

DEVELOPMENT AGREEMENT

This Development Agreement is made and entered into effective this 22nd day of August, 2002, by and among the BOARDS OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO and of SAN JUAN COUNTY, COLORADO (referred to collectively as "Counties"), the PURGATORY METROPOLITAN DISTRICT ("Metro") and DSC/PURGATORY, LLC, a Colorado limited liability company, and T-H LAND COMPANY, LLP, a Colorado limited liability limited partnership, WINDOM PEAK, LTD., a Colorado limited partnership, and HENRY P. LUSTIG (referred to collectively as "Owners").

WHEREAS, in connection with its plans for the Durango Mountain Resort, Owners propose to develop real property owned by them that is located in northern La Plata County and southern San Juan County, the precise identification of all such property being as shown on the attached Exhibit A (which together with any subsequent additions shall be referred to as "Property") and wish to obtain approval from the Counties of a set of regulations governing such development that will apply to all such property; and

WHEREAS, in order to permit the consideration of Owners' development proposal by both Counties acting jointly, and further in order to provide Owners with the benefits and certainty of a comprehensive development plan governing all land use and development of such Property, the Counties previously entered into an intergovernmental agreement dated December 11, 2000 that contemplated the adoption of a Comprehensive Development Plan ("CDP" as defined herein) governing development within Durango Mountain Resort ("DMR") and a Development Agreement between the Counties and Owners approving same; and

WHEREAS, it is proposed that the Counties adopt a proposed CDP for the Property consisting of the Master and Conceptual Plan Map ("Master Plan") (attached as Exhibit B) and Land Use Regulations ("DMR Regulations") (attached as Exhibit C) and this Development Agreement; and

WHEREAS, the CDP provides that Metro will provide various public services to the proposed development; and

WHEREAS, all provisions of the CDP have been approved and agreed upon by all parties hereto subject to adoption by both Counties and the Metro in compliance with the law; and

WHEREAS, Owners, Metro and the Counties recognize and acknowledge that the Development envisioned under the CDP is sufficient to allow future land owners of Property the ability if they desire to incorporate the Property, or portion thereof, as a municipality or other governmental entity; and

WHEREAS, Owners, Metro and the Counties intend for the burdens of the covenants, conditions, and restrictions contained in the CDP to run with the Property and for the Counties and Metro to hold the benefit of all covenants, conditions, and restrictions contained in the CDP in gross, notwithstanding the future incorporation or annexation of the Property, or any portion thereof, into a

municipality or other governmental entity; and

WHEREAS, Owners, Metro and the Counties wish to clearly define any and all rights that Owners will possess under the CDP so as to avoid future disputes regarding such rights; and

WHEREAS, the Joint Planning Commission of La Plata and San Juan Counties held duly noticed public hearings with regard to the proposed CDP and recommended the adoption thereof by the respective Boards of County Commissioners; and

WHEREAS, the respective Boards of County Commissioners have also conducted public hearings on the proposed CDP and, based upon the evidence presented to them have determined that approval of the proposed CDP, including this Development Agreement, is warranted in light of all relevant circumstances including but not limited to the size and desired phasing of the proposed development, economic cycles, market conditions and other unique characteristics associated with the project.

NOW THEREFORE, for and in consideration of the mutual obligations set forth herein and in order to precisely define any and all rights and obligations that Owners will possess as a result of the adoption of the CDP, this Development Agreement is hereby adopted by the respective Counties and Metro as a legislative act and the parties hereto agree as follows:

1. The CDP shall consist of this Development Agreement, the Master Plan and the DMR Regulations. The CDP shall be effective thirty-one days after both final passage and the date of publication of a notice advising the general public of the CDP approval by the Boards of County Commissioners of La Plata and San Juan Counties, subject to the right of the voters to initiate a referendum regarding its adoption. If a legally sufficient referendum petition complying with all relevant statutory requirements is filed within thirty days after final passage and publication of the CDP in either County, no part of the CDP shall take effect until approved by a vote of the registered electors of the County in which the referendum is filed (or in both Counties if referendums are filed in both Counties). Once approved, the term of the CDP shall be twenty-five years from the effective date ("Term"). At the end of the Term, this Agreement and the DMR Regulations shall automatically terminate without further notice or action and the Property shall thereafter be subject to all county land use and other regulations then in effect, whether or not the same are in conflict with the provisions hereof.
2. The CDP, as the same may be amended from time to time pursuant to this Agreement, shall govern all land use and development of the Property for the Term of this Agreement. The provisions of the approved CDP shall supercede any provisions now or hereafter contained in either county's land use code that directly conflict with the provisions hereof. As to any matter not expressly regulated by any provision of the CDP, the provisions of the Counties' respective master plans, land use, subdivision, development, building, fire or other regulations, as then in effect, including any applicable fee schedules, shall control with regard to land use and development of the Property as provided by C.R.S. § 29-20-105(2)(e).
3. Each of the Owners, for itself, represents, covenants and agrees that, as of the date of signing this Agreement:

A. If an entity, it is duly organized as stated above and is authorized to transact business in the State of Colorado as shown by a Certificate of Good Standing evidencing same attached hereto as Exhibit D; and

B. It has undivided fee simple ownership of the property listed on Exhibit A; and

C. If an entity, the officers or other persons signing this Agreement on behalf of said Owner have been duly authorized thereby to do so without reservation, and any claims which might be made due to lack of such authority are hereby being expressly waived by each Owner; and

D. There are no contractual, legal or other impediments to Owners' signing this Agreement and each Owner may legally enter into this Agreement; and

E. Owners have given notice of their development application to the owners of all mineral interests associated with the Property.

4. The Metro and the Counties, each for itself only, represents, covenants and agrees that, as of the date of signing this Agreement:

A. It has duly given notice of, and has properly conducted, all hearings concerning the adoption of the CDP as required by law; and

B. The signing of this Agreement and the adoption of the CDP have been duly authorized as required by law.

5. The approved CDP, as it may be amended from time to time, shall continue to control all land use and development of the Property during the Term, notwithstanding the assumption of authority over the Property, or any portion thereof, by any governmental entity whether by annexation, municipal incorporation or otherwise. Owners, Metro, and the Counties agree that the burdens of all terms and obligations contained in the CDP, as it may be amended from time to time, shall run with the Property and that the benefits of all terms and obligations contained in the CDP, as it may be amended from time to time, shall be held in gross by the Counties and by Metro, notwithstanding any future incorporation or annexation of the Property into a municipality or other governmental entity. The terms and obligations contained in the CDP shall be enforceable by the Counties and Metro as covenants and/or as servitudes running with the land. Owners, for themselves, their transferees, successors and assigns, irrevocably agree to comply with all provisions of the approved CDP, as the same may be amended from time to time pursuant to the terms of this Agreement, notwithstanding any subsequent incorporation into a municipal corporation or any other change of jurisdiction.

6. The CDP, this Development Agreement, the DMR Regulations, and the Master Plan are intended to serve as zoning documents and are not site specific development plans as that term is defined in C.R.S. § 24-68-102(4)(a). Notwithstanding the foregoing, provided that an Applicant for Land Use Development within the Property can demonstrate to the applicable county's satisfaction all of the prerequisites to site specific development as set forth in the CDP and in any applicable

provisions of the county codes such applicant shall have a vested right to land use development in the manner and with the uses described in the approved site specific development plan and in the CDP; provided however, that the Property as a whole shall not be developed to more than the maximum conceptual densities specified in the DMR Regulations. For purposes of the CDP (including this Agreement and the DMR Regulations) the term "site specific development plan" shall include only the following when approved by the applicable county: final subdivision plat, conditional use permit, commercial site plan or townhome/condominium plat. Pursuant to C.R.S. § 24-68-104(1), a site specific development plan which has been vested under the terms of the statute, the CDP and the County Codes, shall remain vested for a period of three years from the time of approval of such site specific development plan.

7. During the term of this Agreement, Owners shall have complete discretion as to the time of commencement, construction, phasing and completion of any and all development of the Property except for construction of public improvements or infrastructure required to be completed under the CDP or applicable county regulations. If either county determines, for property within that county, that certain infrastructure is required prior to, or contemporaneously with, any development in order to comply with the CDP or other applicable regulations, Owners shall complete such construction in a manner and at a time as agreed by Owners and the applicable county.

8. Nothing contained herein shall require the Counties to approve any site specific development plan, including subdivisions or conditional use permits, until Owners, or their transferees, successors and assigns as an Applicant for land use development, demonstrate compliance with the CDP and with all applicable provisions of the county codes at the time of submission. Further, nothing contained herein shall in any event require the Counties to approve any site specific development plan where natural or manmade hazards exist which render development as proposed dangerous to the health or safety of the residents of DMR or the public or if such development is prohibited or restricted by state or federal law.

9. No parcel located within the Property shall be developed in any way until such parcel has been duly included within the boundaries of the Metro as provided by law.

10. Every five years following the effective date of this Agreement, the Counties and the Owners shall review this Development Agreement and the CDP and the parties' experience thereunder. Such review shall be for the purpose of addressing any issues which have may have arisen in connection with the operation of this Agreement or the CDP and to consider any amendments thereto which would address such issues. No party hereto shall be obligated to agree to any such amendments.

11. In consideration of the Counties' agreement to the CDP, and in order to permit San Juan County to immediately begin preparations to offset anticipated impacts of the development on housing in Silverton, Owners shall pay San Juan County a housing assistance fee in lieu of providing workforce housing in the total amount of \$200,000, \$100,000 to be paid into an escrow account (with instructions reflecting the terms herein) upon final approval of the CDP and the balance of \$100,000 paid not more than one year after final approval of the CDP, provided that the Infrastructure Master Plans, Air Quality Master Plan, and at least one Village Conceptual Plan have been approved. Should these plans not be approved by this time and should Owners therefore decide

that the development of the Property should not be pursued, then the initial \$100,000 shall be returned to Owners within 60 days of their written request. Upon making these payments to San Juan County, Owners shall receive credit for the first, second and tenth workforce housing units required to be constructed in San Juan County under the DMR Regulations. La Plata County and San Juan County will not pursue additional fees or payments related to workforce housing issues (other than fees in lieu of workforce housing units) at subsequent phases of review and approval beyond those contained in the DMR Regulations, unless mutually agreed to by Owners, La Plata County and San Juan County.

12. Severability.

a. All of the provisions of the Development Agreement and the Master Plan and the following sections of the DMR Regulations are nonseverable: 1.0, *Purpose and Intent*; 4.0, *Permitted Uses and Density by Village*; 4.5, *Land Use and Density Transfer*; 5.4, *Public Improvements/Infrastructure*; 5.12, *Workforce Housing*; 5.14, *Air Quality*; 5.14.1, *Air Quality Management Plan*; and 5.16, *School Impact Fees* ("Nonseverable Sections").

b. If an action is brought by an Owner, or their transferees, successors and assigns as an Applicant for land use development, that results in a Nonseverable Provision being determined or declared by a court to be illegal, invalid, or unenforceable under present or future laws effective during the term of the CDP, the parties to CDP shall negotiate in good faith for an equivalent or substitute provision or other appropriate adjustment to the CDP ("Substitute Provision"). If the parties cannot reach agreement on a Substitute Provision, the Counties, but not the Owners, shall have the absolute discretion to terminate the CDP.

c. If a provision of the CDP other than a Nonseverable Provision is determined or declared by a court to be illegal, invalid, or unenforceable under present or future laws effective during the term of the CDP: (i) the parties shall negotiate in good faith for a Substitute Provision; (ii) if the parties cannot reach agreement on a Substitute Provision, the illegal, invalid, or unenforceable provision shall be severed from the CDP and the remaining provisions of the CDP shall remain in full force and effect.

13. The following general provisions shall govern the relationship between the parties:

A. This Agreement, together with the CDP and the documents referenced or contemplated therein, constitutes the parties' entire agreement with regard to the subject matter hereof, any other understandings, agreements, commitments or obligations being expressly superceded by this Agreement. In case of any conflict between this Agreement and any other agreement or document, the provisions of this Agreement shall prevail.

B. Signatures transmitted by facsimile shall be fully effective the same as originals.

C. Owners shall have the absolute right to transfer or sell all or any part of its interest in the Property provided, however, that in the event of transfer, Owners' heirs, personal and legal representatives, transferees, successors and assigns shall be bound to comply with all terms hereof

the same as Owners. Owners shall notify the Counties of any change of ownership not less than thirty days prior to such change of ownership, or in case of death or other unanticipated change, not more than thirty days after change of ownership.

D. This Agreement may be executed in one or more counterparts each of which shall be deemed an original but all of which when taken together shall constitute a single agreement.

E. All covenants, representations and warranties herein and all other obligations, responsibilities and terms hereof shall continue to be fully binding and enforceable on the parties until expressly superceded by written agreement of the parties. No amendment to this Agreement or to the CDP shall be effective unless in writing, signed by all parties who are then subject to this Agreement.

F. In the event of any threatened or actual breach or violation of, or any default under, this Agreement or the CDP, in addition to all other remedies available, any party hereto shall be entitled to injunctive relief restraining the breach, violation or default or threatened breach, violation or default, together with such other legal or equitable relief which may otherwise be available, including specific performance. This Agreement and the CDP shall be governed by and construed in accordance with Colorado law and exclusive jurisdiction and venue of any litigation involving or construing this or any other agreement between these parties shall be in the District Court for Sixth Judicial District of Colorado. The parties hereto hereby irrevocably consent to submit to the jurisdiction of said court. The parties hereby irrevocably waive all rights which they may now have, or in the future may acquire, to trial by jury of any issue relating to this Agreement or to the CDP.

G. If any action is necessary to enforce Owner's obligations hereunder, or under the CDP, the Counties, provided that they or either of them is a prevailing party, shall be entitled to recover all reasonable costs of such action or litigation including but not limited to costs, expert and other witness, travel, telephone, copying, fax and other expenses of every type and description whatsoever, including attorneys fees.

H. No failure on the part of any party hereto to exercise, and no delay in exercising, any right hereunder shall operate as a waiver of such right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law. No waiver of, or failure to exercise, any right hereunder shall operate to prevent future enforcement of such right.

I. Notices hereunder may be given by certified mail, return receipt requested, or by facsimile or electronic mail transmission. Notices shall be effective on receipt, provided however that confirmation of receipt shall be required in all instances. Notices to the respective parties shall be given to:

San Juan County:
San Juan County Land Use Administrator
P. O. Box 466
Silverton, CO 81433

La Plata County:
La Plata County Director of Planning
1060 East Second Ave.
Durango, CO 81301

Durango Mountain Resort:
Chief Executive Officer
Durango Mountain Resort
#1 Skier Place
Durango, Colorado 81301

Purgatory Metropolitan District:
C/O Frankie White
570 Turner Drive, Suite B
P. O. Box 1619
Durango, Colorado 81302

J. This Agreement shall be recorded by Owners in the real property records of each of the Counties. All rights and obligations hereunder shall run with the land to Owners, their heirs, personal and legal representatives, transferees, successors and assigns.

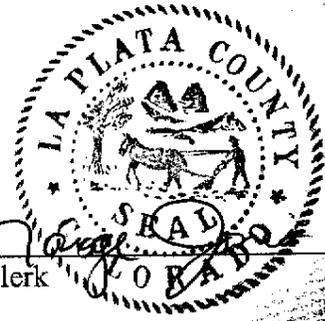
IN WITNESS WHEREOF, this Agreement has been executed effective as of the date written above.

BOARD OF COUNTY COMMISSIONERS
OF LA PLATA COUNTY, COLORADO

By: Frank Joswick
Chairperson

Attest:

M. [Signature]
County Clerk



BOARD OF COUNTY COMMISSIONERS
OF SAN JUAN COUNTY, COLORADO

By: Christine K. Smith
Chairperson

Attest:

Ladonna K. Jaramillo Deputy
County Clerk



PURGATORY METROPOLITAN DISTRICT

By: Nancy L. Furry

DSC/PURGATORY, LLC, a Colorado
Limited Liability Company

By: Cary Duck
Manager

T-H LAND COMPANY, LLP, a Colorado limited
liability partnership

By: San Saba, L.P., a Colorado limited
Partnership, General Partner

By: Vincent J. Duncan
Vincent J. Duncan, General Partner

WINDOM PEAK, LTD, a Colorado Limited
Partnership

By: John Smith
General Partner

Henry P. Lustig
Henry P. Lustig

State of: Colorado
County of: La Plata

Be it remembered that on this 22nd day of April, 2002 the foregoing instrument was acknowledged before me by Nancy L. Furry who attested that she is the President of PURGATORY METROPOLITAN DISTRICT, who acknowledged the signing and execution of this instrument as the duly authorized act and deed of said entity. In testimony whereof, I have hereunto set my hand and affixed my notarial seal on the day and year aforesaid. My commission expires on 7/25/02



MY COMMISSION EXPIRES
JULY 25, 1998 2002

Bonnie L. Pietrowski
Signature of Notary Public

State of Colorado :
County of LA PLATA :

Be it remembered that on this 19th day of April, 2002 the foregoing instrument was acknowledged before me by GARY S. DERCK who attested that he/she is the Manager of DSC/PURGATORY, LLC, a Colorado limited liability company and who acknowledged the signing and execution of this instrument as the duly authorized act and deed of said entity. In testimony whereof, I have hereunto set my hand and affixed my notarial seal on the day and year aforesaid. My commission expires on 7/25/02

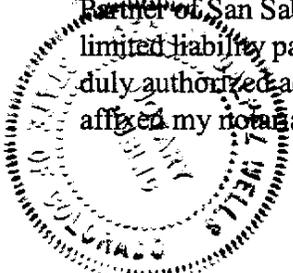


Bonnie L. Pietrowski
Signature of Notary Public

State of Colorado
County of Denver

MY COMMISSION EXPIRES:
JULY 25, 1002 2002

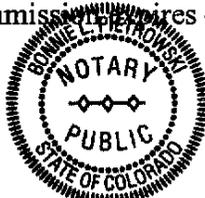
Be it remembered that on this 5th day of April, 2002 the foregoing instrument was acknowledged before me by Vincent J. Duncan, who attested that he is the General Partner of San Saba, L.P., which is the General Partner of T-H LAND COMPANY, LLP, a Colorado limited liability partnership, and who acknowledged the signing and execution of this instrument as the duly authorized act and deed of said entities. In testimony whereof, I have hereunto set my hand and affixed my notarial seal on the day and year aforesaid. My commission expires on 10/7/02



Cecelia D. Wells
Signature of Notary Public

State of Colorado :
County of LA PLATA :

Be it remembered that on this 16th day of April, 2002 the foregoing instrument was acknowledged before me by John M. Wells who attested that he/she is the General Partner of WINDOM PEAK, LTD, a Colorado limited partnership and who acknowledged the signing and execution of this instrument as the duly authorized act and deed of said entity. In testimony whereof, I have hereunto set my hand and affixed my notarial seal on the day and year aforesaid. My commission expires on 7/25/02



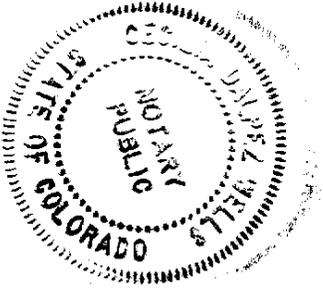
Bonnie L. Pietrowski
Signature of Notary Public

MY COMMISSION EXPIRES:
JULY 25, 1002 2002
BP

State of Colorado
County of Denver

Be it remembered that on this 5th day of April, 2002, the foregoing instrument was acknowledged before me by Henry P. Lustig who acknowledged the signing and execution of this instrument as his free and voluntary act and deed. In testimony whereof, I have hereunto set my hand and affixed my notarial seal on the day and year aforesaid. My commission expires on My Commission Expires 10/7/02

Cecilia D. Wells
Signature of Notary Public



**EXHIBIT A
PROPERTY**

TRACT I: Owner: T-H Land Company, LLP

Tracts A, B, C and D of PURGATORY RESORT SUBDIVISION EXEMPTION,
PROJECT NO. 2000-041 according to the plat thereof filed for record May 1, 2000 as
Reception No. 785618.

**TOWNSHIP 39 NORTH, RANGE 9 WEST, N.M.P.M., SAN JUAN COUNTY,
COLORADO**

Section 13: SW1/4NW1/4NW1/4NE1/4, SW1/4NW1/4NE1/4,
SW1/4SE1/4NW1/4NE1/4, SW1/4NE1/4, W1/2W1/2SE1/4NE1/4, W1/2W1/2E1/2SE1/4,
W1/2SE1/4

**TOWNSHIP 39 NORTH, RANGE 9 WEST, N.M.P.M., LA PLATA COUNTY,
COLORADO**

Section 24: E1/2SE1/4NW1/4, E1/2E1/2NE1/4NW1/4, W1/2NE1/4, W1/2NE1/4NE1/4,
NW1/4SE1/4NE1/4, N1/2SW1/4SE1/4NE1/4, N1/2SW1/4SW1/4SE1/4NE1/4,
SE1/4SW1/4SE1/4NE1/4

TRACT II: Owner: DSC/Purgatory, LLC

Lots 2, 3, 4 and 5 of PURGATORY RESORT SUBDIVISION EXEMPTION, PROJECT
NO. 2000-041 according to the plat thereof filed for record May 1, 2000 as Reception No.
785618.

TRACT III: Owner: Windom Peak, LTD

The SARAH G. LODE MINING CLAIM, Survey No. 20762 in the Needle Mountain
Mining District of La Plata County, Colorado.

LESS AND EXCEPT the Northeasterly 300.39 feet of said Sarah G. Lode Mining Claim
Survey No. 20762 adjoining the Northeasterly boundary line of said claim.

ALSO LESS AND EXCEPT tract in the Southwesterly corner of said Sarah G. Lode
Mining Claim, Survey No. 20762, said tract more particularly described in Deed from

Charles C. Goulding to Leonard C. Ottaway and Mary E. Ottaway dated June 19, 1964 and recorded June 19, 1964 in Book 463 at Page 163.

ALSO LESS AND EXCEPT tract described in Deed to the State Department of Highways, Division of Highways, State of Colorado recorded April 30, 1991 as Reception 609544.

TRACT IV: Owner: Henry P. Lustig

The Northeasterly 300.39 feet of the Sarah G. Lode Mining Claim, Survey No. 20762 in the Needle Mountain Mining District of La Plata County, Colorado, adjoining the Northeasterly line of said Claim.

TOGETHER WITH a non-exclusive right of way for an access road across the Northwest Corner of the S1/2 of said claim.

LESS AND EXCEPT that portion of said Sarah G. Lode Mining Claim being more particularly described as follows, to-wit:

A tract of land situated in the S1/2 of Section 24 and the N1/2 of Section 25, Township 39 North, Range 9 West, N.M.P.M., La Plata County, Colorado, described as follows:

BEGINNING at a point from which the S1/4 Corner of said Section 24 bears North 29° 54' East, a distance of 31.72 feet;

Thence North 70° 00' West, a distance of 444.73 feet;

North 44° 38' East, a distance of 125.32 feet;

North 75° 08' East, a distance of 146.94 feet;

South 20° 00' West, a distance of 117.28 feet;

South 70° 00' East, a distance of 272.25 feet;

South 20° 00' West, a distance of 80.00 feet to the point of beginning.

ALSO LESS AND EXCEPT

A tract of parcel of land No. 55 of the State Department of Highways, Division of Highways, State of Colorado, Project No. FC(CX) 550-2(16) in Lot 2 of Section 24, Township 39 North, Range 9 West, N.M.P.M., in La Plata County, Colorado, said tract or parcel being more particularly described as follows:

BEGINNING at a point from which the South 1/4 Corner of said Section 24 (a 1" diameter Iron Pipe referenced by a B.L.M. Brass Cap) bears South 74° 05' 37" East, a distance of 475.43 feet;

Thence North 70° 01' 29" West, a distance of 26.29 feet to the Easterly Right of Way of S.H. 550 as established by Federal Aid Project F 019-2(1);

North 17° 00' 54" East, along said Right of Way, a distance of 293.21 feet to
C.D.O.H. PNT-561;
South 9° 08' 43" West, a distance of 171.13 feet to C.D.O.H. PNT-560;
the point of beginning.

836596

EXHIBIT B

MASTER & CONCEPTUAL PLAN

See Master and Conceptual Plan Map recorded in La Plata County, Colorado on August 23, 2002 under Reception No. 836597.

*Exhibit C to Development Agreement
Durango Mountain Resort
Land Use Regulations*

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*Exhibit C to Development Agreement
Durango Mountain Resort
Land Use Regulations*

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*Exhibit C to Development Agreement
Durango Mountain Resort
Land Use Regulations*

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1.0 Purpose and Intent

The following regulations shall constitute and be designated as the "Durango Mountain Resort Land Use Regulations", and may be cited as the "DMR Regulations". These DMR Regulations shall apply to the Property and Master Plan (all as defined in the Development Agreement to which this Exhibit C is attached) covering future development of Durango Mountain Resort. These DMR Regulations are adopted for the purpose of protecting the health, safety and general welfare of the citizens of La Plata County and San Juan County, Colorado (collectively, the "Counties"). These DMR Regulations establish: (i) the permitted land uses within the Property; (ii) Maximum Conceptual Densities within the Property; (iii) a general development plan and uniform standards for land use development upon the Property; and (iv) development procedures, standards and conditions that must be adhered to by the Owners (as defined in the Development Agreement) and by all owners of property within the Master Plan boundaries, and their heirs, personal and legal representatives, successors and assigns, including insurers and secured lenders. These regulations further specify improvements which must be made and conditions which must be fulfilled in conjunction with the development of the Property.

The Governing Documents (as defined in Section 1.1) are not Site Specific Development Plans as that term is defined in C.R.S. § 24-68-102(4)(a) or defined herein. Notwithstanding the foregoing, provided that an Applicant for Development can demonstrate to the Counties' satisfaction that all of the prerequisites to Site Specific Development set forth in the Governing Documents and any applicable provisions of the Codes at the time of submission or approval of such Site Specific Development Plan, such Applicant shall at the time of approval of such Site Specific Development Plan have a vested right to land use development in the manner and with the uses described in the approved Site Specific Development Plan and in these Governing Documents, provided however, that the Property shall not as a whole be developed to more than the Maximum Conceptual Densities specified in the DMR Regulations. Pursuant to C.R.S. § 24-68-104(1), a Site Specific Development Plan which has been vested under the terms of the statute, the Governing Documents and the Codes, shall remain vested for a period of three years from the time of approval of such Site Specific Development Plan.

1.1 Governing Documents

The DMR Regulations, the Development Agreement and the Master Plan shall be collectively referred to as the "Governing Documents". The Governing Documents, the La Plata County Code ("LPC Code"), and the San Juan County Code ("SJC Code") shall be applicable to the Property (collectively, both codes may be referred to as the "Codes"). Where the DMR Regulations do not expressly address a specific development procedure, standard or requirement, the applicable provisions of the Codes as then in effect shall apply.

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Where the DMR Regulations expressly address a specific development procedure, standard or requirement, the provisions of the DMR Regulations shall supercede the provisions of the Codes, and the provisions of the DMR Regulations shall apply.

2.0 Development Review Procedures

General development review within Durango Mountain Resort shall conform to the procedures set forth in this section. Development shall be initiated by submittal of a complete Development application to the appropriate County Planning Department. Development applications shall receive a recommendation from the recommending body and approval or denial by the approval authority as outlined in Table 2.8.

2.1 Adoption of Governing Documents

Adoption of the Governing Documents shall be a condition precedent to any development of the Property.

2.2 Master Infrastructure Plans

Master Infrastructure Plans shall control all development within the Property. Master Infrastructure Plans shall be submitted for review and approval and/or amendment by both Boards of County Commissioners and the Purgatory Metropolitan District ("Metro District") prior to or concurrent with the initial subdivision or site plan review for any development project. Each Master Infrastructure Plan shall meet the relevant requirements as set forth within the following Sections: Street/Road Master Plan – Section 5.2.1; Water Master Infrastructure Plan – Section 5.5.1; Wastewater Master Infrastructure Plan – Section 5.6.1; Drainage, Stormwater, and Erosion Control Master Infrastructure Plan – Section 5.7.1; Snow Removal and Storage Master Infrastructure Plan – Section 5.9.1; Air Quality – Section 5.14 and 5.14.1; Recreation Master Infrastructure Plan – 5.21.1.

Once approved, a Master Infrastructure Plan shall be the resort-wide conceptual infrastructure plan providing detailed information on, and required for, each of the foregoing categories. Master Infrastructure Plans shall be amended as needed in conjunction with any density transfers or other proposed land use development. No amendment to any Master Infrastructure Plan shall be effective until approved by the appropriate County(s). Minor amendments, as defined by the Director, to a Master Infrastructure Plan may receive administrative approval by the Director, provided that the minor amendment is subsequently referenced and approved by the appropriate Board through consideration of a land use development.

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2.3 Village Conceptual Plans

The Village Conceptual Plan for any Village shall control all development within that Village. Village Conceptual Plans shall be submitted for review and approval and/or amendment prior to or concurrent with the initial subdivision or site plan review of any project within a Village. Once approved, a Village Conceptual Plan is the approved Conceptual Plan for each village and shall be updated or amended as appropriate to accommodate each individual development, subdivision plat or site plan within that Village. Village Conceptual Plans shall show a legally described boundary of each Village, land uses, densities, lots, common open space, parking, proposed landscaping and landscape buffers, court yards, proposed amenities, number of units per lot, use of building, snow storage, trails, ski access, lighting, wetlands, geologic factors which would have a significant impact to the area, conceptual phasing, and such other features as determined by the Director of Planning; buildings indicating height and general architectural character of buildings within a Village; existing and proposed streets, utilities, commercial curb cuts, common driveways, drainage easements and other easements; and the relationship of the development to adjacent areas that it may affect. The solar studies shall at a minimum show a shadow diagram for December 21 between the hours of 10-2. Approved Village Conceptual Plans shall include the language referenced in Section 4.0 regarding Maximum Conceptual Densities. Village Conceptual Plans shall be amended as needed in conjunction with any density transfers or other proposed land use development. No amendment to any Village Conceptual Plans shall be effective until approved by the appropriate County(s).

2.4 Subdivisions

Site specific subdivisions shall be approved through Preliminary Plat and Final Plat processes as provided for in Section 2.10 only after approval of all Master Infrastructure Plans and the appropriate Village Conceptual Plan. No subdivision shall receive final plat approval until the applicant thereof shall have: (i) submitted a subdivision application that meets the submittal requirements of the appropriate County(s); (ii) demonstrated compliance with all relevant provisions of all applicable County regulations and the relevant provisions of the Governing Documents; (iii) agreed to execute a development improvement agreement with the applicable County obligating the applicant to build all public improvements that are included on the plat or have been required as a condition of plat approval; and (iv) provided satisfactory assurances, in such form and amount as may be required by the applicable County, with regard to all proposed public improvements. Such assurances shall be in a form approved by the appropriate County(s) and may take the form of performance bonds, escrow agreements, or the pledge of assets including the deposit of funds, provided, however that such assurances will in any event be sufficient to complete all proposed public improvements without cost to the County or any applicable local governmental entity in the event of default by the applicant of the subdivision. All subdivision plans shall be processed in accordance with Section 2.10 and further shall address the arrangement, type, size and

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location of infrastructure in relation to existing and proposed development; and the future extension of infrastructure necessary for the development of the remainder of the Village and adjoining Villages within the Property. Solar studies shall be updated if any changes are proposed from the Village Conceptual Plan Solar Studies. Subdivisions may cross the County line provided that individual lots do not cross the County line.

2.5 Conditional Use Permits and/or Townhome/Condominium Plats

Conditional Use Permits and/or Townhome/Condominium Plats for commercial or multi-family uses shall be approved prior to the issuance of building permits or any site disturbance. No Conditional Use Permits and/or Townhome/Condominium Plats for commercial or multi-family uses shall receive final approval until the applicant thereof shall have: (i) submitted an application that meets the submittal requirements of the applicable County(s); (ii) demonstrated compliance with all relevant provisions of all applicable County regulations and the relevant provisions of the Governing Documents; (iii) agreed to execute a development improvement agreement with the applicable County obligating the applicant to build all public improvements that are included on the plat or have been required as a condition of plat approval; and (iv) provided satisfactory assurances, in such form and amount as may be required by the applicable County, with regard to all proposed public improvements. Such assurances may take the form of performance or property bonds, escrow agreements, or the pledge of assets including the deposit of funds, provided, however that such assurances will in any event be sufficient to complete all proposed public improvements without cost to the County or any applicable local governmental entity in the event of default by the applicant of the subdivision.

2.6 Temporary Uses, Accessory Uses, Permitted Uses, Resort Special Events and Administrative Uses

Temporary Uses, Accessory Uses, Permitted Uses, Resort Special Events, and other administrative approvals shall be initiated by submittal of an application that meets the submittal requirements of the applicable County(s) and must receive administrative review and approval prior to initiation of any such use.

2.7 Density Transfers

Density transfers shall be initiated by submittal of an application that meets the submittal requirements of the applicable County(s) and shall be processed prior to or concurrent with development of the affected real property pursuant to the Table in Section 4.1 and pursuant to the criteria set forth in Section 4.5.

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2.8 Table: Recommending Body and Approval Authority

The Recommending Body and Approval Authority for land use development of the Property shall be as hereafter described in the following table:

Land Use	Recommending Body	Approval Authority
Development Agreement, LURs, and Master Plan initial approval and subsequent amendments.	Public hearing(s) before Joint County Planning Commissions	Separate Public hearing(s) before La Plata County Board and San Juan County Board (both approvals required)
Master Infrastructure Plans/ Conceptual Village Development Plans	Public hearing(s) before Joint Planning Commission or La Plata County Planning Commission for Village Plans entirely within LPC.	Public hearing(s) before La Plata County Board and San Juan County Board (both approvals required for Master Plans including Metro District) or La Plata only for village plans entirely within LPC.
Subdivisions	Public hearing(s) before appropriate County Planning Commission	Public hearing(s) before La Plata County Board and/or San Juan County Board (both approvals required if subdivision crosses County line - individual Board if wholly within one County)
Conditional Use Permit	Public hearing(s) before Joint Planning Commission if project crosses County lines - Otherwise appropriate individual Planning Commission	Public hearing(s) before La Plata County Board and/or San Juan County Board (both approvals required if project crosses County line - individual Board if wholly within one County)
Temporary Uses, Accessory Uses, Special Events, Permitted Uses with Site Plan Approval	No Planning Commission(s) review required	Appropriate County Staff
Condominium/Townhome Plats	Appropriate County Staff. No Planning Commission(s) review required	Consent agenda item before La Plata County Board or San Juan County Board (both approvals required if project crosses County line - individual Board if wholly within one County)

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Density Transfers	Appropriate County Staff. No Planning Commission(s) review required	Public hearing before La Plata County Board and/or San Juan County Board (Both approvals required if transfer involves property in both Counties)
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2.9 Boundary Line Adjustments, Lot Consolidations and Vacations

Boundary line adjustments, lot consolidations and vacations shall follow the procedures of the appropriate County Code. If any project crosses the County line, approval by both Boards shall be required.

2.10 Subdivision Procedures

Subdivision of the Property shall be processed in conformance with the La Plata Code, for property within La Plata County, and the San Juan Code, for property within San Juan County, as such Codes are in effect at the time of subdivision.

2.11 Conditional Use Permit Procedures

Conditional use permits shall be processed in conformance with the La Plata Code, for property within La Plata County, and the San Juan Code, for property within San Juan County, as such Codes are in effect at the time of conditional use application. Until such time that the La Plata Code contains a conditional use process, conditional use permits in La Plata County shall be processed in conformance with the applicable provisions (as determined by the Planning Director) of the Class II procedure.

2.12 Appeals, Variances and Special Exceptions

Appeals, variances, and special exceptions regarding the planning and development of the Property shall be directly to the Board of County Commissioners of the appropriate County(s) (Boards of Adjustment shall not be involved).

2.13 Amendments to Governing Documents

Either County and/or Owner/Applicant may, at any time, request amendments in writing to the Development Agreement, DMR Regulations, and Master Plan. At a minimum, the Development Agreement, DMR Regulations and Master Plan shall be reviewed by Owner/Applicant and the Counties' planning staffs every five years after the effective date of

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the Development Agreement. If, at any time, any party desires to amend the Development Agreement, DMR Regulations, and/or Master Plan, the recommended amendment(s) shall be submitted to the Joint Planning Commissions of both Counties for a recommendation to the Boards of County Commissioners, which shall be followed by review by both Counties' Boards. All approved amendments must be executed by Owner and both Counties' Boards prior to such amendments being binding upon Owner/Applicant and the Counties, followed by recordation in the real property records of each County.

2.14 Fees

Applications for land use development shall be accompanied by the following fees:

1. An application for land use development fee, the amount to be determined by resolution of the Board of County Commissioners, to be paid at the time of application.
2. Those fees required by the County building departments, the Uniform Building Codes and related codes as may be adopted by the Counties from time to time.
3. Those fees by deposit that may be required for payment of costs connected with the advertisement of public hearings.
4. Those fees that may be charged by other agencies for matters relating to the issuance of land use developments.
5. Such fees necessary to offset additional costs directly related to County review of a land use development proposal as determined by the Board of County Commissioners.
6. All fees and costs incurred by the County for expert assistance in evaluating any proposed land use development as provided the Governing Documents or the County Codes.

3.0 Goals & Objectives

These Goals and Objectives promote the community desired planning policies for Development of the project and are in conformance with and intended to implement the North (La Plata) County Plan. All Development shall be reviewed for conformance with these goals and objectives.

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Goal One:

To preserve scenic view corridors.

Objectives:

- A. To consider the visual impacts of development from all perspectives and promote and maintain the preservation of important view corridors.
- B. Encourage clustered development and avoid development in open meadows, ridge tops, or other areas where it will interrupt the natural tree line or obscure major topographical features.
- C. Provide setbacks from public roadways so as to maintain visual and physical separation between development and public roads.
- D. Require utilities to be located underground or, if not feasible, to be virtually unobtrusive and not on ridge lines.

Goal Two:

To preserve the natural environment while promoting a responsible, high quality community development plan.

Objectives:

- A. To promote mixed-use development in Villages, which optimize open space and provide for efficient use of the land area and urban services.
- B. To protect the existing natural features within development areas.
- C. To preserve existing landscape features, trees, and other vegetation where possible and replace vegetation when necessary to provide buffers and screening for development.
- D. To ensure all development complies with the architectural guidelines established under the Governing Documents and under the master protective covenants adopted by the Durango Mountain Resort Master Association.
- E. To create harmonious architecture, landscaping and other design elements.

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- F. To manage development activity within the constraints of existing natural land features and other natural elements.
- G. To protect against adverse impacts on the wildlife in the area and protect important wildlife habitat within the boundaries of the Property.
- H. To educate residents and guests about the important environmental features, values and functions within the Property and the surrounding environment.

Goal Three:

To create a resort community with a variety of housing options, a full range of commercial services, community facilities that will meet resident needs, and a wide variety of year-round recreation activities for all owners and guests within the Property.

Objectives:

- A. To provide housing options within the Property ranging from hotels and multi-family dwelling units to single-family dwelling units to meet the needs and desires of a wide variety of resort guests, purchasers, and owners.
- B. To create a commercial center that will provide the services, facilities and opportunities to establish a viable, energetic and attractive experience for visitors and guests.
- C. To create a community park and a variety of year-round recreation activities to entertain resort owners and guests of all ages.
- D. To provide and preserve open space areas that enhance the environmental, aesthetic and recreational characteristics of the Property.

Goal Four:

To address the housing needs of employees who work within the boundaries of the Property.

Objectives:

- A. To promote the incorporation of housing units within the Property that will be for the use of employees of businesses within the project boundary.

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- B. To provide a diversity of employee housing types ranging from single-family residences and caretaker units to a variety of multi-family dwelling units.
- C. To provide employee housing through a coordination of the planning, financing, construction and management of the employee housing units.
- D. To promote a diversity of housing in terms of type and price.

Goal Five:

To maintain and promote the long-term stability and economic foundation of tourism and business in North La Plata County and southernmost San Juan County.

Objectives:

- A. To develop a healthy and diversified economy and employment base within the Project.
- B. To develop a mutually beneficial relationship between North La Plata County residents, South San Juan County residents, and the resort.
- C. To encourage integration between commercial centers and the North La Plata County community for a sustainable harmony and quality of life for North La Plata County and Southern San Juan County residents.

Goal Six:

To provide a safe, efficient and comfortable transportation system within and to the Property that will enhance the experience of resort visitors and guests.

Objectives:

- A. To enhance the visitor arrival experience and traffic flow by providing informational signs to arriving guests to assist them in finding their destination or a parking area.
- B. To provide parking to meet the demand generated by guests and employees at locations that are convenient and have efficient and safe accessibility to the interior neighborhoods of the Property.
- C. To provide an attractive alternative means of transportation for residents, guests and employees so that a reliance on the personal automobile may be diminished.

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- D. To provide convenient, quality and continuous pedestrian access within the Property as well as development of, and accessibility to, trail systems both within and adjacent to the Property.

4.0 Permitted Uses and Density By Village

The Maximum Conceptual Densities shall be no more than 1649 residential units and 410,000 gross square feet of commercial space which may be permitted within the Property boundaries. The Maximum Conceptual Densities for each Village are based upon the highest densities obtainable from the development of the Property without consideration of, or site specific application of, the criteria contained within the Governing Documents and/or the County codes and, thus, the Maximum Conceptual Densities may not be achieved in each Village or project-wide. The following provision shall be included on approved Village Conceptual Plans: "This Village Conceptual Plan establishes Maximum Conceptual Densities that may or may not be achieved after application of the criteria and provisions contained within the Governing Documents and/or the County Codes."

Table 4.1 identifies the land uses permitted within each Village and the maximum number of residential units and/or commercial square footages permitted within each Village. The final number of units permitted in each Village shall be: (1) determined based on the practicably developable acreage in that Village and (2) subject to detailed design as reflected on Final Plats and approved land use development permits, not to exceed the total units per Village below, subject to adjustment pursuant to Section 4.5 regarding Density Transfers.

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Table 4.1 – Project Wide and Village Maximum Conceptual Densities

Village	Land Uses	Residential Units	Commercial GSF
Purgatory Village	Single Family dwellings Townhomes Resort Condominiums/Hotel Commercial Lodge Cabins Recreational Vehicle Parking Maintenance, Service, Utility	19 DU 248 DU 342 DU	
<i>Purgatory Village Maximum Conceptual Density</i>		609 DU	170,000 GSF
Base Camp Village	Resort Condominiums/Hotel Townhomes Commercial Lodge Cabins Maintenance/Service/Utility	298 DU 18 DU	
<i>Base Camp Village Maximum Conceptual Density</i>		316 DU	180,000 GSF
Tacoma Village	Single family dwellings Townhomes Commercial Maintenance/Service/Utility	122 DU 210 DU	
<i>Tacoma Village Maximum Conceptual Density</i>		332 DU	60,000 GSF
Woodlands Village	Single family dwellings	127 DU	
<i>Woodlands Village Maximum Conceptual Density</i>			0 GSF
Grayrock Village	Single family dwellings Townhomes	45 DU 83 DU	
<i>Grayrock Village Maximum Conceptual Density</i>		128DU	0 GSF
Boyce Lake Estates	Single family dwellings	137 DU	

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	Equestrian Facility		
<i>Boyce Lake Estates Maximum Conceptual Density</i>		137 DU	0 GSF
Project Total		1649 DU	410,000 GSF

- Employee housing units and caretaker units shall be exempt from the project-wide and Village unit count maximums.
- Short-term rentals of all single-family, multi-family, hotel, lodge and cabin units is specifically permitted subject to the policies and procedures of the particular rental program and CC&Rs governing a particular development parcel or Village.

4.2 Temporary Uses

Following appropriate administrative review and approval by the appropriate County staff, the following temporary uses may be installed: a construction office, construction storage trailers and staging areas, temporary real estate offices, temporary utility facilities and structures, outdoor vendors, outdoor education activities and facilities and model homes as temporary uses. Such uses shall be identified on each land use development application or submitted concurrently with a preliminary plat where temporary uses are anticipated and approved as part of such approval. These uses are also subject to the standards and criteria identified by these DMR Regulations and the appropriate County Code. The following uses are hereby grandfathered and may continue until a specific plat and/or building permit for an alternative use is approved for that area: Star Safaris, horseback riding, snowmaking operations, sleigh rides, equestrian facilities, snowmobile operations and existing trails for Nordic skiing and mountain biking.

4.3 Resort Special Events

Resort Special Events are events of limited duration that involve placement of tents and associated temporary facilities. Examples of resort special events include ski/snowboard/mountain biking races and demonstrations, music festivals and music programs, traveling circuses, special holiday events and programs, athletic events, community celebrations and other similar events. Resort Special Events require County staff review and consultation with the appropriate County sheriffs, the Hermosa Cliffs Fire District and other appropriate affected agencies to insure the following criteria are met: provision of adequate sanitary facilities, provision of adequate traffic control and parking; and provision of adequate law enforcement, fire services and emergency medical services.

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4.4 Building Permits

Building permits, grading permits and improvement or use permits shall be issued in accordance with the appropriate County Code; provided, however, that no building, grading or improvement or use permit shall be issued to an applicant until such time as the applicant has provided to the County certificates issued by the Hermosa Cliffs Fire District, Purgatory Metro. District and the Durango Mountain Resort Design Review Committee (DRC) approving the proposed improvements for which the building permit and/or grading permit is being sought. In no case shall a structure be constructed across the County line.

4.5 Land Use and Density Transfer

Residential densities may be permitted to be transferred within Villages provided that a staff review establishes that the proposed transfer is consistent with the Master Plan map. Commercial Densities may not be transferred between Villages. Residential densities may be permitted to be transferred from development parcels in one Village to development parcels in another Village provided all of the following criteria are met: (1) the aggregate number of transfers does not increase the residential density in the receiving Village by more than ten percent (10%) over the densities set forth in Table 4.1; (2) the land use is consistent with the Master Plan map; (3) the land use is a permitted use as shown in Table 4.1 in the receiving Village; (4) the transfer does not increase the overall project-wide Maximum Conceptual Densities as set forth in Section 4.1; and (5) only densities from the same land use category (i.e., single family to single family) may be transferred, with the one exception that single family residential densities may be transferred to multi-family categories.

Density transfers shall be reviewed and approved by the appropriate Board of County Commissioners based on updated or revised Village Conceptual Plans prior to or concurrent with the final plat or land use development review for the parcel initiating the transfer. All density transfers shall be administratively accounted for by the County Planning Departments.

4.6 Accessory Structures and Uses

Accessory structures and uses are permitted subject to administrative review and approval by appropriate County staff in all land use categories as follows:

Accessory structures and uses shall include garages, storage sheds, caretaker units, swimming pools and tennis courts for owners use, home occupations, family daycare homes, utility facilities, satellite antennas, recreational buildings, gazebos and other similar accessory uses approved by the Director. Accessory uses and buildings shall be incidental to

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the main use of the parcel and shall not alter the character of the parcel in relation to uses permitted in the Village.

A building permit is not required for one-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided that the projected roof area does not exceed 120 square feet.

Accessory structures shall not encroach into designated buffer or front yard setback areas from the main building or structure on the parcel and shall lie within the building envelope on the parcel.

Those accessory structures that have water usage and/or wastewater usage may require an additional tap, as determined by the Metro District.

4.7 Caretaker Units

Caretaker units are permitted as an accessory use within single-family dwelling units within the Property. Each caretaker unit shall meet the following requirements:

1. It shall be deed restricted as follows: (1) it is used by family members of the single-family dwelling; or (2) it is rented or provided in exchange for services to employees who will use it as their primary residence and whose primary workplace is located within the boundaries of Durango Mountain Resort.
2. It shall be at least 400 sq. ft. and no larger than 1,000 sq. ft.
3. No more than one caretaker unit shall be allowed per lot.
4. The caretaker unit must be included within either the principal structure or a detached garage.
5. Rental of caretaker units for any period less than thirty days or to persons not employed in or by the resort shall be strictly prohibited.

4.8 Redevelopment of Existing Properties Owned By DMR

Any modifications, additions, remodeling, renovations or redevelopment of existing developed Property owned by Durango Mountain Resort within the Property that was constructed prior to the effective date of this Agreement shall be subject to the provisions of these Land Use Regulations, including land use and density transfer matters described in Section 4.1 and 4.5.

Any modifications, additions, remodeling, renovations or redevelopment of Property within the Master Plan developed in the future shall be subject to the provisions of these Land Use

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Regulations, including land use and density transfer matters described in Sections 4.1 and 4.5.

4.9 Site Design Standards

The following site design standards are applicable to all development within the Property:

- Development shall be clustered to maximize contiguous open space and minimize disruption to native vegetation. Site specific development plans shall indicate the location of significant existing stands of trees, rock outcroppings, and other site features.
- Development shall be tucked into topographic folds. "Skylining" shall not be permitted. Ridge-top units shall be sited in saddles or back from ridge lines to prevent "skylining."
- Building envelopes shall be offset and staggered on single family lots to permit views between units and prevent the formation of a uniform wall of building faces.
- Views to amenities, open space and creek beds shall be maintained from adjoining roadways.
- Development on steep slopes and soils with poor bearing capacities shall be avoided. Roadways, driveways, and utilities are permitted to cross steep slopes to gain access to flatter portions of land.
- Buildings should be sited to capitalize on passive cooling/heating.
- Building scale and height shall relate to topography, lot sizes and setbacks. A mix of one and two story structures will be encouraged in single family neighborhoods. Custom homes on slope sensitive lots shall use hillside adaptive design techniques such as post and beam construction and daylight basements to minimize streetside and rear yard façade exposure.
- Building materials and color schemes shall blend with the materials and colors of the surrounding natural landscape of earth tones, rock outcroppings and alpine meadow vegetation. The use or incorporation of fire resistant or treated wood, stucco and/or stone on exteriors is encouraged. Material changes, fenestration changes and variations of wall and window surface planes are also encouraged. In order to avoid the appearance of a false appliqué, no material changes shall be allowed on corners or where structures abut common areas. If material changes occur, they must occur at logical changes in building form.
- View corridors are critical along U.S. Highway 550, along trail corridors, and to and from open spaces. The siting of all buildings and structures, including fences, etc., shall comply with all applicable and County-approved viewshed analyses to negate their impact on views and adjacent uses.
- All building envelopes and the placement of buildings and structures shall maximize the use of existing stands of trees to screen structures from U.S. Highway 550, along trail corridors, and to and from open spaces.

- Mechanical equipment on roofs, above ground transformers, satellite dishes, active solar panels, utility equipment and loading, service and storage areas shall be screened from view from the streets, pathways, public areas and adjacent uses. Trash enclosures and maintenance structures shall be designed to be compatible in style, materials and colors with the main building and shall be of masonry type construction.
- In Purgatory Village and Base Camp Village, buildings should align on build-to-setback lines to create a defined edge to pedestrian plazas and streetscapes.
- Buildings should be grouped together in clusters to preserve large blocks of open space and to create large meaningful pedestrian-oriented spaces. Outdoor "rooms" should be enclosed (i.e., walls) on at least two sides. These walls can be formed by a building or the combined placement of several buildings, or even by landscaping.
- Landscaping should provide shade and buffer the view of cars from neighboring properties.
- Parking lots should be consolidated and shared.
- Light shall be shielded to preserve the visibility of the night sky.
- Materials that present a sense of permanence (i.e., large log or timbers, rock, large overhangs, etc.) should be used.
- Roof pitches within the 8/12 to 12/12 range found in most mountain communities should be used.
- Colors that blend with the surrounding landscape should be used.
- Building massing that steps back on south sides and allows the sun to reach the ground is encouraged.
- Compliance with Section 5.11.2 -- Project-Wide Scenic Standards

4.10 Village Standards

The following standards are applicable to development within each specified Village:

4.10.1 Boyce Lake Village

Boyce Lake Village is intended to serve as a single-family residential neighborhood where development is clustered in the trees, predominantly outside of the Highway view corridor. The Maximum Conceptual Density for the Boyce Lake Village neighborhood is 1 DU/gross acre with a maximum of 137 dwelling units. The final number of units permitted shall be subject to detailed design based on Final Plats and/or land use development permits and based on the practicably developable acreage.

Lots shall be clustered, shall vary in size and shall be irregular in configuration in order to minimize visual impact and conform to existing topography.

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Permitted Uses Requiring Site Plan Administrative Review and Approval:

Single-family dwellings of a permanent nature and their accessory structures
Caretaker units

Uses Requiring a Conditional Use Permit:

Public utility structures

Public structures

Equestrian facilities

Trailheads and trails, including Nordic (unless approved at preliminary plat)

Bed and Breakfast establishments

Club facilities

Neighborhood parks and recreational facilities (unless approved at preliminary plat)

Prohibited Uses:

All uses not specifically identified.

Lot Standards:

- Maximum Building Height: 35 feet
- Maximum Size of Residence: 8,000 SF
- Maximum Residential Structure Footprint: 6,000 SF
- Maximum Accessory Structure Footprint: 600 SF
- Compliance with applicable USACOE 404 permit conditions.
- In furtherance of the Goals and Objectives, a 100-foot minimum setback to buildings from U. S. Highway 550 right-of-way which may be reduced to 50-foot setback in areas where there is natural tree cover or grade changes which help buffer the visibility of buildings from the Highway. A specific setback line shall be developed and approved as part of the Village Conceptual Plan for Boyce Lake Estates.
- No disturbance of 30% or greater slopes shall be allowed unless either the vertical rise of the section of 30% or greater slope is less than or equal to 15 feet in height or unless the disturbance is approved by County staff. All disturbances of 30% or greater slopes shall require certification by a professional geotechnical engineer through a geotechnical investigation on the parcel prior to plat review. All recommendations, standard procedures and special precautions contained within the investigation shall be implemented.
- Building envelope designations and master association protective covenants shall be designed and drafted to protect adjoining public lands and/or open space from private use and/or disturbance.
- Compliance with Section 4.9, Site Design Standards.
- Special Conditions:
 - A building envelope shall be designated on each single-family lot. All residential structures, accessory structures and hardscape improvements (except driveways and utility connections) must be contained within the

building envelope. Setbacks may vary to protect natural features based on approved building envelope. Alternative envelopes shall be allowed if two or more lots are consolidated.

- Houses and other structures should be sited to minimize excessive grading and shall be compatible with existing topography.
- All graded sloped banks facing the street shall not exceed a 3:1 gradient, nor shall graded sloped banks exceed eight (8) feet in height without horizontal terrace.
- Adjacent lots may have shared driveways as necessary.
- Single-family driveways shall provide sufficient area (in a garage or otherwise) to accommodate 2 spaces for the single-family dwelling, 1 space for visiting vehicles, and 1 space for caretaker unit, if applicable.

4.10.2 Grayrock Village

Grayrock Village is intended to serve as single and multi-family residential neighborhood where wetlands and open space predominate and development is clustered and generally located in the trees, out of the highway view corridor. The Maximum Conceptual Density for Grayrock Village is 2 DU/gross acre for single family and 12 DU/gross acre for multi-family; with a maximum of 128 total dwelling units. The final number of units permitted shall be subject to detailed design based on Final Plats and/or land use development permits and based on practicably developable acreage.

Permitted Uses Requiring Site Plan Administrative Review and Approval:

Single-family dwellings of a permanent nature and their accessory structures
Caretaker units

Uses Requiring a Conditional Use Permit:

Townhomes
Public utility structures
Public structures
Bed and Breakfast establishments
Club facilities
Trailheads and Trails
Neighborhood parks and recreational facilities (unless approved at preliminary plat)
Multi-family employee housing units

Prohibited Uses:

All uses not specifically identified.

Single Family Lot and Townhome Standards:

- Lot lines shall not cross the County line

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- Maximum Building Height: 35 feet
- Maximum Size of Residence: 8,000 SF
- Maximum Residential Structure Footprint: 6,000 SF
- Maximum Accessory Structure Footprint: 600 SF
- Compliance with applicable USACOE 404 permit conditions.
- 50 foot Setback to buildings from the Highway 550 right-of-way.
- No disturbance of 30% or greater slopes shall be allowed unless either the vertical rise of the section of 30% or greater slope is less than or equal to 15 feet in height or unless the disturbance is approved by County staff. All disturbances of 30% or greater slopes shall require certification by a professional geotechnical engineer through a geotechnical investigation on the parcel prior to plat review. All recommendations, standard procedures and special precautions contained within the investigation shall be implemented.
- Building envelope designations and master association protective covenants shall be designed and drafted to protect adjoining public lands and/or open space from private use and/or disturbance.
- Compliance with Section 4.9, Site Design Standards.
- Special Conditions:
 - A building envelope shall be designated on each single family lot. All residential structures, accessory structures, and hardscape improvements (except driveways and utility connections) must be located within the envelope.
 - Houses and other structures should be sited to minimize excessive grading and shall be compatible with existing topography.
 - All graded sloped banks facing the street shall not exceed a 3:1 gradient, nor shall graded sloped banks exceed eight (8) feet in height without horizontal terrace.
 - Adjacent lots may have shared driveways as necessary.
 - Single family driveways shall provide sufficient area to accommodate 2 spaces for the single family dwelling, 1 space for visiting vehicles and 1 space for caretaker unit, if applicable.
- In addition to the foregoing standards, Townhomes shall also meet the following standards:
 - Maximum Building Height: 45 feet (3 stories)
 - Parking: 1.5 spaces per Townhome unit
 - Maximum Unit per Townhome Building: 20

4.10.3 Tacoma Village

Tacoma Village is intended to serve as a clustered, single family and multi-family residential neighborhood where the main focus is the Community Park. The Maximum Conceptual Density for Tacoma Village is 4 DU/gross acre for single-family and 12 DU/gross acre for

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multi-family; with a maximum of 332 total dwelling units. The final number of units permitted shall be subject to detailed design based on Final Plat and/or land use development permits and based on practicably developable acreage. This neighborhood will also provide employee housing units and some public or quasi-public uses such as the Fire Station, Sewage Treatment Plant plus commercial uses intended to serve residents and visitors in Tacoma Village, Woodlands Village and Boyce Lake Village in order to limit trips across U.S. Highway 550.

Permitted Uses Requiring Site Plan Administrative Review and Approval:
Single-family dwellings of a permanent nature and their accessory structures
Caretaker units

Uses Requiring a Conditional Use Permit:

Commercial Uses
Community Park Facilities
Equestrian facilities
Maintenance, service and utility facilities
Multi-Family Employee Housing Units
Townhomes
Public utility structures
Public structures
Bed and Breakfast establishments
Trailheads and Trails including Nordic
Neighborhood parks and recreational facilities (unless approved at preliminary plat)
Day care centers

Prohibited Uses:

All uses not specifically identified.

Lot and Townhome Standards:

- Maximum Building Height: 35 feet
- Maximum Size of Residence: 4,000 SF
- Maximum Residential Structure Footprint: 3,000 SE
- Maximum Accessory Structure Footprint: 300 SF
- Compliance with applicable USACOE 404 permit conditions.
- No disturbance of 30% or greater slopes shall be allowed unless either the vertical rise of the section of 30% or greater slope is less than or equal to 15 feet in height or unless the disturbance is approved by County staff. All disturbances of 30% or greater slopes shall require certification by a professional geotechnical engineer through a geotechnical investigation on the parcel prior to plat review. All recommendations, standard procedures and special precautions contained within the investigation shall be implemented.

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- In furtherance of the Goals and Objectives, a 100 foot minimum setback to buildings from U. S. Highway 550 right-of-way which may be reduced to 50 foot setback in areas where there is natural tree cover or grade changes which help buffer the visibility of buildings from the Highway. A specific setback line shall be developed and approved as part of the Village Conceptual Plan for Tacoma Village.
- 50 foot setback from public lands.
- 50 foot setback from open spaces.
- Building envelope designations and master association protective covenants shall be designed and drafted to protect adjoining public lands and/or open space from private use and/or disturbance.
- Compliance with Section 4.9, Site Design Standards.
- Special Conditions:
 - A building envelope shall be designated on each single family lot. All residential structures, accessory structures and hardscape improvements (except driveways and utility connections) must be located within the envelope. Setbacks may vary to protect natural features based on approved building envelope. Alternate building envelopes shall be allowed if two or more lots are consolidated.
 - Houses and other structures should be sited to minimize excessive grading and shall be compatible with existing topography.
 - All graded sloped banks facing the street shall not exceed a 3:1 gradient, nor shall graded sloped banks exceed eight (8) feet in height without horizontal terrace.
 - Single Family driveways shall provide sufficient area to accommodate 2 spaces for the single family dwelling, 1 space for visiting vehicles, and 1 space for a caretaker unit, if applicable.
 - Adjacent lots may have shared driveways, if necessary.
- In addition to the foregoing standards, Townhomes shall also meet the following standards:
 - Maximum Building Height: 45 feet (3 stories)
 - Parking: 1.5 spaces per Townhome unit
 - Maximum Unit per Townhome Building: 20

4.10.4 Woodlands Village

Woodlands Village is intended to serve as a clustered, single-family residential neighborhood. The Maximum Conceptual Density for Woodlands Village is 2 DU per gross acre; with a maximum of 127 total dwelling units. The final number of units shall be subject to detailed design based on Final Plats and/or Site Plans and based on practically developable acreage. A primary goal of this Village is to achieve compatibility with the adjacent, existing neighborhood to the south.

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Principal Permitted Uses Requiring Site Plan Administrative Review and Approval:

Single-family dwellings of a permanent nature and their accessory structures
Caretaker units

Uses Requiring a Conditional Use Permit:

Public utility structures
Public structures
Bed and Breakfast establishments
Equestrian Facilities
Club facilities, lodges and social halls
Trailheads and trails including Nordic
Neighborhood parks and recreation facilities (unless approved at preliminary plat)

Prohibited Uses:

All uses not specifically identified

Lot Standards:

- Maximum Building Height: 35 feet
- Maximum Size of Residence: 8,000 SF
- Maximum Residential Structure Footprint: 6,000 SF
- Maximum Accessory Structure Footprint: 600 SF
- Compliance with applicable USACOE 404 permit conditions.
- No disturbance of 30% or greater slopes shall be allowed unless either the vertical rise of the section of 30% or greater slope is less than or equal to 15 feet in height or unless the disturbance is approved by County staff. All disturbances of 30% or greater slopes shall require certification by a professional geotechnical engineer through a geotechnical investigation on the parcel prior to plat review. All recommendations, standard procedures and special precautions contained within the investigation shall be implemented.
- In furtherance of the Goals and Objectives, a 100 foot minimum setback to buildings from U. S. Highway 550 right-of-way which may be reduced to 50 foot setback in areas where there is natural tree cover or grade changes which help buffer the visibility of buildings from the Highway. A specific setback line shall be developed and approved as part of the Village Conceptual Plan for Woodlands Village.
- 50 foot Setback to buildings from the Highway 550 right-of-way.
- 50 foot setback from public lands.
- 50 foot setback from open spaces.
- Building envelope designations and master association protective covenants shall be designed and drafted to protect adjoining public lands and/or open space from private use and/or disturbance.
- Compliance with Section 4.9, Site Design Standards.
- Special Conditions:

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- A building envelope shall be designated on each single family lot. All residential structures, accessory structures, and hardscape improvements (except driveways and utility connections) must be located within the envelope.
- Houses and other structures should be sited to minimize excessive grading and shall be compatible with existing topography.
- Adjacent lots may have shared driveways as necessary.
- Single family driveways shall provide sufficient area to accommodate 2 spaces for the single family dwelling, 1 space for visiting vehicles, and 1 space for a caretaker unit, if applicable.
- All graded sloped banks facing the street shall not exceed a 3:1 gradient, nor shall graded sloped banks exceed eight (8) feet in height without horizontal terrace.
- Single-Family lots which directly abut the southern project boundary east of US Highway 550 shall be compatible with adjacent lots by the use of similar lot size or open space buffering.

4.10.5 Base Camp Village

Base Camp Village will provide mixed use residential accommodations and commercial development clustered around a significant wetland which will be preserved and enhanced. The Village shall provide an attractive development when viewed from Highway 550, while protecting the wetlands.

Principal Permitted Uses Requiring Site Plan Administrative Review and Approval:
None

Uses Requiring a Conditional Use Permit:

Hotels/motels

Lodges

Equestrian facilities

Maintenance, service and utility facilities

Multi-family dwellings and their accessory buildings and uses

Resort Condominiums

Single and multiple family residential dwellings and their accessory buildings and uses including condominiums

Timeshare or interval ownership units

Commercial Uses

Public utility structures

Public structures

Temporary uses or living quarters

Trail heads and trails

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Recreational vehicle parking
Multi family employee housing units
Townhomes

Prohibited Uses:

All uses not specifically identified

Unit Characteristics:

- Maximum Conceptual Density: 24 DU/AC [Subject to detailed design based on Final Plats and/or land use development permits and based on practicably developable acreage only]
- Maximum Building Coverage: 80% plus 10% for covered parking, garages, separate storage space, etc.
- Front Setback: 10 feet
- Side Setbacks: 10 feet from property lines and 10 feet between buildings
- Rear Setback: 5 feet
- Maximum Building Height: 45 feet (3 stories)
- Maximum Units per Building: 50
- Parking: .8 spaces per unit. 1 space per 300 SF of net leasable commercial or retail uses except for 1 space per 150 SF of net leasable restaurant bar or tavern. Parking may be shared with other uses as appropriate and clustered in shared parking lots nearby.
- Compliance with applicable USACOE 404 permit conditions.
- No disturbance of 30% or greater slopes shall be allowed unless certified by a professional geotechnical engineer through a geotechnical investigation on the parcel prior to plat review. All recommendations, standard procedures and special precautions contained within the investigation shall be implemented.
- 50 foot Setback to buildings from the U.S. Highway 550 right-of-way.
- 50 foot setback from public lands unless geographic features provide natural separation of forest service and private property.
- 50 foot setback from open spaces unless geographic features provide natural separation of forest service and private property.
- Building envelope designations and master association protective covenants shall be designed and drafted to protect adjoining public lands and/or open space from private use and/or disturbance.
- Compliance with Section 4.9, Site Design Standards.
- Special Conditions:
 - Building siting should respect existing drainage patterns, and building massing should step with the natural grade.
 - Surface parking areas should be landscaped and terraced with the natural grade.
 - Underground garages should be incorporated into the building massing

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wherever possible.

- o Structures shall conform to the Commercial and Multi-family Design Guidelines, Section VII, Appendix, North County Land Use Plan.

4.10.6 Purgatory Village

Purgatory Village will be the main "on-mountain village" incorporating the existing Purgatory Village Condominium Hotel buildings and related commercial space. The Village's focal point will be a pedestrian plaza featuring amenities such as an outdoor ice rink and water feature reflecting Purgatory Creek.

Principal Permitted Uses Requiring Site Plan Administrative Review and Approval:
Single family residential dwellings and their accessory buildings and uses
Caretaker units

Uses Requiring a Conditional Use Permit:

Hotels/Motels
Lodges
Resort condominiums
Resort recreational facilities
Multiple family residential dwellings and their accessory buildings and uses
Timeshare or interval ownership units
Townhomes
Multi-family employee housing units
Maintenance, service and utility facilities
Commercial Uses
Parks and neighborhood recreational facilities
Recreational vehicle parking (in designated areas only)
Trail heads and trails
Public and Quasi-public facilities
Recycling centers and trash collection facilities
Public utility structures
Public structures

Prohibited Uses:

All uses not specifically identified.

Unit Characteristics:

- Maximum Conceptual Density: 36 DU/AC [Subject to detailed design based on Final Plats and/or land use development permits and based on practicably developable acreage only]
- Maximum Building Coverage: 80% plus 10% for covered parking, garages, separate

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storage space, etc.

- **Maximum Building Height:** 85 feet (7 stories)
- **Parking:** 0.8 spaces per hotel room. 1 space per 300 SF of net leasable retail floor area, and 1 space per 150 SF of restaurant or bar floor area. Parking may be shared with other uses as appropriate and clustered in shared parking lots nearby.
- **Special Conditions:**
 - Parking and open space should be configured to encourage pedestrian circulation.
 - Service and loading facilities should be screened from view.
- Compliance with applicable USACOE 404 permit conditions.
- No disturbance of 30% or greater slopes shall be allowed unless certified by a professional geotechnical engineer through a geotechnical investigation on the parcel prior to plat review. All recommendations, standard procedures and special precautions contained within the investigation shall be implemented.
- 50 foot Setback to buildings from the U.S. Highway 550 right-of-way.
- 50 foot setback from public lands unless geographic features provide natural separation of forest service and private property.
- 50 foot setback from open spaces unless geographic features provide natural separation of forest service and private property.
- Building envelope designations and master association protective covenants shall be designed and drafted to protect adjoining public lands and/or open space from private use and/or disturbance.
- Compliance with Section 4.9, Site Design Standards.
- Townhomes in Purgatory Village shall be designed to accommodate existing ski-in/ski-out access for all existing units and shall be designed to maximize preservation of views from existing units.
- Building massing should be tucked into the natural grade wherever possible and be sited to accommodate existing drainage patterns.
- Surface parking areas should be landscaped and terraced with the natural grade as necessary subject to the constraints of snow removal and storage. Parking should be screened from view of adjacent residences.

4.11 Supplemental Conditional Use Standards

4.11.1 Recreational Vehicle Facility Standards

Description:

Recreational vehicle parking is a conditional use in Purgatory Village and Base Camp Village and may be provided in the Columbine Parking Lot (until it is developed) and the southern Gelande Parking Lot. Recreational vehicle park sites will provide electric, water, cable TV, and telephone utility connections and sewage pump-out facilities nearby. Recreational vehicle parking areas will also have access to nearby restaurant, retail,

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recreational, rest room, shower and laundry amenities in the Columbine and Gelande lodge facilities. In addition to compliance with Village standards, a Recreational Vehicle Facility shall comply with the following standards:

RV Standards:

- Each recreational vehicle parking space shall be a minimum of 600 square feet (20' x 40'), with the majority of the spaces being 30'x50'
- Each recreational vehicle parking space shall have the ability to accommodate one automobile parking space either within the space or in a separate parking area nearby
- Setbacks: 15 feet from all parcel boundaries
- Driveways, stands and utility connections shall be designed in compliance with ANSI Standards for Recreational Vehicle Parks #A119.4
- Landscape buffering shall be provided along parcel perimeters wherever recreational vehicle parks directly abut adjoining roadways, lodges, hotels and/or resort condominiums
- Recreational vehicle stays shall be limited to 60 continuous days unless otherwise approved by the Director

4.11.2 Maintenance, Service and Utility Facility Standards

Description:

Maintenance, Service and Utility Facilities are conditional uses in Tacoma Village, Purgatory Village, and Base Camp Village and include the following quasi-public or resort related uses: vehicle maintenance shops, warehouses, storage facilities, water and sewer treatment facilities, electric substations, fire stations and all other utility and service support uses for the Project. In addition to compliance with Village standards, a Maintenance, Service or Utility Facility shall comply with the following standards:

Parcel standards:

- Maximum Building Coverage: 80% plus 10% for covered parking garages, separate storage space, etc.
- Front Setback: 10 feet
- Side Setbacks: 10 feet from property lines and 5 feet between buildings
- Rear Setback: 5 feet
- Maximum Building Height: 45 feet (3 stories)
- Parking: 0.5 space per full-time employee stationed on-site
- Fencing and gating is encouraged wherever security issues may arise.
- Landscape buffering and solid fencing shall be provided along parcel perimeters wherever maintenance, service and utility uses directly abut adjoining roadways, lodges, hotels, resort condominiums, townhome or residential uses unless adequate natural buffering exists.

4.11.3 Community Park Standards

Description:

Areas within the Property that are designated as Community Park(s) and open space are intended to provide passive and active recreational opportunities for residents. parks and open space facilities including a community park, amenities, trails, wetlands, slopes and natural open space areas. In addition to compliance with Village standards, a Community Park shall comply with the following standards:

Parcel Standards

- Setback for Buildings/Fields/Play Equipment: 20 feet
- Maximum Building Height: 35 feet
- Parking: 4 parking spaces per acre of useable parkland (excluding ponds, steep slopes and vegetative buffers)
- Special Conditions:
 - Trails and play fields should be sited to accommodate existing drainage patterns, solar orientation and prevailing winds.
 - Service and maintenance facilities shall be screened from view of surrounding roads and residences wherever possible.

4.12 Purgatory Metropolitan District

A condition precedent to any final approval for land use development is inclusion of the property subject to such land use development within the boundaries of the Purgatory Metropolitan District ("Metro District").

5.0 Engineering and Infrastructure

5.1 Overall Objectives – Roads and Circulation

The design of the vehicular and pedestrian circulation system on the Property must meet the safety and functional intent of agency design standards while not compromising the aesthetic, environmental, and resort community goals of the Durango Mountain Resort project. The circulation hierarchy and typical cross-sections that follow strive to strike a balance between these two requirements. The main objectives of the Durango Mountain Resort circulation system include:

- Provide a functionally efficient, safe, balanced, network of vehicular and pedestrian facilities.
- Maintain the project's alpine resort character by using rural cross-sections wherever possible.

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- Minimize disturbance of existing slopes and vegetation.
- Minimize run-off and associated erosion.
- Use grassed swales wherever possible to disperse stormwater, allow for maximum percolation and remove run-off pollutants.
- Design street cross-sections to balance the need for relative ease of vehicular movement with the desire to minimize speeds in the context of a pedestrian-oriented resort community.
- Allow shared pedestrian, bicycle, equestrian, and skier trails to meander in pedestrian easements outside the road right-of-way for maximum design flexibility and minimal impact to existing slopes and vegetation.
- Ensure safe and efficient emergency access.

5.2 Road Standards

The Owner/Applicant shall construct the road system as indicated on the Master Roadway Plan.

Emergency and secondary access shall be provided in accordance with the requirements of LPC based on the projected average daily traffic for the proposed land uses. Average daily trips (ADTs) shall be based on the Institute of Transportation Engineers (ITE) Trip Generation Book (latest edition) and approved by Colorado Department of Transportation (CDOT). Preliminary and final road construction plans shall be submitted by the Owner/Applicant at the appropriate level of platting.

Any road that is planned to be extended from one Village to another, or from one phase within a Village to another, shall be clearly depicted as such on all maps, plans, sales maps, etc. and each purchaser of a lot within a phase that will have road(s) extended in the future must sign a waiver acknowledging that the road is planned to be extended. All major connector roads (excluding parking lots and driveways) within the development shall be dedicated to and maintained by the Metro District.

Auxiliary lanes for roads and driveways shall be required when the projected volumes meet or exceed the warrants in the CDOT Highway Access Code. The requirements for improvements on U.S. Highway 550 shall be determined by CDOT at the time of platting for each phase. The Owner/Applicant shall be responsible for designing and constructing all highway improvements required by CDOT, including dedication of any necessary right of ways.

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The following roadway standards shall apply:

Road Type	R.O.W.	Total Pvmnt Width	Travel Lanes	Shoulder Width (ea)	Turn Lane/ Median	Path/Trail	Curb Type
Resort Collector - Typical	50'	22'	2@11'	3'	None	5'-15'	None
Resort Collector - with turn Lane	60'	33'	2@11'	3'	11'	5'-15'	None
Resort Collector - Constrained	40'	22'	2@11'	0'	None	5'-15'	None
Bridge Crossings	40'	26'	2@13'	0'	None	5'-15'	6" Vertical
Rural Residential - 10 plus units	50'	24'	2@12'	3'	None	None	None
Rural Residential - 5-9 units	50'	22'	2@11'	3'	None	None	None
Rural Residential - 2-4 units	40'	20'	2@10'	0'	None	None	None
Rural Residential - Constrained	34'	22'	2@11'	0'	None	None	None

Pavement widths and travel land dimensions assume no parking along roadways. If parking along roadways is proposed, pavement widths shall be increased to widths approved by the respective County Engineering department.

Any aspect of roadway design not covered by this Section shall be governed by the current La Plata County Code as applicable.

Constrained road widths shall only be permitted when approved by the County Engineer due to the presence of natural physical constraints such as wetlands, unstable slopes, excessive cuts or fills, rock outcrop, existing trees (24" dbh or greater) or other sensitive natural features.

Parking on roads is not permitted unless the road is specifically designed for on-road parking.

Aesthetically designed retaining walls shall be required for roadway cuts or fills greater than eight (8) feet in height and one hundred (100) continuous linear feet in length. Width of paths and/or trails shall be identified on the Recreation Master Infrastructure Plan.

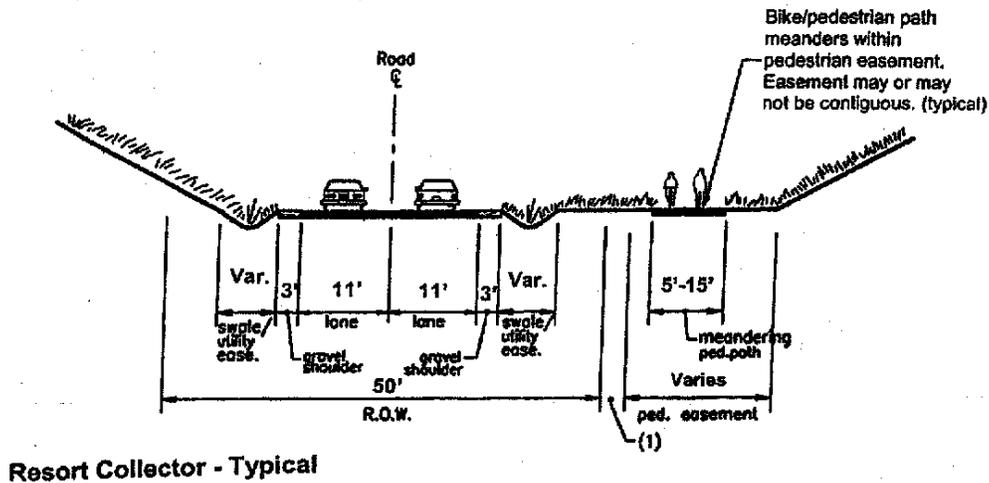
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5.2.1 Street/Road Master Infrastructure Plan

The Street/Road Master Infrastructure Plan shall be submitted for review and approval by both Boards of County Commissioners and Metro District pursuant to Section 2.2. The Street/Road Master Infrastructure Plan shall adequately address the following criteria:

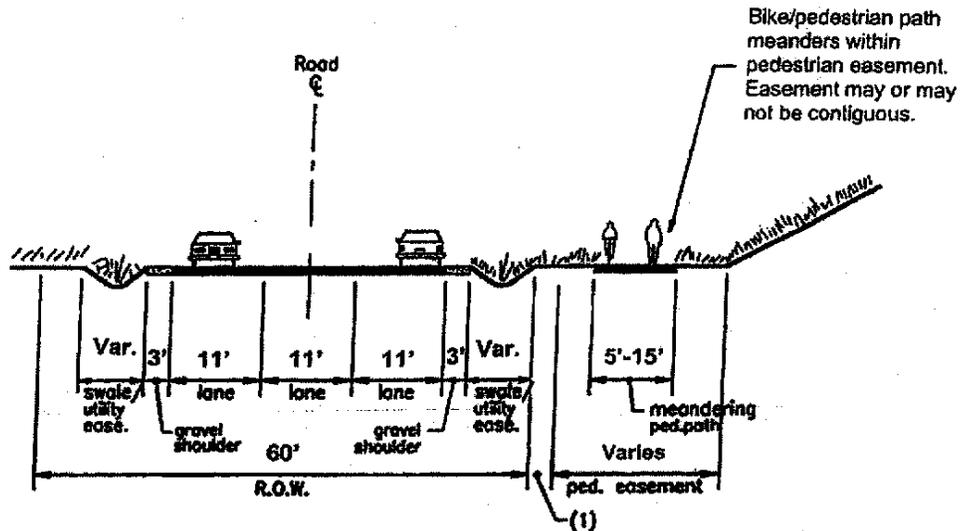
- Service Area
 - Existing Access
 - Circulation Patterns
 - Show Major Road Layout
- Projection of Future Development Density
 - Design Period
- Traffic Volumes
 - Trip Generation Model
 - Single Family
 - Multi Family
 - Commercial
 - Identify and mitigate DMR generated U.S. 550 traffic impacts between Durango Mountain Resort and Durango and between Durango Mountain Resort and Silverton
- Points of Access
 - Emergency Access
 - Fire Lanes
- Road Classification
 - Resort Collector
 - Rural Residential
 - Overflow Parking
 - Parking
- Design Standards
 - CDOT Warrants
- Streets, and Utilities
 - Arrangement, type, extent, width, size, grades and location in relation to existing and proposed infrastructure, lots and topographic consideration
 - Continuation of infrastructure between adjacent properties
 - Future extension of infrastructure necessary for the develop, on and offsite

5.3 Typical Road Cross-sections



Resort collectors serve to collect traffic from and distribute traffic to village streets and rural residential roadways throughout the project. The typical section includes a right-of-way with two 11' travel lanes, two 3' stabilized shoulders, and two grass swales. A single 5' – 15' pedestrian/bicycle/skier trail will meander in a pedestrian easement generally parallel to the right-of-way but not always contiguous to the right-of-way.

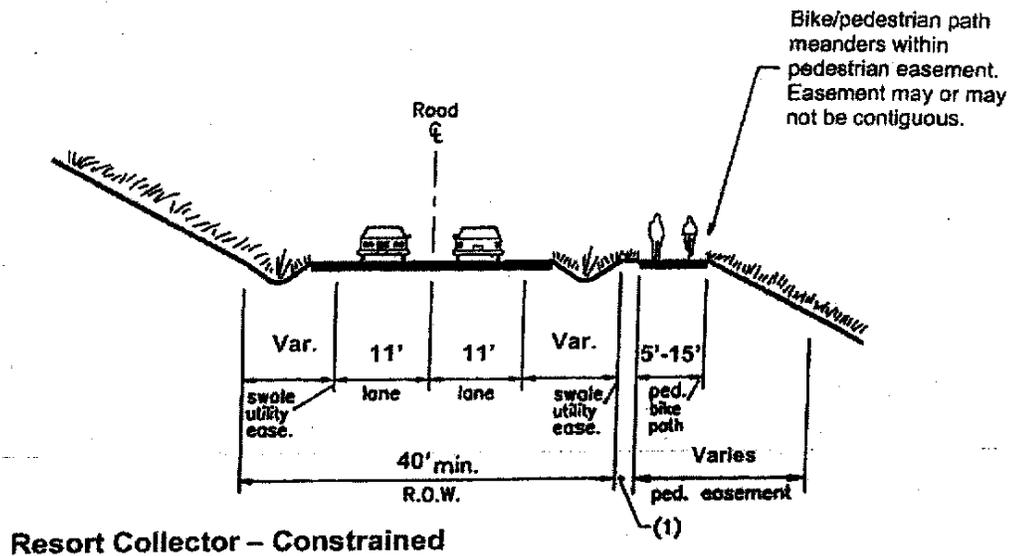
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Resort Collector – with Turn Lane

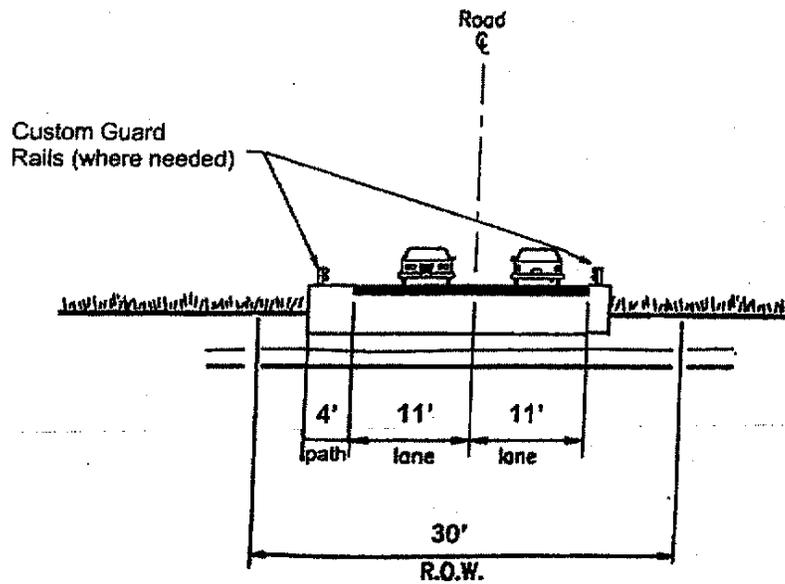
For resort collectors where turn lanes are needed, an 11' center turn lane will be added as necessary to accommodate turning movement into project roadways. The section will also include travel lanes of 11'. Otherwise the section will remain the same as the typical Resort Collector.

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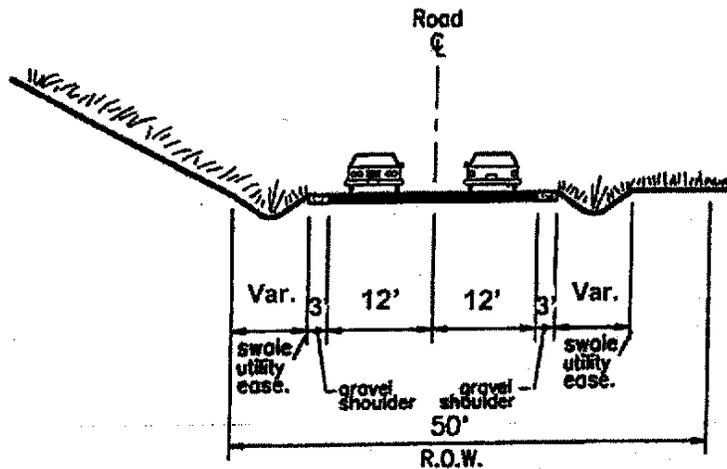
The resort collector constrained section may occur in areas of the site where steep side slopes and vegetation warrant minimal disturbance. The typical section includes a 40' right-of-way with two 11' travel lanes, and two grass swales. A single 5' – 15' shared pedestrian/bicycle/skier trail will meander in a pedestrian easement most likely not parallel to the road right-of-way.

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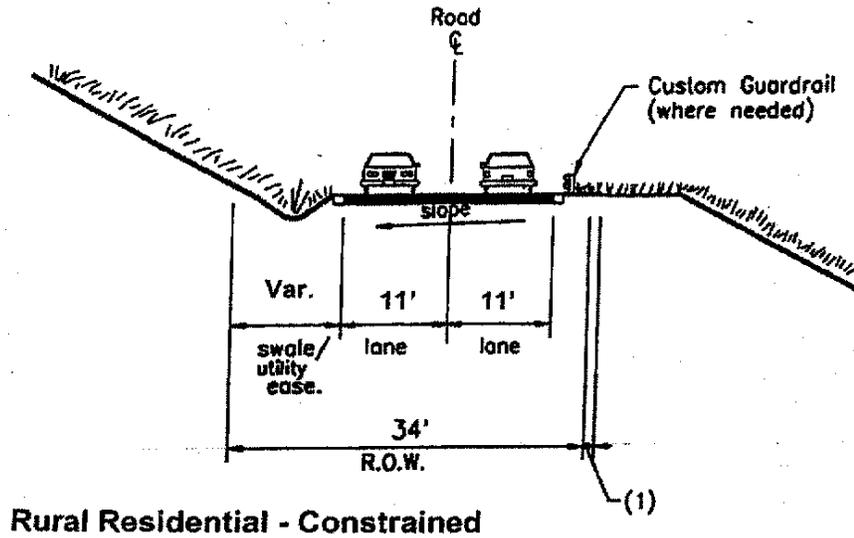
Bridge Crossings

Bridge Crossings width and associated grading should be kept to a minimum to prevent impact to the riparian corridor. The typical section includes a 26' wide bridge surface with two 11' travel lanes and a single 4' pedestrian/bicycle/skier trail.



Rural Residential - Typical

Rural residential streets include most of the roadways in Durango Mountain Resort and will serve to carry local traffic to/from individual residential neighborhoods, buildings and homesites. These roadways will be located and designed to discourage through-traffic and maintain low vehicular speeds. The typical section includes a 50' right-of-way with two 12' travel lanes, two 3' stabilized shoulders, and two grass swales. Road pavement width will, however, be dependent on the number of units on the road. If there are 2-4 units, the pavement width will be 20' (2-10' travel lanes). For 10 or more units, the total pavement width will be 24' (2-12 travel lanes). Due to the low vehicular speeds and limited number of units served by these roadways separate pedestrian facilities are not provided.



Rural Residential - Constrained

Constrained rural residential streets occur in areas with steep side slopes and/or vegetation required for the typical rural residential section. These sections includes a 34' right-of-way with two 11' travel lanes, no stabilized shoulders and one grass swale on the uphill side of the street.

5.4 Public Improvements/Infrastructure

Development of the Property in accordance with the Master Plan pursuant to these DMR Regulations will significantly exceed the capacity of existing infrastructure. It is the intention of these Regulations, consistent with the policies of both counties and of all other governmental agencies involved in the approval of the development of the resort, that all new development within the resort will pay for all costs, including infrastructure improvements, necessitated by, or associated with such development.

Thus, each proposal for development within the Property shall be approved only upon proof that the proposed development will bear the cost of extending or improving existing infrastructure and services to serve the development, including but not limited to such items as: water distribution mains, laterals and related equipment; sewer mains, feeders and related equipment; roads, utilities; the design and construction of a new wastewater treatment plant; development of additional water supplies and the design and construction of appropriate water treatment facilities; and design, construction and equipping of park and recreation facilities; and emergency service facilities (including real property), apparatus and equipment.

The cost of such improvements is properly attributable to all development which benefits from such facilities, regardless when constructed.

Prior to issuance of a building permit for any development subject to these regulations, the Applicant shall remit and Purgatory Metropolitan District shall receive a development fee as follows: \$1,625 for each equivalent residential unit, in accordance with the schedule and definitions set forth in §5.4.1. The development fee shall be used by the Purgatory Metropolitan District for capital improvements associated with Park and Recreation facilities, roads and related infrastructure. Purgatory Metropolitan District shall provide certification to the County of receipt of the development fee which certification shall be a condition precedent to issuance of a building permit.

Prior to issuance of a building permit for any development subject to these regulations, the Applicant shall remit and Hermosa Cliff Fire Protection District (Fire District) shall receive a development fee as follows: \$1,197 for each equivalent residential unit, in accordance with the schedule and definitions set forth in §5.4.1. The development fee shall be used by the Fire District for capital improvements associated with emergency service facilities, equipment and apparatus. Fire District retains the right to purchase emergency service facilities, equipment and apparatus from the development fee fund that will directly or indirectly affect the level of service provided to Applicant. Fire District shall provide certification to the Counties of receipt of the development fee which certification shall be a condition precedent to issuance of a building permit.

The development fees provided herein shall be increased by three percent (3%) per year to adjust for inflation. If, after consultation with the Applicant regarding a proposal for

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development within the Property, the cost of capital improvements varies from those presently projected, the affected District and the Applicant shall establish a revised development fee which the Applicant shall remit and the District shall receive, and so advise the Counties. If the Applicant and DMR cannot reach agreement, the appropriate Board shall determine the revised fee. Thereafter, the Counties shall prospectively adjust the development fee to be paid by all development within the resort.

All development fees shall be used for capital improvements as described above. DMR shall have the right to review either District's expenditures annually.

If any additional property is added to the Property or otherwise becomes subject to these regulations, the development fees provided herein shall become applicable to such property. If there is any renovation or change in occupancy of any residential or commercial building(s) or an approved land use development at any time in the future that would increase the development fee from the original amount, the additional development fee shall be collected by the building department prior to the issuance of a building permit. This amount would then be paid to the Fire District's development fee fund.

Fees imposed pursuant to this Section shall be in addition to any system development fees imposed by the Purgatory Metropolitan District for water and wastewater infrastructure and any taxes or other lawful charges levied by Fire District.

5.4.1 Equivalent Residential Unit Table and Definitions

A. Residential Classification.

- (1) **Single Family Residential Units.** Single-family homes with one kitchen per residence.

(Note: If a residence has more than one kitchen, then additional EQR values should be assigned in accordance with multi-family residential units. A kitchen is defined as any area having facilities for cooking and dishwashing.)

- | | | |
|----|----------------------|-----|
| a. | All units (per unit) | 1.0 |
|----|----------------------|-----|

- (2) **Multi-Family Residential Units.** Apartments, condominiums, and similar facilities in the same complex; small cabins in courts not associated with motels; all units intended for long-term rental with one kitchen per unit.

(Note: A bath is defined as any area having a toilet.)

- | | | |
|----|---|------|
| a. | Units having four or more bedrooms (per unit) | 1.25 |
| b. | Units having three bedrooms (per unit) | 1.05 |
| c. | Units having two bedrooms and having two or more baths (per unit) | 0.85 |

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- d. Units having a single bedroom and only one bath (per unit) 0.85
- e. Units having a single bedroom or a studio unit (per unit) 0.65

B. Commercial Classification.

(1) Transient Residential Units. Hotels, motels, cabins including employee housing, and recreational vehicle parks.

- a. **Manager's unit:**
Use multi-family or single-family classification as applicable per unit.
- b. **Motels, hotels and rooming houses without kitchen facilities:**
 - Units with not more than two bed spaces (per each rental room) 0.25
 - Units with more than two bed spaces per room (per additional two bed spaces) 0.10
- c. **Motels, hotels and rooming houses with kitchen facilities:**
 - Units with not more than two bed spaces per unit (per each rental unit) 0.40
 - Units with more than two bed spaces per unit (per each rental unit) 0.50
- d. **Dormitories (per each rental bed unit) 0.10**
- e. **Recreational vehicle parks 0.40**

(2) Restaurants and Bars. Restaurants, bars, lounges and banquet rooms.

- a. **Restaurants and bars (per 10 seats) 0.65**
- b. **Banquet rooms (per 10 seats) 0.35**

(3) Commercial Buildings. Office buildings, retail sale buildings, multiple use buildings, shops, garages and similar facilities.

- a. **Offices and office buildings (per 1,000 S.F. of gross occupied space) 0.65**
- b. **Retail sales area (per 1,000 S.F. of gross sales display area) 0.35**
- c. **Non-retail work areas including, but not limited to, garages, machine shops, and warehouse (per 1,000 S.F.) 0.20**

5.4.2 Hermosa Cliff Fire Station Site

The Owner shall convey, and the Fire District shall subsequently pay for, a minimum 3 acre site (hereafter the "Fire Station Site") within the Community Park to Fire District which is acceptable to Fire District for the development of a fire station. Other public uses consistent with the development of the property and community activities within Durango Mountain Resort may be allowed on the Fire Station Site or building if approved by Fire District. The Fire Station Site shall be conveyed to Fire District

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concurrent with the dedication of the first phase of the Community Park to Purgatory Metropolitan District, or sooner if mutually agreeable to Fire District, Metro District and Owner.

The Fire Station Site will not be paid for by Fire District until all capital improvements associated with emergency service facilities, equipment and apparatus required for the development of the Property has been adequately funded to the satisfaction of Fire District, and until adequate reserve funds to pay for the Fire Station Site exist in the Fire District's development fee fund. Hermosa Cliff Fire District shall then, on terms reasonably acceptable to it and Owner, commence making regular payments to Owner to reimburse Owner for the value of the Fire Station Site to be conveyed ("fair market value"). Owner and Hermosa Cliff Fire District agree that the 2002 fair market value is estimated at \$813,000.00. The fair market value shall increase annually at a rate of 3% until the date Owner conveys the Fire Station Site to Fire District, at which time the fair market value (prorated to the date of conveyance) to be paid shall be fixed; provided, however, that the fair market value shall never exceed \$1,000,000.00.

5.4.3 Fire District Capital Improvements Financing

If Fire District intends to incur debt for capital improvements related to Fire District operations for which Owner's financial guarantee is sought ("backstop financing"), Fire District shall notify Owner that it intends to incur such debt. Such notification shall include information on the improvements to be financed and the terms of the financing. If Owner consents to the debt and subsequent Fire District cash flow from development fees hereunder is insufficient, Owner will advance Fire District adequate funds to meet its debt service shortfall. Fire District shall repay any such advance (in full or installments) as soon as cash flow from development fees hereunder is sufficient. Nothing contained herein shall prevent Fire District from incurring debt or expending development fees in any manner it desires when backstop financing is not requested.

5.4.4 Capital Improvements Adequacy

If at any time Fire District determines that capital improvements associated with emergency service facilities, apparatus and equipment are not adequate to serve future construction and development within the Property, it shall notify Owner and Counties of such inadequacy and building permits will not be issued by the respective counties until such time as the inadequacies have been corrected.

5.5 Water Improvements

Drinking and irrigation water for the project shall be provided by the Metro District. Construction of all water lines and other improvements shall be in conformance with the rules and regulations of the District. Written documentation of the availability of water service shall be provided with the submittal of each Preliminary Plat application.

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Binding "will-serve" commitments shall be provided by the Metro District with the submittal of each Final Plat application.

5.5.1 Water Master Infrastructure Plan

Prior to or concurrent with the submittal of the first phase of development, a Water Master Infrastructure Plan and water adequacy report addressing water quantity and quality shall be submitted for review and approval by the Board for each County and Metro District. The water quantity and quality report shall be updated prior to or concurrent with the submittal of each phase of development. The Water Master Infrastructure Plan shall be submitted for review and approval by both Boards of County Commissioners pursuant to Section 2.2. The Water Master Infrastructure Plan shall adequately address the following criteria:

- Service Area
 - Historic Water Uses
 - Projected Water Uses
 - Customer Classifications
- Water Requirements
 - Annual Use
 - Average Day Demand
 - Maximum Day Demand
 - Maximum Hours Demand
 - Fire Flow Demand
- Treatment
 - Potential Water Sources
 - Wells
 - Surface Flow
 - Water Quality and Colorado Department of Health Regulations
- Transmission and Distribution
 - Capacity
 - Pressure Zones
 - Minimum/Maximum Pressures
 - Minimum/Maximum Flows and Friction Requirements
 - Replenishment of Storage
 - Fire Flow Rates and Pressures
- Storage
 - Average Day Storage
 - Maximum Day Storage
 - Fire Flow Storage
 - Storage Requirements
 - Storage Phasing

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The proposed water distribution system shall be designed and sized consistent with the Master Sewer Infrastructure Plan and to provide adequate domestic supply, fire protection (latest edition of the fire code) and irrigation for the proposed development.

5.6 Wastewater Improvements

Wastewater treatment will be provided by the Metro District. Construction of all sewer lines and other improvements shall be consistent with the Master Sewer Infrastructure Plan and in conformance with the Master Sewer Infrastructure Plan rules and regulations of the District. Written documentation of the availability of wastewater service shall be provided with the submittal of each Preliminary Plat application. Binding "will-serve" commitments shall be provided by the Metro District with the submittal of each Final Plat application.

5.6.1 Wastewater Master Infrastructure Plan

Prior to or concurrent with the submittal of the first phase of development, a Wastewater Master Infrastructure Plan shall be submitted and approved by the Board for each County and the Metro District. The Wastewater Master Infrastructure Plan shall be submitted for review and approval by both Boards of County Commissioners pursuant to Section 2.2. The Wastewater Master Infrastructure Plan shall adequately address the following criteria:

- Service Area and Population Equivalent
 - Historic Sewage Usage
 - Projected Sewerage Use
 - Customer Classifications
- System Flows and Loading
 - Infiltration
 - System Inflow
 - Average Flows
 - Maximum Hour Flows
- Treatment
 - Hydraulic Capacity
 - Organic Capacity
 - Water Quality and Colorado Department of Health Regulations
- Wastewater Collection System
 - Trunk System
 - Inflow and Infiltration
 - Residential/Commercial Flows – Equivalent Residential Tap
 - Average Flows
 - Peak Flows
 - Flow Capacities
 - Minimum Velocities

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- Wastewater Pumping
 - Collection System Pumping
 - Individual System Pumping
 - Pressure Sewer Systems

5.7 Stormwater Drainage

Prior to or concurrent with the submittal of the first phase of development, a Stormwater Drainage Master Infrastructure Plan shall be submitted and approved by the Board for each County. The report shall follow the Denver Regional Council of Governments (DRCOG) Drainage Criteria Manual, latest addition, or other criteria acceptable to the County Engineer, and shall meet all the requirements of the Code. All stormwater improvements shall be constructed consistent with the master stormwater plan.

5.7.1 Drainage, Stormwater and Erosion Control Master Infrastructure Plan

The Stormwater Drainage Master Infrastructure Plan shall be submitted for review and approval by both Boards of County Commissioners and the Metro District pursuant to Section 2.2. The Stormwater Drainage Master Infrastructure Plan shall adequately address the following criteria:

- Service Area
- Project Overview
 - Drainage History
- Policy
 - Objectives
- Drainage Parameters
 - Offsite Flows
 - Onsite Flows
 - Detention
 - Storm Drainage Facilities
 - Erosion Control
 - Water Quality – BMP
- Methodology
 - Rainfall and Runoff Analysis
 - Storage/Routing
 - Storage Release

5.8 Erosion Control

Prior to or concurrent with the submittal of the first phase of development, an Erosion Control Master Infrastructure Plan shall be submitted and approved by the Board for each County. The Erosion Control Master Infrastructure Plan shall be submitted for review and approval by both Boards of County Commissioners and the Metro District pursuant to Section 2.2. The Erosion Control Master Infrastructure Plan shall be in accordance

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with all standards and requirements of the Colorado Department of Public Health and Environment. All erosion control improvements shall be consistent with the Master Erosion Control Master Infrastructure Plan. All discharges into the streams or waterways shall be pretreated in accordance with Best Management Practices (BMPs). Stormwater management plans shall be followed during all development construction activities.

5.9 Snow Removal/Snow Storage

Prior to or concurrent with the submittal of the first phase of development, a Snow Removal/Snow Storage Master Infrastructure Plan shall be submitted and approved by the Board for each County and the Metro District. Snow storage areas shall be provided on each site adjacent to paved areas and other areas to be plowed except as provided for herein. The size of these areas shall be equivalent to at least 25% of paved or graveled surfaces on the site and shall be located to provide convenient access for snowplows. Uphill slopes of 5-10% shall count at 75% of their areas toward this requirement. Uphill slopes of 11-20% shall count at 50% of their areas toward this requirement. Steep uphill slopes greater than 20% are not appropriate for snow stacking, and shall not be counted in determining compliance with snow storage requirements.

It is recognized that the more intense developed areas may likely not be able to accommodate on site snow storage in core areas. These areas may incorporate snow melt systems or haul snow to suitable snow storage areas. The snow storage areas shall only be established after site plan review by the Board to insure proper detention drainage facilities are in place to protect wetlands, streams and rivers from runoff. Other site suitability issues include compatibility with adjacent land uses, ease of access/central location and visual impact.

5.9.1 Snow Removal and Storage Master Infrastructure Plan

The Snow Removal/Snow Storage Master Infrastructure Plan shall be submitted for review and approval by both Boards of County Commissioners and Metro District pursuant to Section 2.2. The Snow Removal/Snow Storage Master Infrastructure Plan shall adequately address the issues set forth in Section 5.9 above and the following criteria:

- Service Area
 - Street System
 - Single Family Residential Areas
 - Multi Family Areas
 - Commercial Areas
 - Storage Capacity
 - Removal Techniques

5.10 Phasing of Public Improvements

The project requires construction of numerous public improvements which shall be initiated according to the following time frames:

- The Sewage Treatment Facility relocation shall be initiated and constructed in compliance with all relevant state regulations and laws.
- Community Park Land shall be dedicated to the Metro District in an unimproved condition in up to three phases at any time as agreed upon by the Metro District and Durango Mountain Resort or, in any event, no later than the following timetable:
 - Phase One (minimum 8 acres including water bodies) shall be dedicated concurrent with the platting for the 500th residential unit project-wide or the 100th unit in Tacoma Village whichever occurs first, but in no event later than December 31, 2009.
 - Phase Two (minimum 8 acres including water bodies) shall be dedicated concurrent with the platting for the 1000th residential unit project-wide or 200th unit in Tacoma Village whichever occurs first, but in no event later than December 31, 2016.
 - Phase Three (minimum 8 acres including water bodies) shall be dedicated concurrent with the platting for the 1500th residential unit project-wide or 300th unit in Tacoma Village whichever occurs first, but in no event later than December 31, 2023..
 - The Pedestrian underpass construction shall be initiated concurrent with the platting of the 200th unit in Base Camp Village or concurrent with the dedication of Phase Three of the Community Park Land whichever occurs first.
- The construction of public trails and trailheads shall be constructed and dedicated to the public as follows:
 - The Purgatory Creek Trailhead, prior to or concurrent with the platting for the 150th residential unit in Tacoma Village, the platting of any real property necessary for the function of the existing Purgatory Creek Trailhead, or development activity that inhibits the function of the existing Purgatory Creek Trailhead, whichever occurs first, but in no event later than December 31, 2016.
 - Boyce Lake South Trailhead, prior to or concurrent with the platting for the 75th residential unit in Boyce Lake Estates but in no event later than December 31, 2016.
 - Boyce Lake North Trailhead, prior to or concurrent with the platting for the 125th residential unit in Boyce Lake Estates but in no event later than December 31, 2023.
 - Gelande Trailhead, prior to or concurrent with construction of the southern-most phase of the Gelande Parking lot but in no event later than December 31, 2023.

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- Prior to trail construction and dedication, Durango Mountain Resort shall not prohibit public access to the National Forest, subject to Forest Service approval, across the property that is designated as trails in the Recreation Master Plan.
- The refuse recycling center and convenience station shall be constructed in conjunction with either construction of the maintenance area adjacent to the Gelande Lodge or the new Sewage Treatment Facility, whichever occurs first. The recycling center and/or convenience station shall be owned and operated by Durango Mountain Resort or its duly authorized designee.

5.11 Preservation of Scenic View Corridor and Minimization of Visual Impacts

U.S. Highway 550 through this development is designated as part of the San Juan Scenic Byway. The Property in La Plata County is located in the Corridor District of the La Plata County Land Use and Development Code and the North (La Plata) County Land Use Plan, which designates the view from the existing ponds towards the West Needles Mountains as a Scenic Vista.

5.11.1 Scenic Vista to West Needles Mountains

Durango Mountain Resort will cooperate with La Plata County, Metro District, Colorado Department of Transportation and interested citizens in establishing a scenic overlook/pullout along U.S. Highway 550 near the Community Park so travelers can stop and enjoy the view. Only County approved park structures are permitted within the limits of the Scenic Vista in the North County plan in the area referred to as Community Park in the Master Plan.

5.11.2 Project-Wide Scenic Standards

To minimize the visual impacts of the development, the following standards are applicable to development within the Property:

- A 50' minimum building setback is required for all development adjacent to U.S. Highway 550 right of way (unless the specific criteria for a greater setback is met in Boyce Lake, Tacoma and/or Woodlands Village). Existing landscape and new landscape buffers shall be maximized in these areas.
- Let the landscape setting dominate the views (i.e. tuck buildings into trees, or plant groves of trees to mimic existing landscape).
- Designate parking and service areas to the rear of commercial buildings, or, if not possible, screen parking and service areas with hedges, fences, etc.
- Create new roads and interconnected parking lots behind buildings to reduce traffic exits off the highway.
- Shield light to preserve the visibility of the night sky.
- Limit buildings to 3 stories to create a strong sense of enclosure and add diversity of uses on upper floors.

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- Use colors that blend with the surrounding landscape.
 - Onsite signs shall be small scale. Signs should be compatible with the mountain setting (i.e. wood or stone are appropriate.) Urban signs such as neon should be avoided.
-

5.12 Workforce Housing

A. Employee Housing shall be provided for all new development within the Property on a ratio of one (1) Employee Housing Unit for each ten (10) non-employee housing residential (including lodging) units. Employee Housing shall be provided for all new development within the Property on a ratio of one (1) Employee Housing Unit for each 20,000 GSF of commercial space approved for development with the mutual agreement of the applicant and the appropriate County (or Counties for developments which cross the County line). An Applicant for Land Use approval may be permitted to satisfy its Employee Housing obligation hereunder by payment to the appropriate County of a mutually agreeable housing assistance fee to help defray the cost of providing permanent, low cost, off-site housing in lieu of providing the required housing on the Property.

B. To achieve this requirement, the following provision shall be included on all preliminary and final land use development approvals as a condition of approval for land use development: "This land use approval is expressly conditioned on satisfactory provision of employee housing units equivalent to 10% of the total number of approved residential/lodging units and/or one (1) Employee Housing Unit for each 20,000 GSF of commercial space." The employee housing requirement shall be incorporated into a written agreement, approved by the appropriate Director and County Attorney, between the Applicant for Land Use Development or the Owner and the appropriate County. The written agreement shall among other things specify the number of employee housing units to be constructed, the approved time schedule for construction of the units and provide satisfactory financial assurances, in such form and amount as may be required by the applicable County, with regard to the obligation to build the employee housing units.

C. In order to be credited as Employee Housing Units in accordance with this Section, units must meet the following criteria:

- 1) (i) Employee Housing Units must either be owned, leased or managed by Durango Mountain Resort or another business located within the Durango Mountain Resort; or
- (ii) Permanently restricted by County approved covenants or deed restrictions for use as Employee Housing; or
- (iii) Meet the criteria established in Section 4.7 herein for caretaker units; and

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- 2) Employee Housing Units must be occupied as the person's primary place of residence by persons whose primary place of employment is Durango Mountain Resort or a resort-related business located within the boundaries Durango Mountain Resort; and
- 3) Employee Housing Units must be located within the Property or offsite if approved by the respective county.
- D. 1) 1/10 of all workforce housing required resort-wide shall be constructed in San Juan County. This requirement shall be met by requiring that the first of each ten workforce housing units be built in San Juan County (i.e. 1st, 11th, 21st, 31, ...workforce housing units project-wide).
- 2) 1/2 of the WFHU which must be provided in San Juan County (1/20th) of all workforce housing resort-wide shall be constructed in Silverton.
- E. A periodic review of this Workforce Housing requirement shall be conducted by the Counties and the Owners as part of each five (5) year review pursuant to Section 10 of the DMR Development Agreement. The intent of this review shall be to evaluate whether the Workforce Housing provided to date under the DMR Regulations is generally meeting the housing demands of incremental new employees generated by the DMR development. As part of the review, the Counties and the Owners shall consider the following information:
- Within ninety days following the approval of the LUR, Owners shall provide the counties data sufficient to establish a baseline number of full time equivalent employees (FTE's) currently working within the Property;
 - Owners's goal shall be to provide workforce housing to forty percent of the incremental number of full time equivalent (FTE) employees above the 2002 base;
 - Total number of Workforce Housing Units (WFHUs) constructed or committed to as part of approved plats;
 - Peak and average occupancy (including total employees housed in the WFHUs);
 - Average rent and utility charges by WFHU type;
 - Any additional information required by the Counties concerning unmet work force housing demand (such as number of employees on work force housing waiting lists, employee surveys, etc.).

Based upon this information, the Counties and the Owners shall adjust the Workforce Housing requirement in the DMR Regulations, provided that any one adjustment to the workforce housing requirement shall not alter the then-existing WFHU ratio by more or less than twenty percent (20%). The two Counties shall come up with a plan regarding the amount or nature of the adjustment of the then existing ratios that adequately addresses the Workforce Housing issues and that is reasonably based upon the criteria from each review (the "adjustment plan"). Should the Counties not be able to reach consensus on the adjustment plan, then the existing ratios shall be maintained. If the

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Counties reach agreement regarding an adjustment plan, then the adjustment plan shall be implemented with the agreement of the Owners, which agreement shall not be unreasonably withheld.

For purposes of this provision, the number of FTE employees shall be calculated as follows:

- The total number of hours worked by all employees within the Property during the six months immediately preceding the review ("the Review Period") shall first be determined. For purposes of this provision, "hours worked by all employees" shall include only hours worked by persons whose a) primary employment was within the Property (b) for at least 60 days during the "Review Period";
- Said number shall be divided by 1,040 (the number of hours an employee would have worked during the Review Period had he or she worked forty hours per week) to determine the number of FTE employee during the Review Period.

5.13 Wetland Impact/Mitigation

Prior to issuance of a project-wide 404 Permit, land use development may only occur in areas that have no direct impact to jurisdictional wetlands or upland buffer areas and have been deemed "exempt" from indirect wetland hydrological impacts by the USACOE. The provisions of the 404 Permit shall be adhered to at all times, this includes but is not limited to, compliance with specified jurisdiction lines, dredge/fill limits, buffers, mitigation areas, mitigation techniques and monitoring requirements. In the event a proposed land use development creates a conflict between the provisions contained within the Governing Documents or the County codes and the provisions contained within the 404 permit, the provisions of the 404 permit will prevail and the proposed land use development must be redesigned in order to comply with the 404 permit. The provisions of the 404 permit may preclude development of the Property to the Maximum Conceptual Densities contained within these DMR Regulations.

5.14 Ambient Air Quality

It is the intent of these regulations to prevent degradation of ambient air quality and visibility on public and private lands in the vicinity of the resort and visibility toward and within designated public lands (Federal Class I Protection Areas) in the area by minimizing the impacts of air emissions from the development and use of the property on air quality and visibility. In order to accomplish this goal, the following impact assessment criteria will apply to the Durango Mountain Resort (DMR) development for the life of the project:

1. Ambient air quality impacts from the Durango Mountain Resort, in conjunction with impacts from all other emission sources, plus existing background air quality levels, shall not exceed the National Ambient Air Quality Standards (NAAQS) and Colorado Ambient Air Quality Standards (CAAQS) for the pollutants and

averaging periods listed in **Table 1**. However, nothing in this provision is intended to relieve DMR of obligations to meet the more specific standards set forth below.

2. Ambient air quality impacts of emissions from the proposed Durango Mountain Resort development project shall not exceed the incremental impact standards for Class I and Class II areas listed in **Table 2**. (Note: The incremental impact standards established in this regulation are equal to 75% of the Class I and Class II increments established in the State of Colorado Prevention of Significant Deterioration (PSD) regulations)
3. Emissions from the Durango Mountain Resort Development project shall not produce impacts on visibility in nearby Class I Areas in excess of thresholds established by the National Park Service and US Forest Service for visibility parameters related to plume blight and reduction in visibility due to increased haze.
4. Emissions from the Durango Mountain Resort development project shall not produce perceptible reductions in visibility that exists under baseline conditions prior to the development for views from the resort looking toward the Weminuche Wilderness and other designated scenic vistas.

The assessment of impacts for the proposed project, or discrete elements thereof, relative to the above criteria will be conducted using generally accepted air quality dispersion modeling analyses or other generally accepted methodologies for demonstrating project or activity compliance of air emissions with applicable standards and other impact assessment criteria. Specifically for the visibility compliance analysis, the policies and processes related to visibility protection would be implemented as are described in *"Federal Land Managers' Air Quality Related Values Workgroup (FLAG) Phase 1 Report, 2000."*

Prior to conducting such compliance assessments, DMR will submit a proposed air quality and visibility analysis protocol to the Counties for review and acceptance. Before approval by either County, each development within the property shall be evaluated in accordance with the accepted protocol to insure that it complies with the above standards and will not individually or cumulatively with all other development in the property result in any degradation of air quality or visibility beyond that permitted by the above standards. In addition, prior to or concurrent with the submittal of the first phase of development, an Air Quality Management Plan shall be submitted to and approved by the Boards for both Counties. This plan will include and address the following items.

5.14.1 Air Quality Management Plan

The Air Quality Management Plan (Plan) will specify a program and procedures to measure and monitor the actual air quality in the vicinity before, during, and after the development and operation of the proposed project development. The plan will further

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specify measures to be taken if actual air quality impact levels approach or exceed the established standards or the incremental impact standards to ensure that these standards are not exceeded.

The Air Quality Management Plan shall be submitted for review and approval by both Boards of County Commissioners pursuant to Section 2.2. The Air Quality Management Plan shall adequately address at least the following minimum plan requirements:

1. A proposed ambient air quality, visibility, and meteorological monitoring program to collect data suitable to (1) establish baseline air quality and visibility levels in the area, (2) assess changes in air quality and visibility levels associated with each phase of the development, (3) identify key cause-effect and source-receptor relationships affecting measured air quality and visibility characteristics in the vicinity so that air emissions from or caused by the development can be distinguished from other source emissions and their impacts, and (4) to use site-specific data in the subsequent assessments of air quality and visibility impacts of later phases of the development.
2. The proposed air quality program will specify (1) the numbers and locations of proposed monitoring sites, (2) the parameters to be measured at each, (3) the sampling frequency and the measurement equipment and methodologies proposed for each parameter, (4) a data quality assurance program, and (5) the duration of the proposed monitoring program. At a minimum, air quality monitoring will be conducted for all pollutants for which standards and increments have established in Section 5.14 above, and for which predicted impacts have been determined in the initial impact assessments to exceed one-half (1/2) of the Class II Incremental Impact Standards listed in Table 2.
3. Meteorological monitoring will, at a minimum, include (1) continuous measurements of wind speed, wind direction, temperature, delta-temperature, relative humidity (or dew point) and precipitation; (2) the proposed duration of this monitoring; (3) the numbers and locations of proposed monitoring sites, (4) the parameters to be measured at each monitoring site, (5) the sampling frequency and the measurement equipment and methodologies proposed for each parameter, and (5) a data quality assurance program.
4. Visibility monitoring will include either a photographic monitoring method or a method to monitor visual range in or near the nearby Class I Areas. At a minimum the plan will include (1) the proposed duration of this monitoring; (2) the numbers and locations of proposed monitoring sites, (3) the parameters to be measured, recorded, or documented at each monitoring site; (4) the sampling frequency and the measurement equipment and methodologies proposed for each parameter, and (5) a data quality assurance program.

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5. The proposed program will further specify action levels, or thresholds, at some level below the standards for monitored air quality parameters which, if exceeded or forecast to exceed based on modeling analyses, would trigger the implementation of measures to mitigate further impacts from the development such that the standards and increments will not be exceeded.
6. The Plan will outline the specific mitigation or remediation measures to be taken before, during and after development in order to prevent any predicted, anticipated, or actual adverse impacts on air quality and visibility. The monitoring data will then be used to evaluate the effectiveness of such mitigation measures to prevent or reduce air quality levels in excess of thresholds. If such measures and modeling demonstrate the measures would not be effective in reducing or preventing adverse impacts, the Plan will be modified to include additional measures to mitigate impacts.
7. Annual reporting by DMR to the Counties of air quality and visibility monitoring results and modeling efforts conducted to comply with the Plan for the previous 12-month period.

Ambient air quality and visibility monitoring will continue until such time as the measurement program and modeling results clearly demonstrate that no adverse impacts to either air quality or visibility characteristics would occur or have occurred as a result of the project development. DMR may at any time, but no sooner than two years after monitoring commences (i.e., one year of baseline monitoring and one year of post development monitoring), petition the Counties to reduce the scope of monitoring or to terminate monitoring upon submittal to, and approval by, the Counties of a technical report that would substantiate a case for such action. Such a report would include a detailed analysis and assessment of collected data plus an updated plan for continued project development activities and how this might affect the need for continued monitoring and impact assessment.

*Exhibit C to Development Agreement
Durango Mountain Resort
Land Use Regulations*

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Durango Mountain Resort
Land Use Regulations – Ambient Air Quality

Table 1

NATIONAL AND COLORADO AMBIENT AIR QUALITY STANDARDS

POLLUTANT	AVERAGING PERIOD	NAAQS	CAAQS
		($\mu\text{g}/\text{m}^3$)	($\mu\text{g}/\text{m}^3$)
SO ₂	3-Hour	1300	700
	24-Hour	365	NA
	Annual	80	NA
PM10	24-Hour	150	150
	Annual	50	50
NO ₂	Annual	100	100
CO	1-Hour	40000	40000
	8-Hour	10000	10000
Lead	3-Month	1.5	1.5
O ₃	1-Hour	240	235
HC	3-Hour	NA	NA

Durango Mountain Resort
Land Use Regulations – Ambient Air Quality

Table 2

DURANGO MOUNTAIN RESORT INCREMENTAL IMPACT STANDARDS

POLLUTANT	AVERAGING PERIOD	Class I	Class II
		($\mu\text{g}/\text{m}^3$)	($\mu\text{g}/\text{m}^3$)
SO ₂	3-Hour	18.75	384
	24-Hour	3.75	68.25
	Annual	1.5	15
PM10	24-Hour	6	22.5
	Annual	3	12.75
NO ₂	Annual	1.875	18.75

Notes:

- (1) The incremental impact standards applicable to the Durango Mountain Resort Development Project represent 75% of the increments allowed by the Colorado Prevention of Significant Deterioration regulations for Class I and Class II areas.

5.14.2 Woodburning Restrictions

No coal burning devices shall be permitted within the Property. Wood burning open fireplaces and ovens shall be permitted within the Property only in hotel and lodge lobbies and in restaurants and other food service establishments. No more than one fireplace and one oven shall be permitted in any single establishment. No more than 28 such open fireplaces or ovens shall be permitted within the Property. Wood burning fireplace inserts and stoves shall be permitted in single family residences but only if they meet or exceed emissions standards for EPA Phase II wood burning devices. Woodburning fireplaces and stoves shall be prohibited in all other locations including multi-family residential units.

5.15 Road Names/Addressing

Prior to submittal of any preliminary plat, the potential street names shall be submitted to and approved by the appropriate County GIS Office. No duplicate street names or like duplicate street names of existing road names within La Plata County and/or San Juan County will be allowed to be used within this development.

Street sign requirements and addresses will be addressed at preliminary plat stage for each of the phases of development.

5.16 School Impact Fees

The Applicant for each unit located within La Plata County will pay a fee in lieu of land dedication to the 9R School District pursuant to the terms of the School District 9-R Impact Fee Agreement by and between the School District 9-R and the Owner. The Impact fee shall initially be set at \$600 per residential unit. The Impact fee shall be adjusted for inflation pursuant to terms of the Agreement. School District 9-R shall notify La Plata County of the applicable yearly fee. This fee is payable at the time the building permit is issued.

The Applicant for each unit located within San Juan County will pay a fee in lieu of land dedication to the Silverton School District pursuant to the terms of the Silverton School District Impact Fee Agreement by and between the Silverton School District and the Owner. The Impact fee shall initially be set at \$1000 per residential unit. The Impact fee shall be adjusted for inflation pursuant to terms of the Agreement. Silverton School District shall notify San Juan County of the applicable yearly fee. This fee is payable at the time the building permit is issued.

5.17 Ski In/Ski Out Access

Ski-in and/or ski-out access is encouraged to as many of the development parcels as possible, provided adequate ski way widths, slopes and sight distances are maintained. Nordic at-grade skiway crossings of roadways shall be permitted throughout the Boyce Lake, Tacoma and Woodlands Villages, and other Villages as appropriate. Alpine at-grade skiway crossings of roadways shall be limited to the existing Sheol Street crossing with appropriate warning signs and maintenance. The existing Sheol Street at-grade skiway crossing shall be removed and/or replaced with either a tunnel, overpass, Lift #7 relocation or download capacity on Lift #7 prior to recordation of the final plat for the 21st residential unit in the proposed townhome/condominium parcels south and/or west of Sheol Street (excluding Elk Point).

Existing ski-in/ski out access to existing units shall not be eliminated, but may be modified as necessary to accommodate future development.

5.18 Fire Safety/Wildfire Safety

5.18.1 Building Materials

The materials used for the construction of a structure's roof is one of two primary determinants of a structure's ability to survive a fire. Therefore, fire-resistant materials which maintain a Class C rating or better shall be used to roof structures. Wooden or shake shingles will not be permitted.

5.18.2 Defensible Space

The creation of effective defensive space involves developing a series of management zones in which different defensive measures and techniques are used to reduce to fire threat. The design of defensible space will be based on the types of structures to be protected, the topography of the area, and the sizes and types of vegetation present in the area.

Prior to the approval of any phase of development a Wildfire Mitigation Plan will be prepared by a qualified forester with wild land fire experience or other natural resource professional with wild land fire experience. They will consider the information below along with current technologies and theories. Based upon the results of this fire mitigation plan the requirements below may be strengthened or softened.

Generally, defensible space will be composed of two distinct zones. Zone 1 is the area nearest to the structure, and will require the maximum amount of modifications. Zone 1 will consist of an area that measures 15 feet (ft) around the perimeter of the structure in which all flammable vegetation will be removed and only low growing shrubs shall be planted. Planting will not occur directly below windows, and no areas of continuous

grass will be planted adjacent to plantings in this zone. Plants, especially shrubs and trees, will be well spaced and not placed in large masses. Plants will be frequently pruned to maintain a vigorous low growth habit and dead branches, stems, and leaves will be removed. When present, flammable shrubs will be replaced with less flammable species such as flower beds. Firewood and other combustible materials will not be stored here, and gravel will be placed below decks to suppress vegetative growth. The distance of 15 ft will be measured from the outside edge of the structure's eaves and any attached structures such as decks. Trees in this zone will be treated as structures, and the perimeter of Zone 1 will be extended from them also.

Zone 2 is an area of fuel reduction that is designed to reduce the intensity of approaching fire. In gently sloping areas (0 to 20 percent slopes), the density of trees and large shrubs will be thinned to allow for at least 10 ft between the crowns of trees. Moderately steep slopes (21 to 40 percent) shall be thinned to allow for 20 ft between tree crowns, and very steep slopes (greater than 40 percent) will allow for 30 ft between tree crowns. Crown distance will be measured as the distance from the outermost branches of one tree to the outermost branches of adjacent trees. Occasional clumps of 2 or more trees will be allowed in this area, given that additional buffer space is provided. The inner portions of Zone 2 will be thinned to a greater degree to allow for a gradual aesthetic transition between zones. Shrubs located beneath tree crowns will be removed, and remaining shrubs will be pruned regularly to promote vigorous growth. Dead stems from trees and shrubs will be removed annually. Grass height will be maintained to less than 6 to 8 inches.

The following checklist will be provided to homeowners within the Property and inspected on an annual basis to determine if additional work or maintenance is necessary.

Defensible Space Annual Checklist

- Trees and shrubs are properly thinned and pruned within the defensible space. Slash produced from thinning operations is disposed of offsite.
- Roof and gutters are clear of debris.
- Branches overhanging roofs and chimneys are removed.
- Chimney screens are in place and in good condition.
- vegetation removed from within 15 ft of chimneys.
- Grass and weeds are mowed to a low height.
- Fire extinguishers are checked and in good working condition.
- Driveways and access points are cleared sufficiently to allow for emergency agency equipment.
- Escape routes are posted.
- Trash and debris accumulations are removed from the defensible space.

5.18.3 Homeowner Preparation and Response

The following recommendations will be given to residents within the Property to encourage them to reduce the threat and/or effects of a fire:

- Plan and rehearse a home fire escape drill.
- Know where safety areas are within your area. Meadows, rock outcrops, and wide roads are good examples.
- Prepare for evacuation. Place all valuables in your vehicle, place keys on the ignition, close all windows, and park "heading out", and know all emergency escape routes.
- Report all fires immediately to Hermosa Cliff Fire Department.
- Equip your home with fire detectors and at least one 10 pound ABC-class fire extinguisher.
- Remove combustible items from around your home. (Including firewood, lawn furniture, hay bales, leaves, debris, etc).
- Stack firewood at least 15 ft from your home (not under deck).
- Post house or lot number clearly.
- Inspect and clean your chimney on a regular basis and install chimney screen or spark arrestor.
- Store tools such as shovels, axes, rakes or hoes for use in case of a fire.
- Protect windows or sliding glass doors with nonflammable shutters and provide fire resistant drapes or blinds on the interior of your home, especially on the side of the house that would most likely be exposed to a fire (e.g., the downhill side).

Residents will be encouraged to take the following actions in the event of a fire:

- Close or cover outside attic, eave, and basement vents, and window shutters (if present).
- Connect garden hose to outside spigot. Utilize enough hose to reach all areas of the house, including the roof.
- Place a ladder against the house opposite the side of the approaching fire.
- Place a lawn sprinkler on the roof if the roof is made of combustible materials. Do not turn on the water until the fire is very close.
- Close all windows, chimney dampers, and doors. Leave exterior doors unlocked.
- Turn on all exterior lights.
- Shut off gas at the meter/tank.
- Remove lace, nylon, or "light" material curtains from all windows. Close all venetian blinds and heavy curtains.
- Move overstuffed furniture away from all windows and sliding-glass doors.
- Close the garage door, but leave it unlocked. Disconnect the automatic door opener (if present).

5.18.4 Homeowners' Association Actions

The following actions will be taken by the Durango Mountain Master Association to aid in the both the reduction of fire threat and the effectiveness of emergency agencies to respond when a wildfire occurs.

- Form a fire protection or forestry committee to organize and oversee needed wildfire hazard reduction projects and activities.
- Place and maintain Fire Danger Sign(s) that describe the potential fire threat at all trailheads.
- Develop and maintain defensible space around all community-held facilities, natural gas vent locations, electrical transformer boxes, telephone service boxes, and all utility poles.
- Post signs that identify all roads.
- Provide sufficient clearance, and adequate turning space in all areas to facilitate easy access of emergency vehicles.
- Notify all residents of wildfire hazard and supply each with appropriate hazard mitigation material.
- Clear at least three feet around and above fire hydrants and make sure they are checked periodically for adequate flow and pressure.
- Reduce fuel under utility lines and around poles.
- Thin dense stands of trees and/or brush in common ground and greenbelts.

5.18.5 Fire Safe Resort

All land use development within the Property shall be "Fire Safe." All Commercial and Residential Structures shall be required to be sprinkled and alarmed in accordance with National Fire Protection Association Standards, and this requirement shall be a plat condition on all Site Specific Final Plats.

All land use development and construction will be conditioned upon compliance with the then applicable standard conditions as imposed by Fire District.

5.19 Wildlife

To minimize potential impacts from Durango Mountain Resort development on area wildlife and TES species, Durango Mountain Resort will implement the following mitigation and conservation measures throughout project development:

- For cavity nesting species, minimize the removal of large snags by identifying wildlife trees in project areas prior to final design/final platting and modifying construction to facilitate the protection of these important trees as much as practicable.
- Incorporate existing native vegetation including large trees and snags into Durango Mountain Resort landscaping plans.
- Minimize filling and/or dredging of wetlands. If wetlands must be filled or dredged, provide mitigation at a ratio agreed to by the U.S. Army Corps of Engineers (USACOE). Mitigated wetlands will be designed at comparable elevations and habitat types within the same ecoregion.

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- Where wetlands are impacted by USACOE approved dredge or fill, capture and transplant amphibians (that are not ESA listed) to suitable sites within the same watershed.
- Designate the sedge-emergent wetlands at the north end of the Grayrock Village west of Highway 550 and the two related ponds on the east of 550 as Aquatic Wildlife Areas.
- Create shallows in mitigated/created lentic wetlands on the north or sunny-side of the ponds
- Maintain migration corridors between breeding (lentic) wetlands and adjacent wetland/upland areas.
- Maintain ground vegetative cover in the riparian areas and migration corridors to provide shelter for amphibians.
- Maintain woody debris in the riparian areas, including slash.
- Design culverted crossings, bridges and/or boardwalks for roads and trails that cross Durango Mountain Resort development area wetlands.
- Install bridges or culverts for roadways that bisect wetlands to maintain amphibian migration corridors.
- Require that cats, dogs, or any other predatory pets within the project area be leashed or enclosed in structures, dog runs or fencing from the spring through the fall, when slow moving amphibians are susceptible to predation.
- Restrict grazing animals from the riparian area.
- Seasonally prohibit the use of heavy equipment in the riparian areas in the spring when good water quality for breeding is essential when practicable.
- Create central trash collection facilities that are sealed from wildlife, including birds. Build these facilities away from wetlands, to keep toxins out of riparian areas and to prevent trash from drawing in predatory scavengers (especially birds, i.e. ravens, magpies etc.).
- At such time that the new wastewater treatment facility is constructed, ensure that it prevents amphibians from being drawn into possibly toxic waters. As the existing sewage ponds are drained, look for tiger salamander larvae (also known as mud puppies) to relocate to natural wetlands.
- Create covenants restricting the outdoor use of chemicals that could be toxic to amphibians and other riparian obligate species (e.g., pesticides, herbicides, fertilizers, antifungals and fish toxins).
- Only introduce fish into sites that already have fish in them. Avoid creating channels or corridors that allow fish to reach wetland habitats they couldn't reach prior to Durango Mountain Resort development (predation).
- Create Durango Mountain Resort development area fencing and road construction standards which allow for safe movement corridors for wildlife.
- Encourage landscaping with natural materials and native species plants.
- Require building contractors to utilize Best Management Practices in the development of residential and commercial sites including, but not limited to, phased development, building envelopes, grading techniques, dust control.
- Discourage contractors from bringing dogs to construction sites.

*Exhibit C to Development Agreement
Durango Mountain Resort
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- Restrict vehicle use to designated roadways and limit off-road travel.
- Require bear-proof trash containers or storage within enclosed buildings or structures, regular removal of trash from premises, periodic cleaning of trash receptacles to reduce odors, centralized trash collection areas instead of individual dumpsters.
- Discourage outdoor residential pet food storage and pet feeding.
- Encourage residential and Durango Mountain Resort barbecue grills to be cleaned of grease regularly or stored inside when not in use.
- Encourage bird feeders, suet and hummingbird feeders to be strung on wires between trees instead of on decks and porches. Feeders should be brought in at night.
- Encourage covered composting only and discourage inclusion of fruit, melon rinds, and other food items in compost piles.
- Provide periodic training, signage and education to familiarize employees, residents and visitors about proper bear etiquette.

5.20 Day Visitor and Employee Parking for Visitors and Employees of Durango Mountain Resort

Day visitor parking and/or employee parking eliminated by residential or non-residential development on existing parking spaces shall be replaced with an equivalent number of parking spaces available to day visitors and employees elsewhere in or near same or adjoining village within the resort. The Owner/Applicant shall at all times provide sufficient day skier parking to meet demand for the resort. Durango Mountain Resort shall use all reasonable efforts to ensure that parking does not occur on Highway 550. No parking spaces shall be designated on U.S. Highway 550. The Owner/Applicant will complete a study of day skier parking and day skier counts for each year until the time of the first five-year review of the entire Development Agreement. The study shall examine parking demand and use patterns during the following periods and shall analyze the utilization of day skier parking lots. The analysis should include estimates of skiers arriving and departing by mass transit, the day skier counts for the same day as the parking counts, an estimate of any day skiers unable to park and the number of unused spaces:

Typical President's Day weekend (2 days)
Typical March weekend (2 days)
Typical March weekday (2 days)

If the study indicates that the demand for day skier parking exceeds the amount of day skier parking existing, then, the Owner/Applicant shall recommend solutions to this problem which may include improving utilization of existing lots, increasing the use of mass transit and/or increasing the number of day skier parking spaces. Any proposed changes shall be reviewed by the Joint Planning Commissions and the Boards of County Commissioners prior to modifications of the Development Agreement. Once approved, the Applicant shall implement the approved changes.

5.21 Trails and Trailheads

Public access shall be provided to all public trailheads and sufficient public parking shall be provided at all public trailheads. All property comprising public trailheads and trails shall be dedicated to the Purgatory Metropolitan District who will be responsible for the maintenance of these trailheads. Nordic trails may have at-grade road crossings.

The following trails shall be constructed by Durango Mountain Resort and dedicated to the Purgatory Metro District (Metro District) no later than the construction of the relevant trailhead:

- A continuous north/south trail on the west side of US Highway 550 running generally along the Cascade Aqueduct except where an alternative route is more practical.
- A continuous north/south trail on the east side of US Highway 550.
- Neighborhood connectors to these trails as appropriate.
- Trails from the Community Park, Purgatory Creek/Tacoma Village, South Boyce Lake and North Boyce Lake Trailheads to the US Forest Service land boundary to the east (subject to US Forest Service approval).

In addition, Nordic ski trails will be constructed within the Boyce Lake Estates Village connecting through Tacoma Village to the Community Park. These trails will be maintained by the resort or its nordic concessionaire on easements within these Villages.

The Recreation Master Infrastructure plan shall show the general trail location and connection points, however, the exact alignment and location shall be determined in conjunction with the final plat of adjoining development parcels.

Trail Design Standards shall include:

- Trails shall utilize existing trail routes of cleared areas wherever practical in order to reduce the amount of cleaning necessary.
- Trails shall minimize the number of driveway and road crossings.
- Trails shall be separated from roadways and buildings where practical to preserve their mountain character.
- Trails shall be located in areas that will minimize user conflicts to the maximum extent practical.
- Trails should not be located in roadway corridors.
- Alternate routes shall be provided when existing trails are impacted by construction.
- Trails shall be designed in a manner that takes advantage of natural, existing vegetation to buffer the trails from development and mitigate any safety hazards. Where this design is not feasible, the applicant shall incorporate trail buffering into their landscaping plan to the maximum extent practical.

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- Durango Mountain Resort will attempt to work with other private property owners to insure a continuous trail system but will not be responsible for acquiring trail easements on or across property owned by other parties.
- Trail construction shall include clearing and grading, footbridges, signage, drainage improvements and erosion control. All of these improvements may not be applicable to all trail sections.
- Durango Mountain Resort will maintain snowmobile access to portions of National Forest which permits such access.
- A minimum 8-foot wide path shall be required in heavily used areas.

Prior to platting of the 150th unit project wide, the applicant shall provide a written emergency response plan for trails in and immediately adjoining the Director of Emergency Preparedness of La Plata County and the San Juan County Sheriff who shall comment and indicate required changes if necessary. The plan shall include trail layout, vehicle access points and response procedures for incidents on the trails on private property.

5.21.1 Recreation Master Infrastructure Plan

The Recreation Master Infrastructure Plan shall be submitted for review and approval by both Boards of County Commissioners and Purgatory Metropolitan District pursuant to Section 2.2. The Recreation Master Infrastructure Plan shall adequately address the following criteria:

- Service Area
- Intended Trail Uses
 - Pedestrian
 - Skiers
 - Bicycle
 - Horses/Sleighs
- Show Trail Layout System
- Trailhead Parking Lots
- Design Standards
- Guidelines for Community Park Development
- Trail and Sidewalk Widths

5.22 Noxious Weed Control

5.22.1 Goals and Objectives

As each development is proposed, the following goals and objectives for the management of the noxious weed species will be implemented within that particular phase/plan area:

- Limit the distribution of yellow toadflax to that of its current distribution, and decrease seed production by more than half in 5 years.

- Reduce the total percent cover of Canada thistle by more than half in 5 years.
- Reduce the production of Canada thistle seed on the property by 90 percent within 3 years.
- Eradicate most all patches of Canada thistle that measure less than 100 ft² in 5 years.
- Reduce the total percent cover of ox-eye daisy by more than half in 5 years.
- Eradicate all patches of ox-eye daisy that measure less than 100 ft² in 3 years.
- Reduce the total percent cover of Chilean tarweed by more than half in 5 years.
- Reduce the total percent cover of houndstongue by more than half in 5 years.
- Reduce the total percent cover of common mullein by more than half in 5 years.
- Reduce the total percent cover of curly dock by more than half in 5 years.
- Reduce the total percent cover of blue flax by more than half in 5 years.

5.22.2 Priorities for Weed Management

Prevention

Preventing the establishment of additional populations of those species defined as priority weed species by this plan, and any additional noxious weed species not currently documented to occur onsite, will be considered the most important management action recommended in this plan. The control, or if possible eradication, of small populations of weed species is integral in the successful management of noxious weeds. Many noxious weed species are very difficult to control once populations become well established and begin to expand. Generally, noxious weed species are capable of higher rates of reproduction and dispersal than those of the native species that are present in a given area.

Annual monitoring will be conducted by a qualified weed specialist or biologist and is the most effective way to document the presence of newly established populations of noxious weeds.

Weed Species Priorities

Yellow toadflax, Canada thistle, and ox-eye daisy are considered the priority species for control and management. La Plata County requires the control and management of yellow toadflax. Canada thistle and ox-eye daisy are state-listed noxious weeds that are widespread throughout the property and appropriate measures will be taken to limit their dispersal, both within the property boundaries and onto adjacent lands. Populations of the weed species listed above that are located around the boundaries of the property will be given priority in control efforts, with those populations located in the inner portions of the property having less priority for control (R. Cook pers. comm.).

Although the above species are listed as priority species, all species listed in Figure 2.6.1 are recommended for management by the La Plata County Undesirable Weed and Rodent Committee (R. Cook pers. comm.).

5.22.3 Weed Management Actions

Prevention

The use of preventative measures designed to stop weeds from becoming established in the project area is a critical component in this management plan. Annual surveys of the project area will be conducted to assess and determine the occurrences of any new species that are introduced. Surveys will focus on the parking areas roadsides of the property. Areas that are disturbed by future construction or maintenance activities will also be surveyed due to the potential of invasive species to be introduced and become established in these areas.

Disturbed areas will be revegetated with native plants species as soon as possible after disturbance in order to prevent the establishment and dominance of non-native invasive species. Native trees and shrubs will also be planted in these areas to enhance the natural values of these areas.

Control Actions

Integrated Weed Management (IWM) is a multiple approach process that utilizes and applies a combination of management techniques, including biological, chemical, mechanical, and cultural controls that control target weed species with minimal impact to non-target native species. IWM involves the application of two or more techniques that will interact to provide better control than any one single action. The most effective management methods and herbicide recommendations available annually from Colorado State University Weed Science will be used on the Property. The following section outlines the initial control actions that are recommended for the control of the invasive species found onsite.

Cirsium arvense Canada thistle

- Mow patches periodically (at about 1 month intervals) throughout the growing season, and prior to flower production to prevent the production and dispersion of seeds. Begin mowing when plants are 12 to 15 inches tall.
- Apply a glyphosate herbicide to the stems of previously mowed plants at the end of the growing season (i.e., fall, October). An appropriate amount of time (about 1 month) will be provided after the last mowing to allow for the development of stems in order to facilitate the effectiveness of the herbicide application. Backpack sprayers or wick application will be used at this time to minimize or eliminate damage to non-target plants. Clopyralid + 2,4-D (Curtail®) applied at a rate of 2-3 quarts/ac will be used for the control of Canada thistle (Carpenter et al. 2000). Patches of Canada thistle that are growing near water will not be sprayed with herbicides due to the ability of flowing water to transport the herbicide to non-target organisms.

Integrated Management Summary

Control actions will be conducted in high-quality natural areas (i.e., areas that contain a majority of native species) first. Weather conditions will determine adjustments in control actions. Drought stress reduces the effectiveness of herbicides, but increases the effectiveness of mechanical controls such as mowing (Carpenter et al. 2000).

Cynoglossum officinale
houndstongue

- Mow second year plants prior to seed maturation to reduce seed production and possibly kill the plant.
- Apply picloram at 0.25-0.5 lb, 2,4-D or dicamba at 1.0 lb, or metsulfuron at 0.6 oz. ai/ac in spring (Carpenter et al. 2000). Application of chlorsulfuron at 0.5 lb ai/ac during the period from when the rosette stage to when plants reach 10 in is also effective (Butterfield et al. 1996).
- Maintain a healthy population of perennial native species. This is the most effective control action in controlling houndstongue (Carpenter et al. 2000).

Integrated Management Summary

The inability of houndstongue to compete with native perennial species limits the distribution of the species to disturbed or bare areas; however, once the species becomes established it quickly forms dense monotypic (i.e., single species) patches (Carpenter et al. 2000). First year plants will be treated with herbicides, and developing plants will be mowed to prevent seed productions (Carpenter et al. 2000). The establishment of native perennials is imperative in suppressing the presence of houndstongue and other noxious weeds.

Leucanthemum vulgare
ox-eye daisy

- Hand pulling of plants to a level well below ground prior to seed production will be done for smaller populations.
- Apply herbicides to control larger populations of ox-eye daisy. Picloram 0.25 lb., dicamba or 2, 4-D at 1 lb ai/ac, or glyphosate at 1.5 lb ai/ac. Additional herbicides that have proven to be effective in controlling ox-eye daisy include imazapyr and sulfometuron (Rutledge and McLendon 1998).
- Maintain a significant grass canopy with the application of nitrogen fertilizer. A more robust grass population will out compete ox-eye daisy individuals.

Integrated Management Summary

Picloram can be used to control ox-eye daisy; however, its use will be limited due to its ability to adversely effect desirable native forb species. The amount of bare soil that is created as a result of disturbance will be limited. Control small populations by pulling the entire plant (including as much roots as possible) prior to seed production and

dispersal. Healthy grass cover will be fostered in order to reduce the ability of ox-eye daisy to compete other plants.

Linaria vulgaris
yellow toadflax

- *Brachyterolus pulicarius*, *Calophasia lunula*, *Eteobalea intermediella*, *Gymnetron antirrhini*, *Gymnetron linariae*, and *Mecinus janthinus* are six organisms that could potentially be used as bio-control organisms for yellow toadflax.
- Hand pulling of yellow toadflax prior to seed production each year will be done, particularly in course or friable soil in which large portions of the root mass can be removed. Seed production and dispersal can be reduced by mowing; however, this will not kill the plant (Carpenter et al. 2000).
- The use of herbicides is often ineffective. However, picloram or dicamba at 1 lb ai/ac will kill yellow toadflax plants in some situations (Carpenter et al. 2000).

Integrated Management Summary

Biological control agents are available for yellow toadflax; however, the county weed supervisor and other experts will be consulted prior to their release and introduction to the property. The most effective way to control yellow toad infestation is to limit the vegetative spreading of patches by cutting or pulling plants, and by using biological control organisms. Once current seed production is controlled, seedlings that arise from the seed bank must be destroyed so that the seed bank can be depleted (Carpenter et al. 2000).

Linium perenne
blue flax

- Apply a phenoxy herbicide as needed to adult plants and seedlings.
- Remove individuals and as much of the root mass as possible through shoveling.

Madia sativa
Chilean tarweed

- A regularly scheduled program of pulling will be done for the control of Chilean tarweed. Plants can be cut or pulled prior to seed production and dispersal.
- Herbicides are effective when applied to seedlings.
- The establishment of new populations can be accomplished through minimizing disturbance to natural areas, preventing seed dispersal, and maintaining a healthy cover of native communities (Carpenter et al. 2000).

Integrated Management Summary

Control populations by preventing the production and dispersal of seeds, allowing the seed bank to be depleted. Plants may be cut, pulled, or treated with herbicides. Pulling

of plants will be done in order to limit the application of herbicides on the property. The species is not yet widely distributed in Colorado. Therefore, it is essential to control or eradicate any populations in order to prevent its establishment.

Rumex crispus
curly dock

- Mow patches periodically (at about 1 month intervals) throughout the growing season, and prior to flower production to prevent the production and dispersion of seeds. Begin mowing when plants are 12 to 15 inches tall.
- Apply appropriate herbicides.

Verbascum thapsus
common mullein

- Common mullein can usually be controlled by mechanical methods, and given the relatively limited of occurrence of the species on site this method is most appropriate. Individuals will be pulled as soon as they are large enough to grasp and prior to seed production (Carpenter et al. 2000). Care will be given to ensure that as much of the root mass is removed as possible.

Integrated Management Summary

Common mullein reproduces by seeds only. Therefore, as in the case of other species that reproduce in this way, control of the species is based on limiting the production and dispersal of seeds and depleting the seed bank. Land management practices that promote the health of native plant species will also contribute to the control of this and other invasive species through increased competition for resources (e.g., nutrients, light, water).

5.22.4 Monitoring

Annual monitoring of the property will be done in order to evaluate the effectiveness of management control actions that will be carried out to reduce the total cover and spread of the noxious weed species that occur onsite. Repeated collection and analysis of data will facilitate the effectiveness of this weed control program by providing the information required to determined appropriate adjustments to the management approach.

A general survey will be conducted each year to assess the overall abundance and distribution of priority species, and to document the occurrence of any new weed species. In addition to this general survey, at least three sites of each high priority species (i.e., yellow toadflax, Canada thistle, and ox-eye daisy) will be quantitatively monitored to determine the effectiveness of the management actions, and to determine if management goals are successfully being fulfilled.

The application of herbicides and the release of biocontrol agents will be documented through a tracking program. This tracking program will also aid in determining if adjustments to management actions are required.

5.23 Pedestrian Plazas

Pedestrian plazas shall be designed to maximize solar access and encourage social interaction to the maximum extent practical.

5.24 Lighting

Durango Mountain Resort shall provide a safe nighttime environment while preserving the Dark Sky environment of the area and the view of the stars. Fixture style should be consistent with the rural mountain character of the area and of a scale consistent with their function:

- Light fixture style, type and color should be consistent and compatible throughout the project.
- In all cases, lighting should not extend beyond its tasks. Full cut-off fixtures are required. Motion detectors and timers are encouraged wherever appropriate.
- Spillover lighting shall not be permitted. Lighting shall reflect away from adjoining properties.
- Use of low wattage high life lighting products is encouraged, use of photo voltaic or other renewable energy sources is encouraged.

5.25 Fencing

Fencing is discouraged throughout the project. When required fencing shall either meet all guidelines of the Colorado Division of Wildlife or be the minimum necessary to accomplish the task i.e. dog runs, safety fencing around utility structures etc.

5.26 Mass Transit

Durango Mountain Resort shall continue to provide a year round scheduled bus, van and/or carpool service with a schedule tailored to meet consistent demand between Durango and Durango Mountain Resort and between Silverton and Durango Mountain Resort.

5.27 Enforcement

Failure to obtain permits and/or to develop according to the provisions of the Governing Documents or the County Codes or pursuant to an approved land use development permit shall constitute a violation of these Land Use Regulations. Enforcement of these provisions shall occur pursuant to the applicable provisions of state statute and the appropriate County Code.

*Exhibit C to Development Agreement
Durango Mountain Resort
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5.28 Signs

All development shall comply with the then existing appropriate County Code provisions regarding signage.

6.0 Definitions

The following definitions shall be used in the interpretation and construction of these DMR Regulations. Words used in the present tense include the future; the singular number shall include the plural. The plural the singular; the word "building" shall include the word "structure", the word "used" shall include "arranged, designed, constructed, altered, converted, rented, leased or intended to be used", and the word "shall" is mandatory and not directory. Any term used but not defined herein shall have the meaning given it in the Governing Documents, the applicable Code(s), or, if otherwise undefined, shall have its plain and ordinary meaning.

ACCESSORY USE or STRUCTURE

A use, building or structure that is customarily incidental and subordinate to the principal use and is conducted or located upon the same lot.

ADMINISTRATIVE REVIEW

Review by the appropriate administrative staff.

APPLICANT

Any owner or person with a proprietary interest in the Property or a portion of the property, or agent duly appointed and acting on the behalf of such owner or person who submits any application under these DMR regulations.

APPLICATION

The submittal form required by the Director to initiate any development review process under the Governing Documents.

BASEMENT

Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein

BED AND BREAKFAST ESTABLISHMENT

A building where meals and/or lodging are provided for compensation on a nightly or weekly basis for not more than twelve (12) persons, who are not members of the householder's family.

BOARD

The Board of County Commissioners of La Plata County or San Juan County.

*Exhibit C to Development Agreement
Durango Mountain Resort
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BOUNDARY LINE ADJUSTMENT

An adjustment of a lot or parcel of land boundary as defined in the applicable County Code.

BUILDING

Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING ENVELOPE

Area of land within which all site hardscape elements (construction of buildings, sitework, etc.) shall be contained, except driveways.

BUILDING HEIGHT

The vertical distance of a building measured at any point along a line created by using the natural grade within four (4) feet outside of the foundation of the structure to the highest point of the structure.

BUILDING MASSING

The three-dimensional bulk and scale of a building.

CARETAKER UNIT

A fully functional living unit including kitchen, bathroom, etc., which may be rented or provided in barter to one or more persons working within the Property, provide residence for workforce employees, or accommodate a family members(s) of the single family dwelling.

CONDITIONAL USE PERMIT

A permit issued by the appropriate County stating that the conditional use meets all conditions set forth within these regulations.

CLUB FACILITY

A structure used by any group for social gatherings. The term shall include "lodge halls" used by organizations such as the Masons or the Elks and gathering places such as country club lodges which may contain restaurants or lounges open exclusively to members of the club and their personal guests.

CLUSTERED DEVELOPMENT

The grouping of buildings, garages, drives and hardscape improvements close to one another in order to minimize site disruption and to maximize open space.

CODE(S)

This shall mean the County codes for La Plata County and/or San Juan County.

COMMERCIAL

Any use of property for pecuniary gain, except that, for purposes of these Governing Documents only, Commercial does not include those portions of property used for lodging purposes, including but not limited to bed and breakfast establishments, boarding houses, lodging houses, motels or hotels.

COMMISSION

The Planning Commission of La Plata County or San Juan County.

COMMON AREAS

Those areas that are used, owned or managed jointly by a group of residences, businesses or association(s).

COMMUNITY PARK

That portion of the Property that is intended to include the major recreational and community service uses for the DMR community as described in Section 4.11.3 hereof.

CONSENT AGENDA

Multiple items scheduled for review and action by the Board in gross without formal review or a public hearing. Items on the Consent Agenda shall be placed on the regular agenda for normal consideration by the Board upon the objection of any person.

DESIGN REVIEW COMMITTEE ("DRC")

A committee of individuals appointed by the Durango Mountain Master Association for the purpose of reviewing, and, where required, approving land use issues of planning, architecture and/or landscaping design related to proposed development projects within Durango Mountain Resort.

DEVELOPMENT

The division of a parcel of land into two or more parcels (unless exempted from the definition of "subdivision"); the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance; and any use or extension of the use of land.

DIRECTOR

The Director is the La Plata County Planning Director for La Plata County and the San Juan County Land Use Administrator in San Juan County.

DRAINAGE

The removal of excess water from land by means of surface or subsurface conduits.

DURANGO MOUNTAIN MASTER ASSOCIATION

The master owner's association whose bylaws and covenants govern residential and/or commercial properties within the Property.

*Exhibit C to Development Agreement
Durango Mountain Resort
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DURANGO MOUNTAIN RESORT ("DMR")

The resort operation which generally occupies the Property defined herein

DWELLING, SINGLE FAMILY

any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by this code, for not more than one family, or a congregate residence for 10 or less persons

DWELLING, MULTI-FAMILY

any building or portion thereof that contains two or more dwelling units and, for the purpose of this code, includes residential condominiums.

DWELLING UNIT

Any room or grouping of rooms in any dwelling, hotel, motel, lodge, cabin or other structure intended to be occupied by one family for living or sleeping and having not more than one kitchen.

ENGINEER, COUNTY

A licensed professional engineer employed by the County.

FAMILY

An individual or two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit.

FULL CUT OFF

An outdoor light fixture shielded in such a manner that light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal as determined by either photometric test or certified by the manufacturer.

GARAGE

A building or portion of a building, not more than 1,000 square feet in area, in which only motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.

GRADE or FINISH GRADE

The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building.

HOTEL

A facility offering transient lodging accommodations to the general public and which may provide additional services such as restaurants and meeting rooms. Includes motels and lodges.

LAND USE DEVELOPMENT
See DEVELOPMENT

LOT
A parcel of land intended for transfer of ownership or development including, but not limited to, condominiums, homesites, townhomes, commercial use, etc.

MODEL HOME
See TEMPORARY SALES OFFICE.

NATURAL GRADE
The slope of the natural or undisturbed ground surface prior to any grading operation.

OPEN SPACE
The area depicted on the Durango Mountain Resort Master Plan which shall remain open and free of development other than wildlife habitat improvements, existing overhead utilities, underground utilities and related surface structures, ski lifts, lift shacks, alpine slides and related mountain improvements, trailheads and related improvements, trails, signage and other passive recreational improvements, if approved by the Director.

OWNER
The persons and/or entities, their successors and assigns, that are parties to the Development Agreement.

PARCEL
A contiguous unit of land owned by, or recorded as, the property of the same person or persons.

PERMIT
Written permission issued by an authorized county official, empowering the holder thereof to do some act not forbidden by law, but not allowed without such authorization.

PERMITTED USE
Any use allowed in a village, subject to the specific restrictions applicable to that village.

PHASED DEVELOPMENT
Development over a period of time in incremental stages as opposed to development all at one time.

PRACTICABLY DEVELOPABLE ACREAGE
That portion of a lot or parcel which can actually be developed given any constraints on the use of the lot or parcel, including, but not limited to, setbacks, wetlands, roads, trails, etc.

*Exhibit C to Development Agreement
Durango Mountain Resort
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PROPERTY

All or any portion of the real property referenced and described in the Development Agreement.

PUBLIC RIGHT OF WAY

Any street, alley or similar parcel of land that is deeded, dedicated or otherwise permanently appropriated to the public use and having a clear width of not less than ten (10) feet.

PUBLIC STRUCTURE

Any structure designed for the benefit and use of the public.

PUBLIC UTILITY

Any person, entity or municipal department, duly authorized to furnish to the public under public regulation, electricity, gas, steam, telephone, transportation, water, cable television or other services.

RECREATION FACILITY

A swimming pool, spa, fitness center, skating rink or other recreational facility or use designed for amusement or recreation.

RESIDENTIAL USE

Any use of property for human habitation or lodging purposes.

RESORT CONDOMINIUMS

One or more multi-family residential dwelling units which share common walls, floors and/or ceilings.

RESORT RELATED BUSINESS

Any business physically located within the Property whose principal purpose is to provide goods or services to residents or other businesses also located within the resort.

RESTAURANT

Any building, or part thereof, other than a bed and breakfast establishment, where meals and/or beverages are provided for compensation, including, among others, cafe, cafeteria, coffee shop, lunch room, tea room, soda shop and dining room.

RETAIL STORE

A store which sells commodities in small quantities to consumers, such as a general store, hardware store, book store, etc.

ROAD

See STREET

*Exhibit C to Development Agreement
Durango Mountain Resort
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SETBACK

That line that is the required minimum distance from the street right-of-way line or lot line or other feature, such as wetlands, that establishes the area within which the principal structure must be erected or placed pursuant to the requirements and criteria of these Governing Documents.

SIGN

Any structure or natural object, such as a tree, rock, bush and ground itself, or part thereof or device attached thereto or painted or represented thereon, which shall be used to attract attention to any object, product, place, activity, person, institution, organization or business or which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. For the purpose of this definition, the word "sign" does not include the flag, pennant or insignia of any nation, state, city or other political unit, or any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event signage of a temporary nature.

SINGLE-FAMILY DWELLING

See DWELLING, SINGLE-FAMILY

SITE

A parcel or combination of parcels or lots which share a common development plan or which are dependent upon one another for access, parking or utilities.

SITE DISTURBANCE

Any change in the character of the Property as it exists at the date of adoption of these Governing Documents, such as occurs during construction, landscaping, etc.

SITE SPECIFIC DEVELOPMENT PLAN

A fully approved final subdivision plat, conditional use permit, commercial site plan or townhome/condominium plat.

SKYLINING

Development that creates a silhouetted appearance against the sky when viewed from Highway 550.

SLOPE

The average slope of the subject parcel shall be determined by a registered engineer or surveyor based on the following formula:

$$S = \frac{IL \times 100}{A}$$

S = Average percent slope

I = Contour line elevation interval in feet

L = Sum of the length of all contour lines across the parcel

A - Net area of parcel in square feet

*Exhibit C to Development Agreement
Durango Mountain Resort
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Measurements shall be made at contour intervals not to exceed 10' on a horizontal map scale where 1" equals 200' or less.

STABLE

A structure used or designed for the keeping, boarding, riding and/or care of horses.

STORY

That portion of a building between the surface of any floor and the surface of the floor above it, or if there is no floor above, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. If the finished floor level directly above a basement or cellar is more than six (6) feet above grade, such basement or cellar shall be considered a story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six (6) feet above grade, as defined herein, for more than fifty percent (50%) of the total perimeter or is more than fourteen (14) feet above grade, as defined herein, at any point, such usable or unused under-floor space shall be considered as a story.

STREET

A public right of way officially accepted by the Purgatory Metro District and appropriate government agency. The term "street" shall include "avenue", "circle", "road", "parkway", "boulevard", "highway", "thoroughfare" or any other similar term.

Street, Cul-de-sac

A dead-end street provided with a turn around at its terminus.

Street, Private

Any parcel of land used for a street, road, lane or way or similar designation which is not maintained by, or dedicated to any governmental agency, and used exclusively for the benefit of community residents and guests.

STRUCTURE

That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

SUBDIVISION

Any division of land as defined by the applicable county code or by state law.

TEMPORARY SALES OFFICE That particular sales office, wherever located, used primarily for the wholesale or retail sales of property or lots located within the Property, including, but not limited to, model homes.

*Exhibit C to Development Agreement
Durango Mountain Resort
Land Use Regulations*

TOWNHOME

A single-family dwelling constructed in a group of three or more attached units in which each unit extends from foundation to roof and with open space on at least two sides.

USE

The occupation or development of land or improvements.

VEHICLE

Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

WASTEWATER COLLECTION AND TREATMENT SYSTEM

An approved wastewater treatment system as operated by the Purgatory Metropolitan District.

WATER SUPPLY SYSTEM

An approved water supply system which provides a domestic water supply meeting local, state and federal drinking water standards and fire flow requirements as operated by the Purgatory Metropolitan District.

WILL SERVE COMMITMENT

A binding legal obligation on the part of the Purgatory Metropolitan District or any other utility provider obligating such provider to provide service to a structure or development.

YARD

An open space on the same lot or parcel with the building, extending from the building to the nearest lot line.

YARD, FRONT

The yard lying between the front wall of the main building and the front property line and extending across the full width of the lot or parcel.

YARD, REAR

The yard between the main building and the rear line and extending across the full width of the lot of parcel.

YARD, SIDE

The yard lying between the side lot line and the main building and extending from the front yard line to the rear yard line.

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EXHIBIT D

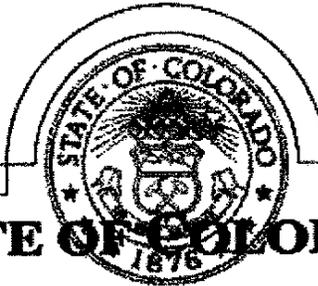
**State of Colorado
Department of State
Certificates**

See attached Certificates of good standing for DSC/Purgatory, LLC, T-H Land Company, LLP, and Windom Peak, LTD.

EXHIBIT

D

836596



STATE OF COLORADO

DEPARTMENT OF STATE CERTIFICATE

I, DONETTA DAVIDSON, Secretary of State of the State of Colorado,
hereby certify that, according to the records of this office,

DSC/PURGATORY, LLC
(Colorado LIMITED LIABILITY COMPANY)
File # 19961059281

was filed in this office on May 1, 1996 and has complied with the applicable provisions
of the laws of the State of Colorado and on this date is in good standing and authorized and
competent to transact business or to conduct its affairs within this state.

Dated: January 22, 2002

For Validation:

Certificate ID: 631037

To validate this certificate, visit the following
web site, enter this certificate ID, then follow the
instructions displayed:

www.sos.state.co.us/ValidateCertificate

SECRETARY OF STATE

EXHIBIT

D

836596



STATE OF COLORADO

DEPARTMENT OF STATE CERTIFICATE

I, **DONETTA DAVIDSON**, Secretary of State of the State of Colorado,
hereby certify that, according to the records of this office,

T-H LAND COMPANY, LLP
(Colorado LIMITED LIABILITY PARTNERSHIP)
File # 19991214872

was filed in this office on November 16, 1999 and has complied with the applicable provisions
of the laws of the State of Colorado and on this date is in good standing and authorized and
competent to transact business or to conduct its affairs within this state.

Dated: January 22, 2002

For Validation:

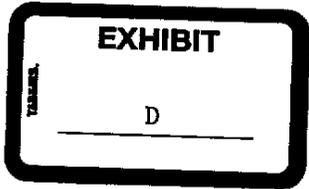
Certificate ID: 531833

To validate this certificate, visit the following
web site, enter this certificate ID, then follow the
instructions displayed.

www.eos.state.co.us/ValidateCertificate

Donetta Davidson

SECRETARY OF STATE



836596



STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, DONETTA DAVIDSON, SECRETARY OF STATE OF THE STATE OF
COLORADO HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF
THIS OFFICE,

WINDOM PEAK, LTD.
(COLORADO LIMITED PARTNERSHIP)

FILED A CERTIFICATE OF LIMITED PARTNERSHIP ON March 14, 1983.

I FURTHER CERTIFY THAT OUR RECORDS INDICATE THAT A
CERTIFICATE OF CANCELLATION HAS NOT BEEN FILED.

DATED: January 22, 2002

SECRETARY OF STATE