

5/20/94

ENT 90452 BK 4114 PG 291
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
1996 Nov 05 03:25 pm FEE 58.00 BY BLT
RECORDED FOR MOUNTAIN WEST TITLE CO

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF ABBY PARK, A PLANNED
UNIT DEVELOPMENT**

This Declaration is made on the date hereinafter set forth by Abby Park, L.C., a Utah limited liability company, hereinafter referred to as the "Declarant", and is made pursuant to the laws of the State of Utah.

WHEREAS, the Declarant was the owner of the following described real property in Utah County, Utah:

Commencing at a point located 500 degrees 16'28"W along the Section line 75.20 feet and West 349.30 feet from the East 1/4 corner of Section 16, Section 6, Township 2 South Range East, Salt Lake Base and meridian; thence South 96.96'; N89 degrees 43'32"W 771.51'; N00 degrees 16'28"E 95.29'; S89 degrees 44'47"E 735.73'; N88 degrees 00'41"E 35.35' to the point of beginning.

AREA= 1.69 ACRES

hereinafter referred to as the "Property," and

WHEREAS, the Property consists of the land above described, together with certain commercial buildings hereafter to be constructed upon the Property, and

WHEREAS, the Declarant constructed the commercial buildings and other improvements upon the Property in accordance with the plans and drawings set forth in the Record of Survey Map filed in the office of the County Recorder for Utah County, Utah, and

WHEREAS, the Declarant desires and intends to sell fee title to individual Units on the Property, together with an undivided ownership interest in the Common Areas and facilities appurtenant thereto, to various purchasers, subject to the covenants, limitations, and restrictions herein contained.

WHEREAS, the Declarant only recently was made aware that such Declaration had not been recorded prior to completion of construction, and whereas such recordation was precipitated by a unit owner's desire to sell his unit, it being fully understood and agreed by all unit owners that such representations are being made retroactively as of November 30, 1994, and not as of the present date,

DECLARATION

NOW, THEREFORE, the Declarant hereby declares as follows:

1. Definitions.

The terms used herein shall have the meaning stated as follows unless the context otherwise

requires:

(a) "Association" shall mean each and all of the Unit Owners, acting as a group in accordance with this Declaration and the By-Laws.

(b) "Common Areas" shall mean and refer to:

(1) Those Common Areas and those facilities specifically set forth and designated as such on the Map/Plat (hereinafter "Map") recorded with the City of Orem on November 30, 1994.

(2) That part of the Property not specifically included in the respective Units.

(3) All retaining walls, exterior walk-ways, service streets, yards, gardens, fences, all open, undesignated parking spaces, installations of central services such as power, water lines, sewer lines, light, gas, all apparatuses and installations existing for common use, such community facilities as may be provided for, and all other parts of the Property necessary or convenient to its existence, maintenance and safety of the Common Areas or normally in Common Areas.

(4) All areas around buildings.

(5) All Common Areas and Limited Common Areas, whether or not expressly listed herein.

ENT 90452 BK 4114 PG 292

(c) "Limited Common Areas" shall mean those areas used as parking spaces for individual Units. Such parking spaces shall be reserved to the Owners of the individual Units to which they pertain and may be so designated for purposes approved by the Management Committee.

(b) "Common Expenses" or "Assessments" shall mean and refer to all items, things and sums which are lawfully assessed against Unit Owners, this Declaration, the By-Laws, or such Rules and Regulations pertaining to the Property as the Management Committee may from time to time adopt.

(c) "Management Committee" or "Committee" shall mean and refer to those persons duly elected thereto by the Unit Owners in accordance with the provisions of paragraph 6 hereof and the By-Laws. As used in this Declaration, the By-Laws, or Rules and Regulations, the terms "Management Committee" or "Committee" shall mean the Committee acting as agent for the Association, and shall not confer any personal rights or obligations on the members thereof.

(d) "Map" shall mean and refer to the Record of Survey Map of "Abby Park" filed for record by the Declarant in the records of the County Recorder of Utah County, Utah, on November 30, 1994 and incorporated herein by reference.

(e) "Mortgagee" shall mean and refer to any person named as the Mortgagee or beneficiary under any Deed of Trust under which the interest of any Unit Owner is encumbered.

(f) "Property" shall mean and refer to the land above described, the buildings, all other improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith which have become subject to this Declaration.

(g) "Unit" shall mean and refer to one of the commercial units, owned by a Unit Owner, which is designated as a Unit on the Map. A Unit shall include all walls, partitions, and floors which are wholly contained within its vertical and horizontal perimeters and the surfaces of any floors, ceilings,

or coverings which bound it. A Unit shall not include pipes, wires, conduits, or other utility lines running through it which are utilized for or which serve more than one Unit;

(h) "Unit Owner" or "Owner" shall mean and refer to any person or entity, including the Declarant, at any time owning a Unit including a proportionate share of the Common Areas as defined herein. "Unit Owner" or "Owner" shall not refer to a Mortgagee as herein defined, unless such Mortgagee has acquired title pursuant to foreclosure, or any proceeding in lieu of foreclosure.

2. Submission to PUD Ownership.

ENT 90452 BK 4114 PG 293

The Declarant hereby submits the Common Areas and Limited Common Areas of the Property, together with all appurtenances thereto to be known as "Abby Park" Declarant hereby declares that the Property and every part thereof is and shall be held, conveyed, devised, leased, granted, encumbered, used, occupied, and otherwise affected in any manner, subject to the provisions of this Declaration. Each and all of the provisions hereof are hereby declared to be in furtherance of the general plan and scheme of ownership, and are further declared to be for the benefit of the Property and every part thereof, and for the benefit of each Unit Owner. All provisions hereof shall be deemed to run with the land as covenants running with the land, or as an equitable servitude, as the case may be, and shall bind all persons hereafter acquiring or owning any interest in the Property, however, such interest may be obtained.

All present and future Owners, tenants, visitors, Mortgagees, and occupants of Units shall be subject to, and shall comply with the provisions of this Declaration.

Acceptance of a deed of conveyance, or the entering into a lease, or the entering into occupancy of any Unit or accepting a mortgage on one of the Unit, shall constitute an agreement that the provisions of the Declaration, and amendments thereto, are accepted and ratified by such Owner, tenant, Mortgagee, or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage, or lease thereof.

3. The Buildings

(a) The Property consists of twelve (11) commercial buildings, as shown on the Map.

(b) All details involving the description and location of the buildings, number of Units and other like details are shown on the Map.

(c) Common Areas consist of landscaped areas and some common parking spaces, and Limited Common Areas, as denoted on the Map.

4. Nature and Incidents of Ownership.

(a) Each Unit consists of a fee simple interest in a unit and an undivided fee simple interest in the Common Areas. The Map sets forth the respective undivided interest in the Common Areas and Limited Common Areas appurtenant to each Unit. Such undivided interests in the Common Areas are hereby declared to be appurtenant to the respective Units. The proportionate share of the Common Areas is based on the proportionate share of value that each of the Units bears to the total value of the Property. The percentage of ownership in the Common Areas shall be used for all purposes, including, but not limited to, voting and assessment for Common Expenses.

(b) Title to a Unit may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Utah. ENT 90452 BK 4114 PG 294

(c) No part of the Common Areas or Limited Common Areas associated with a Unit or of the legal rights comprising ownership in Common Areas may be separated from any other part thereof. Each Unit, the undivided interest in the Common Areas, shall always be conveyed, devised, encumbered, and otherwise affected only together and may never be separated from one another.

(d) Common Areas and Limited Common Areas shall be owned in common by all the Unit Owners and no Owner may bring any action for partition thereof.

(e) Subject to the limitations contained in this Declaration, any Unit Owner shall have the non-exclusive right to use and enjoy the Common Areas.

(f) If any part of the Common Areas encroaches or shall hereafter encroach upon a Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building on the Property, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Property or any part thereof.

(g) Each Owner hereby appoints the Management Committee as their agent, to have access to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas making emergency repairs therein necessary to prevent damage to the Common Areas or another Unit. The Management Committee shall also have such right independent of any agency relationship. Damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas or as a result of emergency repairs at the insistence of the Management Committee or of Owners shall be an expense of all the Owners; provided however, that if such damage is the result of negligence of the individual Unit Owner, then such Owner shall be financially responsible for all of such damage. Such damage shall be repaired and the Property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Management Committee by assessment as provided herein.

(h) Each Owner shall have a right of ingress and egress over, upon and across the Common Areas necessary for access to his/her Unit. Each Owner shall have a right to the horizontal and lateral

support of a Unit, and such rights shall be pertinent to and pass with the title to each Unit.

(l) The Management Committee shall have a non-exclusive easement to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration, including the right to construct and maintain in the Common Areas, maintenance and storage facilities for use by the Management Committee.

(j) Easements are reserved throughout the Property as may be required for utility services as indicated on the Map.

(k) All conveyances of Units hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as shall give effect to this Declaration, even though no specific reference to such easements appears in any such conveyance.

ENT 90452 BK 4114 PG 295

5. Description and Conveyance of a Unit.

(a) Every conveyance or contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by the number shown on the Map, in substantially the following fashion:

UNIT _____, as shown in the Declaration and on the Record of Survey Map for "Abby Park" appearing in the records of the County Recorder of Utah County, Utah, together with an undivided interest in and to the Common Areas and Limited Common Areas, as the same are established and identified in the Declaration and Map referred to above.

SUBJECT TO: All liens for current and future assessments and charges imposed or levied pursuant to the Declaration of Abby Park, PUD; mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; all easements and rights-of-way of record; all easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Record of Survey Map or otherwise existing; an easement for every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described tract; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

Such description shall be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas and Limited Common Areas, and to incorporate all the rights and limitations incident to such ownership contained in this Declaration, in the By-Laws, and in any Rules and Regulations.

(b) Title to each Unit is hereby made subject to the terms and conditions hereof which bind the Declarant and all subsequent owners, whether or not it be so expressed in the deed by which any Owner acquired a Unit.

6. Management Committee Rights and Obligations.

(a) The business, property and affairs of the Association shall be managed by a Management Committee composed of three members; the President, the Vice-President, and the Secretary/Treasurer. The President, Vice-President, and Secretary/Treasurer shall be elected and/or appointed in accordance with the By-Laws. Until the first regular Owner's Meeting is held pursuant to the By-Laws, the Declarant alone shall be entitled to select the three Management Committee members. Until the first regular meeting of the Owners is held, the members of the Management Committee shall be;

Grant Ellingson / President
Dave De St. Jeor / Vice President
Maxine Jacobson / Secretary-Treasurer

ENT 90452 BK 4114 PG 296

In the event a Committee seat which was filled by Declarant becomes vacant, Declarant shall have the right to select a replacement member to sit on the Committee for the balance of the term associated with the vacated seat. In all other cases of vacancy the remaining Committee members shall elect a replacement as provided in the By-Laws.

(b) The Management Committee may exercise any right or privilege given to it expressly by this Declaration, or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

(c) The Management Committee shall have the rights and obligations set forth in the By-Laws.

(d) The Management Committee shall be responsible for the exclusive management and control of the Common Areas, Limited Common Areas and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The Management Committee shall be responsible for repair or replacement of Common Areas and Limited Common Areas and shall have the exclusive right to contract for all goods, services, and insurance payments which are made for such repairs or replacement. The cost of such management, operation, maintenance, and repair by the Management Committee shall be born as provided in paragraph 7 of this Declaration and in the By-Laws.

(e) The Management Committee 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 Management Committee shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Management Committee or by any person or entity with whom or which it contracts. The Management Committee may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property; the enforcement of this Declaration, the By-Laws, or any Rules and Regulations. The Management Committee may arrange with others to furnish lighting, water, snow removal, grounds maintenance and other common services. The cost of such

services shall be borne as provided in paragraph 7 of this Declaration and in the By-Laws.

(f) The Management Committee may acquire and hold, for the use and benefit of all Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respectable interests in the Common Areas.

(g) The Management Committee may make Rules and Regulations governing the use of Units and of the Common Areas and Limited Common Areas, which Rules and Regulations shall be consistent with the rights and duties established in this Declaration.

(h) The Management Committee may suspend an Owner's voting rights for the period during which such Owner fails to comply with the Rules and Regulations, or with the obligations of an Owner under this Declaration; after sending such Owner a notice of non-compliance, at least ten (10) days prior to any meeting at which action may be taken by the Owners. The Management Committee may also take judicial action against any Owner to enforce compliance with the Rules and Regulations, with other obligations, or to obtain damages for non-compliance, all to the extent permitted by law.

ENT 90452 BK 4114 PG 297

7. Assessments.

(a) Declarant, for each Unit owned by it within the Property, hereby covenants, and each Owner of any Unit by the acceptance of a deed therefore, whether or not it be so expressed in the deed, shall hereby covenant and agree with each other and with the Association to pay to the Association, for the purposes provided in this Declaration, all assessments, all special assessments, and other fees as provided in this Declaration, the By-Laws, or Rules and Regulations.

(b) The total annual assessments against all Units shall be based upon advance estimates of cash requirements by the Management Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas and Limited Common Areas or furnishing among other things, expenses of Management; grounds maintenance; taxes and special assessments levied by governmental authorities until the Units are separately assessed as provided herein; premiums for all insurance which the Management Committee is required or permitted to maintain; common lighting and heating; water charges; trash collection; sewer service charges; repairs and maintenance; wages for Management Committee employees; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Management Committee for the benefit of the Owners under or by reason of this Declaration.

Each Unit shall be separately metered for gas and electricity. Costs of gas and electric service shall be paid by the individual Unit Owners. Water and sewer for individual Unit shall be separately metered and costs shall be paid by the individual Unit Owner. Water, garbage, and electricity for Common and Limited Common areas may be metered separately or in combination with individual Units.

(c) Expenses attributable to the Common Areas and to the Limited Common Areas as a whole shall be apportioned among all Units in proportion to their respective undivided interests in the Common Areas and Limited Common Areas. For this purpose Declarant shall be considered to own only the undivided interest in Common Areas based upon Units not conveyed by Declarant.

(d) Annual assessments shall be made on a calendar year basis. The Management Committee shall give written notice of each annual assessment with respect to a Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year. The first annual assessment shall be for the balance of the calendar year remaining after the date fixed by the Management Committee. Each annual assessment shall be due and payable in monthly installments on the first day of each and every month and no separate notices of such monthly installment shall be required. Each monthly assessment shall bear interest at the rate of eighteen (18) percent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

(e) In addition to annual assessments, the Management Committee may levy in any assessment year a special assessment, payable over such a period as the Management Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Property or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This paragraph shall not be construed as an independent source of authority for the Management Committee to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other paragraphs of this Declaration. Any amounts assessed pursuant hereto shall be assessed to the Owners in proportion to their respective undivided interest in Common Areas. Notice in writing of the amount of such special assessments and the time for their payment shall be given promptly to the Owners. Payment shall be due on the dates and in the manner provided in the notice. Any special assessment or part thereof shall bear interest at the rate of eighteen (18) percent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

(f) All sums assessed to any Unit pursuant to this section, together with interest thereon as provided herein shall be secured by a lien on such Unit in favor of the Association. Such lien shall have such priorities as established by law.

(g) To establish a lien for an any unpaid assessment, the Management Committee shall prepare a written notice of lien as set forth by statute. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Management Committee as provided by law. The lien shall also secure, and the Owner shall also be required to pay to the Management Committee any assessments against the Unit which shall become due during the period of foreclosure sale or other legal sale. The Management Committee may bid on the Unit at foreclosure or other sale and may acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

(h) A release of lien shall be executed by the Management Committee and recorded in the office of the County Recorder of Utah County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

(i) An encumbrancer holding a lien on a Unit may pay, but shall not be required to pay, any

amounts secured by the lien created by this Section, and upon such payment such encumbrancer shall be subrogated to all rights of the Management Committee with respect to such lien, including priority.

(j) The Management Committee shall report to any encumbrancer of a Unit any unpaid assessments remaining unpaid for longer than ninety (90) days after the same shall have become due; provided however, that such encumbrancer first shall have furnished to the Management Committee written notice of such encumbrance.

(k) The amount of any annual or special assessment against any Unit shall be the personal obligation of the Owner thereof to the Association. Suit to recover a judgement of such personal obligation shall be maintainable by the Management Committee without foreclosing or waiving the lien securing the same. No Owner may void or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of a Unit.

(l) Upon payment of a reasonable fee not to exceed ten dollars (\$10) and upon written request of any Owner, or any Mortgagee, prospective Mortgagee or prospective purchaser of a Unit, the Management Committee shall issue a written statement setting forth the amount of unpaid assessments, if any, with respect to such Unit; the amount of the current yearly assessment and the portion thereof which has theretofore been paid; and credit for advanced payments or prepaid items. Such statement shall be conclusive upon the Management Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within ten (10) days, all unpaid assessments which become due prior to the making of such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such a request, both the lien and unpaid assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within ten (10) days, and that purchaser subsequently acquires the Unit.

(m) Subject to the provisions of subparagraph (l), a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

ENT 90452 BK 4114 PG 299

8. Use of Units.

(a) Each Unit is intended and restricted to be used for commercial use. The buildings may not be used for residential purposes.

(b) There shall be no obstruction of Common Areas by Owners and/or their guests without the prior written consent of the Management Committee. The Management Committee may, by Rules and Regulations, prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all Owners or protecting the Units or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Management Committee, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Areas except upon the prior written consent of the Management Committee.

(c) Nothing shall be done or kept in the Common Areas or Limited Common Areas which would result in the cancellation of the insurance on the Property or increase the rate of the insurance on the Property, over what the Management Committee, but for such activity, would pay, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Units or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas or Limited Common Areas or shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Management Committee and the other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or an invitee; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner. No obnoxious, destructive or offensive activity shall be carried on in any Unit or in the Common Areas, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing on the Property.

(d) No Owner shall violate the Rules and Regulations as adopted from time to time by the Management Committee.

(e) Each Owner shall keep the exterior of his/her Unit in a clean, sanitary and attractive condition, and good state of repair.

(f) No alterations, plumbing, electrical or similar work within the Common Areas or Limited Common Areas shall be done, by any Owner without the prior written consent of the Management Committee, except emergency repair.

(g) Notwithstanding anything herein to the contrary, until the Declarant has completed and sold all of the units, neither the Owners who have purchased units nor the Management Committee shall interfere with the completion of the contemplated improvements and sale of the Units. The Declarant may make such use of the unsold Units and the Common Areas as may facilitate such completion and sale, including but not limited to the maintenance of a sales office, the showing of the Units, and the display of signs.

ENT 90452 BK 4114 PG 300

8.1. Party Walls.

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

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

(c) If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right

of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Notwithstanding any other provision of this Article, and Owner who by his negligent or willful acts causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

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

8.2. Signs.

(a) Any signs comprising a part of a central directory to the Units, or individual signs attached to individual Units shall conform in all respects to the Bylaws as administered by the Management Committee.

ENT 90452 BK 4114 PG 301

9. Insurance.

(a) The Management Committee may elect to obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Utah. The provisions of this section shall not be construed to require the Management Committee to obtain and maintain insurance coverage, except in such amounts and in such forms as the Management Committee may deem appropriate from time to time, such as:

(1) Casualty insurance on the Common Areas in such amounts as shall provide for full replacement thereof in the event of damage or destruction, all in the manner in which a corporation owning similar commercial buildings would, in the exercise of prudent business judgement, obtain such insurance. Such insurance shall at a minimum include fire and extended coverage, and vandalism and malicious mischief coverage. The Management Committee may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the opinion of the Management Committee are consistent with good business practice.

(2) Broad form comprehensive liability coverage in such amounts and in such forms as it deems advisable to provide adequate protection. Coverage shall at a minimum include liability for personal injuries, operation of automobiles on behalf of the Association or Management Committee, and activities in connection with the ownership, operation, maintenance and other use of the Property.

(3) Workers' compensation or employer's liability insurance and all other similar insurance in respect to employees of the Management Committee in the amounts and in the forms now or hereafter required by law.

(b) The Management Committee may purchase a fidelity bond in the amount of 150% of the Association's estimated annual operating expenses and reserves, to insure against dishonesty of employees, destruction or disappearance of money or securities, and forgery.

(c) The Management Committee may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Property, including any personal property of the Management Committee located thereon.

(d) The Management Committee may obtain insurance on the personal property and furnishings initially placed in the Units by Declarant upon completion of construction of the Property in such amounts as shall provide for the full replacement thereof in the event of damage or destruction from casualty.

ENT 90452 BK 4114 PG 302

(e) Casualty insurance shall be carried in a form or forms naming the Association as the insured, as trustee for the Owners and for Declarant while an Owner. Such policies shall provide a standard, non-contributory mortgages clause in favor of each first Mortgagee which shall have given notice to the Management Committee of such first mortgage. Each policy also shall provide that it cannot be canceled by either the insured or the insurance company until after ten days prior written notice is first given to each Owner, to Declarant, and to each first Mortgagee. All policies of insurance shall, if possible, provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. All policies of insurance shall, if possible, provide further that the insurance under any such policy as to the interest of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

(f) Public liability and property damage insurance shall name the Association as the insured, as trustee for the Owners and for Declarant while an Owner, and shall protect each Owner and the Declarant against liability for acts of the Management Committee in connection with the ownership, operation, maintenance or other use of the Property. Such policies of insurance shall provide that all insured (including the Declarant, Owners, and Management Committee, and officers of the Association) shall be considered as separately insured and coverage shall be afforded each such insured in the same manner as though separate policies had been issued to each such insured and the insurance afforded any person or organization as insured under this policy shall not in any way be prejudiced by the inclusion therein of more than one person and/or organization as insured, but the inclusion of more than one insured under the policy shall not operate to increase the limits of the company's total liability under the policy.

(g) Insurance coverage on the furnishings initially placed in the Units by Declarant, except to the extent that the Management Committee pursuant to subparagraph (b) hereof elects to arrange for casualty insurance, and, regardless of the Management Committee's election, insurance coverage on items of personal property placed in a Unit by an Owner, and casualty and public liability insurance coverage within each individual Unit, shall be the responsibility of the respective Owners.

(h) The Management Committee shall receive the proceeds of any casualty insurance payment received under policies obtained and maintained. To the extent that reconstruction is required, the

proceeds shall be used for such purpose.

(I) Notwithstanding the provisions of subparagraphs (a) and (b) above, each Owner may obtain insurance at his/her own expense providing coverage upon a Unit, personal property, personal liability, and covering such other risks as may be deemed appropriate, but each such policy shall provide that it does not diminish the coverage for liability arising under insurance policies which cover the Management Committee, the other Owners, and the servants, agents, guests of any of them, if such insurance can be obtained in the normal practice without additional premium charge.

10. Casualty Damage or Destruction

ENT 90452 BK 4114 PG 303

(a) All of the Owners irrevocably constitute and appoint the Management Committee their true and lawful agent in their name, place and stead for the purpose of dealing with the Property upon its damage or destruction. Acceptance of a deed from the Declarant or from any Owner shall constitute appointment of the Management Committee as an attorney in fact for the limited purposes as herein provided.

(b) As attorney-in-fact, the Management Committee 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 Unit Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding subparagraphs means restoring the Property to substantially the same condition in which it existed prior to damage, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before.

(c) In the event any Mortgagee should not agree to rebuild, the Management Committee shall have the option to purchase such mortgage on behalf of the Association by payment in full of the amount secured thereby. The Management Committee may obtain the funds for such purpose by special assessments under paragraph 7 of this Declaration.

(d) As soon as practicable after receiving estimates, the Management Committee shall diligently pursue completion of the repair or reconstruction of the part of the Property damaged or destroyed, but only if the Property is damaged or destroyed to the extent of 75% or less than the value thereof. In the event the Property is destroyed or damaged to the extent of more than 75% of the value thereof, the Owners shall, at a meeting within 100 days after such damage or destruction duly called by the Management Committee for the purpose, determine whether or not said premises should be rebuilt, repaired or disposed of. Unless Owners representing at least 75% of the undivided interest in the Common Areas agree to the withdrawal of the Property from the provisions of the Act and this Declaration and to its subsequent disposal, the Property shall be repaired, rebuilt or restored to substantially the same condition it was in immediately prior to destruction or damage. The Management Committee may take all necessary or appropriate action to effect repair or reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be substantially in

accordance with the original plans and specifications of the Property or may be in accordance with any other plans and specifications the Owners may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Unit may not vary by more than 5% from the number of cubic feet and the number of square feet for such Unit as originally constructed pursuant to the original plans and specifications, and the location of any building shall be substantially the same as prior to damage or destruction. The same easements for encroachments as declared in Section 4 shall apply under the provisions of this Section.

(e) The proceeds of any insurance collected shall be available to the Management Committee for the purpose of repair or reconstruction. If the proceeds of insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Management Committee may levy in advance a special assessment sufficient to provide funds to pay the estimated or actual costs of repair or reconstruction. Such assessment shall be allocated and collected as provided in this Declaration. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

ENT 90452 BK 4114 PG 304

(f) The insurance proceeds held by the Management Committee and the amounts received from assessments provided for in Sections 9 and 10 constitute a fund for the payment of cost of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost or repair of reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the owners in proportion to the contributions each Owner made pursuant to the assessments the Management Committee made under Section 10 of this Declaration.

(g) If 75% of the Owners and all holders of first mortgages on Units agree not to rebuild, as provided herein, the Property may be removed from the provisions of the Act as prescribed therein. Withdrawal shall be in accordance with the Utah Statutes.

11. Duty of Owner to Pay Taxes on Unit.

Under the Act each Unit and its appurtenant percentage of interest in the Common Areas in the Property is subject to separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and assessments authorized by law, and that as result thereof no taxes will be assessed or levied against the Property as such. Accordingly, each Unit Owner will pay and discharge any and all taxes and assessments which may be assessed on that Unit.

12. Computation of Percentage Interest in Common Areas.

The percentage of undivided ownership interest in the Common Areas which is appurtenant to a Unit shall be equal to the ratio of the par value or size of such Unit and the aggregate par value or size of all Units included in the Property. The par value or size of each Unit is shown in the attached Exhibit "A".

13. Amendment of this Declaration.

(a) The Owners at any time have the right to amend this Declaration and/or the Map upon the approval of Owners representing not less than 67% of the undivided interest in the Common Areas.

(b) Notwithstanding anything to the contrary contained in this Declaration, until all but two (2) Units of the Property have been sold, Declarant shall have, and is hereby vested with, the right to unilaterally amend this Declaration or the Map, so long as the amendment involved is consistent with law and does not attempt to divest any property rights of any Owner or first Mortgagee.

14. Service of Process.

Until changed by amendment to this Declaration, the name of the person to receive service of process and his address is:

Grant Ellingson
1143 S. Orem Boulevard
Orem, Utah 84058

ENT 90452 BK 4114 PG 305

15. Mortgages.

Notwithstanding all other provisions hereof:

(a) The liens created hereunder upon any Unit shall be subject to and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage or a trust deed with first priority over other mortgages) where such interest was made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien on the interest of the purchaser at such foreclosure sale to secure all assessments made pursuant to this Declaration after the date of such foreclosure sale, which lien shall have the same effect and be enforced in the manner as provided herein. All other mortgages shall have such rights and priorities as established by law.

(b) No amendment to this paragraph shall affect the rights of the holder of any such mortgage who does not join in the execution thereof.

16. Indemnification of Management Committee.

Each member of the Management Committee shall be entitled to be indemnified and held harmless by the Unit Owners against all cost, expenses, and liabilities whatsoever, including attorney's fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of being or having been a member of the Committee.

17. Severability.

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

18. Topical Headings and Conflict.

The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Declaration of any paragraph or provision hereof. In case any provisions hereof shall conflict with Utah law, Utah law shall be deemed to control.

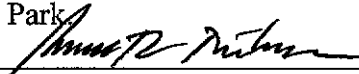
19. Effective Date.

This Declaration shall take effect upon recording in the office of the County Recorder of Utah County, Utah.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by reservations and exclusions; and mineral reservation of record and rights incident hereto; all instruments of record which affect the above-described tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of way; all easements and rights-of way record; any easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Survey Map or otherwise existing; and easement for every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described tract at such time as construction of all Project improvements are complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

ENT 90452 BK 4114 PG 306

DATED this ___ day of November 1996.

Abby Park
By: 
Bruce R. Dickerson, Manager

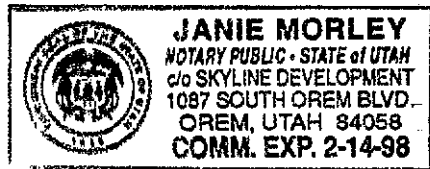
State of UTAH }
 }.ss
County of UTAH }

On the 15th day of November, 1996, personally appeared before me Bruce R. Dickerson, the signatory of the foregoing instrument, who duly acknowledged to me that he executed the same.

Janie Morley
Notary Public

My commission expires: 2-14-98

Residing at: Orem, Utah



ENT 90452 BK 4114 PG 307

EXHIBIT "A"
ABBY PARK

UNIT NUMBER PERCENTAGE OF OWNERSHIP
IN COMMON AREA

1	9.09	---
2	9.09	---
3	9.09	--- ENT 90452 BK 4114 PG 308 ---
4	9.09	---
5	9.09	---
6	9.09	---
7	9.09	---
8	9.09	---
9	9.09	---
10	9.09	---
11	9.09	---

We the undersigned Unit Owners have read the above covenants, conditions and restrictions for Abby Park, a planned unit development, and acknowledge that said covenants, conditions and restrictions were not properly recorded with the Utah County Recorder's Office prior to the start of construction and the completion of the project. However, we have read and understood the covenants, conditions and restrictions and agree to be bound thereby as if said document had been properly recorded prior to construction. We release and waive any and all claims we may have or assert against Abby Park, L.C., or its principals, which may arise out of the recordation, or failure to record this document prior to construction. It is our intention that said covenants, conditions and restrictions run with the land and that all owners, present and future be bound thereby and witness our approval of the same as evidenced by our signatures below.

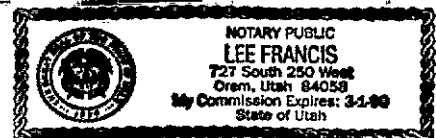
ENT 90452 BK 4114 PG 309

We the undersigned Unit Owners have read the above covenants, conditions and restrictions for Abby Park, a planned unit development, and acknowledge that said covenants, conditions and restrictions were not properly recorded with the Utah County Recorder's Office prior to the start of construction and the completion of the project. However, we have read and understood the covenants, conditions and restrictions and agree to be bound thereby as if said document had been properly recorded. It is our intention that said covenants, conditions and restrictions run with the land and that all owners, present and future be bound thereby and witness our approval of the same as evidenced by our signatures below.

ENT 90452 BK 4114 PG 310

APPROVAL OF UNIT OWNERS		DATE
1.	Unit No. 1	<u>APR Investments LLC by Holly P. Robin</u> 10/29/96
2.	Unit No. 2	<u>APR Investments LLC by Holly P. Robin</u> 10/29/96
3.	Unit No. 3	<u>[Signature]</u> 10/29/96
4.	Unit No. 4	<u>[Signature]</u> 10-29-96
5.	Unit No. 5	<u>[Signature]</u> 10/29/96
6.	Unit No. 6	<u>Melanie Johnson</u> 10-28-96
7.	Unit No. 7	<u>Richard C. Hillier</u> 11/5/96 G & S OFFICE LEASING L.C.
8.	Unit No. 8	<u>by Scott D. Rauland</u> 10-29-96
9.	Unit No. 9	<u>Richard C. Hillier</u> 11/5/96 G & S OFFICE LEASING L.C.
10.	Unit No. 10	<u>by Scott D. Rauland</u> 10-29-96 G & S OFFICE LEASING L.C.
11.	Unit No. 11	<u>by Scott D. Rauland</u> 10-29-96

STATE OF UTAH
COUNTY OF UTAH



SIGNED AND ACKNOWLEDGED BEFORE ME ON OCTOBER 29, 1996 AND NOVEMBER 5, 1996.

MY COMMISSION EXPIRES 3-1-97

Lee Francis