

THIRD AMENDED AND RESTATED  
PLANNED DEVELOPMENT AGREEMENT  
COLLEGE MESA SECOND AND THIRD ADDITIONS  
&  
SKYRIDGE VILLAGE AND ESTATES PLANNED DEVELOPMENT

THIS AGREEMENT, dated this First day of March, 2003, is between the City of Durango, a Colorado Municipal Corporation, herein referred to as "City," and TAMU Joint Venture II, RLLP and TAMU Joint Venture III, RLLP herein referred to as "Applicant."

W I T N E S S E T H:

WHEREAS, Applicant is the developer of certain property that has been annexed to the City of Durango as the College Mesa Second and Third Additions recorded at reception numbers 762998 and 792622 respectively and is currently being developed as the SkyRidge Village and Estates Planned Development;

WHEREAS, Applicant has previously, in conjunction with the College Mesa Second and Third Addition Annexations and final approval of Phases 1 and 2 of SkyRidge Village and Estates Planned Development, entered into an Annexation and Planned Development Agreements for said annexation and planned development recorded at reception numbers 763000 and 792621; and

WHEREAS, pursuant to due legal notice and advertisement in the manner provided by law, the Durango Planning Commission and the Durango City Council have held public hearings as prescribed by law and made recommendations and decisions for approval of the College Mesa Second and Third Addition Annexations and initial zoning to PD (Planned Development), and the Skyridge Village and Estates Planned Development, Phases 1, 2 , 3 & 4; and

WHEREAS, A modification to the configuration and number of phases for the project resulted in amendments to the Master Plan for the SkyRidge Village and Estates Planned Development as reflected on the Revised Master Plan (Exhibit B); and

WHEREAS, it has been determined necessary to amend the previously approved Amended and Restated Annexation and Planned Development Agreement to accommodate the inclusion of Phase 4-A of the SkyRidge Village and Estates Planned Development.

NOW, THEREFORE, in consideration of the premises, mutual covenants and agreements herein set forth, the parties hereto agree as follows:

I. CONTRACT ENFORCEMENT PROVISIONS

A. Applicable Law

This Agreement is made pursuant to and in accordance with the provisions of C.R.S., §31-12-101, et seq. and the Code of Ordinances of the City of Durango.

B. Remedies for Default

1. Applicant agrees to faithfully and timely perform the covenants, conditions and obligations herein set forth. In the event of Applicant's default thereunder, City shall give notice of default to Applicant at the address hereinafter set forth, specifying the nature and extent of the default with reasonable particularity, and providing Applicant with a period of thirty (30) days to cure such default or to initiate and diligently pursue procedures necessary to cure such default if the default cannot reasonably be cured within the thirty (30) days allowed.

2. Should Applicant fail to cure such default or initiate and diligently pursue procedures necessary to cure such default within the thirty (30) day period subsequent to notice, City may, at its election, initiate a suit for specific performance or mandatory injunctive relief, or, alternatively, draw down an amount necessary to cure such default from the financial security created by Applicant for the benefit of the City pursuant to Part III.A.2. of this Agreement.

C. Notice

1. Any notice required pursuant to the terms of this Agreement shall be effective if deposited in the United States mails, postage prepaid, addressed to the respective parties at the addresses hereinafter set forth or at such other addresses as a party may designate through written notification to the other party at the address hereinafter set forth. Addresses for notice are as follows:

CITY: Otha J. Rogers, Public Works Director  
City of Durango  
949 East 2nd Avenue  
Durango, CO 81301

APPLICANT: TAMU Joint Venture II, RLLP and  
TAMU Joint Venture III, RLLP  
100 Jenkins Ranch Road  
Durango, CO 81301

Copy to: Denny Ehlers  
Crane, Leake, Casey, Ehlers & Eggleston, P.C.  
102 West 18th Street  
Durango, CO 81301

2. Notice shall be effective three (3) days after notice is deposited in the United States mails, postage prepaid, as hereinabove set forth.

D. Amendments

This Agreement may only be amended through a written instrument executed by the parties hereto, which shall thereafter be appended hereto and become a part hereof. Verbal amendments shall be ineffective for any purpose.

E. Severability

Should any term, provision or condition of this Agreement be determined invalid or unenforceable, the invalidity or unenforceability of any such term, provision or condition shall not affect the validity or enforceability of any other term, provision or condition herein contained, all terms, conditions and provisions herein being independent and severable.

F. Binding Effect

This Agreement shall be binding upon the respective parties hereto, their heirs, successors and assigns.

G. Termination/Invalidation

This Agreement is made in recognition of the annexation of the College Mesa Second and Third Additions to the City of Durango. Should such annexations not occur, the terms, provisions and conditions of this Agreement shall be void and unenforceable and all parties hereto shall be relieved of any further obligations with respect to the terms herein set forth. In such event, the City reserves the right to initiate and complete de-annexation procedures for all or any portion of the property, which has been previously annexed.

H. Effective Date

This Agreement shall become effective upon the execution and recording of this Agreement in the Offices of the La Plata County Clerk and Recorder.

I. Execution of Documents

1. Applicant agrees to execute any and all documents necessary to effectuate the terms and provisions of the agreements herein contained and to deliver such documents to the City or to such agencies or offices as the City may designate. Applicant further agrees that in conjunction with the performance of the obligations set forth within this Agreement, Applicant will comply with all ordinances, regulations and construction specifications of the City of Durango together with any future ordinances, regulations or specifications that may be hereinafter adopted; provided, however, any such future ordinances, regulations or specifications adopted after the effective date of this Agreement shall be of general applicability and shall not be limited or specifically directed to the College Mesa Second and Third Additions and SkyRidge Village and Estates Planned Development.

2. Applicant agrees that this Agreement and all appurtenant documents shall be recorded in the office of the La Plata County Clerk and Recorder prior to final reading of the annexation ordinance. Applicant shall promptly furnish proof of said recording to the City Department of Planning and Community Development.

## II. LAND USE PROVISIONS

### A. Land Use and Density

1. The approved land use for the overall SkyRidge project shall be a mixed use planned development containing mixed residential uses (single-family, duplex and multi-family) and limited commercial developed in accordance with final PD development plans recorded in the Office of the La Plata County Clerk and Recorder and as filed in the Planning and Community Development Department (Project Files #97-130 SkyRidge Village & Estates Annexation, #98-072 College Mesa Second Addition, #98-115 Phase 1 Final Plat, #99-111 SkyRidge PD Phase 2 College Mesa Third Addition, #00-035, Phase 2 Final Plat, #00-060 Village Center Final Development Plan, #01-053 Phase 3 Preliminary Development Plan, #01-096 SkyRidge Village & Estates Final Plat, #02-050 SkyRidge Village & Estates Phase 4-A Final Plat). The general arrangement of uses within the Planned Development are as identified in the Revised PD Master Plan, Exhibit B, attached hereto.
2. The Revised PD Master Plan (Exhibit B) establishes the general arrangement of uses within the Planned Development and also establishes the design density for the entire project pursuant to LUDC Section 6-5-2(c). The project's initial approved design density shall be 399 units on 349.3 acres. This design density includes the College Mesa Second and Third Additions but does not include anticipated future redevelopment of the Jenkins Reserve parcels (see Section II.E.1., below).
3. Specific density for Phase I shall be established at 130 units on 100.1 acres (1.3 units/acre).
4. Specific density for Phase II shall be established at 152 units on 88.6 acres (1.72 units/acre).
5. Specific density for Phase III shall be established at 68 units on 104.98 acres (0.54 units/acre).
6. Specific density for Phase 4-A shall be established at 15 units on 4.63 acres (0.31 units/acre)
7. Lots designated as single-family shall be utilized for single-family residential development and compatible associated uses, such as home occupations, as allowed for by the CC&Rs and City regulations.
8. Lots designated as duplex lots shall be utilized for single-family or duplex (two residential units) structures and compatible associated uses, such as home occupations, as allowed for by the CC&Rs and City regulations. Duplex development shall be reviewed and approved in accordance with the Special Use Permit (SUP) procedures established in LUDC Section 4-5. Duplex lots may be developed as rental units through the Special Use Permit procedures referred to herein above. Additionally, duplex lots may be developed as townhomes, condominiums, or patio homes, if consistent with all other provisions of this Annexation and Planned Development Agreement, and standards and regulations of the City of Durango. Any such proposed resubdivision shall be processed in accordance with then existing procedures and regulations of the City of Durango.
9. Multi-family development may include apartments, townhomes, condominiums, patio homes or assisted living centers. Development of multi-family lots shall be subject to review and approval of site specific development plans by City staff, and shall require (in addition to the submittals required in LUDC Section 6-5-4), submittals satisfying the requirements of LUDC Section 6-5-3 C(3), (4), (5), (6), (7), (8) and (9). All pertinent City development standards (parking, landscaping, etc.) shall be met.

10. The lot designated as commercial shall be utilized for limited neighborhood commercial development serving the College Mesa area. Acceptable commercial uses may include, but are not limited to:

Bank/ATM/Mini-Bank  
Personal Service Shops  
Stationary/Card/Bookstore  
Professional Offices  
Day Care  
Music Store  
Video Sales & Rental  
Specialty Food/Delicatessen/Bakery  
Computer Sales & Service  
Dry Cleaners  
Small Appliance Repair  
Automotive Accessories/Detailing  
Mini-Mart/Food/Grocery Store/Gasoline Sales  
Art/Crafts/Gifts  
Real Estate Office  
Health Club/Gym  
Liquor Store/Wine Shop  
Ice Cream Store  
Small Printing Shop  
Laundromats  
Hair/Beauty Salon

1. Uses other than those specifically listed may be allowed upon findings, by the Planning Commission following public review, that the proposed use is consistent with the intent to provide limited neighborhood uses and is compatible with other allowed uses and the residential character of the College Mesa area. Future commercial development shall be subject to review and approval of site specific development plans as set forth in Section 6-5-4 of the LUDC and shall require (in addition to the submittals required in LUDC Section 6-5-4), submittals satisfying the requirements of LUDC Section 6-5-3 C(3), (4), (5), (6), (7), (8) and (9). All pertinent City development standards (parking, landscaping, etc.) shall be met.

11. Estate lots shall be utilized for single-family residential purposes and for such compatible associated uses as may be allowed for by the CC&Rs and City codes/regulations. The Design Review committee shall designate specific building envelopes for each estate lot. Building envelopes will be sited or clustered to optimize open space preservation and wildlife corridors.

12. The City of Durango is the owner of approximately 13 acres within the College Mesa Second Addition annexation area and adjacent to the existing City reservoir that was previously acquired from the applicant for the purpose of enhancing watershed protection around the City reservoir. This City-owned land is part of the College Mesa Second Addition annexation but is not part of the SkyRidge Village and Estates Planned Development. The City will allow installation of utility lines and grading activity within a portion of this City property pursuant to utility and grading plans approved by the Director of Public Works. The City is also owner of 4 acres within the College Mesa Third Addition on which is located the "Hillcrest" water storage tank and other facilities. This parcel is not part of the SkyRidge Village and Estates Planned Development.

13. The subdivision of duplex or multi-family units to create separate ownership interests in individual units as townhomes, condominiums, patio homes, etc. has been considered throughout the Planned Development review process. Separate ownership interests may be created by the filing of a subdivision plat, subject to review and approval as a minor subdivision.

14. Changes from approved land uses or increases in density shall require approval by the Planning Commission and City Council of the City of Durango. A proposed change in land use or increase in density shall require a PD amendment.

15. The density established for each lot on the final plat of each phase shall be a maximum density. Upon the issuance of a building permit and the initiation of construction pursuant to a building permit, the number of units designated for that particular lot shall be fixed permanently. Any fixed density which is less than that approved for a particular lot on the Master Plan shall be excess density which may be shifted to future phases without a PD Amendment so long as development in Phase 4 & 5 continues to meet the overall density parameters set forth in the Comprehensive Plan. The density shift would occur only at the time of the filing of a subsequent phase's final plat.

#### B. Annexation

The annexation of the property has been specifically set forth on the annexation plats for the College Mesa Second and Third Additions.

#### C. Initial Zoning

1. Zoning of the annexed property shall be considered an initial zoning and shall be consistent with the goals, policies, and land use designations of the Durango Comprehensive Plan.

2. The property has been zoned PD (Planned Development). A zoning designation of PB (Public) has been applied to the City of Durango property (approximately 13 acres) previously acquired for watershed protection purposes and to the City's water tank site (4.0 acres) within the College Mesa Third Addition.

#### D. Project Phasing

1. Development of the SkyRidge Village and Estates Planned Development is anticipated to occur in six (6) phases as generally depicted on the revised project master plan, Exhibit B, attached hereto. The provisions of this Annexation and Planned Development Agreement are drafted and designed to apply to Phases 1, 2, 3 & 4-A of the development. Such provisions shall also apply to subsequent phases unless modified by an amendment hereto which shall be executed by the parties and thereafter become a part hereof.

2. The revised anticipated schedule for phasing activity is depicted on Exhibit A, attached hereto. It is recognized and understood that the actual time frame for project development is dependent upon many variables, including market considerations, and that actual development timing may not precisely follow the initial schedule. The development schedule will be evaluated as part of the final plan review at each subsequent phase of the PD and will be amended as necessary.

#### E. Specific Areas Within the PD - Special Provisions

1. Jenkins Reserve - Approximately 8.7 acres in the central portion of the development is identified on the revised master plan (Exhibit B) as the Jenkins Reserve. As part of the purchase agreement between the Applicant and the Jenkins family, this area, has been conveyed back to the Jenkins family members, with Applicant retaining right of first refusal on future sales. As part of Phase II, this area has been platted as a single property with three (3) permanent, single-family residences allowed. It is understood and agreed that this is a non-conforming use due to the three separate residences on a single parcel and that any future development

of this parcel shall be to City of Durango standards. Applicant anticipates that, upon exercising the right of first refusal to reacquire the Jenkins Reserve area at some future point, a redevelopment of additional lots, consistent with the adjacent development pattern (single-family lots - less than .5 acre) will be proposed. The following provisions shall apply to the Jenkins Reserve area:

- a) The Jenkins Reserve area, as a single parcel, will be accessed from Jenkins Court as shown on the Phase II development plans. This street will be built by the developer to City standards to the lot line and graveled, per the plans, into the lot as shown on the final plans.
- b) Water wells shall not be used for domestic water purposes but may be retained and used for outdoor irrigation purposes.
- c) Future resubdivision of the Jenkins Ranch area by Applicant shall be permitted as an amendment to the PD. Future land use within the Jenkins Reserve area shall be limited to single-family residential lots of a size and density consistent with the surrounding lots/density within the PD.
- d) All lots developed within the Jenkins Reserve area shall front on and be accessed from a public street other than Jenkins Ranch Road, and said public street shall be built by the developer(s) of Jenkins Reserve to City street standards.
- e) Upon completion of construction and acceptance by the City of Jenkins Court, access to Jenkins Reserve shall be via Jenkins Court. The temporary emergency access easement and temporary Jenkins Family access easement shall be terminated as a Jenkins Family access easement and shall revert to an emergency access and pedestrian, bicycle and temporary construction easement.
- f) Applicant may utilize said access during the course of construction of the subdivision improvements under the following terms:
  1. Use through October 31, 2002.
  2. Access to be gated and hours of use 6:30am to 6:30pm.
  3. Mag-Chloride to be applied to road as needed.
  4. First 50' of access off of Goeglein to be paved. Developer will remove excess accumulation of mud from Goeglein as needed.
  5. Access subject to approval of Jenkins Reserve property owner.
  6. Speed limit shall be 15 MPH

2. Hillcrest "Outlots" - Applicant has created a number of small "outlots" along the northwestern perimeter boundary, adjacent to lots within Hillcrest Estates. These outlots are not intended to be developed, but are to be made available to the owners of the adjacent Hillcrest Estates lots to expand the Hillcrest rear yard areas, providing more yard area buffer between homes in Hillcrest Estates and the SkyRidge project. If not obtained by the Hillcrest lot owners, the outlots shall become part of the green belt/open space or park area within the SkyRidge PD. The following provisions shall apply to the outlots:

- a) Outlots shall be available for acquisition by the owners of adjacent Hillcrest Estates lots or outlots until December 31, 2001.
- b) Transfer of outlots to adjacent Hillcrest Estates lot owners shall occur only if all (100%) of the outlots within a particular phase are to be transferred.
- c) If not acquired by the adjacent Hillcrest Estates lot December 31, 2001, the applicants shall convey the outlots to the City as Open Space or park; provided, however, that Outlots adjacent to the Jenkins Reserve (Outlots 5-16) shall not be conveyed to the City but rather to the owner(s) of the Jenkins Reserve..

F. Properties Adjacent to the PD

1. The original PD Master Plan and PD Agreement anticipated the inclusion of an additional approximately 36 acres within the PD. This land, known as the Rea property, has been acquired by the applicant, annexed to the City as part of the College Mesa Third Addition, and is included in the Phase 2 area of SkyRidge Village and Estates.

G. Design Standards

1. Phase 1 Single-Family and Duplex Lots (Including Estate Lots\* and Jenkins Reserve\*\*\*)

a)

Setbacks\*\*

20 feet - Front

5 feet - Side

25 feet -- Rear

b)

Maximum Building Height

(see also G.5)

35 feet (principal structure)

20 feet (accessory structure)

c)

Parking

Minimum of two (2) off-street spaces per unit (spaces within garages qualify)

d)

Maximum Lot Coverage

Single-Family - 40%

Duplex - 50%, except Block 4, Lots 2-8 - 55%

\*Setbacks for the Estate lots shall be established individually as part of the building envelopes designated for each lot. Building envelopes will be sited to facilitate a clustering concept and to optimize open space preservation and wildlife corridors.

\*\*Setbacks for residences on Block 4, Lots 2-8 shall be 10 feet - front, 5 feet - side, and 10 feet - rear so long as garages are located on the rear ? of the property, four (4) on-site parking spaces are provided in addition to the two (2) standard spaces required by unit, and the site is designed with adequate turn-around area to prevent vehicles from backing out into Jenkins Ranch Road.

\*\*\*Setbacks within the Jenkins Reserve Area shall meet the Single-Family setbacks as specified in Section II.G.1.a); provided, however, that if the adjacent outlots revert to owner(s) of the Jenkins Reserve pursuant to Section II.E.2.c), the rear setback shall be fifty (50) feet from the common property line with Hillcrest Estates.

Within Phase 2, setbacks shall be:

Lots 1-3 and 7-9, Block 8

20 feet - Front (both Jenkins Ranch Road and Ophir Drive frontage for Lot 3)

7? feet - Side

25 feet - Rear

Lots 4-6, Block 8

20 feet - Front (Red Mountain Drive frontage)

7? feet - Side

15 feet - Rear (Ophir Drive frontage)

Lots 1-4, Block 9

20 feet - Front (Ophir Drive frontage)

7? feet - Side

25 feet - Rear (Jenkins Ranch Road frontage)

Lots 5-17, Block 9

20 feet - Front

5 feet - Side

15 feet - Rear

Lots 21-23, Block 9

20 feet - Front (Ophir Drive frontage)

7? feet - Side

15 feet - Rear (Lizard Head frontage)

Lots 24-39, Block 9

20 feet - Front

7? feet - Side

25 feet - Rear

Note: Lots 27 & 28 each have one 10-foot side setback due to water line easement

Lots 40 & 41, Block 9

20 feet - Front

7? feet - Side

15 feet - Rear

Lots 1-5, Block 10

20 feet - Front

7? feet - Side

15 feet - Rear

Lots 6-23, Block 10

20 feet - Front

7? feet - Side

25 feet - Rear

Lot 1, Block 11

20 feet - Front

15 feet - Side (along Lizard Head)

5 feet - Side

15 feet - Rear

Lots 2-6, Block 11

20 feet - Front

5 feet - Side

15 feet - Rear

Lots 7-9, Block 11

20 feet - Front

7? feet - Side

25 feet - Rear

2. Phase 1 Multi-Family Lots

a)

Setbacks \*

10 feet - Front

5 feet - Side

25 feet -- Rear

b)

Maximum Building Height

(see also G.5)

35 feet

c)

Parking

Per multi-family parking requirements of the LUDC

d)

Landscaping

Landscaping shall be as set forth on the final landscape plans approved during the site plan review for each respective multi-family lot. At a minimum, the RM-16 and parking lot landscaping requirements of the LUDC shall apply.

e)

Maximum Lot Coverage

60%

Within Phase 2, setbacks shall be:

Lots 1-10, Block 7 and

Lots 18-20, Block 9

10 feet - Front

10 feet - Side

25 feet - Rear

Note: Rear of Lots 8 & 9, Block 7 shall be the property line abutting the Jenkins Reserve property

Within Phase 3, setbacks shall be as set forth on the Final Plat for Phase 3. The SkyRidge Design Review Committee may establish building envelopes more restrictive than the setbacks set forth on the Final Plat.

Within Phase 4-A, setbacks shall be set forth on the Final Plat for Phase 4-A and shall generally be 20' front setback, 7.5' side setback and 25' rear setback

3. Commercial Area

a)

Setbacks

25 feet - Front

10 feet - Side

25 feet -- Rear

b)

Maximum Building Height

(see also G.5)

35 feet

c)

Parking

Per the commercial parking requirements of the LUDC

d)

Landscaping

As set forth on final landscaping plans approved during site plan review. At a minimum, the NB (Neighborhood) Business) and parking lot landscaping requirements of the LUDC shall apply.

e)

Design elements for the commercial area shall include structures and site designs which are developed utilizing design features compatible with the character of adjacent residential areas. Such features shall include building scale, mass and height, landscaping, roof pitches, building materials, etc. and shall specifically include screened, buffered and landscaped parking areas and trash receptacle areas. No outside storage shall be permitted.

f)

Lighting within the commercial area shall be of a low level, low-intensity design, directed onto the commercial site and not adversely impacting adjacent residential areas.

4. Multi-Family parking areas at grade or above the grade of Jenkins Ranch Road which front on Jenkins Ranch Road right-of-way shall be screened to prevent vehicle headlights from shining into the public right-of-way. At a minimum, such screening shall consist of a landscaped berm of a minimum 3 ? foot height.

5. Applicant shall establish a SkyRidge Design Review Committee (DRC) with the duty and authority to review the design and plans for all future construction within the PD. The City will not approve any building permit application without satisfactory evidence of compliance with the SkyRidge Design Regulations and Guidelines and the Declaration of CC&Rs. The City will notify the DRC of requests for final inspection and the DRC shall forward a Certificate of Compliance or Conditional Provisions to the City for its consideration in issuing the Certificate of Occupancy.

6. Height of structures will be measured at a point on a line five (5) feet from the lowest exposed point on the structure to the highest point on the structure. Walk-out basement structures with roof ridgelines that might exceed the 35-foot height restrictions shall be reviewed by the SkyRidge Design Review Committee on a case-by-case basis. City building staff will be notified by the SkyRidge Design Review Committee with sufficient time to allow for review and comment prior to the Committee's consideration of requests to exceed the 35-foot height limit.

7. Variances from design standards established by this Agreement or to established City of Durango standards may be considered by the City's Land Use and Development Board of Appeals pursuant to LUDC Section 12-1. Any variance request must first be considered and approved by the SkyRidge Design Review Committee provided, however, that any such approval shall not be binding on the LUDC Board of Appeals.

8. The owners of each lot and the Design Review Committee are granted the authority and the right to enforce the terms and conditions of the Declaration of Covenants, Conditions and Restrictions as well as the Design Guidelines for the project by express provisions in such documents. Given the foregoing and given that there are no commonly owned property or facilities within the project, there shall be no formally established property owner's association required.

9. All fencing to be installed shall be reviewed and approved by both the SkyRidge Design Review Committee and City Planning staff before initiating construction or erection.

10. Driveway access from Jenkins Ranch Road shall not be allowed for the following lots: Lots 1-4, Block 9, Lot 3, Block 8, Lot 19, Block 12 and Lot 1, Block 14..

#### H. Project Development

1. Except as provided for under the terms of the Pre-Annexation Agreement or approved "Pre-Final Approval Agreement" between City and Applicant, no construction activity may begin until financial arrangements as set forth in this Agreement are accepted and in place. No building or conveyance of title to any lot or tract shall be made until the final annexation plat and any final plat of any subdivision are recorded in the offices of the La Plata County Clerk and Recorder, provided, however, that the Applicant shall be allowed to convey its entire interest subject to all of the terms and conditions of this Agreement. No above-ground or below-ground combustible construction shall occur until such time as the water improvements system is in place and accepted.

2. Project Development shall be in general conformance with approved final development plans as filed in the Planning and Community Development office (Project File #98-115 - Phase 1, #00-035 - Phase 2, #01-096 Phase 3 and #02-050 - (Phase 4-A).

3. Except as authorized under the terms of the Pre-Annexation Agreement or approved "Pre-Final Approval Agreement", site grading may commence only upon recordation of the annexation and final PD plans.

4. Engineered foundations and drainage plans will be required as part of building permit applications for any construction within Block 6, Lots 3-23, Block 10, Lots 1-23 and Block 15, Lots 1-10.

5. Grading and drainage plans shall be required prior to approval of building permits on any lot. Standard grading and drainage plans have been developed for uphill and downhill lots. Lot specific grading and drainage plans must substantially conform in both form and substance with these standard Grading and Drainage Plans (see Exhibit C). In the event an individual lot Owner chooses to deviate from the applicable standard plan, or site conditions are substantially different than those contemplated on the standard plan, or the Design Review Committee requires it, the grading and drainage plans shall be prepared by a professional engineer registered in the State of Colorado

### III. IMPROVEMENTS

#### A. Public Improvements

1. All public improvements to be provided by the Applicant will be provided, constructed or installed in accordance with the final plans submitted by the Applicant, meeting the City's rules and specifications and are to be approved by the City prior to the start of construction. The Applicant shall be responsible for providing, constructing or installing the following public improvements:

- a) Street system improvements (curb, gutter, sidewalk, shared driveways within public rights-of-way, traffic-calming features, etc.) within the PD;
- b) Water and sewer main extensions and necessary system improvements;
- c) Fire hydrants;
- d) Driveway returns;
- e) Landscaping within the public right-of-way;
- f) Street signs.

Standard street lighting shall be provided by the City of Durango. The cost of any specialized street lighting over and above the cost of standard street lighting that the Applicant desires to install following approval by the City's Director of Public Works;

- g) Storm drainage system facilities;
- h) Wetland park/green belt enhancements (landscaping, path, etc.) as per the wetlands mitigation plan accepted by the U.S. Army Corps of Engineers;
- i) Powerline trail/drainage maintenance access; and
- j) Powerline trail connection paths

2. Installation of required public improvements is assured through a Public Improvements Agreement (PIA) and adequate security provided in the form of \$1,500,000.00 performance and warranty bonds. The public improvements listed and identified in the PIA for each phase of the development other than landscaping must be installed, inspected and accepted prior to the issuance of a Certificate of Occupancy for any unit within that phase of the Planned Development; provided, this requirement may be waived by the Director of Public Works in appropriate circumstances. Any such waiver shall be at the sole discretion of the Director of Public Works.

3. Start of Improvements: Any construction begun prior to approvals is subject to removal at the direction of the City Engineer.

4. Inspections: City inspectors shall have the right to reject any installation or construction which does not meet City of Durango specifications, including water system improvements. Notice of rejection shall be made to Applicant and Applicant's contractor. It shall be the responsibility of Applicant to address or correct any deficiency. If Applicant is not present, then the inspector shall have the authority to reject any workmanship which does not meet City of Durango specifications.

5. Testing: Testing shall be performed in the manner prescribed in the City specifications. Results of all tests shall be presented to and approved by the City Engineer prior to release of any part of the financial guarantee.

6. Revegetation: All devegetated areas shall be revegetated in accordance with landscaping plans approved by the City's Director of Parks and Recreation.

7. Any modifications to public improvements plans or specifications must be approved by the City Engineer. Failure to secure written approval of any change shall not relieve Applicant from the obligation to remove or replace changes not approved.

8. The applicant shall provide and maintain graveled access, suitable to the City of Durango Public Works Director, to the City owned parcel on which is located the City's Water Storage Tank. The current access traverses proposed lots in Phase 4-B. It is contemplated that on or before the submittal of a final plat for Phase 4-B the applicant will provide alternative access from that shown on the Final Plat for Phase 1. Upon the completion and acceptance of the alternative access by the Public Works Director, the City will abandon its old tank site easement across any proposed lots and the applicant shall dedicate the new access to both the new and old tank sites on the Final Plat for Phase 4-A.

#### B. Private Improvements

1. Private, on-site development improvements must be installed in accordance with the final improvement and PD plans approved and on file in the Office of Planning and Community Development (Project Files #98-115 and 00-035). Private, on-site improvements to be provided by the Applicant include, but are not limited to:

- retaining walls; and
- entry signs/statements.

### IV. FEES

#### A. School Fees

1. In lieu of a school site dedication, the Applicant has negotiated a modified fee payment with School District 9R. The agreed upon fee shall be five hundred (\$500) dollars per residential unit within the PD. This fee shall be payable for each phase at the time of final plat recording.

#### B. Utility Fees

1. Utility fees (plant investment fees, tap fees, etc.) shall be paid at the time building permits are issued and shall be in accordance with the adopted fee schedule in effect at that time.

#### C. Major Street Impact Fee

1. The major street impact fee approved and adopted by Ordinance No. O-1997-31, or any amendment thereto, shall be paid at the time building permits are issued for the development of any lots within the development. Charges shall be in accordance with the adopted fee schedule in effect at the time a building permit is applied for.

2. A credit against such major street impact fees shall be granted for each phase of the development in an amount equal to the bonded value of the costs of construction of Jenkins Ranch Road within that phase. No credit shall be given for right-of-way dedication.

3. Credits shall be applied at the time of application for a building permit against the fees then in effect, and shall be applied to each lot on a first come, first served basis. If credits for a particular phase have been exhausted, subsequent applicants shall be required to pay road impact fees without reduction by any credit.

4. Excess credits, if any, within any phase of the development shall be carried over to subsequent phases.
5. Sufficient credits currently exist to the extent that the parcels in Phase 4-A and Phase 4-B shall not be subject to major street impact fees.

## V. PUBLIC LAND AND EASEMENT DEDICATIONS

### A. Dedications

The public land and easement dedications shall be as shown on the final plat of each respective phase of the PD. In addition thereto Applicant will dedicate an easement for the entire length of Jenkins Ranch Road including the portions in Phase 1, 2 and 3 as shown on the amended Master Plan and the power line trail easement for the full length of the property at the time of recording of the Phase I final plat. Dedications of open space and parklands shall be exclusively for open space and parkland purposes, drainage and utility easements and facilities, and trails, except as otherwise provided for in Section V.D of this agreement.

### B. Maintenance of Dedicated Public Lands and Easements

Maintenance of all dedicated public lands, including trails thereon, shall be the responsibility of the City of Durango except:

1. Necessary repairs covered by warranty during the warranty period as established by the Public Improvement Agreement for each respective phase. The forgoing notwithstanding, the applicant shall not be responsible for damage caused by others to public or private improvements; and
2. All landscaping within public rights-of-way (e.g. street trees, roundabouts, traffic islands, etc.) and the entry statement maintenance as described in final landscaping plans, to be provided to the City Planning Office prior to any initiation of landscaping or irrigation improvements, shall be maintained by the Applicant, their successors or assigns until February 25, 2004. Any landscaping planted within the public right-of-way after February 25, 2003 shall be warranted for a period of at least one year as set forth in Sec. 10-5-12(3) of the Land Use and Development Code. After February 25, 2004 for landscaping planted prior to February 25, 2003 or upon expiration or the one-year warrantee period on landscaping planted after February 25, 2003 the landscaping shall be maintained by the City of Durango and the responsibility for the maintenance of the entry statement shall be the responsibility of the Owner of the Commercial Lot (Block 2, Lot 1) which shall be subject to assessment for such maintenance costs in accordance with the CC&Rs. In the event of failure to reasonably maintain the entry statement (including without limitation, lighting, irrigation, and material care and preservation), the City of Durango shall have the authority, but not the responsibility, to remove the entry statement.
3. For all multi-family developments, it shall be the individual multi-family developments homeowners' association's responsibility to maintain all landscaped areas in the public right-of-way abutting or adjoining the property. For all single and two-family developments, it shall be the property owner's responsibility to maintain all landscaped areas in the public right-of-way abutting or adjoining the property.

### C. Wetlands

No disturbance or construction activity other than maintenance shall be allowed in the designated wetlands without City of Durango and Army Corps of Engineers approval. The City of Durango shall be responsible for maintaining any wetlands dedicated to the City.

#### D. Public Park

The applicant shall dedicate land for a public park as shown on the Final Plat for Phase 3. The City of Durango shall be responsible for improvements to the park and construction of any facilities. The applicant and the City shall agree on a portion of the park that does not conflict with the required storm drainage retention area over which the applicant shall reserve a construction easement for the purpose of staging, storing and maintaining dirt and equipment, the storing, processing and hauling of overburden generated from construction activities on the project or any other reasonable purpose as determined by the City to be used in conjunction with construction activities throughout the project. This easement shall remain in effect until December 31, 2003, or until the City notifies the applicant that it intends to improve the park, whichever occurs sooner. The applicant shall leave the park clean of any refuse or debris, with six (6) inches of topsoil upon the area where the construction easement exists, and during the course of the applicant's occupancy maintain the area affected by its activities in a clean and workman-like manor. The applicant shall grade the site to the approved grading and drainage plans and revegetate any disturbed areas with a native seed mix approved by the City's Director of Parks and Recreation. The applicant shall provide surety in the amount of \$30,000, to guarantee the applicant's obligations set forth above. Such surety shall be provided through the performance bond already in place for the project.

### VI. PLAN AMENDMENT AND FUTURE REVIEWS

#### A. Boundary Adjustments and Lot Line Consolidations

1. Any adjustments to lot lines, including their consolidation or dissolution, shall be reviewed and approved in accordance with City of Durango regulations and procedures and shall not be considered as formal amendments to the approved PD. However, no adjustments to lot lines shall be considered by the City of Durango unless and until the applicant provides written approval by the Design Review Committee of SkyRidge Village and Estates Planned Development.

IN WITNESS WHEREOF, the parties have executed this Annexation Agreement the day and year first above written.

APPLICANT:

TAMU Joint Venture II, RLLP and  
TAMU Joint Venture III, RLLP  
Partner

CITY OF DURANGO, COLORADO,  
a Municipal Corporation

Robert F. Ledger, Jr.  
City Manager

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

## SKYRIDGE ANNEXATION/PD AGREEMENT EXHIBITS

- A. Revised Phasing Schedule as of August 15, 2002
- B. Revised Master Plan as of March 15, 2002.
- C. Standard Grading and Drainage Plans.

### EXHIBIT "A"

#### Revised Final Plat Phasing Schedule

As of

March 15, 2002

Phase

Anticipated Final Plat Dates

Phase 1

February 25, 1999, Reception # 762999

Phase 2

September 12, 2000, Reception # 792623

Phase 3

October 1, 2001, Reception # 814858

Phase 4-A

April 1, 2003

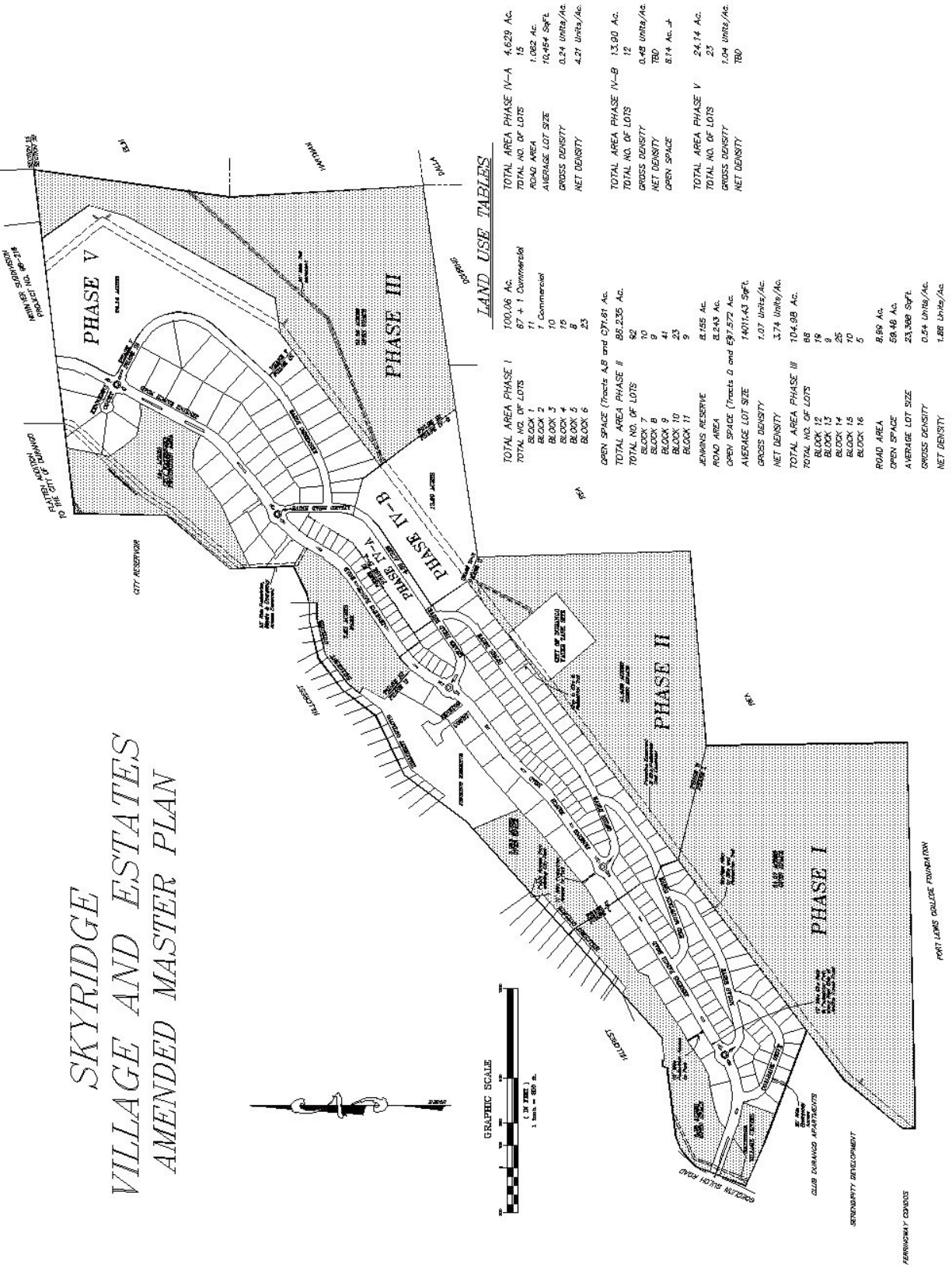
Phase 4-B

December 1, 2003

Phase 5

December 1, 2003

# SKYRIDGE VILLAGE AND ESTATES AMENDED MASTER PLAN



### LAND USE TABLES

Phase	Total Area (Ac.)	Total No. of Lots	Road Area (Ac.)	Average Lot Size (SqFt)	Gross Density (Units/Ac.)	Net Density (Units/Ac.)
<b>PHASE I</b>	100.06	87	1.082	10,454	0.24	4.27
<b>PHASE II</b>	85.235	90	1.082	10,454	0.24	4.27
<b>PHASE III</b>	104.98	88	1.082	10,454	0.24	4.27
<b>PHASE IV-A</b>	4.629	15	1.082	10,454	0.24	4.27
<b>PHASE IV-B</b>	13.90	12	1.082	10,454	0.24	4.27
<b>PHASE V</b>	24.14	27	1.082	10,454	0.24	4.27

TAMU, Joint Venture II  
100 Jenkins Ranch Road  
Durango, CO 81301  
(970) 247-9700



SKYRIDGE VILLAGE & ESTATES  
AMENDED MASTER PLAN  
Durango, Colorado

Revision:	10/19/02
Rev. Date:	10/19/02
Drawn:	41
Checked:	41
CAD File:	mph-bjg
Date:	04/12/01
Project Number:	122
Sheet:	1-1

Master Plan