

9-1

For Administrative Use Only

Development Name: Sundance Filing 2

Developer: James Construction Co. Inc.

Approval No.

DEVELOPMENT AGREEMENT

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- A. This agreement is entered into this A day of FEB, 1986, by and between James Construction Company Inc., the Owner and Developer (hereinafter called "Owner") of certain property, more particularly described as Sundance Filing #2, and the City of Boulder, a Colorado municipal corporation, hereinafter called "City." By this Agreement, the City desires to ensure that all ordinances and regulations of the City of Boulder are met in order to protect the general public's health, welfare and safety as well as that of the occupants and users of the Sundance Filing #2 (hereinafter called the "Development"). By this Agreement, required by Section 9-4-2, B.R.C 1981, as a condition subsequent to development approval, the Owner and Developer wish to obtain and maintain the approval of the Development.
- B. This Agreement is binding upon the Owner and the Developer, and the Owner's and the Developer's heirs, successors in interest, and assigns, both jointly and individually. The Owner agrees to notify subsequent purchasers of the existence of this Agreement and of the Development's conditions of approval and the purchaser's potential obligations hereunder.
- C. The Owner and Developer shall comply with all conditions of approval contained in the attached Exhibit "A" (Notice of Disposition) and "B" (the Development Review Committee requirements), incorporated herein by reference.

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- D. The Owner [and Developer] shall provide the following financial guarantees prior to the issuance of any temporary or permanent certificate of occupancy or certificate of completion for the Development:
  - 1. Pursuant to Section 9-3-24, B.R.C 1981, a five year landscape replacement guarantee in the amount of \$5,000.00.
  - 2. Pursuant to Section 9-2-7, B.R.C. 1981, a site improvement guarantee in an amount sufficient to insure timely completion of all remaining site improvements.
- E. The Owner and the Developer shall comply with the time limits as noted in Exhibit "A". The Owner and Developer acknowledge that failure to comply with such time limits will result in the expiration of the Development's approval, without further action on the part of the City and without any requirement of notice or hearing.
- F. The Owner and the Developer shall defend and hold the City harmless for any and all claims or damages that may arise from the Owner's or the Developer's actions in connection with the execution of this Development, including but not limited to the construction of any public or private improvements or the failure to construct same.
- G. If the Owner or the Developer breaches this Agreement in any respect, the City may withhold approval of all building permits and other development applications requested for the area within the development until the breach(s) has/have been cured. This remedy is in addition to all other remedies available to the City at law or equity.
- H. A release of all or a portion of this Agreement, executed by the City Attorney or a member of the City Attorney's staff is binding upon the City.
- I. The terms and covenants of this Agreement are in addition to, and do not extinguish, unless expressly stated, any other agreements between the parties.

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- J. If this Agreement is deemed to create an interest in land, this Agreement shall be enforced, if not sooner completed, during the lives of the undersigned plus twenty years and three hundred sixty-four days.
- K. This Agreement is effective on the date below indicated upon the affixing of the parties' signatures.

Unofficial Copy

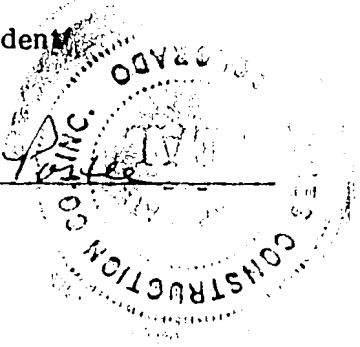
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OWNER & DEVELOPER

James Construction Company Inc.

BY: [Signature]  
James Postal, President

ATTEST: [Signature]  
Secretary



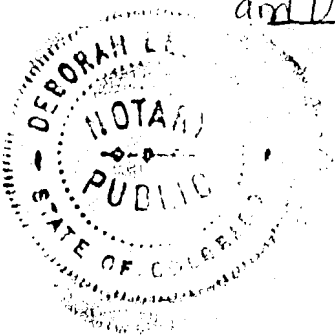
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STATE OF COLORADO )  
 ) ss.  
COUNTY OF BOULDER )

The foregoing instrument was acknowledged before me this 4th day of February, 1986, by James Postal, President and Virginia Postal, Secretary ~~and~~ for James Construction Company, Inc.

Witness my hand and official seal.

My Commission expires: October 5, 1987



[Signature]  
Notary Public

Address: 211 Valmont Drive 109  
Boulder, CO 80301

CITY OF BOULDER, COLORADO

BY: [Signature]  
City Manager/Planning Director

ATTEST:  
[Signature]  
Asst. Director of Finance and Record  
Ex-Officio City Clerk

APPROVED AS TO FORM:  
BY: [Signature]  
City Attorney



CITY OF BOULDER

DEPARTMENT OF COMMUNITY PLANNING AND DEVELOPMENT

PLANNING BOARD

NOTICE OF DISPOSITION

You are hereby advised that on April 4, 1985 the following action was taken by the Planning Board:

This decision may be called up before the City Council on or before April 18, 1985.

IN ORDER FOR BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, MYLAR PLANS MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AND APPLICANT SIGNATURES SHOWN ON THE MYLAR PLANS.

- NAME OF PROJECT: Sundance PUD
DESCRIPTION: Phase II - 36 units, single family detached residential development, amend Phase I to add one additional lot.
LOCATION: Southeast of the intersection of north 26th Street and Jay Road.
LEGAL DESCRIPTION: See attached
APPLICANT: James Construction
APPLICATION: Amended Planned Unit Development, #P-83-85 and Planned Unit Development, #P-85-7.
ZONING: LR-D (Low Density Residential-Developing)
DECISION: Approval, subject to conditions

This decision was arrived at based on the purposes and intent of the Land Use Regulations as set forth in Section 9-4-12, Planned Unit Review, of the Boulder Revised Code, 1981 as applied to the proposed development.

FOR CONDITIONS OF APPROVAL, SEE PAGE 2 OF DISPOSITION.

Pursuant to Section 9-4-8 of the Land Use Regulation (Boulder Revised Code, 1981), this approval shall expire April 4, 1988 unless development has proceeded as specified in Section 9-4-8.

PDI/jlw

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At its public hearing on April 4, 1985, the Planning Board approved the request with the following motion:

Mr. Leese moved that Planning Board approve PUD #P-85-7 and the amendments to #P-83-85 incorporating staff's memorandum as findings of the Board, and further granting a waiver of the solar siting and construction standards. The approval is subject to the conditions as listed in staff's memorandum with the change in condition #6 that 75% of the units in Phase I be moderate income under the Moderate Income Sales Program. Mr. Topping seconded the motion. The motion passed unanimously (5-0, Taylor and Wolff absent).

CONDITIONS OF APPROVAL:

1. The project will be subdivided per the City of Boulder's subdivision regulations prior to issuance of any building permits.
2. The applicant will be required to obtain the following permits or approvals prior to subdivision approval a) floodway permit, b) Colorado Division of Highways right-of-way permit for swale and storm sewer improvements, and c) written approval from Farmer's Ditch Company for the use of the ditch per the proposed drainage plan.
3. Final architectural plans are subject to Planning Department review and approval prior to issuance of a building permit to ensure that a variety of facades, colors and materials are being utilized.
4. A final plan including a detailed planting and materials list and a grading plan will be required prior to issuance of any building permits.
5. Emergency access to 28th Street as shown on PUD plan will be constructed to the City of Boulder Fire Department specifications.
6. The applicant will enter into a moderate income sales program agreement with the Housing Authority committing a minimum of nine units as well as the one new unit in Phase I to the moderate income sales program prior to issuance of a building permit in Phase II.
7. Applicant will dedicate at no cost to the City, 5.5 feet of right-of-way for a total of 65.5 feet from centerline of 28th Street for the entire length of the development as it abuts 28th Street at time of subdivision approval.
8. Residential structures and lots granted a solar waiver from the solar siting requirements of Section 9-4-12(i), B.R.C 1981 will provide a minimum of 25 points instead of the minimum 20 points from the energy and resource conservation option list.

GK

EXHIBIT "A"

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EXTERIOR BOUNDARY OF SUNDANCE FILING NO. 2, A SUBDIVISION OF A PART OF THE N1/2 OF THE S1/2 OF THE NW1/4 OF THE SW1/4 OF SECTION 17, T1N, R70W OF THE 6TH P.M. AND A RESUBDIVISION OF PORTIONS OF OUTLOT A AND OUTLOT AA, SUNDANCE FILING NO. 1, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE W1/4 CORNER OF SAID SECTION 17, THENCE S0°17'19"E, 663.20 FEET ALONG THE WEST LINE OF THE SW1/4 OF SAID SECTION 17 TO THE NORTHWEST CORNER OF THE N1/2 OF THE S1/2 OF THE NW1/4 OF THE SW1/4 OF SAID SECTION 17; THENCE N89°32'37"E, 396.00 FEET ALONG THE NORTH LINE OF THE N1/2 OF THE S1/2 OF THE NW1/4 OF THE SW1/4 OF SAID SECTION 17 TO NORTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO MOUNTAIN SHADOWS MONTESSORI SCHOOL AS DESCRIBED IN WARRANTY DEED RECORDED ON FILM 1051 AS RECEPTION NO. 324642 OF THE RECORDS OF BOULDER COUNTY, COLORADO AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING N89°32'37"E, 445.00 FEET ALONG THE NORTH LINE OF THE N1/2 OF THE S1/2 OF THE NW1/4 OF THE SW1/4 OF SAID SECTION 17 TO THE WEST LINE OF SAID OUTLOT A;

THENCE N0°27'10"W, 53.54 FEET ALONG THE WEST LINE OF SAID OUTLOT A TO THE SOUTHWEST CORNER OF LOT 39 OF SAID SUNDANCE FILING NO. 1;

THENCE N89°32'50"E, 90.00 FEET ALONG THE SOUTH LINE OF SAID LOT 39 TO THE SOUTHEAST CORNER THEREOF;

THENCE S0°27'10"E, 53.53 FEET ALONG THE EAST LINE EXTENDED SOUTHERLY OF SAID LOT 39 TO THE NORTH LINE OF THE N1/2 OF THE S1/2 OF THE NW1/4 OF THE SW1/4 OF SAID SECTION 17;

THENCE N89°32'37"E, 75.48 FEET ALONG THE NORTH LINE OF THE N1/2 OF THE S1/2 OF THE NW1/4 OF THE SW1/4 OF SAID SECTION 17 TO THE NORTHWESTERLY LINE OF SAID OUTLOT AA;

THENCE N61°42'00"E, 35.23 FEET ALONG THE NORTHWESTERLY LINE OF SAID OUTLOT AA;

THENCE S45°27'29"E, 23.27 FEET TO THE NORTH LINE OF THE N1/2 OF THE S1/2 OF THE NW1/4 OF THE SW1/4 OF SAID SECTION 17;

THENCE N89°32'37"E, 75.19 FEET ALONG THE NORTH LINE OF THE N1/2 OF THE S1/2 OF THE NW1/4 OF THE SW1/4 OF SAID SECTION 17 TO THE WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 36;

THENCE SOUTHERLY, 341.68 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE WEST AND ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY NO. 36 TO THE SOUTH LINE OF THE N1/2 OF THE S1/2 OF THE NW1/4 OF THE SW1/4 OF SAID SECTION 17, SAID ARC HAVING A RADIUS OF 2805.00 FEET, A CENTRAL ANGLE OF 6°58'45" AND BEING SUBTENDED BY A CHORD THAT BEARS S14°19'20"E, 341.47 FEET;

THENCE S89°32'24"W, 816.08 FEET ALONG THE SOUTH LINE OF THE N1/2 OF THE S1/2 OF THE NW1/4 OF THE SW1/4 OF SAID SECTION 17 TO THE SOUTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO LANDMARK ASSOCIATION AS DESCRIBED IN QUIT CLAIM DEED RECORDED ON FILM 1016 AS RECEPTION NO. 286475 OF THE RECORDS OF BOULDER COUNTY, COLORADO;

THENCE N0°17'19"W, 331.57 FEET ALONG THE WEST LINE OF THAT TRACT OF LAND AS DESCRIBED ON SAID FILM 1016 AS RECEPTION NO. 286475 AND ALONG THE WEST LINE OF THAT TRACT OF LAND AS DESCRIBED ON SAID FILM 1051 AS RECEPTION NO. 324642 TO THE TRUE POINT OF BEGINNING.

## NON-DRC ITEM

Track 6

N7W4

SE of Jay &amp; N.26th St./Sundance Filing #2

3/19/85

James Postal  
PUD/Subdivision

- Water:
1. Landscaping, as identified on the drainage plan, to conform to Design Criteria Guidelines within the 25 foot drainage and utility easement.
  2. Water meters and fire hydrants to be purchased from the City of Boulder and set in right-of-way/easement per City specifications.
  3. P.I.F.'s and meter costs are determined at time of building permit applications.
- Sewer:
1. P.I.F.'s will be determined at time of building permit application.
- Flood Control:
1. The applicant must contact the State Highway Department regarding approval of proposed drainage improvements in the state right-of-way. Provide staff with the names of state personnel involved in review of the proposed improvements.
- Transportation:
1. Gate/bollard should be located approximately 50 feet from flowline along 28th Street to allow fire truck adequate room.
  2. Street lights must be 70W HPS with full cutoff fixtures. Contact Public Service Company directly regarding installation schedule and payment.
- Fire:
- Hydrants okay - new fire lane location is approved, but developer



needs to understand that grasscrete or grass pavers are not allowed; poured in place concrete strips, engineered to support fire equipment, is what is required. Fire lane is to be installed prior to any final inspection for a building permit.

Planning:

Please discuss street names with Rob Fauver of the Planning Department prior to subdivision approval. Some changes may be required to comply with street names criteria.

If you have any questions contact Gary Kretschmer at 441-3270.

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