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File 1980-0023
Date 4/17/01

Project Name: Horizon Towers – Final Plat

P r e s e n t	S c a n n e d	<p>A few items are denoted with an asterisk (*), which means they are to be scanned for permanent record on the ISYS retrieval system. In some instances, not all entries designated to be scanned are present in the file. There are also documents specific to certain files, not found on the standard list. For this reason, a checklist has been included.</p> <p>Remaining items, (not selected for scanning), will be marked present on the checklist. This index can serve as a quick guide for the contents of each file.</p> <p>Files denoted with (***) are to be located using the ISYS Query System. Planning Clearance will need to be typed in full, as well as other entries such as Ordinances, Resolutions, Board of Appeals, and etc.</p>			
X	X	*Summary Sheet – Table of Contents			
		Application form			
		Receipts for fees paid for anything			
		*Submittal checklist			
		*General project report			
		Reduced copy of final plans or drawings			
		Reduction of assessor's map			
		Evidence of title, deeds			
X	X	*Mailing list			
		Public notice cards			
		Record of certified mail			
		Legal description			
		Appraisal of raw land			
		Reduction of any maps – final copy			
		*Final reports for drainage and soils (geotechnical reports)			
		Other bound or nonbound reports			
		Traffic studies			
		Individual review comments from agencies			
		*Consolidated review comments list			
X	X	*Petitioner's response to comments			
		*Staff Reports			
		*Planning Commission staff report and exhibits			
		*City Council staff report and exhibits			
		*Summary sheet of final conditions			
		*Letters and correspondence dated after the date of final approval (pertaining to change in conditions or expiration date)			
<u>DOCUMENTS SPECIFIC TO THIS DEVELOPMENT FILE:</u>					
X	X	Action Sheet	X	X	Memo from Planning Commission to Participants in Public Hearing re: follow-up to public hearing-4/12/83
X	X	Review Sheet Summary	X	X	Decaration of Grants, Covenants, Conditions, and Restrictions
X	X	Letter from Roy "Andy" Anderson to Paul Penner re: pre-final inspection-12/28/84	X	X	Articles of Incorporation and Bylaws
X	X	Letter from Al Robinson to Ted Haberman, Penner Management, re: response to comments – 5/18/83	X	X	Ordinance No. 1888
X		Flood Plain Permit	X	X	Planning Commission Minutes – ** - 7/15/80, 5/26/81, 6/30/81
X		Power of Attorney	X	X	Letter from Sue Drissel to William Boll re: voted to recommend approval of petition for zoning – 5/1/80
X		Warranty Deed	X		Legal Description
X	X	Letter from Lowell Lester, Gingery Assoc., Inc. to Mr. Bright re: preliminary plan – 1/5/81	X	X	Preliminary Plan and Zone Change Request –4/80
X	X	Letter from William Lovett, Chief, Operations, Procedures and Airspace Branch to Paul Penner re: federal aviation comments 6/17/81	X		Fire Flow Survey – 6/3/83
X	X	Letter from Jeff Ollinger to Karl Metzner re: amendment to final plan – 5/3/83	X		Letter form Bob Goldin to Loren Funk re:extension request – 6/25/82

Horizon Ventures Corp.
P. O. Box 2931
Grand Junction, CO. 81501
#23-81

Destination Properties, Inc.
825 Rood Avenue
Grand Junction, CO. 81501
#23-81

Jack L. Walker
961 Lakeside #201
Grand Junction, CO. 81501
#23-81

William E. Foster
1701 Orchard Avenue
Grand Junction, CO. 81501
#23-81

Sirous Saghatoleslami
P. O. Box 8080
Aspen, CO. 81611
#23-81

St. Nicholas Hellenic Orthodox
Church
661 27 Road #23-81
Grand Junction, CO. 81501

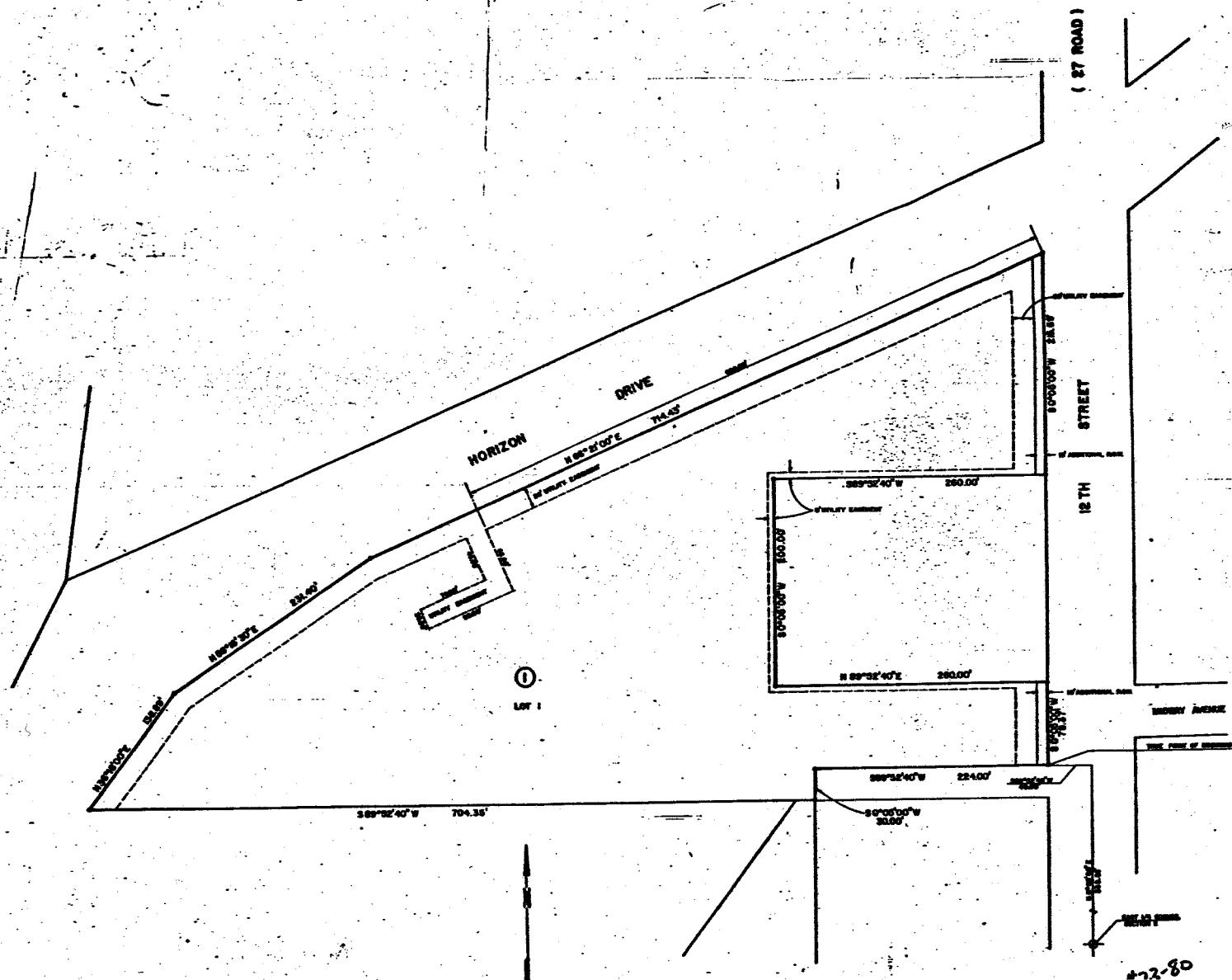
William E. Bell
Suite 320, Valley Federal
Grand Jct CO
81501

Penner - Frantz + Co
1795 W. Warren
Englewood, CO

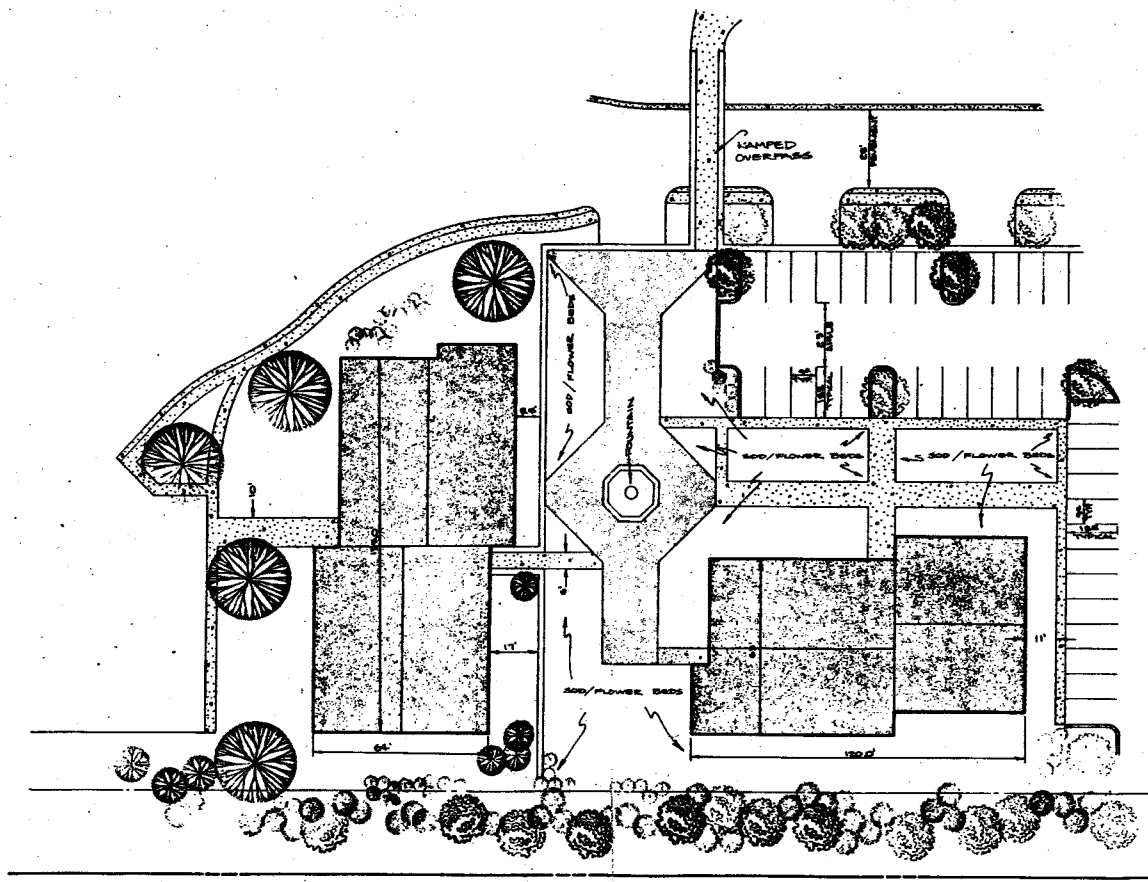
Gingery Associates, Inc
1310 Uto Avenue
Grand Jct. CO 81501

HORIZON TOWERS

SHEET 2 OF 2



Preliminary Plan For:
HORIZON TOWERS



- PLANTS REPRESENTED IN SYMBOLS WOULD BE SELECTED FROM THE FOLLOWING GROUPS:
- SHADE TREES (2" CALIPER OR LARGER)
 - GLEDITSIA SPECIES (THORNLESS HONEY LOCUST)
 - FRAXINUS SPECIES (ASHES) - TILIA SPECIES (LINDENS)
 - CLADAPANUS SPECIES (RUSSIAN OLIVE)
 - PLATANUS SPECIES (Sycamore)
 - SPECIMEN TREES (2" CALIPER OR LARGER)
 - CERCIS SPECIES (REDBUD) - PINUS SPECIES (PINE)
 - CRATAEGUS SPECIES (HAW THORN)
 - PRUNUS SPECIES (STERILE VARIETIES ONLY)
 - JUNIPERUS SPECIES (UPRIGHT JUNIPER)
 - KOELREUTHERA (GOLDEN RAIN TREE)
 - SORBUS SPECIES (MOUNTAIN ASH)
 - FLOWERING SHRUBS
 - SYRINGA SPECIES (LILACS) - FORSYTHIA SPECIES
 - BERBERIS SPECIES (BARBERRY) - POTENTILLA SPECIES
 - NON-FLOWERING SHRUBS (CORNUCOPULA)
 - JUNIPERUS SPECIES (PROSTRATE & MEDIUM JUNIPERS)
 - PINUS SPECIES (ROUND PINES)

DETAIL PLAN AROUND STRUCTURES
 AND LANDSCAPING DETAIL

old plan?

Preliminary Plan For: HORIZON TOWERS

OWNED & DEVELOPED BY: William E. Bell, Professional Investment Properties,
1919 Federal Plaza, Suite 320, Grand Junction, Colo. 81501
Phone: 243-2300

SHOULD'S (SREBAAJIA SAAAMOLEPLAM)
710 1/2 W. 10th
DENVER, CO. 80202

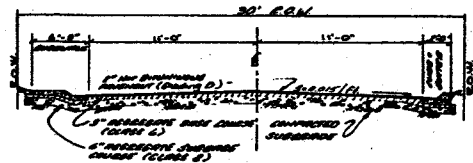
Owner: William E. Foster
1701 Orchard Avenue, City

Owner: Jack L. Miller
761 Lakewood - 201, City

Owner: William E. Every
1435 27 Street, City

Owner: Mirna E. Every
638 27 Street, City

574 Corner
Section 2
T.10, S.10, S.M.



30' EDDOWAY SECTION

Total Area = 5.1 Acres
Average ic = 15 minutes
C₁ = 8.00 developed
C₂ = 0.10 historic
of = 1.25 (100 year)
I₂ = 1.0
I₁₀₀ = 3.5

Developed:
Q₂ = 5.1 x .8 x 1.4
Q₂ = 5.7 cfs

Q₁₀₀ = 5.1 x .8 x 1.25 x 3.5
Q₁₀₀ = 16.3 cfs

Historic:
Q₂ = 5.1 x .3 x 1.4
Q₂ = 2.1 cfs

Q₁₀₀ = 5.1 x .3 x 1.25 x 3.5
Q₁₀₀ = 6.3 cfs

100 Year Flow:
C₂ = 3.6 cfs
C₁₀₀ = 16.5 cfs

The 100 year flow can be safely contained within this development providing the building elevations are established in accordance with good engineering practice. There will be no major alterations in the historic drainage basins and the runoff will continue to follow its historic flow patterns.

GENERAL NOTES:

This development is in the NE1/4 of Section 2, T.1 S., R.1 W., U.M.

Total Acreage = 5.1
Total units by High Rise = 170
Density = 34.9 units/acre

There are no public streets or public parklands in this development.

All utilities are to be connected to systems shown on preliminary submittal.

This development is not presently zoned.

A planned development note is requested.

A club-type restaurant is proposed for the uppermost story in the westernmost high rise structure.



Scale 1" = 30'
Contour 100' - 2'

Sheet 1 of 2

Preliminary Plan For:

HORIZON TOWERS

63-80



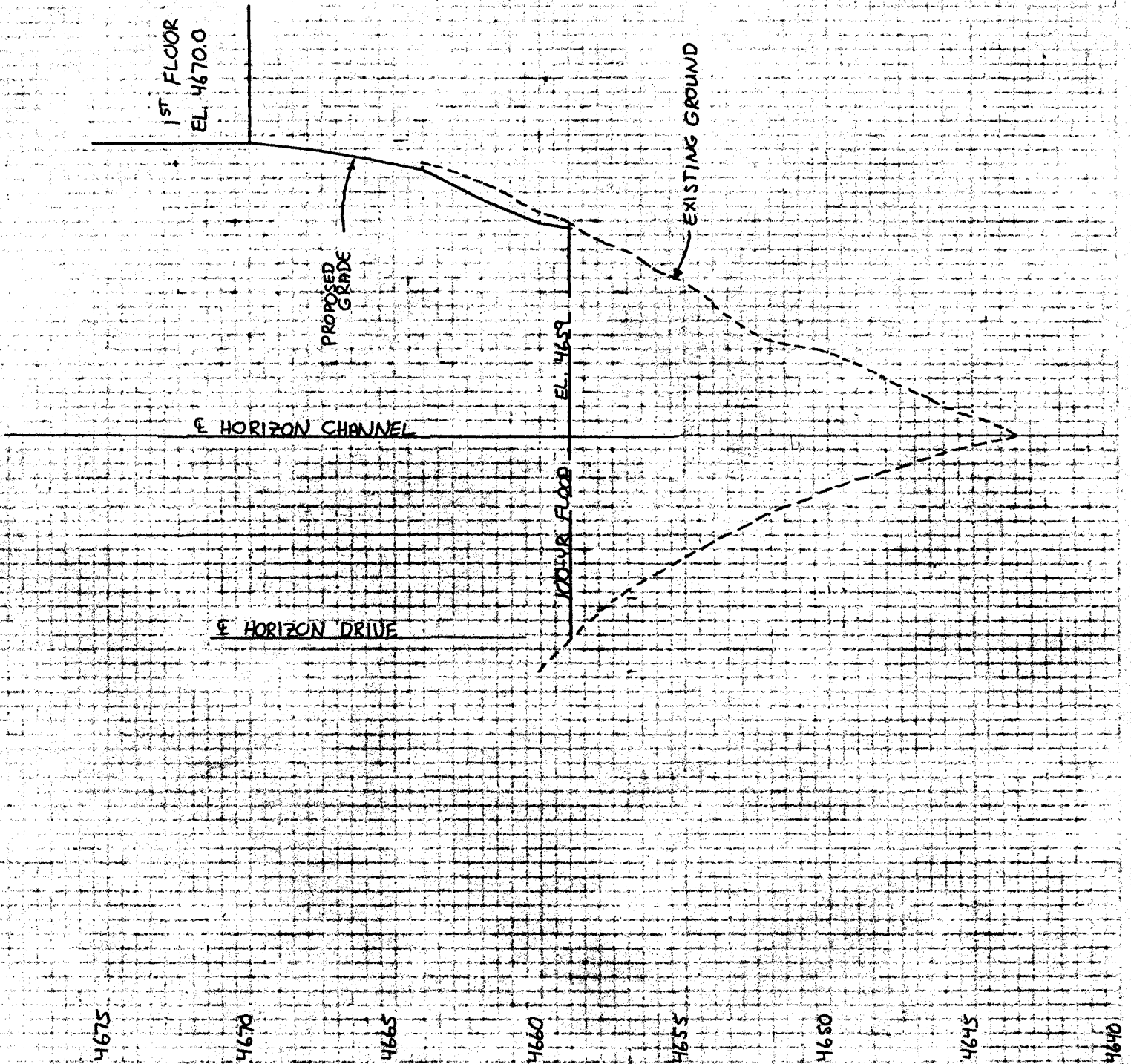
Gingery Associates, Inc.
CONSULTING ENGINEERS
2840 SOUTH VALLEJO STREET
ENGLEWOOD, COLORADO 80110
TELEPHONE 303 761-4860

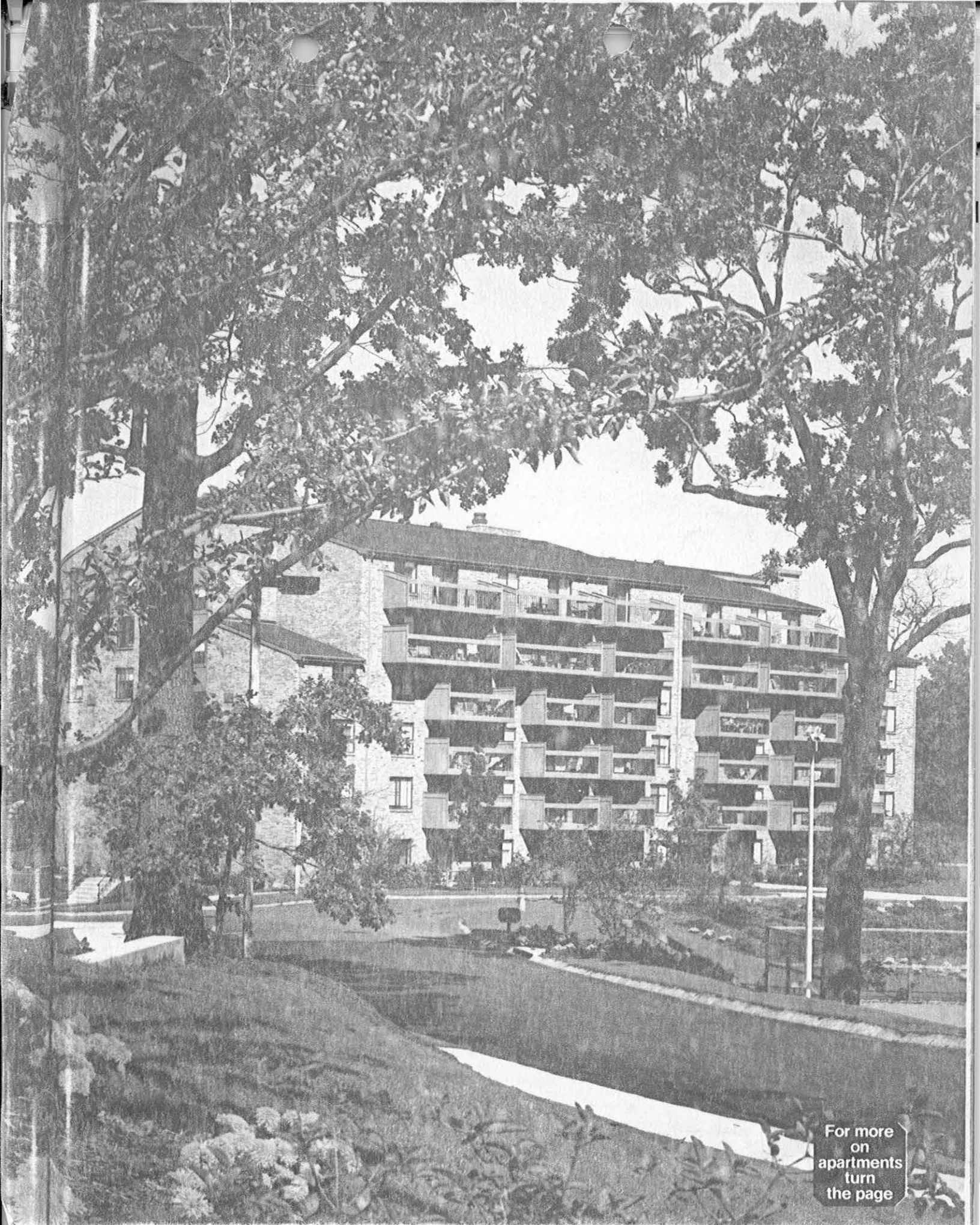
DESIGN CALCULATIONS

Project Horizon Tower
Feature Floodplain
Designed RRF Date 5/1/81 Sht. 1 of 1
Checked _____ Date _____ Job No. 1991104

1"=5'
1"=50'

SCALE: HORIZ. 1"=50'
VERT. 1"=5'





For more
on
apartments
turn
the page

#23-80

REVIEW SHEET SUMMARY

FILE# 23-80

ITEM HORIZON TOWERS & ZONING OF GONZO ANNEX-PR DATE SENT TO REVIEW DEPT. 4-04-80

DATE DUE 4-14-80

PETITIONER William Boll

LOCATION S.W. corner 12th & Horizon Dr.

<u>DATE REC.</u>	<u>AGENCY</u>	<u>COMMENTS</u>
4-07-80	MAPPING	No objection
4-10-80	CITY UTILITIES	None
4-14-80	CITY ENGINEERING	Apparently the street is proposed as private. Does this mean City Standards will not be met on the street? Do I have any responsibility to review the street design? What they have proposed for the private street is <u>not</u> to city standards. Does the access to Horizon Drive line up with the proposed public street from the proposed development on the north side of Horizon? It should. I believe the west corner of this site where the proposed "private" street and bridge are shown is in the designated 100 year floodplain. This means a floodplain permit must be obtained in accordance with City Ordinance 1482. The channel work and bridge opening must comply with that permit. Appropriate right-of-way and power of attorney for full street improvements should be obtained for Horizon Drive and 12th Street. The plan does not show how the buildings (and pool) will be served by utilities. They check item 15 on the application but no tap locations or sizes are shown on the plan.
4-14-80	CITY FIRE	Adequate fire protection water with adequate fire hydrants must be provided. Fire protection water and hydrants must be provided before construction. Adequate fire protection water is available in the area. May have to extend a larger line down 12th Street (27½) from large 18" line in G. Road. Do not have enough information at this time to compute required fire flow.
4-14-80	MOUNTAIN BELL	No comment
4-16-80	PUBLIC SERVICE	Electric: Will obtain an exhibit type easement at time of development. Plan on extending service from East side of 12th St. Request developer contact PSCo. regarding transformer meter locations. Gas: No Objections to re-zoning.

DESIGN & DEVELOPMENT PLANNER

1. What is a dry stream bed approach?
2. Landscape plan only encompasses area around the towers--what are the landscape proposals for the rest of the site.
3. Lacking complete information regarding:
Utilities
Floodplain permit (impact of bridge and retaining wall)
4. Details of signage size and type, screening or fencing should be addressed in final submittal
5. Private street should not permit on-street parking. Describe how petitioner plans to enforce this, assuring access to emergency vehicles.
6. Trash container locations should be indicated on plan, unless city

services will not be utilized.

7. Homeowners Covenant should be submitted at final, regarding maintenance of open space and facilities.

STAFF RECOMMENDATION

Recommend approval of zoning of Gonzo Annexation, as the site is an appropriate area for this type of development.

Recommend approval of preliminary plan with the following conditions:

1. Floodplain and utilities information be submitted and reviewed before time of City Council Hearing.
2. Address the remainder of the review sheet comments at final submittal regarding:
 - landscaping
 - screening/fencing
 - signage
 - private streets (on-street parking)
 - Homeowners Covenant
 - Trash container locations
3. Submit information to City Fire to compute required fire flow
4. POA for improvements-Horizon Drive and 12th Street. Additional R.O.W. for 12th Street (10 feet additional).
5. ADDRESS TRANSPORTATION ENGINEER COMMENTS.
6. NEED ADDITIONAL INFORMATION ON RESTAURANT AT FINAL SUBMITTAL TO DETERMINE PARKING REQUIREMENTS.

4-21-80 PARKS & REC. Landscape plan needs to be keyed to species so a proper evaluation can be made. A gross listing is not of sufficient detail.

4-22-80 CITY TRANS. ENG. (1) Operation of the 2 "Gate Houses" should be such that traffic entering the property will not have to stop on 12th St. or Horizon Drive, now or when these roads are widened.
2. Parking arrangement in the S.E. corner lot and the N.W. corner lot is a dead end- there is no way to turn around if lot is full.

5-02-80 GV DRAINAGE Out of district.

4-29-80 GJPC - SIMONETTI/RIDER PASSED 6-0 A MOTION TO RECOMMEND APPROVAL TO THE CITY COUNCIL OF THE ZONING OF THE ANNEXATION AND DESIGN DENSITY OF 34.9 UNITS/ACRE.

SIMONETTI/RIDER PASSED 6-0 A MOTION TO RECOMMEND APPROVAL TO THE CITY COUNCIL OF THE PRELIMINARY PLAN, SUBJECT TO ALL OF THE STAFF COMMENTS AND RECOMMENDATIONS.

RESPONSE TO REVIEW SHEET COMMENTS

Project: Horizon Towers

Phase: Final Plat

Petitioner: Penner-Frantz and Company

Location: S.W. Corner Horizon Drive and 12th Street

County File Number: 23-80

<u>AGENCY</u>	<u>RESPONSE</u>
City Fire	Agreements set forth in the hydrant guarantee have been met.
Airport	FAA form 7460-1 will be submitted to FAA for their approval.
City Police	Building construction information will be submitted when a building permit is applied for.
Grand Junction Drainage	No comment.
City Utilities	Manhole #3.1 can be changed to a drop manhole.
Floodplain Administration	No comment.
Ute Water	The 8" water line will be extended to the west property line. The detector check valves will be installed. All other comments are informative.
City Engineer	A 20' radius will be provided at the intersection of Horizon Drive and 12th Street. The Powers-of-Attorney will be provided for Horizon Drive and 12th Street.
Mountain Bell	No concerns.
Transportation Engineer	No median cut is required on Horizon Drive.
City Parks	The seed mix suggested by the review will be used.
Staff	Will be submitted for FAA review. POA will be provided. Directional entry okay. Bushes at entrance will be low profile. Adequate buffering will be provided. Parking provided exceeds regulation requirements. Drainage ditch will be open. The circular drive will be 15' wide (one-way traffic).

Acres 5.1
Units _____
Density _____

ACTION SHEET

File # 23-80
Zone _____
Tax Area Code _____

Activity Horizon Towers & Zoning of 6030 ANNEX - P.R.

Phase PRELIMINARY Date Neighbors Notified 4.18.80

Date Submitted 1 April 80 Date CIC/MCC Legal Ad _____

Date Mailed Out _____ PC Hearing Date 29 APRIL 80

Review Agencies 10 day Review Period - Return By _____

- | | |
|--|---|
| <u>Send</u> | <u>Send</u> |
| _____ COUNTY ROAD DEPARTMENT | <input checked="" type="checkbox"/> FIRE <u>CITY</u> |
| _____ COUNTY HEALTH DEPARTMENT | <input checked="" type="checkbox"/> IRRIGATION <u>G.V.</u> |
| _____ COUNTY SURVEYOR | <input checked="" type="checkbox"/> DRAINAGE <u>G.V.</u> |
| _____ COMTRONICS | _____ WATER (UTE, CLIFTON) |
| _____ GRAND VALLEY RURAL POWER | _____ SEWER |
| <input checked="" type="checkbox"/> MOUNTAIN BELL | <input checked="" type="checkbox"/> CITY ENGINEER/ UTILITIES <u>TRANSP. ENGINEER</u> |
| <input checked="" type="checkbox"/> PUBLIC SERVICE | _____ MACK, LOMA, MESA, COLBRAN |
| _____ SOIL CONSERVATION SERVICE | _____ FRUITA, PALISADE |
| _____ SCHOOL DISTRICT 51 | <input checked="" type="checkbox"/> P.D. - Ed VanderTook |
| _____ STATE HIGHWAY | <input checked="" type="checkbox"/> Parks & Rec. |
| _____ STATE GEOLOGICAL | <input checked="" type="checkbox"/> ENERGY OFFICE |
| _____ STATE HEALTH - RADIOLOGICAL | <input checked="" type="checkbox"/> Jim Patterson |
| <input checked="" type="checkbox"/> TRANSAMERICA TITLE | <input checked="" type="checkbox"/> TECH. REVIEW |

2 review SHEETS

Board	Date	Comments
GSPC	4/29/80	zoning of annex. & app. design density of 34.9/acre prelim plan: app. subj. to staff & review comments
CIC	5-21-80	APPROVED (consent agenda) subj. to GSPC conditions

Common Location Southwest corner of 12th & Horizon

Staff Comments

LEGAL OK
resol. sent 6-16-80

Original Documents

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

REVIEW SHEET SUMMARY

FILE NO. 23-80 DUE DATE 5/18/81
ACTIVITY Horizon Towers
PHASE Final Plat
LOCATION S.W. Corner Horizon Drive and 12th Street
PETITIONER Penner - Frantz & Co.
PETITIONER ADDRESS 1795 W. Warren, Englewood, CO
ENGINEER Gingery Associates, Inc.

<u>DATE REC.</u>	<u>AGENCY</u>	<u>COMMENTS</u>
5/12/81	City Fire	We will accept this as you show it with 4 hydrants if you abide by all the agreements you set forth in the hydrant guarantee. This is including the extension of a 10" line from G Rd. to interconnect 8" in 12th Street.
5/12/81	Airport	Airport restrictions such as control of structure heights, skyward lighting, electronic signal generation, smoke and/or dust generation or other interference with normal air traffic patterns, as well as noise and vibrations associated with flight operations should be addressed in an aviation easement. The FAA should be notified via their form 7460-1 due to Runway 22 proximity/alignment.
5/15/81	City Police	We need information on types of windows, locks, doors, and security lighting. The parking and/or traffic problems can not be enforced by City Police without a signed complaint on a private road. How much lighting will be provided for underground parking.
5/15/81	Grand Junction Drainage	Out of District.
5/18/81	City Utilities	Is it possible to make manhole #3.1 a drop man-hole and lessen the depth of the sewer system? If the interior road were a public road then the owners would not have to be in the street maintenance business.
5/18/81	Floodplain Administration	No comments.
5/18/81	Ute Water	Cost participation will be assessed to all developments receiving services from the large diameter line to be installed from G Rd. South to Horizon Drive. The 8" line to be installed South Westerly in Horizon Drive will also be a contract line with refund participation back to this project. This line will be installed within the R.O.W. of Horizon Drive and must extend to the West property corner. At each point where the 8" loop enters the property from Horizon Drive and from 12th Street, a Detector Check and Detector Check Valve will be required. Each building will be individually metered. Meters will be served from the new line in Horizon Drive and will set on property line. A Peak Demand-Data Sheet is necessary for determination of proper meter size for each building. Fire line connection fees for each Detector, development fees for each meter and the wet tap

connection fee for work at G Road, are payable to Ute Water before the installation will be made.

Extension Policies and Fees in effect at the time of application will apply.

- 5/18/81 City Engineer A 20 Ft. radius should be provided on the right-of-way at the intersection of Horizon Drive and 12 St. Power-of-attorney for full street improvements on Horizon Drive and 12th Street must be submitted prior to recording the plat. Access point on Horizon Drive should be coordinated with the proposed development on north side of Horizon Drive. Do they line up? They should be located directly across from one another.
The manholes on the sanitary sewer should be located where a truck can get to them for maintenance. Two of them seem very close to buildings and one is on a steep slope. Detailed construction plans for the sanitary sewer should be submitted to me for review and approval prior to construction. I interpret those "private streets" as actually being driveways.
- 5/18/81 Mountain Bell The easements shown on the plat are adequate for our use. Thank you.
- 5/18/81 Transportation Engineer When Horizon Dr. is improved, there is no assurance that a median cut will be provided for the entrance.
What is the profile of the road at the Horizon Drive entrance? There might be a sight dist. problem.
- 5/19/81 City Parks/Rec. Without knowing what is in the foothills seed mix, I could not recommend its use on this site. A mixture of Indian Rice Grass, Galleta, Crested wheat, (Fairway Strain) Shadscale Saltbush, four-wing Saltbush and/or Mat Saltbush, would be about all that could survive. This is not the foothills, but a cold desert region.
- 5/19/81 Staff Comments: FAA review?
POA 12th/Horizon needed.
Directional entry off of Horizon (right turn only).
What is odd shaped outline on west corner.
Low profile bushes at entry pts. (blk. vision?).
Buffering or screening around church boundaries & Northwood.
No off street parking (how to enforce it (ie emergency access)).
Parking concerns (total number of stalls, dimensions) guest parking?
H.C. parking?
Indicate any ped. access, bikeways etc.
Bikeracks needed.
Trash p/u indicated.
Grade on to Horizon (how much excavation).
Drainage ditch - will it be piped or open.
Width of circular drive.

Project must obtain Bldg. permit within 1 year of approval or schedule rehearing.
- 5/26/81 KAMICAR/RINKER PASSED 6-0 A MOTION TO MOVE #23-80, FINAL PLAN & FINAL PLAT, HORIZON TOWERS, TO FACT FINDING, WITH THE RESULTS OF FACT FINDING TO BE ANNOUNCED AT THE JUNE MEETING OF THE PLANNING COMMISSION.

6/30/81

RINKER/LITLE PASSED 5-0 A MOTION TO SUBMIT TO THE CITY COUNCIL FOR CONSIDERATION #23-80, FINAL PLAT AND PLAN OF THE HORIZON TOWERS DEVELOPMENT LOCATED AT THE SOUTHWEST CORNER OF HORIZON DRIVE AND 12TH STREET, AND RECOMMEND TO THE CITY COUNCIL APPROVAL OF THIS ITEM, SUBJECT TO THE RESOLUTION OF ALL STAFF COMMENTS.

REVIEW SHEET SUMMARY

FILE NO. 23-80 DUE DATE 5/18/81
ACTIVITY Horizon Towers
PHASE Final Plat
LOCATION S.W. Corner Horizon Drive and 12th Street.
PETITIONER Penner - Frantz & Co.
PETITIONER ADDRESS 1795 W. Warren, Englewood, CO
ENGINEER Gingery Associates, Inc.

OVERALL CONSIDERATIONS

- OVERALL COMPATABILITY**
Multi-Family is compatible but density is intense.
- CONSISTENCY**
Inconsistent with surrounding density
- ADJACENT PROPERTY**
Multi-Family but PD-8 not PD-33 as is Horizon Towers
- CHANGE IN THE AREA**
Multi-Family is appropriate
- TRAFFIC IMPACT**
Horizon Dr./12th will be impacted

HAS BEEN ADDRESSED

HAS NOT BEEN ADDRESSED

DATE REC. AGENCY COMMENTS

Listed on next page.

REVIEW SHEET SUMMARY

FILE NO. 23-80 TITLE HEADING Horizon Towers DUE DATE 6/9/83

ACTIVITY - PETITIONER - LOCATION - PHASE - ACRES Final Plat - Horizon Towers - SW corner
of Horizon & 12th Street - Petitioner: Penner/Frantz - Engineer: Armstrong Engineering

PETITIONER ADDRESS 1795 West Warren Ave., Englewood, CO 80110

ENGINEER Armstrong Eng., 863 Rood, G.J.

<u>DATE REC.</u>	<u>AGENCY</u>	<u>COMMENTS</u>
6/8/83	City Eng.	No comment on plat. This plat should be recorded since it involves changes in the right-of-way on Horizon Dr. and on 12th Street. I assume that powers of attorney have been obtained for future improvements to Horizon Drive and 12th Street along the Horizon Towers frontage.
6/9/83	City Planning	Final Plat: <ol style="list-style-type: none">1. ROW dedication must be accepted by City Engineer.2. No common ingress/egress easements are shown and the driveways shown on site <u>plan</u> are not labeled on the <u>plat</u>. It should be shown on the plat to allow access to the utility easements, otherwise the only access to the utilities will be across the lawns.3. POA or other acceptable form for future street improvements will be required with recording.4. The format of the plat will have to be acceptable to the County Surveyor.5. The covenants can wait to be recorded if an alternative for maintenance etc. of Horizon Towers is given and found acceptable. In the letter from Penner/Frantz (5/17/83) it states that landscaping will be maintained by the Homeowners Association. Without covenants recorded, who will be responsible, and what promise do we have for follow-up?6. The approval of the final plat will <u>not</u> necessarily constitute approval of the final plan. This will be addressed under separate review.

REVIEW / SHEET SUMMARY

FILE NO. 23-80 TITLE HEADING Horizon Towers DUE DATE 6/9/83

ACTIVITY - PETITIONER - LOCATION - PHASE - ACRES Final Plan - Horizon Towers - SW corner
of Horizon & 12th Street - Petitioner: Penner/Frantz

PETITIONER ADDRESS 1795 West Warren Ave., Englewood, CO 80110

ENGINEER Armstrong Engineering, 863 Road, G.J.

<u>DATE REC.</u>	<u>AGENCY</u>	<u>COMMENTS</u>
6/13/83	City Planning	<p><u>Final Plan (only)</u></p> <p>NOTE: The approval of the final plan does not necessarily constitute approval of the final plat. The final plat will be addressed under separate review.</p> <ol style="list-style-type: none">1. The phasing proposed seems acceptable, but we will need a commitment from the owners regarding:<ol style="list-style-type: none">a. the outside amenities will be provided with Phase II or within 1 year of completion of Phase I.b. the commitment for dust and erosion control for that area designated for Phase II and to the west property line. <p>This is at the discretion of this department. Should a problem result, this department could require the owners to fix it.</p> <ol style="list-style-type: none">2. Irrigation water rights should be verified to use for landscaping.3. The parking layout may create <u>internal</u> congestion i.e., traffic movement. The <u>backing out</u> of stalls should be accomplished before the internal intersection, not in it.4. The plat must be recorded prior to issuing a building permit.5. The building will have to meet all UBC, UFC, requirements.6. All other applicable review agency comments must be resolved.7. All landscaping as shown on final plan must be in place prior to occupancy.8. <u>Any modifications</u> to the revised final plan will require a re-review by this department.9. Per the Transport. Engineer, the divided entryway off Horizon Drive should be deleted. Even though it has been reduced in size, the potential for traffic hazard and congestion is still there, coming off Horizon Drive.

DECLARATION OF GRANTS,
COVENANTS, CONDITIONS, AND RESTRICTIONS
HORIZON TOWERS CONDOMINIUMS

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DECLARATION OF GRANTS,
COVENANTS, CONDITIONS, AND RESTRICTIONS
HORIZON TOWERS CONDOMINIUMS

This Declaration is made this _____ day of _____, 1982, by Penner-Frantz & Co., herein referred to as "Declarant," with reference to the following:

ARTICLE I

Recitals

Section 1.1. Subject Property. Declarant is the owner of certain real property described as: Commencing at the NE1/4 Corner, Section 2, Township 1 South, Range 1 West, thence N 0° 05' E 329.85 feet, thence S 89° 52' 40" W along the South line of the N1/2S1/2SE1/4NE1/4 264.00 feet to the true point of beginning, thence continuing along the South line of the N1/2S1/2SE1/4NE1/4 S 89° 52' 40" W 704.35 feet to the East Right-of-Way of Horizon Drive, thence N 36° 18' E along East Right-of-Way of Horizon Drive 138.89 feet, thence N 56° 15' 30" E 231.40 feet, thence N 66° 21' E 714.43 feet to an intersection of the West Right-of-Way of 27 Road and the SE Right-of-Way of Horizon Drive, thence S 0° 05' W along West Right-of-Way of 27 Road 215.69 feet, thence S 29° 52' 40" W 260.00 feet, thence S 0° 05' W 200.00 feet, thence N 89° 52' 40" E 260.00 feet, thence S 0° 05' W 79.37 feet, thence S 89° 52' 40" W 224.00 feet, thence S 0° 05' W 30.00 feet to the true Point of Beginning, containing 5.275 acres more or less, County of Mesa, State of Colorado.

Section 1.2. Intention of Declarant. It is the intention of the Declarant to construct a residential condominium project in two phases containing a combined maximum of 178 units. In addition to a portion of the residential units, it is anticipated that the first phase will include a swimming pool, dry sauna, whirl pool, steam rooms, shower facilities, billiard room, exercise room, card room, guest rooms, manager's residential unit, Association office, and storage facilities; and the second phase will include the balance of the residential units as well as banquet and party rooms, tennis courts, guest rooms, and storage lockers.

Section 1.3. No Obligation. Except to the extent of actual construction of improvements on the subject property, nothing contained herein shall be deemed to impose upon the Declarant or its successors or assigns any obligation to construct or provide any improvements upon the subject property as referred to in this Article I, or to prevent the Declarant from withdrawing the subject property from this Condominium Declaration as provided for below herein, provided that any such withdrawal may not be made subsequent to the construction and sale of any units.

ARTICLE II

Definition of Terms

Unless expressly provided, or the context otherwise requires, the terms set forth below as used in this Declaration shall be defined as follows:

Section 2.1. Association. "Association" means Horizon Towers Condominiums Association, Inc., a Colorado non-profit corporation.

Section 2.2. Board of Managers. "Board of Managers" or "Board" means the governing body of the Association as provided in this Declaration, the Articles of Incorporation, and the Bylaws thereof.

Section 2.3. Building. "Building" means any improvement constructed on the Project as designated to contain Condominium Units on the Plats and Plans.

Section 2.4. Bylaws. "Bylaws" means the Bylaws of the Association as initially adopted or as amended from time to time thereafter.

Section 2.5. Common Elements. "Common Elements" means the General Common Elements and all Limited Common Elements.

Section 2.6. Common Expenses. "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations for reserves, all of which are reasonably necessary for the Association to carry out its rights, duties and obligations as provided herein.

Section 2.7. Condominium Unit. "Condominium Unit" means a Unit together with an undivided interest in the Common Elements expressed as a percentage of the entire ownership interest in the Common Elements as set forth on Exhibit "A" attached hereto.

Section 2.8. Declarant. "Declarant" as used herein shall refer to Penner-Frantz & Co., its successors or assigns.

Section 2.9. Declaration. "Declaration" or "Condominium Declaration" means this Declaration, together with any supplement or amendment hereto, as recorded in the office of the clerk and recorder of the County of Mesa, and State of Colorado.

Section 2.10. First Mortgagee. "First Mortgagee" means the holder of any mortgage under which the interest of any Owner is encumbered and which mortgage has first and paramount priority subject only to the lien of general or ad valorem taxes and assessments.

Section 2.11. General Common Elements. "General Common Elements" means all of the Project, except all of the Units and the Limited Common Elements as hereinafter defined, including (a) the Property; (b) all structural components of the Building improvements, including but not limited to the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, exits, partition walls, non-perimeter division walls, chimneys, and flues; (c) green or open space areas, yards, gardens, walls, walkways, parking areas and storage spaces; (d) the premises, if any, for a residential unit and office for management personnel in charge of the property; (e) installations of central services such as power, lights, gas, hot and cold water, heating, refrigeration, central air conditioning, waste removal, incinerating, and other utilities (including all pipes, ducts, flues, wires,

cable, and conduit used in connection with such items, whether located in common areas or within Units); (f) the elevators, tanks, pumps, motors, fans, compressors, and all apparatus and installations existing for common use; (g) such community or recreational facilities as may be included in the project upon initial construction or as later supplemented by the Association, including but not limited to swimming pool, dry sauna, whirl pool, steam rooms, shower facilities, billiard room, exercise room, card room, guest rooms, banquet and party rooms and tennis courts; and (h) all other parts of the Project in common use.

Section 2.12. Limited Common Elements. "Limited Common Elements" means those Common Elements which are either limited to and reserved for the exclusive use of an Owner or are limited and reserved for use by more than one but fewer than all of the Owners of the Condominium Units as designated, located, or shown on the Plats and Plans by legend, symbol, or word.

Section 2.13. Mortgage. "Mortgage" means any Mortgage, deed of trust, or other security instrument by which a Condominium Unit is encumbered as security for a loan or other legal obligation.

Section 2.14. Plats and Plans. "Plats and Plans" or "Condominium Plats and Plans" means the certified Plats and Plans to be filed of record with the clerk and recorder of the County of Mesa, State of Colorado, according to the requirements as set forth in Article IV below herein, and as amended or supplemented from time to time thereafter.

Section 2.15. Owner. "Owner" means any person or entity, including the Declarant, at any time owning a Condominium Unit, and includes the term "Unit Owner" as used in the Colorado Condominium Ownership Act, except that it shall not refer to any mortgagee as herein defined, unless such mortgagee has acquired title pursuant to foreclosure, or any proceeding in lieu of foreclosure.

Section 2.16. Project. "Project" or "Condominium Project" means all of the Property as submitted to this Declaration in Article III below herein, including all subsequent constructions thereon.

Section 2.17. Unit. "Unit" means an individual airspace unit, consisting of enclosed rooms occupying part of a floor or floors in a Building and bounded by the interior surfaces of the perimeter walls, floor, ceiling, windows, and doors thereof, as shown and numbered on the Plats and Plans to be filed for record, together with all fixtures and improvements contained therein.

ARTICLE III

Grant and Submission of Property

Section 3.1. Grant and Submission. Declarant hereby submits the subject property as described in Section 1.1. above herein to this Condominium Declaration, and declares that said Property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved, subject to the following covenants, conditions, and restrictions, all of which are declared and agreed to be in furtherance of a plan for

the improvement of the Property and the division thereof into Condominium Units pursuant to the Colorado Condominium Ownership Act, Colorado Revised Statutes, Section 38-33-101 et Seq. (1973, as amended), as set forth on Exhibit "A" attached hereto, and as designated on the Plats and Plans as provided in Article IV below.

Section 3.2. Division and Title of Condominium Units. The Project is hereby divided into Condominium Units, each consisting of a fee simple interest in a Unit and an undivided fee simple interest in the Common Elements in accordance with the respective undivided percentage interest in Common Elements as set forth in Exhibit "A" attached hereto, each of which is hereby declared to be appurtenant to the respective Unit. Title to a Condominium Unit may be held or owned by any person or entity and in any manner in which title to real property may otherwise be held or owned within the State of Colorado.

Section 3.3. Covenants Running with the Land. All provisions hereof shall be deemed to be covenants running with the land, or as equitable servitudes, as the case may be, and shall inure to the benefit of and be binding upon Declarant, its successors and assigns, and to all persons hereafter acquiring or owning any interest in the Project or in any Condominium Unit, however such interest may be acquired.

ARTICLE IV

Plats and Plans

Section 4.1. Recording. Pursuant to Colorado Revised Statutes, Section 38-33-105 (1973) requiring the filing for record of a map properly locating Condominium Units, Plats and Plans as described below herein, shall be filed for record with the clerk and recorder of the County of Mesa, Colorado, which, when recorded, shall become a part of this Declaration. Separate Plats and Plans will not be required if all the information as set forth below herein is contained in either a Plat or a Plan which is clear and legible and certified as required. The Plats and Plans required herein may be divided into two or more phases to be filed as buildings within any given phase are completed, provided that no Unit may be conveyed to an Owner other than the Declarant prior to the recording of the Plats and Plans effecting the building in which the Unit to be conveyed is located.

Section 4.2. Contents of Plats and Plans.

- (1) Each Plat must show:
 - (a) the name, location, and dimensions of the Condominium Project;
 - (b) the location and dimensions of all existing improvements;
 - (c) the intended location and dimensions of any contemplated improvements to be constructed anywhere within the Project, labeled either "Must Be Built" or "Need Not be Built", but need not show contemplated improvements beyond the boundaries of the Property actually submitted to this Declaration;
 - (d) the extent of any encroachments by or upon any portion of the Condominium Project;

(e) to the extent feasible, the location and dimensions of all easements serving or burdening any portion of the Condominium Project;

(f) the location and dimensions of any vertical Unit boundaries not shown or projected on Plans which may be recorded herein, and that Unit's identifying number;

(g) the location with reference to established data, of any horizontal Unit boundaries not shown or projected on Plans as may be recorded herein, and that Unit's identifying number;

(h) the location and dimensions of Limited Common Elements, including but not limited to porches, balconies, patios, Unit entrances and exits; and

(i) all other matters customarily shown on land surveys.

(2) Plans of every Building that contains or comprises all or a part of any Unit and is located within any portion of the Condominium Project must show:

(a) the location and dimensions of the vertical boundaries of each Unit, to the extent those boundaries lie within or coincide with the boundaries of the Building in which the Unit is located, and that Unit's identifying number;

(b) any horizontal Unit boundaries, with reference to established data, not shown on Plats recorded as provided above herein, and that Unit's identifying number; and

(c) any Units that may be converted by the Declarant, if any, to create additional Units or Common Elements, identified appropriately.

Section 4.3. Boundaries Outside of a Building. The horizontal boundaries of any part of a Unit or Limited Common Element associated with the Unit which are located outside of a Building, shall be deemed to have the same elevation as the horizontal boundaries of the portion of the Unit inside the Building and need not be depicted on the Plats and Plans.

Section 4.4. Additional Real Estate. Upon submitting additional real estate to this Declaration, the Declarant shall record new Plats and Plans for the real estate being added and for any building as constructed on that real estate, conforming to the requirements of this Article, as well as the Supplemental Declaration as provided for in Article VII below.

Section 4.5. Conversion of Units. If any Unit is converted into two or more Units, or combined with any other Unit, or both, as provided for in Article V below, new plans showing the location and dimensions of any new Units thus created, and the Limited Common Elements associated therewith, as well as the location and dimensions of any portion of space not being converted, shall be filed of record.

Section 4.6. Certification. The Plats and Plans as required herein shall be made by a licensed or registered surveyor, architect, or engineer, certifying that the Plats and Plans substantially depict the actual location and the horizontal and vertical measurements of the Building, the Units, the dimensions of the Units, the elevations of the unfinished floors and ceilings, as constructed, if any, and that such Plats and Plans have been prepared subsequent to the substantial completion of the improvements as depicted therein.

Section 4.7. Interpretation. In interpreting the Plats and Plans, the existing physical boundaries of each separate Unit and the Limited Common Elements associated therewith, as actually constructed, shall be conclusively presumed to be the boundaries thereof.

Section 4.8. Amendment. Declarant reserves the right to amend the Plats and Plans from time to time to conform them to the actual location of any of the constructed improvements and to establish, vacate and relocate exterior to the Buildings such utility easements, access road easements, and parking areas as the Declarant may determine in its sole and absolute discretion so long as Declarant retains any interest in the Project. Thereafter, such amendments may be made by the Association as necessary.

ARTICLE V

Alteration, Relocation and Subdivision of Units

Section 5.1. Alteration of Units. Any Unit Owner:

(1) may make any improvements or alterations to his Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium Project;

(2) may not change the appearance of the Common Elements or exterior appearance of a Unit or any other portion of the Condominium Project without the permission of the Association;

(3) after acquiring an adjoining Unit or an adjoining part of an adjoining Unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a Common Element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium Project. Removal of partitions or the creation of apertures under this paragraph is not an alteration of boundaries.

Section 5.2. Relocation of Boundaries between Adjoining Units.

(1) The boundaries between adjoining Units may be relocated by an amendment to the Declaration upon application to the Association by the Owners of those Units affected. If Owners of adjoining Units have specified a reallocation between their Units or their Common Element interests, votes in the Association, and Common Expense liabilities, the application must state the proposed reallocations. Unless the Board determines, within thirty (30) days, that the reallocations are unreasonable, the Association shall prepare an amendment that identifies the Units involved, states the

reallocations, is executed by those Unit Owners, contains words of conveyance between them, and shall be recorded with the clerk and recorder of the County of Mesa, Colorado.

(2) The Association shall prepare and record Plats or Plans necessary to show the altered boundaries between adjoining Units and their dimensions and identifying numbers.

Section 5.3. Subdivision or Conversion of Units.

(1) A Unit may be subdivided into two or more Units, or in the case of a Unit owned by a Declarant, may be subdivided or converted into two or more Units, Common Elements, or combinations of Units and Common Elements, except that no Unit thus created may consist of less than _____ square feet. Except by the Declarant, no subdivision may require additional Limited Common Elements such as porches, balconies, patios, entrances and exits, or utilities or services, unless approved by the Association, and it may require any expenses which may be incurred by it to be paid in advance by the Unit Owners as a condition of approval. Upon subdivision or conversion of a Unit or Units, the Association shall prepare, execute and record an amendment to the Declaration, including the Plats and Plans subdividing or converting that Unit.

(2) The amendment to the Declaration must be executed by the Owners of the Units to be subdivided, assign an identifying number to each Unit created, and reallocate the Common Element interest, votes in the Association, and Common Expense liability, formerly allocated to the subdivided Unit, to the new Units in any reasonable manner prescribed by the Owner of the subdivided Unit and approved by the Association.

(3) In the case of a Unit owned by a Declarant, if a Declarant converts all or any portion of a Unit to Common Elements, the amendment to the Declaration must reallocate among the other Units the Common Element interest, votes in the Association, and Common Expense liability formerly allocated to the converted Unit on the same basis used for the initial allocation thereof.

ARTICLE VI

Easements

Section 6.1. Easements for Encroachments. If any portion of the Common Elements encroach upon any Unit or if any Unit encroaches upon any other Unit or upon any portion of the Common Elements, as a result of the construction of the Buildings, or if any such encroachment shall occur hereafter as a result of settling or shifting of any Building or for any other reason, a valid easement for the encroachment and for the maintenance of the same so long as the Building stands shall exist. In the event any Building, or any adjoining Common Elements, shall for any reason be partially or totally destroyed, and then rebuilt, encroachments upon any Unit or upon any portion of the Common Elements due to this rebuilding shall be permitted, and valid easements for such encroachment and the maintenance thereof, shall exist so long as the Building shall stand. The foregoing encroachments shall not be construed to be encumbrances affecting the marketability of title to

any Condominium Unit. Nothing herein contained however shall relieve a Unit Owner of liability in the case of his wilful or negligent misconduct in causing or creating an encroachment, nor prevent the Association or any Unit Owner affected thereby from requiring the removal of such encroachment thus created.

Section 6.2. Easement to Declarant. The Declarant shall have such easement through the Common Elements as may be reasonably necessary for the purpose of discharging its obligations or exercising such special rights as the Declarant may otherwise enjoy pursuant to this Declaration.

Section 6.3. Easements for Ingress and Egress, Access, and Support.

(1) Each Unit Owner is hereby granted an easement in common with each other Unit Owner for ingress and egress through all Common Elements, subject to such reasonable rules, regulations, and restrictions as may be imposed by the Association. Each Condominium Unit is hereby burdened with and subjected to an easement for ingress and egress through all Common Elements by persons lawfully using or entitled to the same.

(2) The Declarant reserves in favor of the Declarant, the Association or its designated managers, and all Unit Owners, the right of access to any Unit as reasonably necessary for the completion of construction, repair or maintenance of any adjoining Unit or Common Element, or for the maintenance, repair and replacement of Common Elements within any Unit or which require access through any Unit, provided that any damage inflicted on any Unit through which access is taken shall be promptly repaired by the Declarant, Association, or Unit Owner responsible.

(3) Each Unit and Common Element shall have an easement for lateral and subjacent support from every other Unit and Common Element.

Section 6.4. Reservation of Right to Grant Easements. The Declarant reserves in favor of the Declarant, prior to the termination of Declarant control, and thereafter to the Association, the right and power to grant and reserve easements and rights of way through, under, over, and across the Property for construction, repair and maintenance purposes, and for the installation, maintenance, inspection of the lines and appurtenances necessary for public or private water, sewer, drainage, gas, electricity, telephone, and other utilities or public access easements.

Section 6.5. Easement for Use of Amenities and Recreational Facilities.

(1) Grant of Easement. Each Unit Owner and each person lawfully in possession of a Unit located on any portion of the Condominium Project is hereby granted a non-exclusive right and easement of enjoyment in common with all others so situated of the amenities and recreational facilities constituting a portion of the Common Elements of the Condominium as more particularly described and referred to on the Plats and Plans.

(2) Extent of Easement. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Association to charge reasonable fees for the use of the amenities and recreational facilities; and

(b) the right of the Association to adopt rules and regulations governing the use of the amenities and recreational facilities by a Unit Owner, its tenants and guests, and such other persons as may be permitted pursuant to the rules and regulations.

(3) Rights to Use. Each person having the right to use the amenities and recreational facilities, and each person to whom such right has been delegated shall comply with the rules and regulations regarding such use as adopted and amended from time to time. Such rights to use may be suspended upon failure of a Unit Owner to pay his Condominium assessments.

ARTICLE VII

Reservation of Right to Withdraw Property from or Expand Condominium Project

Section 7.1. Reservation of Right to Withdraw. Declarant for itself, its successors and assigns, expressly reserves the right to withdraw from this Condominium Declaration the property as described in Section 1.1. above and submitted to this Declaration in Section 3.1. above, or any portion thereof, so long as there have been no sales including actual transfer of title of Units as actually constructed thereon. This reservation shall continue for a period not to exceed seven (7) years, unless sooner terminated by the actual construction and sale of one or more Units as described herein.

Section 7.2. Method of Withdrawal. In the event that the Declarant exercises its reserved right to withdraw the Property, or any portion thereof, from this Declaration, Declarant shall prepare, execute and record an amendment to the Declaration containing a legally sufficient description of the real estate being withdrawn and stating the fact of withdrawal. In the event that the withdrawal includes all of the property previously submitted to this Declaration, then, and in that event, the amendment shall so state, and the amendment shall be captioned "Amendment Terminating the Declaration of Grants, Covenants, Conditions and Restrictions of Horizon Towers Condominiums," and the amendment shall contain a statement to the effect that the Declaration as previously recorded is then being terminated for all purposes.

Section 7.3. Reservation of Right to Enlarge. Declarant for itself, its successors and assigns, expressly reserves the right until the seventh anniversary of the recordation of this Declaration to enlarge this Condominium Project by submitting such additional real estate as shall be contiguous to the real estate described in Section 1.1 above, along with improvements to be constructed thereon. Such additions shall be expressed in and by duly recorded supplements to this Declaration, including the Plats and Plans. Any reference to the Declaration and to the Plats and Plans in any instrument shall be deemed to include any supplements thereto without further specific reference.

Section 7.4. Contents of Supplements. Any supplements filed of record to this Declaration or to the Plats and Plans shall provide for a division of such additional real estate and improvements into Condominium

Units. Each Unit shall be separately designated and each Building shall be identified by a symbol or designation dissimilar to any other Building in the Condominium Project. The undivided interest in and to the Common Elements pertinent to each such Unit shall not be a part of the Common Elements of the Condominium Units described and initially created by this Declaration, nor a part of the Common Elements of other subsequently submitted Condominium Units; provided, however, that all Owners of Condominium Units in the Condominium Project shall enjoy the non-exclusive easements referred to in Article VI above, including, but not limited to, the use of the amenities and recreational facilities and all other general Common Elements within this entire Condominium Project so designated on the Plats and Plans, and all amendments and supplements thereto.

Section 7.5. Applicability. Except as otherwise provided by the provisions of such supplements to this Declaration, all the provisions contained in this Declaration shall be applicable to such additional Condominium Units resulting from the submission of additional real estate to this Condominium Project.

Section 7.6. Affect on Proration of Common Expenses and Voting Rights. As additional real estate is submitted to this Condominium Project, and in order that the Common Expenses of this Condominium Project be shared proportionately and equitably by the Owners of the initially submitted Condominium Units and the Owners of all subsequently submitted Condominium Units, the Common Expenses for each Unit within the Project shall be determined by multiplying the total Common Expenses needed for the entire Condominium Project by a fraction, the numerator of which is the Unit Owner's percentage of ownership, and the denominator of which is the aggregate of all of the percentages of ownership assigned to all of the Condominium Units within the Project. Further, the Owners of each Condominium Unit shall be entitled to one vote for all purposes under this Declaration which shall not change by the enlargement of the Condominium Project or otherwise.

Section 7.7. Special Declarant Rights. All rights of the Declarant, its successors and assigns as described in this Declaration shall apply to all properties which are added to this Project in accordance with this Article relating to enlargement, unless specifically limited or waived by the terms of any supplement to this Declaration.

ARTICLE VIII

Incidents of Condominium Ownership

Section 8.1. Inseparability. Each Unit shall be inseparable from the undivided interest in and to the Common Elements appurtenant thereto and no such Condominium Unit shall be conveyed, leased, devised, mortgaged, or otherwise transferred except as a complete Condominium Unit as defined in Section 2.7. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Unit or any part thereof shall be presumed to be a gift, devise, bequest, transfer, encumbrance, or conveyance respectively of the entire Condominium Unit, together with all appurtenant rights created by law or by this Declaration.

Section 8.2. No Partition or Encumbrance. The Common Elements shall be owned in-common by all the Owners of Condominium Units, and neither an Owner, group of Owners, nor the Association shall bring any action for partition or division of the Common Elements, nor shall the Common Elements be encumbered, abandoned, sold, or transferred by the Association. Similarly, no action shall be brought for partition of a Condominium Unit between or among the Owners thereof.

Section 8.3. Separate Tax Assessments. Upon the recording of this Declaration and the filing of the Plats and Plans for record in the County of Mesa, Colorado, Declarant shall deliver a written notice to the Assessor of the County of Mesa, Colorado, as provided by law, which notice shall set forth the descriptions of the Condominium Units, so that thereafter all taxes, assessments, and other charges of the state or any political subdivision or any special improvement district or any other taxing agent or assessing authority shall be assessed against and collected on each Condominium Unit, each of which shall be carried on the tax records as a separate and distinct parcel for that purpose. For the purpose of such assessment, valuation of the Common Elements shall be apportioned among the Units in proportion to the percentage interest in the Common Elements appurtenant to such Units. No forfeiture or sale of any Condominium Unit for delinquent taxes, assessment, or other governmental charge shall divest or in any way affect the title to any other Condominium Unit.

Section 8.4. Mechanic's Liens. Subsequent to the completion of the improvements described on the Plats and Plans, no labor performed or materials furnished and incorporated in a Condominium Unit with the consent or at the request of the Owner thereof, his agent, contractor, or subcontractor, shall be the basis for filing a lien against the Condominium Unit of any other Owner not expressly consenting to or requesting the same, or against the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners from and against all liability arising from the claim of any lien claimant against the Condominium Unit of any other Owner or against the Common Elements for construction performed or for labor, materials, services, equipment, or other products incorporated into a Condominium Unit at the Owner's request or with his consent. The provisions of this Section shall not apply to any labor performed or materials furnished at the request of the Managing Agent or Board of the Association. At the written request of any Owner the Association shall enforce such indemnity by collecting from the Owner of the Unit on which the labor was performed or materials furnished the amount necessary to discharge any such lien, including all costs incidental thereto, and obtaining a discharge of the lien. Such collection shall be made by special assessment pursuant to Section 12.7 below. The Bylaws of the Association may also contain provisions relating to mechanic's liens.

Section 8.5. Owner's Maintenance Responsibility. With reference to each Unit, the Owner shall have the obligation to maintain, replace and keep in good repair; the interior surfaces of windows, doors, walls, ceilings, and floors (including carpeting, tile, wallpaper, paint, or other covering); internal installations of utility services such as water, light, gas, power, sewer, telephone, air conditioning and heat, and all associated fixtures, appliances and accessories; all appurtenant Limited Common Elements (except

for matters relating to the structural integrity thereof) located within the Units' interior boundaries; all of which shall be done, whether the same may be considered Common Elements or not. An Owner shall not be responsible for repair occasioned by casualty as defined in Article XV, unless such casualty is due to the act or negligence of the Owner, or the Owner's guests, invitees, or tenants. An Owner shall reimburse the Association for any expenditure incurred for replacing or repairing of any Common Element and facility damaged through fault of an Owner, or the Owner's guests, invitees, or tenants, and the Association shall be entitled to assess such Owner for such amounts which shall be payable, collectible, and enforceable by way of a Special Assessment pursuant to Section 12.7 below. No Owner shall alter any Common Element without the prior written consent of the Association.

Section 8.6. Compliance with Provisions. Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, Bylaws, rules, regulations, resolutions, and contracts of the Association as the same may be established or 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 injunctive relief or both, together with reasonable attorneys' fees, court costs, and injunction bond premiums maintainable by the Association, its Board of Managers or the Managing Agent on behalf of the Association or as agent for one or more individual Unit Owners. Such right of action shall be in addition to all other rights and remedies as may be available to the Association or individual Unit Owners pursuant to this Declaration or as otherwise provided by law.

ARTICLE IX

Description of Condominium Units

Section 9.1. Contracts Prior to Plats and Plans. A contract for the sale of a Condominium Unit executed prior to the recording of the Plats and Plans may describe the Condominium Unit by the Unit number and Building number designated on Exhibit "A" attached hereto, followed by the words, "Horizon Towers Condominiums, County of Mesa, Colorado".

Section 9.2. Description After Filing of Plats and Plans. Subsequent to the filing of the Plats and Plans and recording of this Declaration, every deed, lease, mortgage, trust deed, will, or other instrument may legally describe a Condominium Unit by its Unit Designation, followed by the words "Horizon Towers Condominiums" with further reference to the Plat thereof filed for record and the recorded Declaration. Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber, or otherwise affect not only the Unit, but also the interest in the Common Elements appurtenant thereto. Said description shall be in the following form:

Unit _____, Building _____, Horizon Towers Condominiums, County of Mesa, Colorado, as shown on the Condominium Plat recorded in Book _____, and subject to the Declaration for Horizon Towers Condominiums recorded in _____ in the records of the clerk and recorder of the County of Mesa and State of Colorado.

ARTICLE X

The Association

Section 10.1. The Association. The administration of the Condominium Project shall be governed by this Declaration, the Articles of Incorporation, and the Bylaws of the Horizon Towers Condominiums Association, Inc., a Colorado non-profit corporation.

Section 10.2. Membership. An Owner of a Condominium Unit shall automatically become a member of the Association and shall remain a member for the period of the Owner's ownership. If title to a Condominium Unit is held by more than one person, the membership related to that Condominium Unit shall be shared by all such persons in the same proportion of interests and by the same type of tenancy in which the title to the Condominium Unit is held. An Owner shall be entitled to one membership for each Condominium Unit owned. Each membership shall be appurtenant to the Condominium Unit and shall be transferred automatically by conveyance of the Condominium Unit. No person or entity other than an Owner may be a member of the Association, but the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium Unit.

Section 10.3. Classes of Membership and Voting Rights. There shall be one class of membership in the Association. Each member shall be entitled to one vote for each Unit owned.

Section 10.4. Transfer. Except as otherwise expressly stated herein, any of the rights, interests, and obligations of the Association set forth or reserved herein may not be transferred or assigned to any other person or entity. No such transfer or assignment shall relieve the Association of any of the obligations set forth herein. Any such transfer or assignment shall not revoke or change any of the rights or obligations of any Owners as set forth herein.

Section 10.5. Powers. The Association shall be granted all of the powers necessary to govern, manage, maintain, repair, administer and regulate the Project and to perform all of the duties required of it. Notwithstanding the above, unless at least seventy-five per cent (75%) of the First Mortgagees of Condominium Units (based upon one vote for each first mortgage owned or held) have given their prior written approval, the Association shall not be empowered or entitled to:

(1) by act or omission, seek to abandon or terminate the Condominium regime;

(2) use hazard insurance proceeds for loss to the improvements for other than the repair, replacement, or reconstruction of such improvements; or

(3) Change the pro rata interest or obligation of any Condominium Unit, or of the Owners thereof, for the purpose of: (i) levying assessments or charges hereunder or for the purpose of allocating distributions of hazard insurance or Condemnation Awards hereunder; or (ii) determining the pro rata share of ownership of each Condominium Unit in the Common Elements.

Section 10.6. Rights of First Mortgagees. The Association shall grant to each First Mortgagee of a Condominium Unit the right to examine the books and records of the Association at any reasonable time. Further, the Association shall notify each First Mortgagee of any Condominium Unit of any proposed amendment of the Association's Articles of Incorporation or Bylaws or any change in the Association's Managing Agent at least ten (10) days prior to the effective date of such amendment or change, provided that a written request for such notification has been previously given.

ARTICLE XI

Certain Rights and Obligations of the Association

Section 11.1. Association's Responsibility for Maintenance of Condominium Project. The Association, through its Board of Managers, shall be responsible for the maintenance, repair, replacement, and improvement of all the Condominium Project not required to be maintained and kept in good repair by a Unit Owner pursuant to Section 8.5 above, and may do so without the prior approval of the Unit Owners, regardless of the cost which shall be borne as a Common Expense.

Section 11.2. Miscellaneous Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. The Association may arrange with others to furnish lighting, heating, water, firewood, trash collection, snow removal, grounds maintenance, security systems or guards, sewer service, and other Common Services to each Unit. The cost of such services shall be borne as a Common Expense, unless otherwise apportioned by use or other reasonable means as established pursuant to the rules and regulations of the Association. Any contracts entered into by the Association dealing with the management of the Project shall be for a term not to exceed three (3) years and must contain a provision allowing either party to cancel the contract with or without cause and without a payment of a termination fee or penalty upon ninety (90) days' prior written notice.

Section 11.3. Personal Property for Common Use. The Association may acquire and hold for the use and benefit of all of the Owners such personal property as is reasonably necessary for the maintenance and operation of the Project, including, but not limited to, office machinery and equipment, furniture, furnishings, and fixtures, recreational furnishings and equipment, tools and vehicles. The Association is hereby authorized to establish any reasonable method for the acquisition and disposal of such property, including the use of leasehold contracts or purchase money financing, and shall not be subject to the prohibition against encumbrance as set forth in Section 8.2 above herein. A beneficial interest in such property shall be deemed to be owned by the Owners in the same proportion as their respective percentage ownership interests in the Common Elements. Such interests shall

not be transferable except with the transfer of a Condominium Unit. The transfer of a Condominium Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each Owner may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Condominium Unit under foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosed Condominium Unit. The cost of the acquisition, maintenance, repair and replacement of such property shall be a Common Expense.

Section 11.4. Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Units and the Common Elements, which rules and regulations shall be consistent with the rights and duties established in this Declaration. Such rules and regulations may include, without limitation: (1) the requirement that interior window coverings including draperies, shades, and the interior surfaces of any window or door glass used in Units shall present a uniform appearance of type and color from the exterior of the Building, and that the Association shall have the right to inspect and approve all proposed draperies or shades or other interior window coverings to assure compliance with such rule before installation thereof in any Unit; (2) assignment and relocation from time to time of particular portions of storage areas within the Common Elements for exclusive use by Owners of particular Condominium Units; (3) assignment and reassignment, from time to time, of parking spaces to Owners of Units; (4) further designation and clarification of the division of maintenance responsibilities between the Owners and the Association which may supplement but shall not be inconsistent with the provisions of this Declaration; (5) restrictions and requirements relating to exterior nameplates, signs, antennae, signaling device, heating or cooling equipment, or any other devices, additions or alterations to structure; (6) restrictions and requirements relating to the advance reservation and use of the amenities and recreational facilities of the Project by Unit Owners, their tenants or guests; and (7) restrictions and requirements relating to temporary rental of Units being defined as any leasing of Units to third parties for monetary considerations for periods of less than three (3) months duration. The Association may suspend any Owner's voting rights in the Association during any period or periods during which such Owner fails to comply with such rules and regulations, or with any other obligations of such Owner under this Declaration. The Association may also take judicial action against any Owner to enforce compliance with such rules, regulations, or other obligations or to obtain damages for noncompliance, all to the extent permitted by law. Before adopting or amending any rules and regulations, the Board shall be required to furnish copies of the proposed rules and regulations to the Unit Owners in writing, and the Owners shall be notified as provided in the Bylaws of the Association of the time and place of the Association meeting at which the adoption of the proposed rules and regulations will be considered.

Section 11.5. Identity of Board of Managers. From time to time, but not less than annually, there shall be mailed by the Association to each Owner a notice containing the names and addresses of the members of the Board of Managers and the Managing Agent, if any.

Section 11.6. Indemnification. Any employee of the Association, and each director, officer or member of the Board of the Association, shall be

indemnified by the Association against all expenses and liability, including attorneys' fees and costs, reasonably incurred by or imposed upon them in connection with any proceeding to which they may be a party, or in which they may become involved, by reason of being or having acted as such on behalf of the Association; provided that this indemnification shall not apply if the said person is adjudged guilty of wilful misfeasance or malfeasance in the performance of said person's duties; provided further that in the event of a settlement, the indemnification herein shall apply only when the Board approves such settlement and reimbursement as being for the best interest of the Association, and only to the extent covered by an officer's and Board of Director's errors and omissions policy which may be carried by the Association as a Common Expense. The foregoing Right of Indemnification shall be in addition to and not exclusive of all other rights to which such person may be entitled.

ARTICLE XII

Assessments

Section 12.1. General Assessment Obligations. Except as provided in Section 12.4 below herein with reference to the Declarant, all Owners shall be obligated to pay the General Assessments imposed by the Board of Managers to meet the estimated Common Expenses of the Association. The Board may establish any reasonable system for periodic collection of Common Expenses. Initially, assessments for the estimated annual Common Expenses shall be made by the Board and shall be payable in equal monthly installments in advance on the first day of each calendar month. At the end of each calendar year, the Board shall determine actual expenses and either assess each Owner or credit against the next ensuing calendar month as the case may be. Assessments made shall be based upon the estimated cash requirements and reserves deemed to be reasonably necessary to cover the anticipated Common Expense for the period of assessment as the Board shall from time to time determine to be paid by all of the Owners. Estimated expenses shall include the cost of maintenance and operation of the Common Elements, expenses of management, taxes and special assessments (unless separately assessed), insurance premiums for insurance coverage as required or deemed desirable or necessary by the Board, landscaping, care of grounds, common lighting, repairs and renovations, wages, common water and utility charges, legal and accounting fees, management fees, expenses, and liabilities incurred by the Board or Managing Agents under or by reason of this Declaration, payment of any deficit remaining from a previous assessment period, the creation of a reasonable contingency or other reserve or surplus fund for the replacement of those Common Elements which must be replaced on a periodic basis as well as other costs and expenses reasonably relating to the general operation of the Condominium Project. The omission or failure of the Board to fix the assessments for any assessment period shall not be deemed a waiver, modification, or release of the Owners from their obligation to pay the assessment. The Board shall have the right but not the obligation to make pro rata refunds of any assessments in excess of the actual expenses incurred prior to the end of the fiscal year.

Section 12.2. Special Assessment Obligations. In addition to the annual assessments authorized by this Article, the Association may levy in any assessment year a Special Assessment, payable over such period as the

Association may determine, for the purpose of deferring, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof or for any other major expense or purchase incurred or to be incurred as provided in this Declaration.

Section 12.3. Apportionments. The percentage of Common Expenses to be paid by a Condominium Owner, whether by General or Special Assessment, shall be equal to such Owner's appurtenant interest in and to the Common Elements as initially set forth in Exhibit "A" attached hereto. The formula used for determining such appurtenant percentage interest is the ratio by which the square footage of usable floor space of each Unit bears to the aggregate square footage of usable floor space for all of the Units combined, exclusive of Units which may be owned or hereafter acquired by the Association. Therefore, in the event that any Units are added or withdrawn from the Condominium Project, or the configuration of any Unit is changed so as to substantially affect its usable floor space by more than ten per cent (10%), or in the event that the Association acquires or divests itself of any Unit, then the appurtenant percentage interest of each of the Units shall be reallocated according to the formula as established herein, and the Association shall cause a Supplemental Declaration to be recorded in order to set forth such appurtenant percentage interests as reallocated; provided, however, that such reallocation shall not be necessary in excess of once in each calendar year, and such reallocation shall be effective for the entire assessment year next commencing following the date of the recording of said Supplemental Declaration. Declarant shall be considered to own only the undivided interest in Common Elements based upon Condominium Units which have not been conveyed by Declarant.

Section 12.4. Commencement and Time for Payment of Assessments.

(1) For All Owners other than Declarant. The obligation to pay assessments as provided for herein shall not commence until the date of the first transfer of title of a Unit to an Owner other than the Declarant. Thereafter, every Owner, other than the Declarant, shall be obligated to make the assessment payments as they accrue. Assessments shall be due and payable within thirty (30) days after written notice of the amount thereof shall have been given to the respective Owner of a Condominium Unit. Each monthly assessment shall bear interest at a rate as established by the Board of not less than twelve per cent (12%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date, and in addition, the Board may establish a late charge for each assessment payment that is delinquent. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any Condominium Unit for such assessment, but the date when payment shall become due in such case shall be deferred to a date thirty (30) days after such notice shall have been given.

(2) For Declarant. Declarant shall have no obligation to pay annual or special assessments on Units owned by the Declarant. Declarant shall, however, be obligated to pay to the Association on a monthly basis a sum equal to the difference between the Common Expenses incurred by the Association for that month, exclusive of reserves, and the amount of assessments payable by all other Owners to the Association for that month. The obligation of Declarant to subsidise the operations of the Association shall terminate upon termination of the Declarant Control Period as set forth in Section 18.4 below herein.

Section 12.5. Assessment Lien. All sums assessed to any Unit but unpaid shall constitute a lien on such Unit superior to all other liens and encumbrances except (a) tax and special assessment liens on the Unit in favor of a taxing authority, and (b) all sums unpaid on a First Mortgage of record, including all unpaid obligatory sums as may be provided by such encumbrance. To evidence the lien as herein permitted, the Board of Managers may, but shall not be required to prepare a written notice setting forth the amount of such unpaid indebtedness, the amount of accrued penalty thereon, the name of the Owner of the Condominium Unit, and a description of the Condominium Unit, and record the same in the office of the clerk and recorder of the County of Mesa, Colorado. Such lien for assessment shall attach from the due date of the assessment. The lien may be enforced by foreclosure of the defaulting Owner's Condominium Unit by the Association in the manner for foreclosing a mortgage on real property upon recording of a notice for claim thereof. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid assessments, any penalties thereon, the costs and expenses of such proceedings, the costs and expenses for filing the notice of the claim and lien, and all reasonable attorneys' fees in connection therewith. The Association shall have the power to bid on a Condominium Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. Any Mortgagee holding a lien on a Condominium Unit may pay any unpaid assessment payable with respect to such Unit and any and all costs and expenses with respect thereof, and the lien on such Unit for the amounts paid shall have the same priority as the lien of the Mortgage. The lien for assessments referred to herein shall be at all times subordinate to the lien of any Mortgage held by a First Mortgagee. By accepting a deed to a Unit, each Owner shall thereby waive and release any and all rights and claims said Owner may have in and to the Unit as a homestead exemption or any other exemption, said waiver and release to be applicable only in action to foreclose the assessment lien.

Section 12.6. Personal Obligations. The amount of any assessment chargeable against any Condominium Unit shall be a personal and individual debt of the Owner thereof. No Owner may become exempt from liability for the assessment by abandonment or waiver of the use or enjoyment of any of the Common Elements. Suit to recover a money judgment for unpaid Common Expenses, plus interest and expenses, including attorneys' fees, shall be maintainable without foreclosing or waiving the assessment lien provided herein.

Section 12.7. Special Assessment for Individual Unit Owner Obligation. The Association may levy a Special Assessment against the Unit of any individual Owner for the purpose of enforcing any financial obligation of such Owner as is otherwise required pursuant to this Declaration. Such Special Assessment shall be due within thirty (30) days of the date of mailing by the Association of the notice of such assessment, and upon failure of payment, the Association may enforce the assessment lien, and foreclose thereon in the same manner as set forth in Section 12.5 above.

Section 12.8. Notice to Mortgagee. The Association shall report to Mortgagee of a Condominium Unit of any default hereunder or unpaid assessments remaining in default or unpaid or uncured for longer than sixty (60) days, if such Mortgagee shall have furnished to the Association written notice of the Mortgage, and request for such notice.

Section 12.9. Statement of Status of Assessment Payment. Upon payment of a reasonable fee not to exceed \$25 and upon the written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a

Condominium Unit, the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Condominium Unit. Unless such request shall be complied with within twenty (20) days after receipt of said request by the Association, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. If the request is made by a prospective purchaser, both the lien for the unpaid assessment and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within the 20-day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within ten (10) days and the purchaser subsequently acquires the Condominium Unit.

Section 12.10. Personal Liability of Purchaser for Assessments. Subject to the provisions of Section 12.9 and Section 12.12, a purchaser of a Condominium Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Condominium Unit up to the time of conveyance to purchaser, without prejudice to purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

Section 12.11. Assessment Reserves. Each Owner, other than Declarant, may be required to deposit and maintain with the Association an amount equal to up to two times the amount of the estimated monthly Common Assessments to be held without interest, which sum shall be used by the Association or Managing Agent as a reserve for paying such Owner's Monthly Common Assessment, for purchase of equipment, supplies, and for working capital of the Association. Such advance payment shall not relieve an Owner from making the regular monthly payment of the Common Assessment as the same becomes due. Upon the sale of a Condominium Unit, an Owner shall be entitled to a credit from his grantee for any unused portion thereof.

Section 12.12. First Mortgage Foreclosure Liability for Unpaid Assessments. Any First Mortgagee who obtains title to a Condominium Unit through foreclosure of its mortgage or by a deed in lieu of foreclosure shall not be liable for unpaid assessments accruing prior to the date of the vesting of title to the Condominium Unit in the First Mortgagee.

ARTICLE XIII

Restrictive Covenants and Obligations

Section 13.1. General Standards. All uses conducted on the Condominium Project shall be contained within the structures as shown on the Plats or Plans, there being no outdoor storage, display, or sale uses allowed, except as provided below herein.

Section 13.2. Principal Permitted Use. The Condominium Units are hereby restricted to residential use and uses related to the convenience and enjoyment of such residential use, except that the Owners may, through the rules and regulations of the Association, enter into agreements for the temporary rental of the Units, including the provision for maid service therefor, and, through the use of the other amenities and recreational facilities, make arrangements for the accommodation of temporary guests and visitors for monetary considerations including but not limited to conventions, seminars, symposiums and other similar activities. In addition, the Association may elect to provide kitchen and dining facilities within the Project for the benefit of the occupants of the Units or the public as may be determined by the Association, so long as such facilities are otherwise in

compliance with applicable building, zoning and health regulations and other such applicable laws.

Section 13.3. Unauthorized Uses. Except as provided herein, no other business activity of any kind shall be conducted in any Condominium Unit or otherwise on the Project.

Section 13.4. Construction and Sales Facilities of Declarant. Any provision to the contrary herein notwithstanding, Declarant, its agents, employees, contractors, successors and assigns, shall be permitted to maintain during the period of construction and sale of the Condominium Units in the Project upon such portion of the Property as Declarant may choose, such facilities as may be reasonably required, convenient, or incidental to the construction, sale or rental of Condominium Units and interests, including, but not without limitation, a business office, storage area, signs, construction yards, model units, sales office, parking areas and lighting, and temporary parking facilities for all prospective tenants or purchasers of Declarant.

Section 13.5. Nameplates and Signs. All exterior nameplates and signs are hereby prohibited except as expressly approved and authorized by the Association in writing pursuant to such rules and regulations as may be promulgated by the Association, except that the Declarant may maintain such nameplates and signs as it deems appropriate in its sole and absolute discretion during the period of construction and sale of Condominium Units except as may otherwise be prohibited by law.

Section 13.6. Rights of Association to Own Units and to Use Common Elements. The Association shall have the right, but not the obligation, to purchase and own any Condominium Unit for the purpose of maintaining residential and office facilities for the managers or employees of the Association, or for storage, recreation, or conference areas or any other use which the Association determines is consistent with the operation of the Condominium Project. The Association may also maintain such facilities elsewhere within the Common Elements, except as otherwise prohibited by law.

Section 13.7. Compliance with Law. No immoral, improper, offensive, or unlawful use shall be permitted or made of the Condominium Property or any part thereof. All valid laws, ordinances, and regulations of all governmental bodies having jurisdiction over the Project shall be observed, including the rules and regulations of the Association in accordance with Section 11.4 above.

Section 13.8. Prohibitions Against Effecting Exterior Appearance. Except for those improvements erected or installed by Declarant, no exterior additions, alterations, or decorations to any Building, walls, and other structures shall be commenced, erected, or maintained without the prior written approval of the Board of Managers as to conformity and harmony of external design and location with existing structures in the Project. This prohibition shall include such additions as may be temporary, removable, or seasonal, such as sunscreens, storm windows, window shades, awnings, jalousies, or other similar devices. Except as initially installed or approved by Declarant in the initial construction of the Units, no additions,

alterations or changes to interior window coverings shall be made without the prior written approval of the Board of Managers in order to maintain conformity and harmony of the exterior appearance of all Unit windows.

Section 13.9. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, kept, or allowed on the premises of the Condominium Project, except each Unit Owner shall be allowed to maintain not more than two (2) domestic house pets, which shall not include medium and large size dogs, nor exotic pets, which shall be restrained at all times, and except pursuant to such rules and regulations as may be adopted by the Association.

Section 13.10. Unauthorized Vehicles. No vehicles, other than passenger cars, standard size pickup trucks and vans, bikes and motorcycles, shall be permitted to be parked or stored on the premises, other than as may be necessary for the purpose of loading or unloading. This prohibition shall specifically apply to all recreational vehicles, including, but not limited to, motor homes, campers, boats, boat trailers, camping trailers, motorcycle trailers, snowmobiles and snowmobile trailers.

Section 13.11. Restriction Against Offensive Uses. No use which may be offensive, noxious, or detrimental to the Property or improvements of the Condominium Project or its Owners, tenants or guests, shall be allowed, nor shall there be any use which as a matter of common experience tends to create a nuisance, including but not limited to uses which might result in the emission of noxious gases, glare, heat, odor, excessive noise, radio transmission, or high intensity light, or the use of any inherently dangerous product.

Section 13.12. Additions to Structures. There shall be no additions or alterations to the structures as erected by Declarant, its successors or assigns, on the Condominium Project, including but not limited to the addition of nameplates, signs, antennae, signaling devices, heating or cooling equipment, or any other devices of any nature whatsoever, without the express written consent of the Association, pursuant to such rules and regulations as it may establish for such purpose.

ARTICLE XIV

Insurance

Section 14.1. Insurance Maintained by Association. Commencing not later than the time of the first conveyance of a Unit to an Owner other than the Declarant, the Association shall maintain, to the extent reasonably available:

(1) property insurance on the Common Elements and the Units insuring against all risks of direct physical loss commonly insured against, generally referred to as "all risks perils". The total amount of insurance after application of any deductibles shall be not less than eighty per cent (80%) of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies; and

(2) liability insurance, including medical payments insurance, in an amount determined by the Board but not less than one million dollars (\$1,000,000) in respect of bodily injury or death to any one person and not less than one million dollars (\$1,000,000) per bodily injury or death to any number of persons arising out of one accident or disaster, and in limits of not less than one million dollars (\$1,000,000) for damage to property, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements; and

(3) any other insurance the Board deems appropriate to protect the Association or the Unit Owners.

Section 14.2. Unavailability of Insurance. If the all risks perils property insurance or liability insurance or any other insurance previously maintained by the Association is at any time not reasonably available, or if the Association shall at any time determine to eliminate or reduce coverages previously maintained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States Mail to all the Unit Owners.

Section 14.3. Contents of All Risks Perils Insurance. The all risks perils insurance maintained by the Association must provide that:

(1) each Unit Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association;

(2) the insurer waives its right to subrogation under the policy against any Unit Owner or member of his household;

(3) no act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(4) if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risks covered by the policy, the Association's policy provides primary insurance.

Section 14.4. Distribution of Property Insurance Proceeds. Any loss covered by the all risks perils policy maintained by the Association must be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any Mortgagee or beneficiary under a deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit Owners and lien holders as their interests may appear. Subject to the provisions of Section 14.7 below, the proceeds must be disbursed first for the repair or restoration of the damaged property, and Unit Owners and lien holders are not entitled to receive payments of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the Condominium is terminated.

Section 14.5. Other Insurance. Any insurance policy issued to the Association does not prevent a Unit Owner from obtaining insurance for his own benefit.

Section 14.6. Certificates of Insurance and Cancellation Provisions. An insurer that has issued an insurance policy under this Section shall issue certificates or memoranda of insurance to the Association and, upon written request, to any Unit Owner, Mortgagee, or beneficiary under a deed of trust. The policies obtained by the Association under this Article shall provide that the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner and each Mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at the respective last known addresses.

Section 14.7. Use of Property Insurance Proceeds. Any portion of the Condominium for which insurance is required under this Section which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) the Condominium is terminated, (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (iii) eighty per cent (80%) of the Unit Owners, including every Owner of a Unit or assigned Limited Common Element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Condominium is not repaired or replaced, (i) the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Condominium, (ii) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt must be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated, or to lien holders, as their interests may appear, and (iii) the remainder of the proceeds must be distributed to all the Unit Owners or lien holders, as their interests may appear, in proportion to the Common Element interest of all the Units. If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned, and the Association promptly shall prepare, execute, and record an amended or supplemental declaration reflecting the reallocations.

ARTICLE XV

Casualty

Section 15.1. Association as Agent and Attorney in Fact. All of the Owners irrevocably constitute and appoint the Association as their true and lawful agent and attorney in fact in their name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute appointment of the Association as agent and attorney in fact as herein provided.

Section 15.2. General Authority of Association. As attorney in fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of a Condominium Unit Owner which may be necessary or

appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement as used in this Article means restoring the Project to substantially the same condition in which it existed prior to damage, with each Unit and the Common Elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be used by the Association for the purpose of repair or reconstruction unless the Owners and all First Mortgagees unanimously agree not to rebuild in accordance with the provisions set forth hereinafter. In the event any First Mortgagee should not agree to rebuild, the Association shall have the option and right, but not the obligation, to purchase such Mortgage by payment in full of the amount secured thereby if the Owners are in unanimous agreement to rebuild. The Association shall obtain the funds for such purpose by Special Assessments pursuant to Article XII of this Declaration.

Section 15.3. Cost Estimate. As soon as practical after an event causing damage to, or destruction of, any part of the Project the Association shall obtain estimates that it deems reliable and complete of the cost of repair or reconstruction of that part of the Project damaged or destroyed.

Section 15.4. Insurance Proceeds Sufficient to Repair. In the event that proceeds from insurance coverage are sufficient to cover the cost of repair or reconstruction after a casualty pursuant to the estimate of costs obtained by the Association, then such repair or reconstruction shall be promptly performed by the Association as attorney in fact for the Owners pursuant to this Article.

Section 15.5. Insurance Proceeds Insufficient to Repair. If insurance proceeds are insufficient to repair or reconstruct the damaged or destroyed Condominium Property, the following provisions shall govern:

(1) Partial Damage. For the purposes of this Article XV total destruction is defined as such damage or destruction as to render, in the judgment of the Board of Managers, all of the Units in any Building untenable. Any damage or destruction less than total destruction is defined as partial damage for the purposes of this Article XV. Partial damage, whether insurance proceeds shall be sufficient to cover the same or not, shall be repaired as promptly as possible by the Association as attorney in fact, and any cost of such repair or reconstruction in excess of insurance proceeds available shall be assessed against all Owners as a Common Expense.

(2) Total Destruction. In the event of total destruction of the Building as defined in subparagraph (1) above, and the further event that insurance proceeds are estimated to be insufficient to repair and reconstruct in the judgment of the Board of Managers, the Board shall advise all Owners of such decision, which notice shall advise of the special meeting of Owners, pursuant to the Articles of Incorporation and Bylaws of the Association, which meeting shall be held as soon as reasonably possible after the date of the casualty for the purpose of determining whether or not the repair or reconstruction should be done. The Building shall be reconstructed unless seventy-five per cent (75%) of the Owners, plus all First Mortgagees, agree in writing to sell the entire remaining Condominium Project as hereinafter provided. Any necessary assessment made in connection with the plan shall be a Common Expense and charged as an assessment to each Owner during the course of reconstruction at the times deemed necessary or

desirable by the Board. Any such assessment shall be an obligation of each Owner and a lien on such Owner's Condominium Unit shall be enforced and collected as a Common Expense pursuant to Article XII. If seventy-five per cent (75%) of the Owners or more, and all First Mortgagees agree in writing, the entire remaining Condominium Project shall be sold by the Association, as attorney in fact, free and clear of the provisions contained in this Declaration and other Condominium Documents. In such case, the insurance proceeds payable as a result of the casualty and the sale proceeds, if any, shall be apportioned between the Owners on the basis of each Owner's appurtenant interest in and to the Common Elements as specified in Exhibit "A" attached hereto, and such apportioned proceeds shall be paid into separate accounts, each account representing one Condominium Unit. Each such account shall be in the name of the Association, and shall be further identified by the Condominium Unit designation and the name of the Owner. The Association, as attorney in fact, shall use and disburse the total amount of such separate account without contribution from one account to another as follows:

- (a) for payment of taxes and Special Assessment liens in favor of any assessing entity and customary expenses of sale;
- (b) for payment of the balance of the lien of any First Mortgage;
- (c) for payment of unpaid Common Expenses and all costs, expenses, and fees incurred by the Association;
- (d) for payment of junior liens and encumbrances in the order and to the extent of their priority; and
- (e) the balance remaining, if any, shall be paid to the Condominium Unit Owner.

ARTICLE XVI

Obsolescence

Section 16.1. Renewal and Reconstruction. The Owners representing an aggregate ownership interest of seventy-five per cent (75%) or more may agree that the Condominium Project is obsolete and adopt a plan for the renewal and reconstruction, which plan shall have the unanimous written approval or consent of every First Mortgagee of a Condominium Unit. If a plan for the renewal or reconstruction is adopted, notices of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the Owners as Common Expenses; provided, however, that an Owner not a party to such a plan for renewal or reconstruction may give written notice to the Association within fifteen (15) days after the date of adoption of such plan that his Condominium Unit shall be purchased by the Association for the fair market value thereof. The Association shall then have thirty (30) days within which to cancel such plan. If such plan is not cancelled, the Condominium Unit of the requesting Owner shall be purchased according to the following procedures. If such Owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty

(30) days after such agreement. 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 "commencement date" from which all periods of time mentioned hereafter shall be measured. Within ten (10) days following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party) an appraiser. If either party fails to make such a nomination, the appraiser nominated shall, within five (5) days after default by the other party, appoint and associate with another appraiser. If the two designated or selected appraisers are unable to agree, they shall appoint another appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, each appraiser previously appointed shall nominate two appraisers, and from the name of the four appraisers so nominated, one shall be drawn by lot by any judge of any court of record in Colorado, and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within ten (10) days of the failure of the two (2) appraisers to agree, but in no event later than twenty (20) days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, then such decision of the umpire, shall be final and binding and a judgment based upon the decision rendered may be entered in any court having jurisdiction thereof. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner. The sale shall be consummated within fifteen (15) days thereafter, and the Association, as attorney in fact, shall disburse such proceeds for the same purposes and in the same order as is provided in subparagraphs (a) through (e) of Section 15.5(2).

Section 16.2. Sale of Property. The Owners representing an aggregate ownership interest of seventy-five per cent (75%) or more may agree that the Condominium Project is obsolete and that the same should be sold, which plan shall have the prior written approval of all of the First Mortgagees. In such instance, the Association shall forthwith record a notice executed by the Association's president and secretary or assistant secretary setting forth such fact, and upon the recording of such notice the Condominium Project 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 and other Condominium Documents. The sales proceeds shall be collected, apportioned, and disbursed by the Association as attorney in fact, in accordance with the procedure set forth in Section 15.5(2).

ARTICLE XVII

Condemnation

Section 17.1. Consequences of Condemnation. If at any time or times during the continuance of the Condominium Ownership pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in advance thereof, the provisions of this Article XVII shall apply.

Section 17.2. Proceeds. All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Association.

Section 17.3. Complete Taking. In the event that the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium Ownership pursuant thereto shall terminate. The Condemnation Award shall be apportioned among the Owners in proportion to the respective undivided interest in the Common Elements, provided that if a standard different from the value of the Project as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.

On the basis of the principle set forth in the last preceding paragraph, the Association shall as soon as practicable determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Section 15.5(b).

Section 17.4. Partial Taking. In the event that less than the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium Ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: (a) as soon as practicable the Association shall, reasonably and in good faith, allocate the Condemnation Award between compensation, damages, or other proceeds, and shall apportion the amounts so allocated to taking of or injury to the Common Elements and shall be apportioned among Owners in proportion to their respective undivided interests in the Common Elements, (b) the total amount allocated to severance damages shall be apportioned to those Condominium Units which were not taken or condemned, (c) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner had made within his own Unit shall be apportioned to the particular Unit involved, and (d) the amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be made by checks payable jointly to the respective Owners and their respective Mortgagees.

Section 17.5. Reorganization. In the event a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be a member of the Association. Thereafter the Association shall reallocate the ownership, voting rights, and assessment ratio determined in accordance with this Declaration according to the same principles employed in this Declaration at its inception and shall submit such reallocation to the Owners of remaining Units for amendment of this Declaration as provided in Article XIX hereof.

Section 17.6. Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in article XV above.

ARTICLE XVIII

Declarant Rights

Section 18.1. Special Declarant Rights. The Declarant by this Declaration shall be deemed to have certain Special Declarant Rights which are those rights which have been reserved for the benefit of the Declarant in this Declaration, the Plats and Plans, and any supplements or amendments thereto, and shall include without limitation the right:

(1) to complete improvements on the Condominium Project according to the Plats and Plans as subsequently recorded, supplemented, amended, or modified, without permission or consultation with any Unit Owner or Owners or the Association;

(2) to modify or change the basic layout, design, construction method or material composition of the structures to be built upon the Condominium Project at any time as may otherwise be allowed by law, whether during the initial Declarant Control Period of the Association or otherwise;

(3) to enlarge this Condominium Project by submitting additional real estate and the improvements to be constructed thereon; and to withdraw land and improvements from the Condominium Declaration so long as no portion thereof has been previously transferred to any subsequent Unit Owner;

(4) to retain fee simple ownership interest in any Condominium Unit or Units in its own right without obligation to sell or transfer said Units, and to reacquire such Units in its own right which may have been previously transferred or conveyed, all of which may be held for its own use or for the purpose of entering into leases with any third parties for the occupancy of any of such Units so held or owned by the Declarant, or for the purpose of conveying or reconveying said Units by sale or otherwise;

(5) to exercise any and all other rights retained in the within Declaration but not specifically mentioned in the within Section, or as subsequently obtained by supplement or amendment hereto.

Section 18.2. Declarant's Rights Transferable. Any right or interest of Declarant hereunder, established or reserved, may be transferred or assigned by Declarant, either separately or with one or more of such rights or interests, to any person or entity, without restriction.

Section 18.3. Liability of Successor Declarant. Nothing in this Declaration shall be deemed to subject any successor Declarant to any claims against or other obligations of a predecessor Declarant, other than such claims and obligations as may arise as a matter of law.

Section 18.4. Declarant Control Period. The initial Board of Managers shall consist of three (3) persons which shall be elected by Declarant and may be associated with Declarant as agents, attorneys, employees, successors, assigns, or otherwise, and shall serve until the third anniversary of the recordation of this Declaration, and may be removed only by vote of the Owners of one hundred per cent (100%) of the Common Elements. Any vacancies occurring by the death or resignation of any of the three initial members shall be filled through appointment by the remaining members, or if none,

then by the Declarant. Accordingly, the Declarant may effectively control the Board of Managers until the third anniversary of the recording of this Declaration, or longer if it otherwise retains voting control through its ownership interest in Condominium Units created hereby, which time is otherwise referred to herein as the Declarant Control Period.

Section 18.5. Right of First Refusal. The Declarant shall have a right of first refusal to repurchase any Unit from any Unit Owner during the five (5) years immediately following the date of the recording of this Declaration as follows:

(1) if any Owner, other than Declarant or the Association, shall at any time propose to transfer all or any part of its interest in a Unit to any other person or entity, except as specifically exempted below herein, such Owner shall give written notice of the proposed transfer to the Declarant or its successors or its assigns, naming the proposed transferee and specifying the price, if any, and all the other terms and conditions of the proposed transfer. For a period of thirty (30) days after the receipt of such notice, the Declarant shall have the right to notify the Owner of Declarant's intent to acquire the Unit at the price and on the other terms and conditions as set forth in the proposed transfer;

(2) the following transactions shall be exempt from the right of first refusal created by this section: (i) the creation of any tenancy having a term of less than ninety (90) days; (ii) the grant of any mortgage or deed of trust; (iii) any transfer by operation of law of a decedent's interest; (iv) any transfer by gift, sale, devise, or intestacy to any Owner's spouse or his issue (including persons who become so by adoption), spouses of his issue and trustees of trusts for the benefit of such persons or the Owner; (v) any transfer by an Owner to a corporation controlled by the transferring Owner or by a corporation to its controlling shareholder or shareholders; (vi) any transfer in lieu of or by way of foreclosure of any lien; and (vii) any transfer resulting from exercise of statutory redemption rights;

(3) in case of a proposed gift of an interest which is not exempt from the right of first refusal, the purchase price shall be determined by a written appraisal of the value of such interest made by a competent, licensed real estate appraiser, agreed upon by the Owner and the Declarant. If the parties cannot agree upon such an appraiser, the Seller shall select one appraiser and the Declarant shall select a second appraiser, and the two appraisers so selected shall agree upon a third appraiser. The three appraisers thus selected shall determine the fair market value of the interest by a majority vote. The cost of such appraisal shall be paid by the Declarant. Upon completion of the appraisal, the Declarant shall have the right to purchase the Unit at the appraised value within ten days of the date of the completion of the appraisal. If the Declarant elects not to exercise its right of purchase, then the Owner shall be free to make the gift as originally contemplated;

(4) in the case of a proposed transfer for value giving rise to right of purchase hereunder, the closing for transfer of title shall occur at the place and time upon the terms and conditions as described in the Owner's original notice to the Declarant. If not so designated, or in the case of a

proposed gift giving rise to the right of purchase hereunder, the closing for the transfer of title shall take place at the time, place and manner as determined by the Declarant or as the parties may otherwise agree. At least five (5) days before the closing the Owner shall deliver to the Declarant a title insurance commitment issued by a company reasonably acceptable to the Declarant, agreeing to insure marketable title to the interest being transferred free and clear of all liens and encumbrances made or suffered by the Owner, except as otherwise acceptable or assumed by the Declarant. At the closing, Owner shall execute and deliver to the Declarant a warranty deed conveying fee simple title to the Unit, free and clear of all liens and encumbrances made or suffered by the Seller, except as acceptable to or assumed by the Declarant. The purchase price shall be paid by cashier's check or certified funds. The costs of closing, including, but not limited to, the costs of the title insurance policy, shall be paid as called for in the original notice to the Declarant, except in the case of a proposed gift of an interest which was not exempt from the right of first refusal, in which event, said costs shall be paid by the Declarant. Taxes, rent, assessments, utility bills, and insurance premiums, shall be prorated to the date of closing unless otherwise specified to the contrary in the original notice to the Declarant;

(5) any non-exempt transfer of any interest without compliance with the provisions of this paragraph shall be void and of no force and effect. If the right to purchase pursuant to this paragraph shall not be exercised within the time provided, the Owner shall be free to transfer the interest in the manner specified in his original notice to the Declarant. However, if that transfer is not consummated, according to its original terms and conditions, a new offer must be made to the Declarant by the Owner for any subsequent transfer of the interest.

ARTICLE XIX

Revocation or Amendment of Declaration

Section 19.1. Revocation. This Declaration shall not be revoked unless all the Owners and all First Mortgagees of record covering or affecting any or all of the Condominium Units unanimously consent and agree to such revocation by instrument(s) duly recorded.

Section 19.2. Amendment. This Declaration shall not be amended, except as otherwise herein provided, unless the Owners representing an aggregate ownership interest of seventy-five per cent (75%) or more of the Common Elements and all of the First Mortgagees of record covering or affecting any or all Condominium Units unanimously consent and agree to such amendment by instrument(s) duly recorded. Any amendment to this Declaration may also be evidenced by a recorded certificate of the Secretary of the Association certifying that at a meeting of the Owners, duly called, Owners representing an aggregate ownership interest of seventy-five per cent (75%) or more of the Common Elements consented to the Amendment, and that all of the First Mortgagees have given written consent to the Amendment, and that copies of such written consent are in the corporate records of the Association.

Section 19.3. Declarant's Rights to Amend or Supplement. Nothing in this Declaration shall be deemed to prevent, and Declarant hereby reserves the right and power to amend or supplement this Declaration, including the

Plats and Plans, at any time during the Declarant Control Period as established in Section 18.4 above, which may be necessary to amend this Declaration to comply with requirements of any mortgage lender, or any governmental agency or other public, quasi-public or private entity which performs any function which might affect the management, operation, control, sale or other transfer of the Condominium Project, or any portion thereof, which the Declarant in its sole and absolute discretion deems appropriate in order to induce such actions by such agencies or entities which the Declarant deems necessary or desirable to facilitate the development and sale of this Condominium Project. This reserved right and power is intended to be in addition to the right reserved in Article VII above. In furtherance of the right and power referred to in this Section as well as in Article VII, a power coupled with an interest hereby is reserved and granted to Declarant to make or consent to amendments and supplements to this Declaration, including the Plats and Plans. Each deed, mortgage trust deed, other evidence of obligation or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement and a consent to the reservation of the Right of Declarant to make, execute and record such amendments and supplements. No such amendment or supplement as made by Declarant shall affect or impair the lien of any First Mortgagee upon a Unit or any warranty made by an Owner or First Mortgagee in order to induce any agency or entity to make, purchase, insure or guarantee a First Mortgage on such Owner's Unit.

ARTICLE XX

Miscellaneous Provisions

Section 20.1 Mailing Address. Each Owner shall register his, her, its or their mailing address with the Association, and all notices, demands, and statements shall be sent by regular United States mail, postage prepaid, addressed in the name of the Owner at such registered mailing address, or if none, then to the Owner in care of the Unit owned. Until changed by written notice to the Owners, all notices to the Declarant shall be mailed in said manner to the following address:

Penner-Frantz & Co.
1795 West Warren Avenue
Englewood, Colorado 80110

Section 20.2. Reference to Ownership Interests. Wherever in this Declaration or in the Articles of Incorporation or Bylaws of the Association reference is made to a percentage of ownership interest, such reference shall be deemed to mean the percentage of ownership interests in and to the appurtenant Common Elements as reflected in Exhibit "A" attached hereto and as established in any amendment or supplement hereto, and shall not be deemed to mean a percentage of Owners by number of individual persons, partnership, corporations, or other entities having an ownership interest in the Condominium Project.

Section 20.3. Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase, words, or section or the application thereof in any circumstance is 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, word, or section in any other circumstances shall not be affected thereby.

Section 20.4. Terminology. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include either gender.

Section 20.5. State Law. 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 laws of the State of Colorado.

Section 20.6. Period of Condominium Ownership. The Condominium Ownership created by this Declaration and the Plats and Plans shall continue until this Declaration is revoked in the manner provided in Article XIX hereof or until terminated as provided in Article XV (Casualty), XVI (Obsolescence), or XVII (Condemnation) of this Declaration.

Section 20.7. Enforcement. The Association, or any Owner, shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, as well as the Articles of Incorporation, Bylaws, and rules and regulations of the Association. Failure by the Association or by any Owner to enforce any right or obligation herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 20.8. Substitution of Attorney in Fact. The Owners representing an aggregate ownership interest of sixty-six and two-thirds per cent (66-2/3%) or more of the Common Elements may designate a person or other entity to act as the attorney in fact of the Owners in lieu of the Association to deal with the Condominium Property upon its destruction, obsolescence, repair, or reconstruction or condemnation, or with respect to insurance proceeds.

Dated this _____ day of _____, 1981.

PENNER-FRANTZ & CO.

By: _____

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The above and foregoing instrument was acknowledged before me this _____ day of _____, 1981, by _____, as _____ of Penner-Frantz & Co.

Witness my hand and official seal.

My commission expires: _____

Notary Public

(S E A L)

ARTICLES OF INCORPORATION
of
HORIZON TOWERS CONDOMINIUM ASSOCIATION, INC.

The undersigned natural person of the age of twenty-one years or more, does hereby establish a non-profit corporation pursuant to the statutes of the State of Colorado, and adopt the following Articles of Incorporation:

ARTICLE I.

The name of this corporation is:

HORIZON TOWERS CONDOMINIUM ASSOCIATION, INC.

ARTICLE II.

The corporation shall have perpetual existence.

ARTICLE III.

Purposes

The purposes for which the corporation is organized are as follows:

1. To be and constitute the association as referred to in the Declaration of Grants, Covenants, Conditions and Restrictions of HORIZON TOWERS CONDOMINIUMS (hereinafter referred to as the "Declaration"), as recorded on _____, 19____, in Book _____ at Page _____ of the records of the Clerk and Recorder of the County of Mesa, State of Colorado, and to perform all obligations and duties of the Association and exercise all rights and powers of the Association as specified therein.

2. To provide an entity for the furtherance of the best interests of the owners of the condominium units as referred to in the Declaration in order to secure for them the fullest utilization and enjoyment of the Horizon Towers Condominiums.

ARTICLE IV.

Powers

In furtherance of its purposes, but not otherwise, the corporation shall have the following powers:

1. All the powers conferred upon non-profit corporations by the common law and the statutes of the State of Colorado, as the same shall be in effect from time to time.

2. All of the powers necessary or desirable to perform the obligations and duties and exercise the rights and obligations of the

Association under the Declaration, including, without limitation, the following:

(a) To make and collect assessments against members for the purpose of defraying the costs, expenses, and losses of the Association, or of exercising its powers, or of performing its functions.

(b) To manage, control, operate, maintain, repair and improve the common elements as defined in the Declaration.

(c) To enforce covenants, restrictions, or conditions affecting the condominium project to the extent the Association may be authorized under the Declaration.

(d) To engage in activities which will actively foster, promote and advance the common ownership interests of owners of condominium units within the condominium project.

(e) To buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate, and otherwise deal with and in real, personal, and mixed property of all kinds, and any right or interest therein, in fulfillment of any purpose or obligation of the Association.

(f) To borrow money for any purpose of the Association, limited in amount or in other respects as may be provided in the Bylaws of the Association.

(g) To enter into, make, perform, or enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose, right, or obligation of the Association, with or in association with any firm, person, association, corporation, or other entity or agency, public or private.

(h) To adopt, alter, and amend, or repeal such Bylaws, as well as such rules and regulations, as may be necessary or desirable for the proper management of the affairs of the Association and the condominium project; provided, however, that such Bylaws or rules and regulations may not be inconsistent with or contrary to any provision of the Declaration.

(i) The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of further and other rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article IV are independent powers, not to be restricted by reference to or inference from the terms of any other paragraphs or provisions of these Articles of Incorporation.

ARTICLE V.

Membership

1. This corporation shall be a membership corporation without certificates or shares of stock, and there shall be one class of membership only. An owner of a condominium unit shall automatically become a member

of the Association and shall remain a member for the period of that owner's ownership. If title to a condominium unit is held by more than one person, the membership related to that condominium unit shall be shared by all such persons in the same proportion of interests and by the same type of tenancy in which the title to the condominium unit is held. An owner shall be entitled to one (1) membership for each condominium unit owned. Each membership shall be appurtenant to the condominium unit and shall be transferred automatically by conveyance of the condominium unit. No person or entity other than an owner may be a member of the Association, but the rights of membership may be assigned to a mortgagee as further security for a loan secured by a lien on a condominium unit.

2. All members shall be entitled to vote on all matters. Cumulative voting is hereby prohibited, and members shall not have any pre-emptive rights to purchase other condominium units or the memberships appurtenant thereto.

3. If title to a condominium unit is held by more than one person or by a firm, corporation, partnership, association, or other legal entity, or any combination thereof, such owners shall execute a proxy appointing and authorizing one person or alternate person to attend all annual and special meetings of members and to cast the vote of such owners as though personally present. Such proxy shall be effective and remain in full force unless voluntarily revoked, amended, or sooner terminated by operation of law. Within thirty (30) days after such revocation, amendment, or termination thereof, however, the owner shall reappoint any person or alternate person to attend all annual and special meetings as is provided in this paragraph. The Bylaws of the Association may contain reasonable provisions and requirements with respect to recording the transfers of membership on the books and records of the corporation and votes shall be cast in accordance with the membership as reflected on the books and records until such time as a change of membership is appropriately indicated.

4. The Association may suspend voting rights of any member for failure to comply with the Bylaws, rules and regulations of the corporation or with any other obligations of the owners of a condominium unit as established in the Declaration.

5. The Bylaws and rules and regulations of the Association may contain provisions not inconsistent with the Declaration or these Articles of Incorporation, setting forth the rights, privileges, duties, and responsibilities of the members.

ARTICLE VI.

Board of Managers

The business and affairs of the corporation shall be conducted, managed and controlled by a Board of Directors as required by statute, which shall be known as the "Board of Managers" as referred to in the Declaration.

The Board of Managers shall consist of not less than three (3) nor more than five (5) members, the specific number to be set forth from time to time in the Bylaws of the corporation. In the absence of any provisions to the contrary in the Bylaws, the Board shall consist of three (3) members.

The method of election, the term of office, the method of removal from office, if any, and the filling of vacancies on the Board of Managers shall be determined by the Bylaws of the corporation except with reference to the declarant control period as set forth in Section 18.4 of the Declaration.

The names and addresses of the first Board of Managers, who shall serve until their successors are duly determined as required pursuant to the Declaration and Bylaws of the corporation, are as follows:

ARTICLE VII.

Officers

There shall be a President, Secretary and Treasurer elected from among the members of the Board of Managers. The President shall preside over the meetings of the Board of Managers and of the condominium unit owners. The Secretary shall keep minutes of all meetings of the Board of Managers and of the condominium unit owners, and shall in general perform all duties associated with the office of secretary. The Treasurer shall keep the financial records and books of account. One person may serve as both the Treasurer and Secretary if so elected. One or more Vice-Presidents and such other officers as the Board deems to be in the best interests of the corporation may be appointed by the Board of Managers, or elected if otherwise so provided in the Bylaws. The method of election and the term of office of the officers to be elected shall be determined by the Bylaws.

ARTICLE VIII.

Conveyances and Encumbrances

The corporate property may be conveyed or encumbered by authority of the Board of Managers, or such person or persons to whom such authority may be delegated by resolution of the Board. Conveyances or encumbrances shall be by instrument executed by the President or a Vice-President and by the

Secretary or the Treasurer, or an Assistant Secretary or Assistant Treasurer, or executed by such other person or persons to whom such authority may be delegated by the Board.

ARTICLE IX.

Registered Office and Agent

The registered office of the corporation will be:

1795 West Warren Avenue
Englewood, Colorado 80110,

and the registered agent at such office shall be:

Norman D. Frantz.

ARTICLE X.

Dissolution

In the event of the dissolution of this corporation, either voluntarily by its members, by operation of law, or otherwise, then the assets of this corporation shall be deemed to be owned by the members in proportion to each member's ownership of the common elements of the condominium as established in the Declaration.

ARTICLE XI

Amendments

Amendments of these Articles of Incorporation shall be adopted, if at all, in the manner set forth in the Colorado Revised Statutes; provided, however, that no amendment to the Articles of Incorporation shall be contrary to or inconsistent with any provision of the Declaration.

Effective this _____ day of _____, 1981.

STATE OF COLORADO)
) ss.
CITY & COUNTY OF DENVER)

I, Arlene Vengley, a Notary Public, do hereby certify that on the _____ day of April, 1981, personally appeared before me John W. Weaver, who, being by me first duly sworn, declared that he is the person who signed the foregoing document as incorporator, and that the statements contained therein are true.

Witness my hand and official seal.

My Commission expires April 24, 1984.

Notary Public

(S E A L)

BYLAWS
of

HORIZON TOWERS CONDOMINIUM ASSOCIATION, INC.

ARTICLE I.

Name and Location

The name of the corporation is HORIZON TOWERS CONDOMINIUM ASSOCIATION, INC., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 1795 West Warren Avenue, Englewood, Colorado 80110, but meetings of the members and directors may be held at such places within the State of Colorado as may be designated by the Board of Managers.

ARTICLE II.

Definitions

Section 1. "Association" means Horizon Towers Condominium Association, Inc., a Colorado non-profit corporation.

Section 2. "Declaration" or "Condominium Declaration" means the Declaration of Grants, Covenants, Conditions and Restrictions of Horizon Towers Condominiums, as recorded in Book _____ at Page _____ of the records of the Clerk and Recorder of the County of Mesa and State of Colorado on _____, 19_____.

Section 3. All other terms as used herein shall be consistent with the use and meaning as contained in the Declaration or Articles of Incorporation of the Association.

ARTICLE III.

Meetings of Members

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 7:30 P.M. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President or the Board of Managers, or upon written request of the members who are entitled to vote one-fourth of all the votes of the membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage

prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at any meeting of members or proxies entitled to cast one-tenth of the votes of the membership shall constitute a quorum for the transaction of business as provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented. Any decision made or action taken at a duly held meeting at which a quorum is present shall be binding on all members, their successors or assigns.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by a member of his unit.

Section 6. Votes. Each unit owner shall be entitled to one vote for each unit owned, as more fully provided in the Declaration and Articles of Incorporation.

ARTICLE IV.

Board of Managers

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) Managers, who shall be members of the Association.

Section 2. Term of Office. As provided in Section 18.4 of the Declaration, the initial Board of Managers as elected by the declarant shall serve until the third anniversary of the recording of the Declaration. At that time, there shall be a special meeting for the election of a new Board of Managers, each of which shall serve until the next annual meeting, and thereafter, one-third of which shall serve for a term of one (1) year, one-third of which shall serve for a term of two (2) years, and one-third of which shall serve for a term of three (3) years. Thereafter, all members of the Board shall be elected for a term of three (3) years.

Section 3. Removal. Except as provided by Section 18.4 of the Declaration with reference to the initial Board of Managers, any Manager may be removed from the Board, with or without cause, by a majority vote of the members of the Association, and in the event of the death, resignation, or removal of a Manager, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Manager so elected shall receive compensation for any service he may render to the Association. However, any Manager may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The Board shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written consent of all the Managers. Any action so approved shall have the same effect as though taken at a meeting of the Board.

ARTICLE V.

Nomination and Election of Managers

Section 1. Nomination. Subsequent to the initial Declarant control period, Section 18.4 of the Declaration, nomination for election to the Board of Managers shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Managers, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Managers prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Managers as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members only.

Section 2. Election. Election to the Board of Managers shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration.

The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI.

Meetings of Board of Managers

Section 1. Regular Meetings. Regular meetings of the Board of Managers shall be held monthly without notice at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special Meetings of the Board of Managers shall be held when called by the President of the Association, or by any two Managers, after not less than three (3) days' notice to each Manager.

Section 3. Quorum. A majority of the number of Managers shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Managers present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII.

Powers and Duties of the Board of Managers

Section 1. Powers. The Board of Managers shall have power to:

A. Adopt, publish, and amend administrative rules and regulations as provided for in the Declaration, including the operation and use of the common elements and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.

B. Suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days, for infraction of published rules and regulations.

C. Exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration.

D. Declare the office of a member of the Board of Managers to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board.

E. Employ a manager or managing agent, or both, and delegate to either any or all of the powers and duties of the Board; provided, however, the Board when so delegating shall not be relieved of its responsibility under the Declaration.

F. Employ independent contractors, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Managers to:

A. Cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote.

B. Supervise all officers, agents, and employees of this Association, and to see that their duties are properly performed.

C. As more fully provided in the Declaration, to:

(1) Fix the amount of the annual assessment against each unit at least thirty (30) days in advance of each annual assessment period.

(2) Send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period.

(3) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.

D. Issue, or cause an appropriate officer to issue, upon ten (10) days' notice by any person, a statement of account setting forth the amount of any unpaid assessments or other charges due and owing from any unit owner, whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

E. Procure and maintain adequate liability and hazard insurance on property owned by the Association.

F. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

G. Cause the Common Elements to be maintained, and designate and remove personnel necessary for the operation, maintenance, repair, and replacement thereof.

ARTICLE VIII.

Officers and Their Duties

Section 1. Enumeration of Offices. The officers of this Association shall be a President, Secretary and Treasurer, who shall be elected by the Board of Managers from among their members, as well as such other officers as the Board may create from time to time by resolution.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Managers following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

A. The President shall preside at all meetings of the Board of Managers and unit owners; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Secretary

B. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the unit owners; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association, together with their addresses; and shall perform such other duties as required by the Board, or as generally incident to the office of secretary.

Treasurer

C. The Treasurer shall receive and deposit in appropriate bank accounts all moneys of the Association and shall disburse such funds as directed by resolution of the Board; shall sign all checks and promissory notes of the Association; keep proper books of account and financial records; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE IX.

Committees

The Board of Managers shall appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board shall appoint such other committees from among the members of the Association as deemed appropriate in carrying out its purpose.

ARTICLE X.

Books and Records

The books, records and papers of the Association shall at all times, during convenient weekday business hours, be subject to inspection by any unit owner and their mortgagees pursuant to Colorado Revised Statutes,

§38-33-107 (1973, as Amended). The Declaration, the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI.

Assessments

Section 1. As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of the delinquency at a rate as established by the Board of not less than twelve per cent (12%) per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his unit.

Section 2. The services provided by the Association which are paid for out of the regular assessment are:

A. Normally anticipated expenses for maintenance and repair of exterior surfaces of the buildings in which the units are located, including without limitation, painting as often as necessary, the replacement of trim and caulking, the maintenance and repair of roofs, the maintenance and repair of other common elements, including utility lines, and other improvements or material located within or used in connection with the common elements.

B. The regularly anticipated salaries or contract fees of all employees or independent contractors deemed necessary or advisable by the Board of Managers to carry out the purposes of the Association, including but not limited to a manager or managing agent, attorneys and accountants.

C. Electrical and telephone expenses necessary for the operation of the common elements, all water use expenses for both the common elements and individual condominium units, trash collection, snow removal, grounds maintenance, and sewer service.

D. All other services as anticipated or required by the Declaration.

Section 3. Special assessments may be levied against unit owners as provided in the Declaration, which may relate to new additions of general and limited common elements, including the possibility of new recreational facilities.

Section 4. Under the terms of the Declaration, owners are obligated for payment of all common expenses incurred, whether included in the

regular annual assessment or by special assessment, including all additions of general and limited common elements which may consist of new recreational facilities, costs, and fees, if any.

ARTICLE XII.

Corporate Seal

The Association shall have a seal in circular form, having within its circumference the words: HORIZON TOWERS CONDOMINIUM ASSOCIATION, INC.

ARTICLE XIII.

Amendments

Section 1. These Bylaws may be amended, at a regular or special meeting of the members, by the vote of a majority of a quorum of members present in person or by proxy, subject to the requirements of Colorado Revised Statutes, §38-33-106(3) (1973, as Amended).

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XIV.

Fiscal Year

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

ARTICLE XV.

New Additions of General or Limited
Common Elements

All new additions to the common elements, whether general or limited, shall inure to the benefit, obligation, and ownership of all unit owners pursuant to the same percentage ownership in the common elements as existed prior to the new addition and may affect an owner's interest in the existing general and limited common elements only in the event of default in the payment of any increased annual assessment or special assessment resulting from the new addition, which in turn may result in foreclosure of any lien for said unpaid assessment against the owner's condominium unit, which includes his percentage interest in the common elements. New additions to the common elements will not affect an owner's voting power, except to the extent that voting rights may be suspended for failure to pay assessments levied by the Association, which may relate to said new additions, as provided in Article VII, Section 1.B. above herein.

ARTICLE XVI.

Statement of Amenities

The within Statement of Amenities is made pursuant to C.R.S. §38-33-106(3)(r) (1973, as Amended), to-wit:

Section 1. Recreational Facilities. It is anticipated that the project will be constructed in two (2) phases consisting of one residential condominium tower to be constructed in each phase, with the recreational facilities to be included in the first phase to be a swimming pool, dry sauna, whirlpool, shower facility and steam room, billard room, exercise room, and card room, in addition to other amenities including guest rooms, manager's residential unit and office, and storage facilities.

Section 2. Future Recreational Facilities. It is anticipated that the construction of the second phase will have recreational facilities including banquet and party rooms and tennis courts, as well as additional amenities consisting of guest rooms and storage lockers. No other recreational facilities are currently anticipated to be constructed on the project by the Declarant. Nothing herein contained, however, shall be construed to prevent the Association from adding such additional recreational facilities in the future as it may deem appropriate.

In the event of the construction of additional recreational facilities, whether by the Declarant or the Association, the same shall be held and made available only for the use and enjoyment of the owners, their tenants and guests, upon such rules and regulations governing their use as the Association may adopt.

Section 3. Fees or Charges for Use of Recreational Facilities.

Fees or charges in connection with the use of any recreational facilities or other amenities may be charged by the Association in addition to the regular or special assessments of the owners as otherwise provided in the Declaration.

The undersigned, being all of the members of the initial Board of Managers of HORIZON TOWERS CONDOMINIUM ASSOCIATION, INC. hereby execute the Bylaws as effective the _____ day of _____, 1981.

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The above and foregoing instrument was acknowledged before me
this _____ day of _____, 1981, by _____
and _____, being all of the
members of the initial Board of Managers of Horizon Towers Condominium
Association, Inc.

Witness my hand and official seal.

My Commission expires: _____

Notary Public

(S E A L)

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and presently acting Secretary of HORIZON
TOWERS CONDOMINIUM ASSOCIATION, INC., a Colorado non-profit corporation,
and that the foregoing Bylaws constitute the original Bylaws of said
Association as duly adopted by the initial Board of Managers thereof,
effective the _____ day of _____, 1981.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the
seal of the Association this _____ day of _____, 1981.

Secretary

(S E A L)

City
County
Development
Department

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

May 1, 1980

Mr. William E. Boll
Valley Federal Plaza
Suite 320
Grand Junction, Colorado 81501

Dear Sir:

On April 29, 1980, the Grand Junction Planning Commission voted to recommend approval of your petition for zoning of Gonzo annexation to PR, with a design density of 34.9 units per acre, and approval of the preliminary plan, subject to staff and review comments as enclosed.

This item has been scheduled for City Council on May 21, 1980 at 7:30 p.m. You must be present or have a representative in attendance.

Sincerely,



Sue Drissel
Planning Technician II

SD:dh

Enclosure(s)

cc: File #23-80
Paragon Engineering
P.O. Box 2872

GINGERY ASSOCIATES, INC.

CONSULTING ENGINEERS



1310 UTE AVENUE
GRAND JUNCTION, COLO.
81501 (303) 245-0627

PRINCIPALS

DERYL W. GINGERY
FLOYD E. MONTGOMERY
PATRICK F. MULHERN
WILLIAM A. STERLING
DOUGLAS C. STOVALL
W. KEVIN WILLIAMS

January 5, 1981

Mr. Bright
City-County Development Department
West Court House Annex
560 White Avenue
Grand Junction, CO 81501

RE: Preliminary Plan for Horizon Towers Complex

Dear Mr. Bright:

At the request of the owners of the Horizon Towers Complex, Gingery Associates, Inc. has completed a preliminary plan which reflects the changes and requirements of the planning commission relative to the project. The preliminary plan was approved by the responsible authorities with the intent of adjusting the plan to meet all conditions in the final plat phase of the work. The owners of the project have indicated a desire to make sure the project is in compliance with the requirements of the planning commissions as well as the City Commission since some minor changes have been made in the plans. The submission of a modified preliminary plan is an attempt to insure conditions have been met and the the final plat which is scheduled to be submitted in February is in compliance with regulations

Please find attached review comments dated April 14, 1980 which have been discussed in the following paragraphs of this letter. Each comment from each agency will be discussed in order of listing on the review sheet.

MAPPING

NOT APPLICABLE

City Utilities

NOT APPLICABLE

City Engineering

Paragraph (1). Eventhough the street is to be private its sections will be constructed in accordance with City Standards with modifications to sidewalk arrangements.

(2). Access off Horizon is not intended as public

access but is intended to be service access and is designed to be one-way off of Horizon.

- (3). All roadways, etc, have been removed from any floodplains.
- (4). Appropriate R.O.W. along 12th street will be granted on the final plat.
- (5). Swimming pool and other utilities will be connected to the internal building water system which is in turn tied to an 8" diameter loop as shown on the plan.

City Fire

- (1). Fire lines and expansion of exterior piping systems have been proposed as shown on the plans.
- (2). Information on fire flow requirements have been submitted to the Fire Department has responded with requirements which have been incorporated into the plans.

Mountain Bell - N/A

Planners:

- | | |
|------|--|
| Item | (1). N/A |
| | (2). A landscape plan has been developed and a copy is attached |
| | (3). Utilities have been addressed. Flood plain is not applicable. |
| | (4). To be submitted at final plat. |
| | (5). On street parking is to be prohibited on entrance street. More than adequate parking is provided at the site. |
| | (6). Trash containers locations are shown |
| | (7). Covenants will be addressed at final submittal. |

Park & Recreation

See planner item #2

Page 3
January 5, 1981

City Transportation and Engineering

- Paragraph (1). Gate houses have been eliminated.
(2). Dead end parking is deleted.

Grand Valley Drainage
N/A

Respectfully submitted,
GINGERY ASSOCIATES, INC.

Lowell D. Lester

Lowell D. Lester

LDL:lka
Enclosures

HORIZON DRIVE CHANNEL

The following concerns land found in assessors parcel numbers 2945-021-00-023 and 2945-021-00-047. These lots are found between 12th Street and Lakeside Drive, with both lots fronting on the South side of Horizon Drive.

The Horizon Drive channel falls under a study done by the Army Corps of Engineers in 1975 to show the anticipated effect of a 100 and 500 year flood. In the event of a flood of this proportion, Horizon Drive could be inundated to a depth of 1 to 2 feet of water. This channel drains an estimated area of two square miles, and is three miles in length. Many improvements have been made to the channel since this report was done.

Horizon Drive channel starts North of Walker Field and becomes the Ranchmens ditch at North Seventh Street which in turn empties into the Colorado River at 24 Road. It is most noticeable when it becomes visible at "G" Road and Horizon Drive, from here it follows Horizon Drive until it becomes the Ranchmens Ditch at Seventh Street.

It is our intent to realign and clean the Horizon Drive Channel between its exit from under Horizon Drive, approximately 900' West of 27 Road and its entrance to

the Lakeside underground concrete pipe. This distance is 760[±] feet. Placement of the channel is shown on the accompanying site plan.

The existing marsh will be cleared and material will be placed within this property to fill the low area that is there at the present. Starting at the 6' C.M.P. on the North and following the R.O.W. of Horizon Drive, a 2:1 slope will be made to the channel floor. A straight grade between the two pipes will give us the flow line elevation. The toe of the 2:1 slope on the East side will start within three feet of the other.

The elevation of the East bank will be at least 4660 feet. This would place it 1 to 2 feet above the flood plain.

Impact.
up & down.
hyd. loss. ?

Permit: Restrictions

Don Newton. P/E
--- existing side

Hor. — P/E
edge of yellow new c/k
get P/W. for new ROW as shown
visit w/ Don Newton.

Where P/E in relation to Hor Dr. P/E
PI of slope back of sidewalk.
Grade ? at this time - maybe close to existing!
5' to 10' at least!

Curve needs to flatten

future pipe unknown?
Lakeside ; North one.

May 26, 1981

To: Grand Junction Planning Commission

From: Nancy Dickey

Re: #22-81 CH Four Commercial Park
and

for file

#23-80 Horizon Towers

Attached is a copy of my testimony given to the City Council on May 20, 1981. There seems to be a "failure to communicate" concerning Horizon Drive development - see Page 2 which outlines my main concern - traffic on Horizon Drive PLUS traffic to and from Horizon Drive. This concern includes all development in the area.

I am in opposition to any more development until Horizon Drive is upgraded. If possible, there should be a meeting of the City Council, Planning Commission and concerned citizens. I would ask that you postpone your decisions on Horizon Drive until a thorough discussion has been held on the whole question instead of the piecemeal condition we are now working under. Thanks for your consideration.

May 20, 1981

My name is Nancy Dickey

My address is 718 Niblic Drive --- which is located in "Sore Thumb Subdivision" commonly known as Partee Heights. The subdivision is a triangle bounded on one side by I-70, one side by Horizon Drive and to the south the flight path of Walker Field North/South runway. We are very much affected by what happens on Horizon Drive and 27 $\frac{1}{2}$ Road as these are the only access to anywhere unless we learn to fly straight up. Now that I have come down out of orbit, let me explain some of my personal reasons for being where I am tonight --

I am not a new resident objecting to growth. My grandmother lived in a tent west of First and Main when she came to Grand Junction in 1907. My mother was born in Grand Junction in 1908 - I am the third generation and I have two generations following me - they happen to live in Clifton - my roots run deep in this valley.

Because I was willing to serve my community as a member of the Mesa County Planning Commission and as a member of the Rewrite Task Force - I have been called a Communist and threatened with shooting; I have been called a Nazi and threatened with hanging -- this was not enough to make me resign from the Planning Commission. My resignation read in part "my priorities are my family, my home and what is happening on Horizon Drive."

My family and home are rarely mentioned by me in public, but in this case I would like to answer some real estate people who have remarked "If she doesn't like it, why doesn't she move?" I forgive them as they know not what they say. My husband and I drew the plans and oversaw the building of our house 22 years ago. It is a special house not only because we spent so much energy and time on it, but it has entry ways with no steps in front and only a 5" step in the rear, extra wide doors and hallways to accomodate a wheel chair, a bathroom designed so a wheelchair can be turned around in it, lowered light switches, and most important - it is all on one level. There is no way we can move except to another special house - my husband is a double amputee and has been for 30 years. My backyard neighbor is a young lady born with a condition commonly known as brittle bones - she is a tiny person in a wheelchair and drives a van equiped with a lift. Both my husband and Judy have to negotiate either the G Road/Horizon intersection or 27 $\frac{1}{2}$ Rd each day that they go to work -- which brings me to the map explaining my concerns about these and their connection with Horizon Drive development.

*This is information not given to the Planning Comm.
It affects all the development on Horizon which is on
the agenda tonight.*

5-20-81

The green circle on the map is the G Rd./Horizon intersection. The green lines are 27 $\frac{1}{2}$ Rd, the connection of the new cutoff at ~~about~~ 28 $\frac{1}{4}$ Rd. that goes from Patterson to Orchard. None of this area outlined in green has been really addressed as to impact on the road or the intersection. The map shown is a 1979 estimate of the traffic capacity - there is no estimate on 27 $\frac{1}{2}$ Rd.

The yellow outlining shows the area most likely to use the route of F Road (Patterson), turning North on 27 $\frac{1}{2}$ Rd., then down G Rd. to the intersection with Horizon. As explained in my May 4 memo to the Council, persons living as far away as 32 Road and Hwy. 50 on Orchard Mesa are likely to use this route. As I thought about this further, I realized that people living South of the RR tracks between 30 Rd. and 32 Rd. would also learn to use 30 Rd. North to F Rd. - same route. Then looking at the new cutoff ^{28 $\frac{1}{4}$ Rd} between Orchard and Patterson, it seems logical that a good share of the people living between 23rd St. and East to 29 Rd. would also head North -- same route. Looking West and North of the G Rd./Horizon intersection, one realizes that this area also would be most likely to use G Rd. to reach Horizon Drive. The only alternative is to go to 24 Rd. and use the I-70 interchange, or go South to hit a different intersection of Horizon - this is not a likely alternative. This area outlined in yellow is where a good share of the population that would be likely to work on Horizon Drive will be living. Offices and hotels do not run without workers. Workers must get to the job. Roads have to be adequate to the job site.

The 1979 estimate shows Horizon Drive, 12th St. to G Rd., at .93 (approaching capacity) - 1981 estimate is 1.07; above capacity... 1979 estimate for Horizon -- G Rd. to the Interchange at .92 (approaching capacity) --- 1981 estimate shows 1.06 which is above capacity. Now consider that this study did not recognize 27 $\frac{1}{2}$ Rd. as a main entry point for Horizon Drive - we have a problem that needs some more study and thought - in the meantime, requests for more development are being made - requests that probably were not even seen as a possibility in 1979..

Now, lets go back to the green circle - G Rd. and Horizon - this intersection is not mentioned in the Horizon Drive Policy. The explanation has been that when Etter/Epstein do their planned development the intersection will be taken care of - As I have illustrated with the yellow outlined area, this intersection is one of the most important on Horizon Drive and it is unfair to Mr. Etter, to residents of Partee Heights and all the other people who will be using it to put the burden of construction solely on Mr. Etter's proposal - when and if it ever is developed. One further note - 27 $\frac{1}{2}$ Rd. deadends at G Road - there is no barricade, one of the natural barricades - a large cottonwood was taken out just recently when that lot was cleaned off. This is a dangerous situation.

Now, for the lecture I did not give you May 6th.

Responsible Growth

I am for growth when the services are available - water, sewer, roads, electricity - all the things needed to survive - including air to breathe safely. These things mean quality of life because they are the bare essentials to life as we know it in the urban-suburban life most of us live.

Private enterprise - the person wishing to do a project, whether it is a building or a whole subdivision is looking at the way it can be done so there will be some profit; that is the only sound reason to attempt such things. Private enterprise in this context does not put in the water, sewer or road; they are asked to put in a portion deemed their fair share. The public pays the final bill.

Elected officials have the responsibility to see that the necessary services are available and most importantly, officials should consider the economic impact on the community.

These are my views - there are some people here tonight who may want to add to this - At this time I would like to present petitions which read:
We, the undersigned, petition that the Grand Junction City Council will not approve any new applications for development in the Horizon Drive area until the widening and upgrading of Horizon Drive is completed or nearly completed.

(102 signatures)

If developers are truly interested in building for the expected "boom" it appears they would also be looking into the future and realize that it is not in the best interests of any City to let the Main Street die and at the same time clog the main road to the Airport with so much traffic from large projects that it is impossible to have a good access to the Airport. These developments proposed now will need access from directions other than I-70 - These accesses are not here now and will not be here for quite some time. The funding is not complete and the upgrading needed is still in the future - at least 2 years in the future.

Please don't make Horizon Drive the Main Street of Grand Junction - we already have a Main Street with much public money already invested - let's keep it.

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

#23-80

HORIZON
TOWERS

ROCKY MOUNTAIN REGION
10433 EAST 25TH AVENUE
AURORA, COLORADO 80010

(303) 340-5495



In reply refer to:
81-ARM-285-0E

June 17, 1981

Mr. Paul H. Penner
Penner-Frantz & Co.
1795 W. Warren Avenue
Englewood, CO 80110

Dear Mr. Penner:

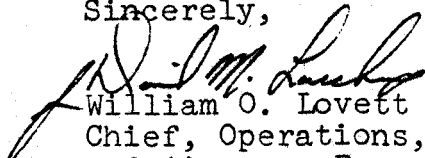
On June 17, 1981, the Federal Aviation Administration (FAA) issued a determination that your proposal to construct a 115' AGL/4,815' AMSL residential complex in Grand Junction, Colorado, would not exceed any obstruction standards of Part 77 and would not be a hazard to air navigation.

During the course of our study, it became apparent that the location and height of your proposal was such that noise, as generated by aircraft operating to/from the Walker Field Airport, could cause a serious problem to tenants of this proposed complex.

Even though the Federal Aviation Regulations do not vest the FAA with authority to regulate construction based upon aircraft noise, it is our responsibility to make certain that individual construction proponents be advised of this potential problem sufficient in advance so that adequate building plans can be developed to reduce the effect of this noise and to prevent any complaints directed against aviation or against the individual aircraft users of this aviation facility.

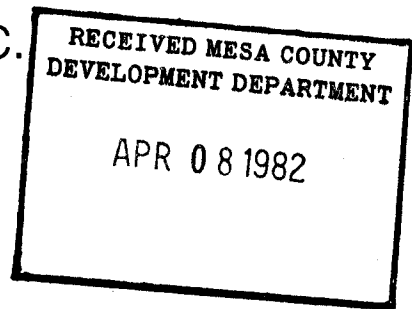
If you have any questions or if we can be of assistance, please contact David Laschinger, Airspace and Procedures Specialist, at the above referenced number. Your interest and cooperation in this matter will be appreciated.

Sincerely,


William O. Lovett
Chief, Operations, Procedures
and Airspace Branch

DMJM Phillips · Reister · Haley, Inc.

April 6, 1982



Mr. Robert Goldin, Planner
City & County Development Department
559 White Avenue, Room 60
Grand Junction, Colorado 81501

RE: Horizon Towers - Proposed Residential Condominiums
1111 Horizon Drive, Grand Junction
DMJM #5057-3-5

Dear Mr. Goldin:

The purpose of this letter is to request City/County review of proposed minor changes on the above referenced project which earlier received approval as a Planned Residential 34.9 zone. We are submitting this request as Architects for the project on behalf and advice of the project owners.

Enclosed is the proposed site plan at 1" = 40'-0", the site plan reduced to 8½" x 14" format, and a section diagram. The following changes are proposed as shown:

1. The building footprint has been modified reflecting a reduction in average size of the individual unit plans.
2. Height of the towers has been reduced with portions of the building ranging from seven to a maximum of nine residential stories above the existing site at its upper grade level.
3. The on-site drive has been moved from underneath the building to an exposed location immediately to the west of the building.

No changes are proposed in the previously approved preliminary plat, utility services, access to public streets, and general easements. Minor reduction, however, in length of the utility easement may be possible on site with the modified footprint. The easement has not yet been recorded for the utilities and will be coordinated to the satisfaction of all concerned agencies.

A Subsidiary of
Daniel, Mann, Johnson, & Mendenhall

Suite 700
910 Fifteenth Street
Denver, Colorado 80202
Telephone: 303/892-1300
Cable: DIMJIM Denver

Planning
Architecture
Engineering
Systems
Economics

Mr. Robert Goldin

-2-

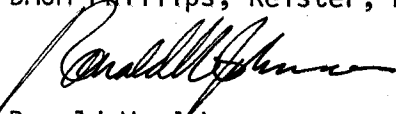
April 6, 1982

When we reviewed the proposed changes in your office, you indicated they appeared to be of minor nature and probably could be approved by the Planning Staff with informal review by the Planning Commission. Pursuant to your suggestion, we herewith request review and approval.

Thank you for consideration of this request. Your earliest response will be much appreciated.

Respectfully submitted,

DMJM-Phillips, Reister, Haley, Inc.



Ronald W. Johnson
Project Manager

RWJ/ns

Encl.

cc: Penner/Frantz & Co., Developers, Denver
William Boll, Grand Junction, Colo.

DMJM Phillips·Reister·Haley, Inc.



CITY - COUNTY PLANNING

grand junction-mesa county 559 white ave. rm. 60 grand jct.,colo. 81501

(303) 244-1628

MEMO

TO: Penner/Frantz

FROM: Bob Goldin, Senior City Planner

DATE: February 23, 1983

RE: Horizon Towers, #23-80

This is to confirm your approval of Horizon Towers final plan and plat, for a Planned Residential zone at 34.9 units per acre. On July 15, 1981, the City Council of Grand Junction approved your final plan and plat on the southwest corner of 12th and Horizon Drive subject to review agency comments.

Under the Grand Junction Zoning and Development Code, you had one year from approval to record your final plat. Since this time limit had expired, the Grand Junction Planning Commission granted you an extension on February 8, 1983, to July 15, 1983, to get your plat recorded.

BG/mm



CITY - COUNTY PLANNING

grand junction-mesa county 559 white ave. rm. 60 grand jct.,colo. 81501

(303) 244-1628

MEMORANDUM

TO: Participants in February 8, 1983, Public Hearing
FROM: Grand Junction Planning Commission and Planning Department
DATE: April 12, 1983
RE: Follow-up to Public Hearing

The Grand Junction Planning Commission would like to thank you for your cooperation and participation in the public hearing February 8. Copies of the minutes are enclosed for your records.

The information you provided will be used by the City in its capital improvements programming and annual budgeting of expenses for the expansion of public services and facilities. Through this hearing process you have shown that your projects are still active and being pursued, while, at the same time, seven projects are being recommended for reversion to the City Council. The net reduction of units/spaces on file are:

	Residential		Commercial	
	<u>Units</u>	<u>Acres</u>	<u>Sq. Ft.</u>	<u>Acres</u>
Total of all files reviewed	1015	96.94	277,398	59.82
Projects recommended for reversion	15	3.59	154,975	5.95
New net total	1000	93.35	122,423	53.87

Based on this information, the City will be able to better provide public services and facilities for your projects as the development occurs.

The Commission feels this dialogue with the development community is valuable. Because our concerns and interests overlap, this exchange should be mutually beneficial.

As follow-up from the February 8 public hearing, the Grand Junction Planning Commission clarified areas of concern for the petitioners and their representatives as to what constitutes start of a project.

Memorandum
April 12, 1983
Page 2

A project must obtain a building permit in order to qualify as starting construction. Destruction or demolition does not constitute beginning the project, nor does site work. Only that work applied for and approved by means of a building permit will suffice for starting a project.

If you have other questions or concerns, please feel free to contact this office. Your cooperation has been appreciated.

BG/vw

QUESTIONS

Commissioner O'Dwyer summarized that the first extension was given March 17, 1982 for six months.

Mr. Goluba confirmed Commissioner O'Dwyer's statement.

Chairman Transmeier then closed the public hearing.

MOTION: (COMMISSIONER O'DWYER) "MR. CHAIRMAN, ON ITEM #3-81, TAMMERLANE, I MOVE WE EXTEND FOR ONE YEAR TO GIVE THEM THE OPPORTUNITY TO GET THEIR PLANS ALL IN ORDER." *for submitted of a final plan.*

Commissioner Rinker seconded the motion.

Chairman Transmeier repeated the motion, called for a vote, and the motion carried, 4-0.

9. #23-80 PR-34.9 HORIZON TOWERS

STAFF PRESENTATION

Bob Goldin introduced the project: The plans call for five-year phasing; there was some discussion on the revised final plan regarding the density; they are requesting an extension to July 15, 1983; they did submit an extension request on which no action has been taken.

PETITIONER'S PRESENTATION

Paul Penner, Penner, Franz & Co., outlined their progress and intentions:

1. They just this week received a commitment on construction funds for the project.
2. They plan to begin construction as early as possible. The construction commitment has to be turned into a construction loan (which takes about 30 days), but they intend to start excavation fairly quickly.
3. Plan to be in for building permits by the latter part of March.

QUESTIONS

Chairman Transmeier asked if they are actually ready to start building. Mr. Penner answered yes.

Commissioner O'Dwyer asked if this would be a phased project. Mr. Penner answered: "This project is divided into two phases; the first phase is for 89 units to be built and we also have committment to carry on to the second phase which is expected to start within two years of the construction (15 months construction with 6 months required for final sell-out, then second phase will start)."

Commissioner Rinker asked how many pre-sales they have. Mr. Penner answered they have about 20% pre-sales.

Chairman Transmeier closed the public hearing and called for a motion.

MOTION: (COMMISSIONER DUNIVENT) "MR. CHAIRMAN, ON ITEM #23-80, I MOVE WE GRANT THE EXTENSION TO 7-15-83 AS REQUESTED PER THEIR LETTER." *for recording of the final plat.*

Commissioner O'Dwyer seconded the motion.

QUESTIONS

Commissioner Rinker asked whether the plat has been recorded.

Mr. Penner stated it is being finalized right now.

Chairman Transmeier repeated the motion, called for a vote, and the motion carried, 4-0.

=====

Commissioner O'Dwyer asked to be excused from the Commission for consideration of the next agenda item. Chairman Transmeier granted his request and noted that in order to have a quorum, he will be voting on the next item.

=====

10. #44-80 PB ENERGY BELT PLAZA

STAFF PRESENTATION

Bob Goldin introduced this project by noting that it had received final approval in 1980 and at that time there was some discussion regarding expansion of F Road and the

CITY OF GRAND JUNCTION IMPROVEMENTS AGREEMENT

In re: Horizon Towers SW Corner of 12th & Horizon
 Name of subdivision or other improvement location

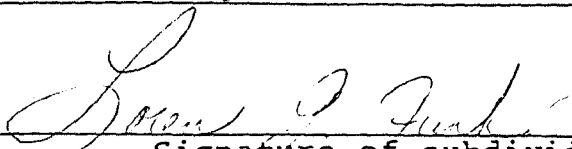
Intending to be legally bound, the undersigned subdivider hereby agrees to provide throughout this subdivision and as shown on the subdivision plat of Horizon Towers date April 22, 1983, the name of subdivision following improvements to City of Grand Junction standards and to furnish an Improvements Guarantee in the form acceptable to the City for these improvements.

Improvements	Quantity and Unit Costs	Estimated Cost	Estimated Completion Date
Street grading			
Street base			
Street paving			
Curbs and Gutters			
Sidewalks			
Storm Sewer facilities			
Sanitary sewers -Manhole	1 each-\$ 1000.00	\$ 1000.00	9/1/83
Mains 8"	112 L.F.at 12.00	\$ 1344.00	9/1/83
Laterals or house connections	\$ 500.00	\$ 500.00	9/1/83
On-site sewage treatment			
Water mains	10" 1750 L.F. @ 16.00	\$ 28000.00	9/1/83
Valves, fittings	8" 670 L.F. @ 12.00	\$ 8040.00	
Fire hydrants	\$ 3350.00	\$ 3350.00	9/1/83
Wet Taps			
On-site water supply	\$ 6700.00	\$ 6700.00	9/1/83
Fire Hydrant Assembly	\$ 1500.00	\$ 1500.00	9/1/83
Survey monuments			
Street lights			
Street name signs			
SUB TOTAL		\$50,434.00	

Supervision of all installations (should normally not exceed 4% of subtotal)
\$2017.36

TOTAL ESTIMATED COST OF IMPROVEMENTS AND SUPERVISION \$ 52,451.36

The above improvements will be constructed in accordance with the specifications and requirements of the City or appropriate utility agency and in accordance with detailed construction plans based on the City Council approval plan and submitted to the City Engineer for review and approval prior to start of construction. The improvements will be constructed in reasonable conformance with the time schedule shown above. An Improvements Guarantee will be furnished to the City prior to recording of the subdivision plat.


 Signature of subdivider
Asst Vice President
 (If corporation, to be signed by President and attested to by Secretary, together with the corporate seal.)

Date: April 27 1983

I have reviewed the estimated costs and time schedule shown above and based on the plan layouts submitted to date and the current costs of construction I take no exception to the above.

Date: _____ 19 _____
 City Engineer

CITY OF GRAND JUNCTION IMPROVEMENTS AGREEMENT

In re: Horizon Towers 12th and Horizon
 Name of subdivision or other improvement Location

Intending to be legally bound, the undersigned subdivider hereby agrees to provide throughout this subdivision and as shown on the subdivision plat of Horizon Towers name of subdivision dated April 30 19 81, the following improvements to City of Grand Junction standards and to furnish an Improvements Guarantee in the form acceptable to the City for these improvements.

Improvements	Quantity and Unit Costs	Estimated Cost	Estimated Completion Date
Street grading			
Street base			
Street paving			
Curbs and Gutters			
Sidewalks			
Storm Sewer facilities			
Sanitary sewers - Manholes	3 ea. @ \$1,000	\$3,000.00	2/1/83
Mains	205 l.f. @ \$14	\$2,870.00	2/1/83
Laterals or house connections	\$500	\$500.00	2/1/83
On-site sewage treatment			
Water mains	1,750 l.f. @ \$15.25; 660 l.f. @ \$13.00	\$35,267.50	2/1/83
Fire hydrants			
On-site water supply	Gate valves, wet tap, etc.	\$5,800.00	2/1/83
Survey monuments			
Street lights			
Street name signs			
SUB TOTAL		\$47,437.50	

Supervision of all installations (should normally not exceed 4% of subtotal) \$1,850.00
 TOTAL ESTIMATED COST OF IMPROVEMENTS AND SUPERVISION \$49,287.50

The above improvements will be constructed in accordance with the specifications and requirements of the City or appropriate utility agency and in accordance with detailed construction plans based on the City Council approved plan and submitted to the City Engineer for review and approval prior to start of construction. The improvements will be constructed in reasonable conformance with the time schedule shown above. An Improvements Guarantee will be furnished to the City prior to recording of the subdivision plat.

DEWDER FRANTZ & Co.
Paul S. Ferme
 Signature of subdivider

(If corporation, to be signed by President and attested to by Secretary, together with the corporate seal.)

Dated: _____ 19 ____.

I have reviewed the estimated costs and time schedule shown above and based on the plan layouts submitted to date and the current costs of construction I take no exception to the above.

 City Engineer

Dated: _____ 19 ____.

ARMSTRONG & ASSOCIATES, INC.

861 Rood Avenue - Grand Junction, Colorado 81501 - (303) 245-3861

May 3, 1983

Karl G. Metzner, Director
Grand Junction Planning Dept.
559 White Ave., Room 60
Grand Junction, CO 81501

Re: Amendment to Horizon Towers Final Plan (#834099)

Dear Karl:

We are requesting approval of an amended final plan for Horizon Towers on behalf of our client, Penner, Frantz & Co. This plan was previously approved on July 15, 1981 and the following comparative analysis narrates the features of the plan proposed for change from the previous approval.

Approved Density - The previously approved Planned Residential density is 34.9 units per acre. The current proposal for Phase I is 83 residential units on 5.28 acres resulting in no change in the density.

Building Footprint - The previously approved building footprint for Phase I covered 21,942 square feet of area, and occupied 9.6% of the total site area. The current footprint of the building for Phase I covers 16,662 square feet of area and occupies 7.2% of the total site area, or 2.4% less site area than previously approved.

Height & Setbacks - The previously approved building has 9 stories. The current Phase I building has 8 stories.

Also, the previously approved building was setback 84 feet from the property line abutting Horizon Drive, 11 feet from the east property line, and 109 feet from the south property line. The current Phase I of the project has a setback of 74 feet from the property line abutting Horizon Drive, 38 feet from the east property line and 75 feet from the south property line.

Parking Provided - Phase I of the current plan has 83 residential units with 186 standard, and 5 handicapped and one large service truck parking space. The number of standard parking spaces provided is 2.30 spaces per unit.

ENGINEERS-ARCHITECTS

Mr. Karl Metzner
May 2, 1983
Page 2

Parking lot lighting will be low level lighting that should not present an intrusion to neighboring properties but will be sufficient for safety and security purposes.

Water & Wastewater - The current plan will require a similar amount of domestic water and will generate a similar amount of wastewater as the previous plan. Domestic water will be supplied by Ute Water and a utility easement will be provided for their line.

Access - The previously approved plan had one access on Horizon Drive and one on 12th Street. The current plan will have one access on Horizon Drive and one on 12th Street. The Horizon Drive access will have a divided entry with a 12 foot access lane for ingress and a 12 foot lane for egress. All interior roads will be private and will have no on street parking.

Trash - The previously approved plan had a trash container located outside the building on the east side. The current plan has the rollout trash containers located inside the building, on the east side, by the service entrance. Service pick up will be outside, similar to the original plan. The new facility provides better concealment of trash containers.

Landscaping - The current plan will have a landscaping plan using the same species of plants, and the intensity of the planting will be similar to the previously approved plan.

Fire Fighting - The previously approved plan had 4 fire hydrants and the current plan has 4 fire hydrants placed in similar functional locations. All roads will be private with 24 foot mat width and will have no on street parking. The building will be totally electric with no natural gas service and will have a sprinkler system which will meet all current building codes.

We are submitting along with this narrative the following items: boundary survey, site plan, utility plan, landscaping plan, grading and drainage plan, elevation drawings, sanitary sewer plan and profile, waterline plan and profile, and revised improvements agreement.

We will be glad to supply additional information at your request.

Mr. Karl Metzner
May 3, 1983
Page 3

Thank you for your help and interest in this project. Please call us if you have a question or concern.

Sincerely,

ARMSTRONG & ASSOCIATES, INC.



Jeff Ollinger
Project Planner



Al Robinson, P.E.
Design Director - Civil Engineering

JO/AR/sm

cc: Theodore B. Haberman
Loren Funk
Paul Penner

ARMSTRONG & ASSOCIATES, INC.

861 Rood Avenue - Grand Junction, Colorado 81501 - (303) 245-3861

May 16, 1983

Bob Goldin, City Planner
Grand Junction Planning Dept.
559 White Ave., Room 60
Grand Junction, CO 81501

Re: Response to Review Comments for Horizon Towers
(23-80) (834099)

Dear Bob:

The following information is provided as a response to review comments for Horizon Towers revised final plan.

Future Design of Horizon Drive - We are aware of the possibility of no left turning movements with the future design of Horizon Drive.

Divided Entry on Horizon Drive - The dividing island in the entry on Horizon Drive will be recessed within the Horizon Towers site and will not extend into the R.O.W. as shown on the site plan. Project designers feel this design feature will help preclude accidents at the entry.

Pedestrian Paths - The site plan now has pathways designated. Unimproved pathways will be provided and designated by signage, paint on asphalt or by breaks in landscaping.

Curb Return on 12th Street - The curb return on 12th Street does not encroach upon the adjoining property. All improvements will be on the Horizon Towers site.

Easements - Easements previously shown on the plans have been placed on the plat.

Parking - The parking lot in the southeast corner of the site will have low profile landscaping adjoining the east side of the parking lot for improved sight distance and safety.

The south parking area will have one way arrows directing traffic in a counter clock wise flow around the circular parking area. The three parking spaces on the north side of the circular parking area located in the center of the south parking area will function properly.

ENGINEERS-ARCHITECTS

Mr. Bob Goldin
May 16, 1983
Page 2

The handicapped parking space in the south parking area will be moved to the north side of the section of parking lot it lies in to provide a more convenient access location.

100 yr. Flood Area - No construction is being considered in the Horizon Drive Channel 100 yr. flood area. If any construction or earthwork is performed in the future, it is understood that a floodplain development permit will be obtained.

Fire Hydrant Location - As per the fire department comment, the fire hydrant on the north side of the site near Horizon Drive will be moved to a point 50 feet east of it's current location.

Ute Water Easement - An easement for the Ute Water line will be provided and will be shown on the plat.

Traffic Controls - The site will have interior traffic controls provided by directional information painted on asphalt.

Improvement Agreement - The improvements agreement is correct as submitted. The improvements will be in place by the end of September, 1983. The improvements agreement is for Phases I & II.

Please call us if you have any questions.

Sincerely,

ARMSTRONG & ASSOCIATES, INC.



Jeff Ollinger
Project Planner



Al Robinson
Civil Design Director

JO/AR/sm

Joan

PENNER-FRANTZ & CO.

1795 West Warren Avenue • Englewood, Colorado 80110 • Telephone (303) 935-3591

May 17, 1983

City/County Planning Commission
Attn: Mr. Bob Goldin
559 White Avenue, Room 60
Grand Junction, CO 81501

Re: Review-Horizon Towers
File No. 23-80

Dear Mr. Goldin:

We have received copies of the staff review comments from the Transportation Engineer, City Planning, City Fire, and the City Engineer. In response to the questions raised, we have requested our architects, DMJM Phillips, Reister, Haley, Inc., and our civil engineers, Armstrong & Associates, to contact you directly or in writing. Accordingly, we are enclosing a letter from our architects relating to lighting, drive grades at the entrances, emergency beacons and signage.

Answers to City Planning Questions:

Trash will be handled by a private firm. A letter to that effect is enclosed.

The development schedule for Phase I is one year for construction and one additional year to substantially sell the balance of units. Phase II will follow completion of Phase I, with a six month presales program followed by a one year construction program. The latter is conditional on favorable economic conditions.

Plans to realign the channel by Elam have temporarily been set aside. Prior to any realignment we would, of course, obtain all necessary permits.

The amenities in Phase I are to be constructed within the building and do include an indoor 20' x 40' pool, an eight person whirlpool, a steam room, a sauna room, men's and women's locker and shower rooms, an exercise room, a craft room, a ballroom, a billiard room, a card room, a board meeting room and certain outside deck lounge areas. The tennis court is the only other outside amenity which will be constructed coincident with Phase II as noted above. If for some reason Phase II is significantly delayed, then, in all probability, the tennis court would be constructed.

All landscaping will be installed with Phase I per plan. The building area for Phase II will not be seeded at this time unless we determine erosion or dust control necessitates such action. The seed mix will be amended to a mix appropriate for the area. Maintenance shall be by the homeowners association.

We are enclosing copies of the covenants, but would prefer to avoid recording them at this time because of possible requests for changes by the lender of permanent loans to buyers of units.

Concerning the reviews undertaken in 1981, we believe all questions have since been resolved and are incorporated in current drawings.

Thank you for your help in this matter and please do not hesitate to contact me if you have any questions.

Very truly yours,
PENNER-FRANTZ & CO.

Paul H. Penner
Partner

PHP/jkh
encls.

cc: Armstrong & Associates
P.C.M.I. - Englewood office
P.C.M.I. - Grand Junction office



CITY-COUNTY BUILDING DEPARTMENT

634 MAIN STREET GRAND JUNCTION, CO 81501 244-1631

December 28, 1984

Mr. Paul Penner, President
Penner Construction Management Inc.
1795 West Warren Avenue
Englewood, CO 80110

Dear Paul:

Representatives of the City of Grand Junction Fire Department, the City/County Building Department and Jim Story have conducted a pre-final inspection at the Horizon Towers project located at 12th Street and Horizon Drive. Jim Story and I discussed the requirements for partial occupancy of the towers prior to the completion of the project as allowed in Section 307(d) of the Uniform Building Code, 1982 Edition. Partial occupancy will be allowed provided that the following list of items is satisfied.

I. Tests: All of these to be performed by the installers in the presence of representatives of the City of Grand Junction Fire Department and the City/County Building Department.

- a) Fire Alarm System - elevator tower exhaust - automatic shutoff operation as required per Section 1009, 1982 U.M.C.
- b) Automatic Fire Extinguishing System.
- c) Emergency Generator operation.
- d) Elevator operation in fire alarm mode.
- e) Emergency illumination and exit signs.
- f) Pressure test of water supply at the uppermost sprinkler head showing compliance with U.B.C. Standard 38-1, 1982 Edition, and Table 2-2.1 (B), GPM at 65 P.S.I. at the top most two standpipe outlets (250 GPM per outlet); or the sprinkler demand including hose demands specified in U.B.C. Standard 38-1, whichever is greater. (See Dick Hollinger's letter dated July 6, 1983.)
- g) Stair shaft pressurization shall be tested by an experienced special inspector who is employed by the owner and approved by the Building Official per Section 306 (a), (b), and (c) of the 1982 U.B.C. (see Item B-30, The Building Department Inc. plan check).

II. Code deficiencies requiring completion or correction:

- a) Provide wire glass at the manager's office per plan review Item B-25 (see Meeting Report from DMJM dated July 6, 1984).
- b) Provide 20 minute labeled doors and frames with wire glass lites, doors shall be self closing and gasketed per Sections 3305 H (1) and (2) at the following openings: 124A, 120A, 116A, 149A, 149C, 148A, 148B, 130A, 133A, 107A, 108A.
- c) Provide dropsills at all stairwell entry doors and at all locations where Pemko 411A is specified in the hardware schedule.
- d) Need temporary electric final approval.
- e) Need City Planning Department approval before Temporary C.O.
- f) Need to obtain a building permit for the swimming pool installation. This permit shall have an investigation fee assessed along with the normal building permit fee per Section 303 (d) 1982 U.B.C.

This completes the punch list. If you have any questions, please contact me at your earliest convenience.

Sincerely,



Roy "Andy" Anderson
Chief Building Official

RAA/bc

cc Wes Painter
John Hatfield
Jim Story
D.M.J.M. Architects