage or deed of trust as expressed in a duly recorded amendment to this Declaration.

21. Assessment for Common Expenses. All owners shall be obligated to pay estimated assessments, as more fully described in Section 22 below, imposed by the Board of Directors to meet the common expenses. The assessments shall be made pro rata according to each owner's percentage interest in and to the general common elements. Assessments for the estimated common expenses, including insurance, shall be due monthly in advance on the first day of each month. All assessments remaining unpaid by the twentieth day of the month shall be considered delinquent and bear interest at the rate of twelve percent (12%) per annum from the date the assessment was first due. The Managing Agent or Board of Directors shall prepare and deliver or mail to each owner an itemized quarterly statement showing the various estimated or actual expenses for which the assessments are made.

No owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit.

Contribution for monthly assessments shall be prorated if the ownership of a condominium unit commences on a day other than the first day of a month.

22. Items for Which Assessments May be Made. Assessments shall be based upon the aggregate sum of the cash requirements which the Board of Directors of the Association shall from time to time determine is to be paid by the owners of units conveyed by Declarant or offered for sale by Declarant, to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the general common elements. This sum may include, among other things, expenses relative to: management, taxes and special assessments until separately assessed; fire insurance on the project with extended coverage and vandalism and malicious mischief insurance, with endorsements attached issued in the amount of the maximum cost of replacement value of all of the condominium units in the project (and also fixtures; interior walls and partitions; decorated and finished surfaces or perimeter walls; floors and ceilings; doors; windows and other elements or materials comprising a part of the units); casualty and public liability and other insurance premiums; proper and adequate landscaping and care of grounds; all necessary general maintenance and upkeep; repair and reconstruction following disasters and other causes as discussed in Section 30; common lighting and heating; repairs and renovations; trash and garbage collections; wages; water charges; legal and accounting fees; management fees; expenses and liabilities incurred by the Managing Agent or Board of Directors under or by reason of this Declaration; the payment of any deficit remaining from a previous period; the creation of a reasonable contingency or other reserve or surplus fund; as well as other costs and expenses relating to the general common elements. The omission or failure of the Board to fix the

assessment for any month shall not be deemed a waiver, modification or a release of the owners from their obligation to pay.

23. Insurance. The Managing Agent or Board of Directors shall obtain and maintain upon or before the conveyance by Declarant of thirty (30) units insurance of the type and kind provided in Subsections (a) and (b) below. The Association may also obtain other insurance of a nature which is or shall hereafter customarily be obtained with respect to other condominium projects in the State of Colorado and which is issued by responsible insurance companies authorized to do business in the State of Colorado. The insurance shall be carried in blanket policy form naming the Association the insured, which policy or policies shall identify the interests of each condominium unit owner and which shall provide for a standard, non-contributory mortgagee clause in favor of each first mortgagee. It shall also provide that it cannot be cancelled by either the insured or the insurance company until after at least ten (10) days' prior written notice to each owner and each first mortgagee. The Managing Agent or Board of Directors shall, upon the reasonable request of any first mortgagee, furnish a copy of such blanket policy and the separate certificate identifying the interest of the mortgagor.

The following insurance coverage shall be maintained:

(a) Property Insurance. The Association shall obtain insurance on the general common elements in such amounts as shall provide for full replacement thereof in the event of damage or destruction resulting from the perils against which such insurance is obtained; such perils being at least those which a corporation owning similar multiple family residential buildings in the vicinity of the Project would, in the exercise of

prudent business judgment, obtain insurance against. Such insurance shall include fire and extended coverage, vandalism, and malicious mischief, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice.

(b) Liability Insurance. The Association shall purchase broad form Comprehensive General Liability coverage in such amounts and in such forms as it deems advisable. Coverage shall be written on an occurrence basis and may include, without limitation, liability for personal injury, elevators, water damage, contractual obligations, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the project.

The following insurance coverage may be maintained:

(c) Workmen's Compensation and Employers' Liability Insurance. The Association may purchase Workmen's Compensation and Employer's Liability Insurance and all other similar insurance in respect of employees of the Association in the amounts and in the forms now or hereafter required by law as it deems necessary.

Each owner shall be responsible for insurance coverage on his own personal property, together with public liability coverage for occurrences within the unit, or occurring on limited common elements associated with his unit.

Where any policy of insurance, whether obtained by the Association for protection of the general common elements or other reason or obtained by an individual owner, provides that such insurance may be invalidated or suspended where

the insured or some other person has been negligent, intentionally at fault, in breach of any warranty or other representation, or has committed any other act or omission, including the failure to pay any insurance premium due, such that he is not entitled to collect the proceeds of the insurance policy, then that insurance shall be invalidated or suspended only as to the interest, if any, of the particular owner or other person at fault, and shall remain in full force and effect as to all other parties (including other owners or the Association) whom such insurance policy was intended to benefit.

24. Lien for Non-Payment of Assessments for Common Expenses.

All sums assessed but unpaid for the share of common expenses chargeable to any condominium unit, including interest thereon at the rate of twelve percent per annum, shall constitute a lien on such unit superior and prior to all other liens and encumbrances, except only for:

(a) Tax and special assessment liens on the unit in favor of any assessing entity, and

(b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance.

To evidence such lien the Board of Directors or Managing Agent may, but shall not be required to, prepare a written notice or claim of lien setting forth the amount of such unpaid indebtedness, the name of the owner of the condominium unit and a description of the condominium unit. Such notice shall be signed by one of the Board of Directors or by the Managing Agent and may be recorded in the office of the Clerk and Recorder of Mesa County, Colorado. Such lien for common expenses shall attach from the date of the failure of payment of the assessment. Such lien may be enforced by foreclosure of the defaulting owner's condominium unit by the Association in like manner as a mortgage on real property

upon the recording of a notice or claim thereof. In any such foreclosure proceedings, the non-paying owner agrees to pay the costs and expenses for filing the notice or claim of lien and all reasonable attorneys' fees. The owner shall also be required to pay to the Association a reasonable rental for the condominium unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid on the condominium unit at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. The proceeds from any such sale shall be distributed to satisfy first mortgages (unless the lien for assessment is foreclosed subject to said mortgage), taxes and special assessments, unpaid assessments by the Association, junior liens, and the owner's equity, in that order.

The amount of the common expenses assessed against each condominium unit shall also be a debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid common expenses may be maintainable by the Association without foreclosing or waiving the lien securing same.

Any encumbrancer holding a lien on a condominium unit may, but shall not be required to, pay any unpaid condominium expense payable with respect to such unit, and upon such payment such encumbrancer shall have a new lien on such unit for the amounts paid of the same rank as his original encumbrance.

25. Liability for Common Expense Upon Transfer of Condominium Unit. Upon payment of a reasonable fee not to exceed Twenty Dollars (\$20.00) and upon the written request of any owner or prospective owner, or any mortgagee or prospective mortgagee of a condominium unit, the Association, by its Managing Agent or Board of Directors, shall issue a

written statement setting forth the amount of the unpaid common expenses, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advance payments or for prepaid items, including but not limited to insurance premiums, which shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within thirty days of such request, all unpaid common expenses which became due prior to the date of the receipt of such request shall be subordinate to the interest, if any, acquired thereafter in good faith by the requesting entity.

Except as provided above, the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

26. Mortgaging a Condominium Unit - Priority. Any owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a condominium unit may create junior mortgages on the following conditions: (1) except as provided in Section 25, any junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses, and other obligations created by this Declaration and the By-Laws; (2) the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises,

all of its right, title and interest in and to the proceeds under all insurance policies upon said premises which were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished within ten (10) days by a junior mortgagee upon written request of the Association.

27. Destruction or Obsolescence of the Project. This Declaration does hereby make mandatory the irrevocable appointment of the Association as attorney-in-fact to deal with the property upon its destruction or obsolescence.

Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any owner shall constitute appointment of the attorney-in-fact herein provided. All owners irrevocably constitute and appoint the Association their true and lawful attorney in their name, place and stead for the purpose of dealing with the property, as is hereafter provided, upon its destruction or obsolescence. As attorney-in-fact, the Association, by its President and Secretary, shall have full and complete authorization, right and power to make, execute and deliver any contracts, deeds or other instruments with respect to the interest of any and all condominium unit owners which are necessary and appropriate to exercise the powers herein granted by this Section 30.

"Repair and reconstruction" of the improvements as used in the succeeding subsections means restoring the project to substantially the same condition in which it existed prior to the damage, with each unit and the general and limited common elements having the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of

repair, restoration or replacements unless the owners and all first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

(a) Damage Sufficiently Covered by Insurance. In the event of damage or destruction due to fire or other cause, and if insurance proceeds are sufficient to reconstruct the improvements, then the proceeds shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair and restoration of the improvements.

(b) Insufficient Insurance - Minor Damage. If the insurance proceeds are insufficient to repair and reconstruct the improvements, and if such damage involves less than forty percent (40%) of all of the condominium units, such damage or destruction shall be promptly repaired and reconstructed by the Association, as Attorney-in-fact, using the proceeds of insurance and the proceeds of an assessment to be made against all of the damaged units. Such deficiency assessment shall be a common expense and made pro rata according to each damaged unit's percentage interest in the general common elements, and shall be due and payable within thirty days after written notice to the owner of such damaged unit. The Association shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment.

(c) Insufficient Insurance - Major Damage. If the insurance proceeds are insufficient to repair and

reconstruct the improvements, and if more than forty percent of all of the condominium units are destroyed or seriously damaged, and if the owners representing an aggregate ownership interest of eighty percent (80%), or more, of the general common elements do not voluntarily, within one hundred (100) days thereafter, make provision for reconstruction, which plan must have the approval or consent of every first mortgagee, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary, the entire remaining premises shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Map and the By-laws. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each unit owner's interest (as such interests appear on the policy or policies), and such divided proceeds shall be paid into sixty separate accounts representing each condominium unit. Each such account shall be in the name of the Association, and shall be further identified by the number of the unit and the name of the Owner. There shall be added to each such account the apportioned amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon each condominium unit owner's percentage interest in the general common elements. The total funds of each separate account shall be used and disbursed by the Association, without contribution from one account to another, toward the partial or full satisfaction of the first mortgage, taxes and special assessments, unpaid

assessments by the Association, and junior liens against the unit represented by such separate account, in that order. Any remaining funds shall be paid to the owner of the particular unit.

If the owners representing an aggregate ownership interest of eighty percent (80%) or more, of the general common elements, adopt a plan for reconstruction, which plan has the unanimous approval of all first mortgagees, then all of the owners shall be bound by the terms and provisions of such plan. Any assessment made in connection with such plan shall be a common expense and made pro rata according to each owner's percentage interest in the general common elements and shall be due and payable as provided by the terms of such plan, but not sooner than thirty days after written notice thereof. The Association shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in Section 24.

(d) Obsolescence, Reconstruction. Owners representing an aggregate ownership interest of eighty-five percent (85%) or more, of the general common elements, may agree that the condominium units are obsolete and that the same should be renewed or reconstructed. Such agreement must have the unanimous approval of every first mortgagee. In such instance, the expense thereof shall be payable by all of the owners as common expenses; provided however, that any owner not agreeing to such renewal or construction may give written notice to the Association that such unit

shall be purchased by the Association for the fair market value thereof. If such owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencing date" from which all periods of time mentioned shall be measured. Within ten days following the commencing date, each party shall nominate in writing, and give notice of such nomination to the other party, an appraiser who shall be a Licensed Colorado Real Estate Broker and be qualified to make appraisals of condominiums and similar property in Mesa County, Colorado. If either party fails to make such nomination, the appraiser nominated shall, within five days after default by the other party, appoint and associate with him another similarly qualified appraiser. If the two appraisers designated by the parties, or selected pursuant hereto in the event of the default of one party, are unable to agree, they shall appoint another similarly qualified appraiser to be arbitrator between them, if they can agree on such person. If they are unable to agree upon such arbitrator, then he shall be selected from the panel of arbitrators of the American Arbitration Association. The decision of the appraisers as to the fair market value, or in the case of their disagreement, then such decision of the arbitrator, shall be final and binding. The expenses and fees of such appraisers or arbitrator or both shall be borne equally by the Association and the owner. The sale shall be consummated within fifteen days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds as is provided in subsection (c) of this section.

(e) Obsolescence - Sale. Owners representing an aggregate ownership interest of eighty-five percent or more, of the general common elements, may agree that the condominium units are obsolete and that the same should be sold. Such agreement must have the unanimous approval of every first mortgagee. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and secretary, the entire premises shall be sold by the Association, as attorney-in-fact, for all of the owners, free and clear of the provisions contained in this Declaration, the Map and the By-laws. The sales proceeds shall be apportioned among the owners on the basis of each owner's percentage interest in the general common elements, and such apportioned proceeds shall be paid into separate accounts representing each condominium unit. Each such account shall be in the name of the Association, and shall be further identified by the number of the unit and the name of the owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in subsection (c) of this section.

28. Consequences of Condemnation. If at any time during the existence of the condominium ownership pursuant to this Declaration all or any part of the property is taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance of condemnation, the Association will divide any condemnation award in accord with each owner's pro rata amount of loss or diminution in value, and distribute the award in the same order as is

provided in subsection (c) of Section 30. If as the result of any condemnation, one or more complete units are completely taken by the condemnor, then, after distribution of the condemnation award, those owners will cease to be members of the Association and lose all voting rights. Thereafter, the Association shall reallocate the ownership, voting rights, and assessment ratios in accord with the new pro rata shares of ownership.

29. Personal Property for Common Use. Prior to the termination by Declarant of all its ownership in any and all units, and after conveyance by Declarant of thirty (30) units, Declarant shall execute and deliver a bill of sale to the Association transferring all items of personal property, if any, furnished by Declarant and located on the Real Property and which is intended for the common use and enjoyment of the condominium unit owners and occupants. The Association shall hold title to such property for the use and enjoyment of the condominium unit owners and occupants. No owner shall have any other interest and right thereto and all such right and interest shall absolutely terminate upon the owner's termination of ownership of his condominium unit.

30. Mailing of Notices. Each owner shall register his mailing address with the Association and all notices or demands intended to be served upon any owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the owner at such registered mailing address. All the notices or demands intended to be served upon the Association shall be given by registered or certified mail, postage prepaid, to the address of the Association as designated in the By-Laws of the Association. All notices or demands intended to be served on mortgagees pursuant hereto shall be sent by either registered or certified mail, postage prepaid. Any notice referred to in this section shall be deemed given when deposited in the United States mail in the form provided for in this section.

31. Continuity. The separate condominium estates created by this Declaration and the Map shall continue until this Declaration is revoked in the manner and as is provided in section 20 of this Declaration or until terminated in the manner and as provided in subsection (c) and (e) of section 30 of this Declaration.

32. Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

33. Other Laws. The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Colorado and to all other provisions of law.

34. Construction. That whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, and plural the singular, and the use of any gender shall include all genders.

35. Continuing Obligation. All obligations of any owner, other than Declarant, under and by virtue of this Declaration, the Articles of Incorporation of the Association, and the By-Laws shall continue, notwithstanding that the owner may have conveyed his interest. However, an owner shall have no obligation for expenses or other obligations accruing after the conveyance of a unit.

36. Transferability. Any rights or interest reserved hereby to the Declarant may be transferred or assigned by the Declarant. This Declaration shall be binding upon the undersigned, its successors and assigns.

37. Modification. Declarant reserves the right to make modifications, additions or deletions in or to this Declaration prior to the conveyance of any unit.

38. Annexation. Declarant reserves the right to add lands to be annexed to Westwood. Such annexation will be accomplished by filing for record a Supplemental Declaration which declares such annexed lands to be governed by this Declaration.

39. Construction Loan. The property may be made subject to a construction loan or such other type of encumbrance as Declarant deems necessary to construct the project.

40. No Warranties. Declarant makes no warranties or other representations except as specifically set forth in this Declaration.

41. Unsold Units. Though Declarant contemplates the sale of one hundred percent (100%) of the units planned, Declarant reserves the right to retain unsold units and sell, lease or rent them without the approval of the Association so long as Declarant uses due care and diligence regarding the good character, habits, and general desirability of the tenants or purchasers.

42. Obligations of Declarant. At such time as Declarant has conveyed one hundred percent (100%) of the units originally owned by its, or Declarant's complete interest in the project, all Declarant's obligations under this Declaration, specifically including obligations, if any, to construct, maintain or repair, any building or other improvement, shall terminate completely.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration this 15 day of October, 1979.

T. L. BENSON, INC.

By T. L. Benson
T. L. Benson, President

ATTEST:

Marion J. Benson
Secretary

S E A L

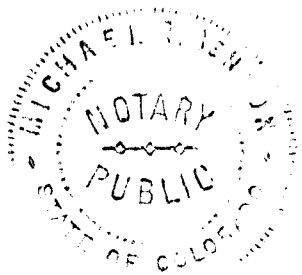
STATE OF COLORADO)
)ss.
COUNTY OF M E S A)

The foregoing instrument was acknowledged before me this 15 day of October, 1979, by T. L. Benson as President of T. L. Benson, Inc., and Marion J. Benson as Secretary of T. L. Benson, Inc.

WITNESS MY HAND AND OFFICIAL SEAL.

My Commission expires: 1/29/83

Michael R. Benson
Notary Public



REVIEW SHEET SUMMARY

FILE # 12-79

ITEM WESTWOOD PD-12 - PRELIMINARY

PC MEETING DATE _____

MCC/CC MEETING DATE _____

DATE REC.	COMMENTS	
2-15-79	CITY UTILITIES	No utilities or trash shown or addressed.
2-15-79	CITY POLICE	Difficult to read plan with no information to adequately understand development.
2-15-79	CITY PARKS	As I look at this plan there is no way I can effectively evaluate it properly with not knowing where they want to put various varieties. I will not approve until I have a plan I can tell something about.
2-16-79	G.J. DRAINAGE	Severe seep condition. Proper drainage will have to be installed before safe development can be accomplished. Have engineers contact Mr. Tilton and Mr. Bob Henderson from Grand Valley Irrigation to work out plan.
2-16-79	GRAND VALLEY IRRIGATION	The legal descriptions from this plat seem to leave Grand Valley Irrigation Co. ROW intact except on the South West area where the Main Line Canal crosses an undershot. Does not show how this major wash area will be handled in relation to the canal structure. The East area of this property has been historically wet from seepage which should be taken care of in some manner before any building is done. The Grand Valley Irrigation is willing to negotiate and work with the proper entities to a solution to this problem.
2-16-79	CITY ENGINEER (MCKEE)	Entrance should have good sight distance onto Horizon Drive, in accordance with the current speed limit. (Approx. 580')
2-16-79	CITY ENGINEER (RISH)	(1) This submittal is incomplete. No dimensions shown on parking lots, spaces, roadways or entrance to Horizon Drive. No drainage information shown (proposed containment structures such as curbing, gutters, catch basins; no hydrologic or hydraulic data submitted; no statement about impact of storm runoff on properties downstream; no delineation and statement about 100 year flood inundation (Note: This project is right in the designated 100 year flood plain). I am not able to properly review this submittal because it is so incomplete. Petitioner should check submittal requirements.
2-16-79	MOUNTAIN BELL	Require utility easements as shown in red on plat with the perimeter easements being fifteen (15) feet in width and the interior easements being ten (10) feet in width.
2-16-79	PUBLIC SERVICE	Gas & Electric: Developer should contact P.S.Co. engineering regarding meter locations before easement requirements can be determined.

2-22-79

CITY FIRE

Submit plan of proposed water system improvements for fire protection and proposed hydrant placement (8" Ute in 7th St.).

COMPREHENSIVE PLANNER

No objection to the gross density or multi-family concept. However, site will require detailed floodplain evaluation by professional hydrologist or hydrological engineer. This evaluation should demonstrate whether any proposed alteration or constraint of the floodplain will have unfortunate implications for either downstream or upstream properties. Site design must preserve the efficiency and capacity of Horizon Wash to transmit and discharge floodwaters, as well as the capacity of the floodplain to absorb floodwaters.

DESIGN & DEVELOPMENT PLANNER

Due to incompleteness of submittal, staff recommends referral to the regularly scheduled meeting of 3/27/79 for a decision on the Preliminary Plan.

REVIEW SHEET SUMMARY

FILE # 12-79

ITEM WESTWOOD PD-12 - Preliminary

PC MEETING DATE _____

MOC/CC MEETING DATE _____

<u>DATE REC.</u>	<u>COMMENTS</u>	
3-16-79	CITY UTILITIES	No utilities shown.
3-16-79	CITY ENG/RISH	<ol style="list-style-type: none"> 1. I assume there are to be no public streets internally. 2. The right of way for Horizon Drive is not shown. 100 ft. right of way is appropriate. Power of attorney for full street improvements on Horizon Drive should be obtained. 3. I don't understand the 15' perimeter easement with gravel walks. Will the City be responsible for those walks? 4. A 7' x 5' culvert outlet is shown but nothing is indicated thru the property showing how this major drainway will be accommodated. If they are implying a 7' x 5' culvert will be built, it should be shown with access points (if any) and proximity to buildings. It looks like part of it is in open channel, maybe. No hydrologic or hydraulic data was received so I can offer no opinions on the adequacy of storm drainage facilities. Will the City be responsible for maintaining the drainway structure(s) and will easements be provided? 5. Only one access to Horizon Drive is shown. I count 121 parking stalls. A second access may be advisable for circulation. 6. The name(s) of the surveyor and/or engineer preparing the plat is not shown as required. 7. Drainage calculations should show what may happen when all that hard-surface area runoff gets to that "catch basin" at the main entrance (per General Note #2).
3-16-79	CITY FIRE	Not enough access into property, no defined street just a series of parking spaces. No access to back of buildings.
3-16-79	CITY PARKS	We need landscaping plan.
3-26-79	G.J. DRAINAGE	Mr. Benson has agreed to tile property so when we get the agreement signed we will okay plat final.
3-26-79	MOUNTAIN BELL	Easements as shown are adequate. However, we feel they should be labeled as UTILITY easements
3-27-79	PUBLIC SERVICE	Gas & Electric: no objections. Do not require easements as shown on plat. Will get an exhibit type easement at time of construction.
3/27/79	COMPREHENSIVE PLANNER	No alteration or construction of Horizon channel should be allowed without hydrological study.
3/27/79	DESIGN & DEVELOPMENT PLANNER	With the submittal of the letter by Mr. Benson responding to review comments, the only comment outstanding pertains to the hydrological study requested by City Engineer. Recommend approval with hydrological data to be submitted with final plan and subject to all review comments except request for second access.

GJPC RIDER/PICKENS PASSED 5-0/A MOTION TO RECOMMEND APPROVAL OF THE REZONE TO THE CITY COUNCIL. RIDER/PICKENS PASSED 5-0/A MOTION TO RECOMMEND APPROVAL OF THE PRELIMINARY DEVELOPMENT PLAN TO THE CITY COUNCIL, SUBJECT TO STAFF AND REVIEW SHEET COMMENTS, BUT RECOMMENDING THAT A SECOND ACCESS ON HORIZON DRIVE IS NOT NECESSARY BECAUSE THE CANAL ROADS SURROUNDING THE SUBJECT PARCEL CAN BE USED FOR EMERGENCY ACCESS.

REVIEW SHEET SUMMARY

FILE # 12-79

DATE SENT TO REVIEW AGENCIES 5-7-79

ITEM: Westwood - Final

DATE DUE 5-18-79

PC MEETING DATE _____

HCC/OC MEETING DATE _____

<u>DATE REC.</u>	<u>AGENCY</u>	<u>COMMENTS</u>
5-16-79	GRAND JUNCTION FIRE	Estimated F.F. = 3000 GPM. An 8" dead-end system is not recommended for supply in more than two hydrants (4 shown on plan). The proposed water system probably will not supply estimated required fire flow. The number of hydrants is adequate.
5-16-79	GRAND JUNCTION DRAINAGE	Okay
5-16-79	CITY UTILITIES	Consideration might be given to providing additional trash containers and pickup sites. With only two there could be occasions when they are overfilled causing trash to spill over on to ground.
5-17-79	PARKS AND RECREATION	In the notes recommended, substitute Cottonless Cottonwood is Hackberry-Celtis occidentalis 2" cal B&B. Hackberry has a tap root and trees over 1" caliber are extremely touchy about being trans or replanted. Wayfaring Tree - Viburnum Lantana should be considered as a substitute for Arrow-wood-Viburnum dentatum; it tolerates dry and calcareous soils. It has approximately the same growth characteristic. In the north-west corner of the development is an area noted as "native grass area." It would be good to note the species represented or to be planted there. Arctic Willow likes wet soils; this would seem undesirable to have these conditions next to the foundation of the building; see blow-up of typical 12 unit
5-18-79	GRAND VALLEY IRRIGATION	Refer: Dedication of utilities. The Grand Valley Irrigation Co. canal system borders the east and west of Westwood. These R.O.W. are improperly labeled. The west R.O.W. line should be labeled Grand Valley Irr. Highline canal. The east R.O.W. line should be Grand Valley Irr. Mainline canal. Where the mainline canal & wash intersect (east side) is a major spill point for delivery of water. Have discussed this matter with developer and he has assured us of a 20' additional easement at this location. Must have this so stated on the final dedication.

GJPC 5-29-79

Recommend approval subject to staff and review comments.

GJPC 5-29-79

RIDER/FLAGER/PASSED 6-0/A MOTION TO RECOMMEND APPROVAL OF THE FINAL PLAT TO THE CITY COUNCIL.

FLAGER/MIKESELL/PASSED 6-0/A MOTION TO RECOMMEND APPROVAL OF THE FINAL DEVELOPMENT PLAN TO THE CITY COUNCIL, SUBJECT TO STAFF AND REVIEW SHEET COMMENTS.

CITY COUNCIL 4-18-79

MOVED BY COUNCILMAN HOLMES AND SECONDED BY COUNCILMAN O'DWYER THAT THE PROPOSED ORDINANCE BE PASSED FOR PUBLICATION.

City County Development Department,

The original Preliminary site plan of Westwood submitted to the Feb. 27, 1979 Planning Commission hearing prompted a number of comments. The commenters indicated the need for further and more detailed information in order to evaluate Westwood properly. The following is a summary of the work being done with the involved entities to complete the plans for Westwood.

On Feb. 28, 1979 the petitioners met with Mr. Bob Henderson of Grand Valley Irrigation Co. and Mr. Charles Tilton of Grand Jct. Drainage District about the seep condition on the property. Plans for a french drain at the west south and east perimeters of Westwood were discussed. It has been agreed that T. L. Benson, Inc. will supply the materials and Grand Jct. Drainage District will install the drainage system, but only after an initial ditch has been dug and checked for effective seep control.

After a telephone conversation with Mr. J. C. Kilmer of Mountain Bell, that company provided the petitioners with easement requirements. The utility easement at the perimeter (and the interior shoots) of Westwood as shown on the current site plan fulfills the telephone company's needs.

On March 1, 1979 this petitioner met with Mr. Ruben Lozano and associates of the Public Service Co. to discuss water and power easements. A blanket easement was requested and will be provided if no more specific delineation is necessary. The cable T V line will be run within the electrical easement as per the suggestion of Mr. Ray Deveroe of Comtronics Cable T V.

At the Feb. 27, 1979 Planning Commission hearing a question was raised about the number of corners on the street providing access to the west side of Westwood. Also, after meeting with Mr.

Bill Reeves of the Sanitation Dept. on March 7, 1979 the accessibility of this street for trash removal was found to be inadequate. Since then the street has been redesigned. The 90 degree corners have been removed and a turn-around has been added to provide adequate access for trash removal and emergency vehicles.

Mr. R. T. Mantlo the Fire Chief met with this petitioner on March 22, 1979. He was shown a sketch of the new street layout and informed that Western Engineers Inc. is planning the fire hydrant placement. Mr. Mantlo stated his requirement for access to the off-street side of the buildings. Enlargement and sturding of the proposed walkway to handle fire fighting equipment at the south and north edges of the property and using the existing canal service roads will take care of this need.

On March 21, 1979 Mr. Rish of the City Engineering Dept. met with the petitioners to discuss his comments. He was informed that internal streets will be private and that the development will be maintained from within. Mr. Rish asked for an explanation of what could happen to Westwood and downstream at the time a 100 year flood flows through the Independent Ranchman's Ditch. He asked about the affects of storm runoff on the drainage system. And, he required specifications on the structures involved in drainage and water channelling, i.e. the culvert at the entrance. Western Engineers Inc. has been notified of these requirements and is now working to provide the necessary information. Mr. Rish was informed that the same engineers are also designing sewer and water systems for Westwood. At this meeting the 100 year flood plain contours shown on the current site plan were found to be correct.

Mr. Ken Idleman of the City Parks and Recreation Dept. met with this petitioner on March 22, 1979. He made suggestions about

the size of new trees, the plant types that are well suited to the area, and those types that are ill-suited. The varieties of trees to be avoided were named. All of his suggestions will be implemented on the new landscape plan being designed by a professional Landscape Architect out of Salt Lake City.

As is apparent, this cooperative work that has and is being done serves to complete the Preliminary plans of Westwood.

Michael R. Benson

M. R. Benson - (by 1958)

City
County
Development
Department

CITY OF GRAND JUNCTION—MESA COUNTY—COLORADO 81501
559 WHITE AVE.—ROOM 60—DIAL (303) 243-9200 EXT. 343

April 2, 1979

Mr. Michael Benson
3112 Northridge
Grand Junction, Co 81501

RE: File # 12-79 ✓
Westwood

Dear Sir:


The item referenced above was approved by the Grand Junction Planning Commission on March 27, 1979. This item will be heard before the Grand Junction City Council on April 18, 1979.

Conditions, restrictions or special requirements placed on this approval are as follows:

1. Staff and review comments except for request by City Engineer concerning second access. (Comments are on file in our office.)

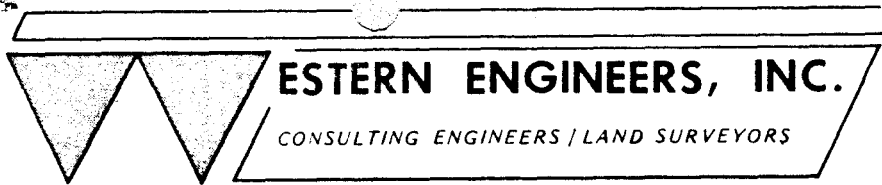
Please contact our office if you have any questions concerning this item.

Sincerely,



Karl Metzner
Senior Planner
Design/Development

cc T.L. Benson
925 Lakeside Court
skd



May 16, 1979

Mr. T.L. Benson
3154 Lakeside Drive, Number 101
Grand Junction, Colorado 81501

Gentlemen:

This letter is to summarize our soils investigation findings to date at the Westwood Subdivision. All of the field work has been completed along with the bulk of the laboratory work. We have yet to complete a few of the laboratory tests, fully analyze the test results, and summarize our findings in a report. However, we have obtained sufficient data to present our findings generally.

The site is presently a somewhat low area located east of the intersection of 7th Street and Horizon Drive. This site is bounded by canals on the east, west, and south and by Horizon Drive channel and Horizon Drive on the northeast. The area shows evidence of some previous irrigation and has been used as pasture. Seepage from the canal which runs along the south-east of the property is evident in this area of the site, with some seepage water daylighting on the surface, resulting in marshy areas.

The soil found at the site is evidently derived from erosion of the Bookcliff pediments and consists of a sandy clay. The consolidation characteristics of the soil gives evidence that the soil has undergone very little natural consolidative forces. This sand clay soil is predominately saturated and extends to depths ranging from 11 feet to 20 feet in the drill holes. The Mancos Shale formation underlies this saturated overburden and exhibits a weathered and decomposed zone up to 3 feet in thickness. The phreatic or ground water surface was found quite variable from 2 to 7 feet below the existing ground surface with the higher measured water surfaces occurring near the canal as would be expected. Ground water levels can be expected to fluctuate seasonally due to the seepage contribution by the canals.

The extremely poorly consolidated nature of the upper sand-clay soil, results in a very high settlement potential under loads. A settlement potential analysis was performed on this soil, using the data from the consolidation tests. The results of the analysis indicated that with design

-1-

2150 HIWAY 6 & 50

P. O. BOX 571

GRAND JUNCTION, COLORADO 81501

PHONE 242-5202

wall loads of 2,000 lbs./lin. ft. or less, the soil will safely support no more than 300 PSF, an unusually low bearing capacity. With firm Mancos Shale so close to the surface, the safest, most practical, and probably most economical method of support for structure loads would employ piling driven to the shale. The poor load bearing characteristics of the soil presents potential problems for any loads imposed on it, including floor slabs. Two main alternatives are acceptable for floor support:

- 1.) Support floors only on the piling-grade beam foundation. This can be accomplished by using strictly a joist framing system for all floors or by using a structural slab for ground-level floors which is integral with the foundation and which does not rely at all on the soil for support.
- 2.) The floor slab can be designed to act independent of all major load bearing foundation elements. This will not prevent movement of the floor slab, but will prevent this movement from being transferred to major foundation and structural elements. The entire structure must be designed on the basis that floor slab movement will occur. Some cracking will occur in the slab due to differential movement of the supporting soil unless the slab is rigidly designed. A settlement analysis of floor slab loads indicate a potential for .75 inch of movement under 100 PSF (approximately the weight of the concrete and base material). Slab settlement potential increases up to about 1.75 inches at a loading of 300 PSF.

The soil bearing characteristics may be enhanced to a certain extent by providing some subsurface water drainage to intercept seepage from the canal. Lower level building areas will not be practical in some areas of the site without providing subsurface drainage. When designing subsurface interceptors, several items should be considered:

- 1.) Full interception of the canal seepage water can only be accomplished by extending drains to the shale. Partial depth ground water interceptors will draw down the ground water level in the vicinity of the interceptor line, but seepage forces will force ground water under the drains and back up to a level somewhat higher than the bottom of the drain or to the existing phreatic surface. Full depth interception of seepage at this site is impractical due to the difficulty of excavating to and providing drainage at the 17 to 20

foot depth. If drawdown of the ground water level to a certain elevation is absolutely essential, a series of drain trenches may be considered.

- 2.) Drainage of these clayey soils is a very slow process, and lowering of the soil saturation level may take a period of years.
- 3.) As the saturation level is drawn down, the decrease in the soil pore water pressures will in itself, result in a minor amount of settlement.

All subgrades for slabs supported by the upper soil and for asphalt pavements will require stabilization. In most areas, subgrade compaction will be impractical. Stabilization can be accomplished by use of a granular material worked into the soil and compacted prior to placing the structural section or by using a filter fabric mat in conjunction with the structural section. A preliminary pavement analysis indicates that a typical 2-4-6 structural pavement section with filter fabric would adequately support traffic loads whereas subgrade stabilization would require 10 to 12 inches of pit run gravel to provide an adequate section in conjunction with the 2-4-6 structural section.

Excavation below the soil saturation level may require special precautions due to soil instability below that level.

The previous discussion generally encompasses the main problems and considerations at the site. The more comprehensive report will be shortly forthcoming as testing and analysis is completed.

Submitted by:

WESTERN ENGINEERS, INC.,



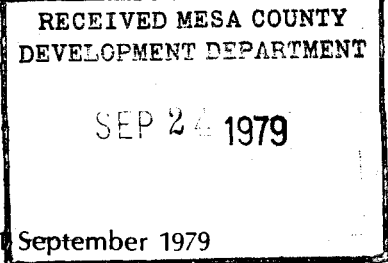
Bruce D. Marvin, P.E.

BDM/dc



REPLY TO
ATTENTION OF
SPKCO-O

DEPARTMENT OF THE ARMY
SACRAMENTO DISTRICT, CORPS OF ENGINEERS
650 CAPITOL MALL
SACRAMENTO, CALIFORNIA 95814



PUBLIC NOTICE NO. 6894

TO WHOM IT MAY CONCERN:

Application has been made to this office by New Horizons Foursquare Church, 641 Horizon Drive, Grand Junction, Colorado 81501, for a Department of the Army Permit to place fill in a natural drainage ditch and adjacent wetland, in Grand Junction, Mesa County, Section 2, Township 1 South, Range 1 West, Colorado, as shown on the attached drawings.

New Horizons Foursquare Church is proposing to modify approximately 225 feet of the drainage channel and wetland areas, and to place 155 cubic yards of fill material covered by an additional 30 cubic yards of heavy riprap below the ordinary high water elevation.

The applicant has applied to the Colorado Department of Health, Water Quality Division, for certification of the project.

The latest published version of the National Register of Historic Places and its monthly supplements have been reviewed and there are no places either listed or recommended as eligible which would be affected. Presently unknown cultural resources may be located in the permit area. The proposed activity would not affect any threatened or endangered species or their critical habitat. The District Engineer has made this determination based on information provided by the applicant and on the Corps' preliminary evaluation.

Interested parties are invited to submit written comments on or before **22 October 1979**. Any person may request, in writing, within the comment period specified in this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

A permit issued by the Department of the Army does not give any property rights either in real estate or material or any exclusive privileges and does not authorize any injury of private property or invasion of private rights, or any infringement of Federal, State or local laws or regulations, nor does it obviate the necessity of obtaining State or local assent to the work authorized.

The decision whether to issue a permit will be based on an evaluation of the impact of this activity on the public interest under authority of **Section 404** (33 USC 1344) of the Clean Water Act as amended (33 USC 1251 et seq). Evaluation will include application of guidelines set forth by Administrator, EPA, under authority of the act (40 CFR Part 230.5). That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest. Based on our preliminary evaluation, there will be no significant environmental impacts. Therefore, we do not anticipate that the preparation of an Environmental Impact Statement will be required.

1 Inclosure
2 Drawings

PAUL F. KAVANAUGH
Colonel, CE
District Engineer

INDEPENDENT RANCHMEN'S DITCH ENCROACHMENT-RECHANNELIZATION

NEW HORIZON'S FOURSQUARE CHURCH

GRAND JUNCTION, COLORADO

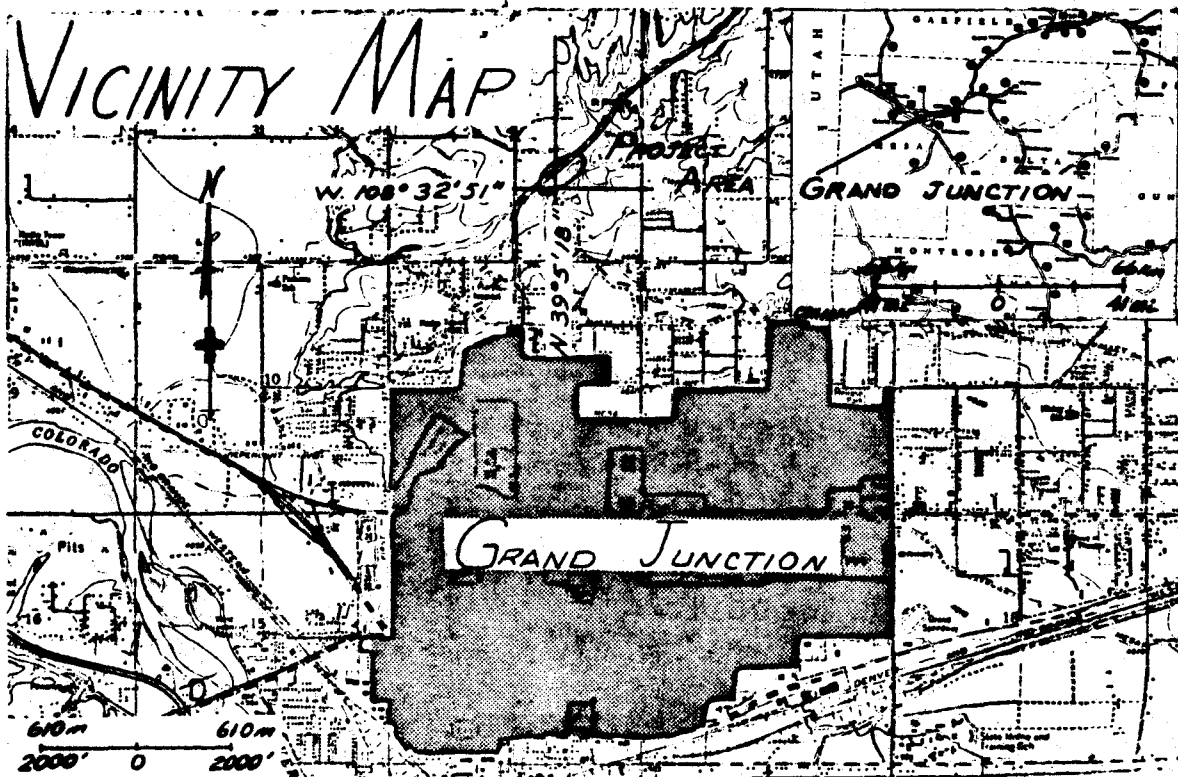
This project will consist of two main parts. The first part will be the filling and leveling of approximately 500 feet of land adjacent to and above the Independent Ranchmen's Ditch to accommodate future construction of residential housing (apartments). The second portion of the project will consist of rechannelizing about 225 feet of the Ditch near the fill area to accommodate the toe of the fill.

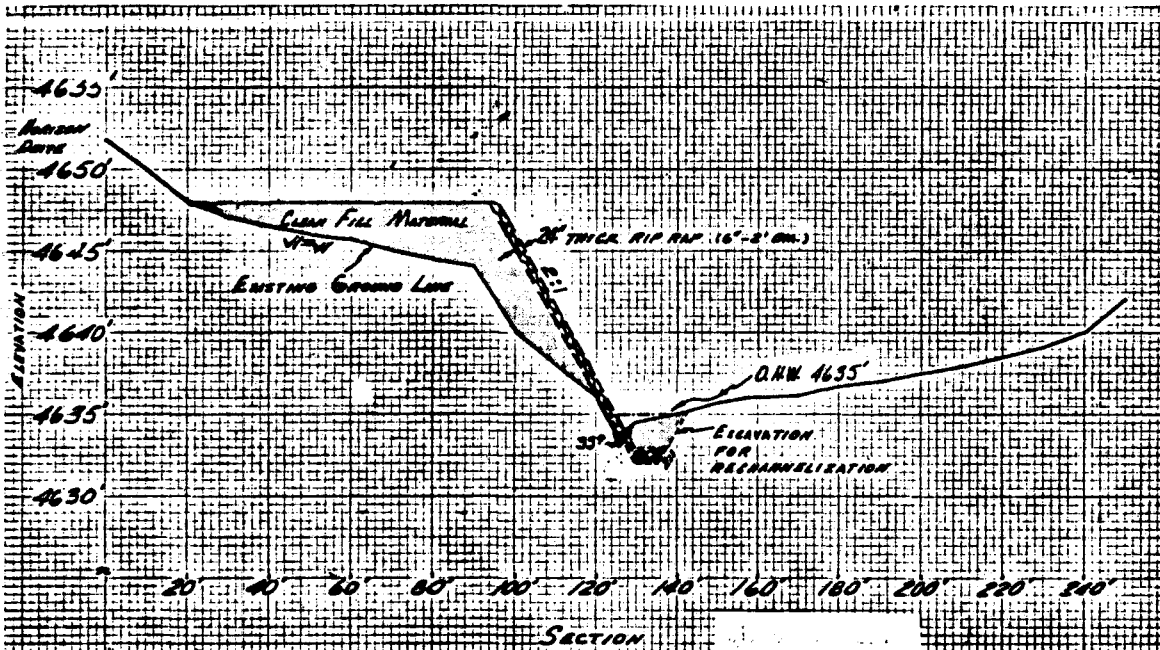
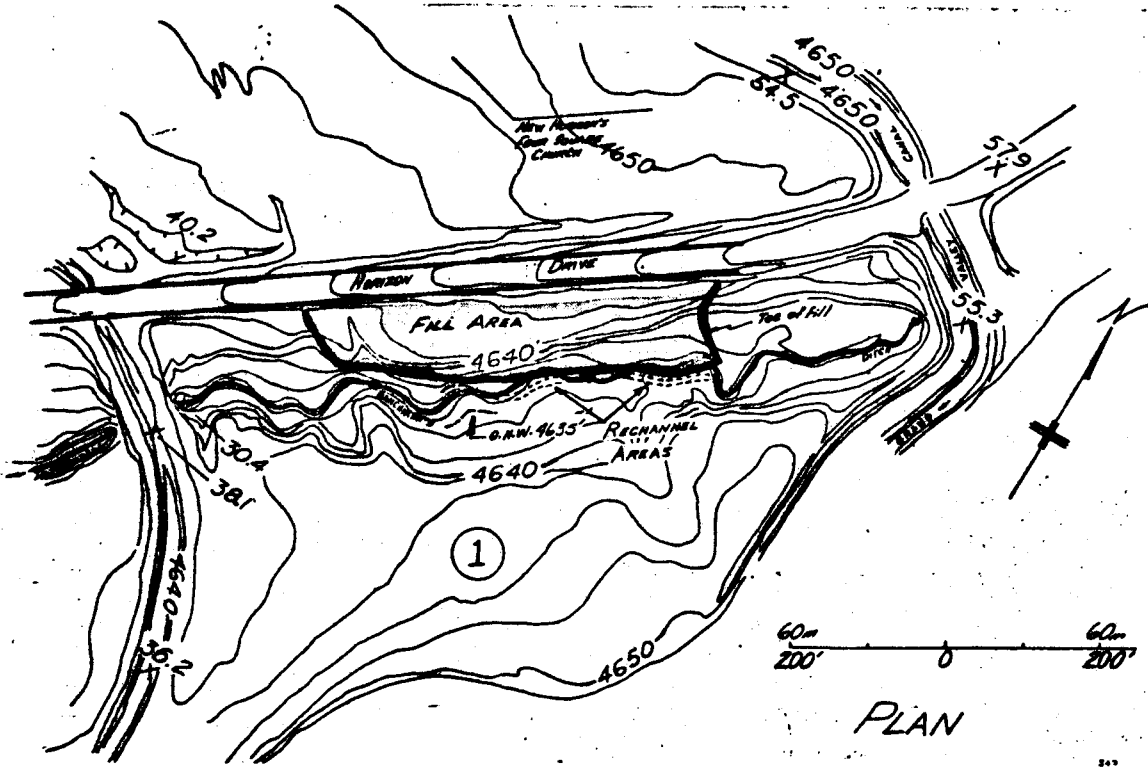
The bulk of the work to be done will not be within the limits of the Ditch. Approximately 155 cubic yards of clean fill material and 30 cubic yards of heavy rip rap will be placed below ordinary high water; much of the fill material will be obtained from the excavation of the new channel.

The work to be accomplished on this project will be done in an area which has previously been disturbed. Approximately 50 percent of the work has already been completed. There has been no encroachment upon the Ditch at this time.

The area adjacent to the project area is a wetland fed by the drainage Ditch. Typical freshwater marsh and riparian vegetation is common to the adjacent wetland (e.g., *Cattails-Typha spp.* and *Tamarisk-Tamarix spp.*). Some animal life has also been observed (e.g., passerine birds and small mammals). The main portion of this wetland lies to the south, west, and east of the project area; therefore, with the exception of the small encroachment and channelization area, the wetland habitat will not be affected.

All work on the project will be carried out with standard excavation equipment, and every effort will be made to keep the equipment out of the Ditch and adjacent wetland.





Purpose: Provide level site for future construction.
 Datum: Mean Sea Level
 Adjacent Property Owners: (1) Tom Benson

To: Independent Ranchmen's Ditch
 At: 641 Horizon Drive- Grand Junction, Colorado
 County: Mesa State: Colorado
 Application By: New Horizon's Four-square Church

City
County
Development
Department

CITY OF GRAND JUNCTION—MESA COUNTY—COLORADO 81501
559 WHITE AVE.—ROOM 60—DIAL (303) 243-9200 EXT. 343

September 25, 1979

Department of Army
Sacramento District Corps of Engineers
650 Capitol Mall
Sacramento, California 95814

Re: Public Notice No. 6894 - Permit to fill and rechannel drainage way


Dear Sirs,

In response to your public notice 6894 you should be aware that a residential project has received final approval on land owned by Mr. T.L. Benson immediately adjacent to the proposed fill/rechannelization area. At the time of processing and approval of the residential project a floodplain analysis including hydrological study was done on the drainage way to insure that there would be no adverse effect of the floodplain on the project or adjacent areas. Any filling or rechannelization of the drainage way should not adversely impact the development right of the approved residential project. It also seems that some portions of the existing channel are on the property owned by Mr. Benson. I question how the rechannelization will affect those portions of channel not on the petitioner's property.

I noted that the information given was that an apartment complex was planned for the site. You should be aware that the existing zoning on the subject property is for single family residential units on one acre minimum sites. No application or commitment for zoning change has been made. It should also be noted that any filling, excavation, or rechannelization in a floodplain area requires a Mesa County Floodplain Permit prior to commencement of any activity in the channel as per the regulations adopted in accordance with the regular phase of the National Flood Insurance Program. As of this date no such application has been made.

Enclosed are copies of the approved development plan for "Westwood" and the floodplain/hydrological information which was submitted with that project.

Sincerely,


Karl G. Metzner
Senior Planner

cc: Four-Square Horizons Church
Rodney Woods - Local Corps of Engineers
Ron Rish
T.L. Benson
Grand Valley Irrigation

Enclosure: Development Plan Westwood
Flood Plan/Hydrological Analysis for Westwood

DEVELOPMENT SCHEDULE: Westwood will be constructed as a one stage continuous project. The construction will hopefully begin at the end of May 1979 and the development will be completed in approximately three years, about May 1982.

ADJACENT PROPERTY OWNERS' NAMES AND ADDRESSES:

New Horizons Foursquare Church
641 Horizon Drive Grand Junction

St. Paul Evangelical Lutheran Church
632 26 $\frac{1}{2}$ Road Grand Junction

Nick H. & Helen C. Mahleres
612 26 $\frac{1}{2}$ Road - Grand Junction

William G. & Colleen M. Bush
619 Viewpoint Drive Grand Junction

B. A. & E. M. Kellogg
620 Viewpoint Drive Grand Junction

Miland Dunivent - Pres. of Lakeside Subdivision Homeowners Assoc.
961 Lakeside Drive #204 Grand Junction

MEMORANDUM

Reply Requested

Date: 8.28.80

YES NO

To: JIM WISOCKI _____

From: Charly ray _____

RE: THE HORIZON DRIVE CHANNEL @ WESTWOOD

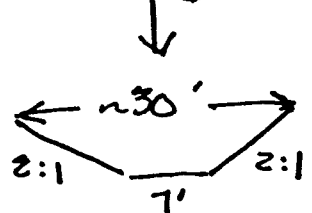
JIM.....

I MADE A TRIP OUT TO WESTWOOD SUBDIVISION YESTERDAY TO CHECK ON THE HORIZON DRIVE CHANNEL AND CONSTRUCTION AFFECTING IT.

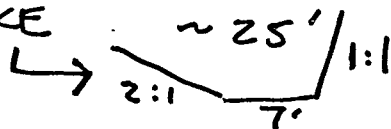
FROM JUST A VISUAL INSPECTION, IT APPEARS THAT BOTH WESTWOOD AND "THE FOUR-SQUARE OPERATION" OPPOSITE ARE IMPACTING THE CHANNEL.

SPECIFICALLY:

- IT LOOKS AS THOUGH RECENT FILL HAS SLID INTO THE CHANNEL NORTH OF THE ENTRANCE ROAD AND...
- PROPOSED CROSS-SECTIONS SOUTH OF THE ENTRANCE ARE BEING ALTERED
i.e. THE PROFILE SUBMITTED LOOKED LIKE



IT'S NOW MORE LIKE



WHILE NOT CRITICAL (YET) THE SITUATION IS WELL WORTH MONITORING.

OTHER POINTS OF INTEREST

- THE FILL PUT IN BY THE FOUR-SQUARE CHURCH WAS SUPPOSED TO BE "CLEAN"
ASPHALT & BROKEN SEWER PIPE?
- THE IMPACT OF THIS FILL IS AS MUCH VISUAL AS ANYTHING RIGHT NOW - AND THE RIP-RAPPING TO COVER THIS EYE SORE WILL ALMOST CERTAINLY ENCROACH ON THE EXISTING CHANNEL.