

FIRST AMENDMENT TO THIRTY-FIFTH SUPPLEMENTAL DECLARATION TO DECLARATION  
OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR HIGH DESERT RESIDENTIAL PROPERTIES  
(Piñon Point Village)

THIS FIRST AMENDMENT TO THIRTY-FIFTH SUPPLEMENTAL DECLARATION (the "Pinon Point Declaration") is made this 13th day of October, 2000, by High Desert Investment Corporation, a New Mexico corporation ("Declarant").

BACKGROUND STATEMENT

A. On December 22, 1993, Declarant executed that certain Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on December 22, 1993, as Document 93145417 in Book 93-37, Pages 1-87, in the Office of the County Clerk of Bernalillo County, New Mexico which was amended by (i) the First Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on February 24, 1995, as Document 95018895 in Book 95-5, Pages 2271-2274, in the Office of the County Clerk of Bernalillo County, New Mexico, (ii) the Second Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on March 8, 1995, as Document 95023420 in Book 95-6, Pages 2332-2334, in the Office of the County Clerk of Bernalillo County, New Mexico, (iii) Third Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on December 4, 1995, as Document 95123873 in Book 95-29, Pages 4886-4891, in the Office of the County Clerk of Bernalillo County, New Mexico, (iv) Fourth Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on March 26, 1996, as Document 96034023 in Book 96-8, Pages 7743-7745, in the Office of the County Clerk of Bernalillo County, New Mexico, (v) Fifth Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on September 12, 1997, as Document 97095103 in Book 97-25, Pages 2445-2463, in the Office of the County Clerk of Bernalillo County, New Mexico, and (vi) the Sixth Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on June 8, 1999, as Document 1999075608 in Book 9908, Page 5423, in the Office of the County Clerk of Bernalillo County, New Mexico and which was supplemented by (i) Conditions, and Restrictions for High Desert Residential Properties (Tract 15A), which was recorded March 14, 1995, as Document 95025598 in Book 95-6, Pages 6854-6858, in the Office of the County Clerk of Bernalillo County, New Mexico, (ii) the Second Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tracts 3B and 3C), which was recorded June 19, 1995, as Document 95060324 in Book 95-14, Pages 6088-6092, in the Office of the County Clerk of Bernalillo County, New Mexico, (iii) the Third Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 3A), which was recorded August 18, 1995, as Document 95082948 in Book 95-19, Pages 8921-8925, in the Office of the County Clerk of Bernalillo County, New Mexico, (iv) the Fourth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Unit 2 the Highlands/Tract 15B), which was recorded August 29, 1995, as Document 95087321 in Book 95-20, Pages 8831-8836, in the Office of the County Clerk of Bernalillo County, New Mexico, (v) the Fifth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tracts 3B and 3C, Trillium Village) which was recorded December 12, 1995, as Document 95126995 in Book 95-30, Pages 1868-1874, in the Office of the County Clerk of Bernalillo County, New Mexico, (vi) the Sixth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert

Residential Properties (Tract 2A-1A-1) which was recorded February 1, 1996, as Document 96012264 in Book 96-3, Pages 7513-7519, in the Office of the County Clerk of Bernalillo County, New Mexico, (vii) the Seventh Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Lots 1-36 inclusive, Solterra Subdivision Unit 1 at High Desert) which was recorded May 20, 1996, as Document 96056432 in Book 95-14, Pages 2006-2010, in the Office of the County Clerk of Bernalillo County, New Mexico, (viii) the Eighth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 2A-1B-1, Tierra Del Oso Village) which was recorded May 30, 1996, as Document 96060081 in Book 96-15, Pages 673-677, records of Bernalillo County, New Mexico, (ix) Ninth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 4B) which was recorded September 4, 1996, as Document 96098319 in Book 96-24, Pages 2814-2818, records of Bernalillo County, New Mexico, (x) Tenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 14B/Unit 2A, the Highlands) which was recorded September 5, 1996, as Document 96099282 in Book 96-24, Pages 4841-4845, records of Bernalillo County, New Mexico, (xi) Eleventh Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tracts 3B and 3C, Trillium Village) which was recorded November 6, 1996, as Document 96121693 in Book 96-29, Pages 9094-9098, records of Bernalillo County, New Mexico, (xii) Twelfth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Lot 44, Desert Sky Village) which was recorded January 9, 1997, as Document 97002124 in Book 97-1, Pages 5053-5060, records of Bernalillo County, New Mexico, (xiii) Thirteenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tracts 3A, Desert Sky Village) which was recorded June 11, 1997 as Document 97059451 in Book 97-15, Pages 9383-9422, records of Bernalillo County, New Mexico, (xiv) Fourteenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 4B, Chamisa Trail Village) which was recorded January 9, 1997, as Document 97020850 in Book 97-5, Pages 9673-9691, records of Bernalillo County, New Mexico (the "Declaration"), (xv) Fifteenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 15C/Unit 3, the Highlands), which was recorded May 10, 1997, as Document 97049849 in Book 97-13, pages 4210-4214, records of Bernalillo County, New Mexico, (xvi) Sixteenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Solterra Subdivision Unit 1, Lots 1-36), recorded June 20, 1997 as Document 97062870, records of Bernalillo County, New Mexico; (xvii) Seventeenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 9A) which was recorded June 19, 1997, as Document 97062084, records of Bernalillo County, New Mexico; (xviii) Eighteenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract A, Solterra Subdivision/Unit 2) which was recorded June 30, 1997, as Document 97065755, in Book 97-17, pages 5953-5958 records of Bernalillo County, New Mexico; (xix) Nineteenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 9A, Sunset Ridge Village) which was recorded December 19, 1997, as Document 97133979, in Book 97-37, pages 6637-6646 records of Bernalillo County, New Mexico; (xx) Twentieth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 9B) which was recorded December 23, 1997, as Document 97134922, in Book 97-35, pages 9642-9647 records of Bernalillo County, New Mexico (The "Twentieth Supplemental Declaration"); (xxi) Twenty-First Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 8C) which was recorded March 13, 1998, as Document 1998030112, in Book 9806, pages 8629 records of Bernalillo County, New Mexico; (xxii) Twenty-Second Supplemental Declaration to Declaration of Covenants, Conditions, and

Restrictions for High Desert Residential Properties (Tract 2A-1A-2) which was recorded July 16, 1998, as Document 1998089079, in Book 9812, pages 7379 records of Bernalillo County, New Mexico; (xxiii) Twenty-Third Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 15D-1A/Desert Highlands) which was recorded July 20, 1998, as Document 1998090384, in Book 9812, page 8673 records of Bernalillo County, New Mexico; (xxiv) Twenty-Fourth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 14A/The Overlook at High Desert) which was recorded January 4, 1999 as Document 1999000462, in Book 9901, page 456 records of Bernalillo County, New Mexico; (xxv) Twenty-Fifth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 11A) which was recorded January 15, 1999, as Document 1999006283, in Book 9901, page 6257 records of Bernalillo County, New Mexico; (xxvi) Twenty-Sixth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (The Canyons at High Desert Phase I) which was recorded February 16, 1999, as Document 1999020725, in Book 9903, page 668 records of Bernalillo County, New Mexico; (xxvii) Twenty-Seventh Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (The Canyons at High Desert, Phase I) which was recorded February 16, 1999, as Document 1999020727, in Book 9903, page 670 records of Bernalillo County, New Mexico; (xxviii) Twenty-Eighth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Chaco Ridge Village) which was recorded April 16, 1999, as Document 1999051867, in Book 9906, page 1754 records of Bernalillo County, New Mexico; (xxix) Twenty-Ninth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 5A-1A-1) which was recorded May 24, 1999, as Document 1999068181, in Book 9907, page 8025 records of Bernalillo County, New Mexico; (xxx) Thirtieth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 2A-1C-2A-1) which was recorded June 4, 1999, as Document 1999074085, in Book 9908, page 3907 records of Bernalillo County, New Mexico;(xxxi) Thirty-First Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Chaco Compound Village) which was recorded September 7, 1999, as Document 1999115959, in Book 9912, page 5595 records of Bernalillo County, New Mexico, (xxxii) Thirty-Second Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Enclave Village) which was recorded November 3, 1999, as Document 1999138715, in Book 9914, page 8289 records of Bernalillo County, New Mexico, (xxxiii) Thirty-Third Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 15D-1B-2/Unit 2 Desert Highlands) which was recorded December 6, 1999, as Document 1999149924, in Book 9915, page 9466 records of Bernalillo County, New Mexico, (xxxiv) Thirty-Fourth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Desert Mountain at High Desert, Tract 11A) which was re-recorded June 12, 2000, as Document 2000056896, in Book A6, page 6667 records of Bernalillo County, New Mexico, and (xxxv) Thirty-Fifth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Piñon Point Village) which was recorded April 14,2000, as Document 2000036364, in Book A4, page 6210 records of Bernalillo County, New Mexico (the "Thirty-Fifth Supplemental Declaration) and (xxxvi) Thirty-Sixth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 11B, High Desert Village) which was recorded May 11, 2000, as Document 2000046065, in Book A5, page 5885 records of Bernalillo County, New Mexico (the "Declaration").

B. Pursuant to the terms of Section 9.4 of the Declaration, the Declarant may unilaterally subject any portion of the property submitted to the Declaration initially or by Supplemental Declaration to additional covenants or easements.

C. Mesa Verde Development Corporation, a New Mexico corporation and the undersigned owners ("Owners") are all of the owners of the property described on Exhibit "A" (the "Piñon Point Village Property") attached hereto and by this reference incorporated herein.

D. Pursuant to the terms of Section 9 of the Thirty-Fifth Supplemental Declaration, to which the Piñon Point Village Property is subject, the Thirty-Fifth Supplemental Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of 75% of the Voting Members of Piñon Point Village and the consent of the Declarant. Notwithstanding the requirement for only 75% of the of the Voting Members of Piñon Point Village, the undersigned constitute 100% of the owners and Voting Members of the Piñon Point Village Property. Declarant and Owners desire to amend and supplement the Thirty-Fifth Supplemental Declaration as set forth herein.

E. Capitalized terms not otherwise defined herein are as defined in the Declaration.

Declarant and the Owners hereby declare that the Piñon Point Village Property shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the Piñon Point Village Property. This First Amendment to Thirty-Fifth Supplemental Declaration shall be binding on and shall inure to the benefit of the Declarant, the Association, and all parties having any right, title, or interest in the Piñon Point Village Property or any part thereof, their heirs, successors, successors-in title, and assigns.

WITNESSETH:

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration:

1. Declaration and Design Guidelines; Amendment to Thirty-Fifth Supplemental Declaration. The easements, restrictions, covenants, and conditions contained in this First Amendment to Thirty-Fifth Supplemental Declaration (i) are additional to and supplement those contained in the Declaration and the High Desert Guidelines for Sustainability Builder Homes approved by the Association as provided in the Declaration (the "Design Guidelines") (ii) and amend and supplement the Thirty-Fifth Supplemental Declaration. This First Amendment to Thirty-Fifth Supplemental Declaration shall not limit in any way the effectiveness of the Declaration or the Design Guidelines. The terms of the Declaration, specifically including but not limited to Article X and Section 18.1 of the Declaration, are incorporated herein by reference. To the extent that the terms of this First Amendment to Thirty-Fifth Supplemental Declaration and the Thirty-Fifth Supplemental Declaration conflict (including, without limitation the terms that are more restrictive in this First Amendment to Thirty-Fifth Supplemental Declaration), the terms of this First Amendment to Thirty-Fifth Supplemental Declaration shall control. Except as such terms of the Thirty-Fifth Supplemental Declaration are amended by this First Amendment to Thirty-Fifth Supplemental Declaration, the terms of the Thirty-Fifth Supplemental Declaration remain in full force and effect.

2. Restrictions on Height of Homes, Setbacks and Pad Elevations. The following are additional restrictions placed on specific lots in Pinon Point Village:

Lot 1 - The maximum building height, measured at the rear yard setback line (which shall be 35 feet from the rear property line) will be 15 feet above finished floor (i.e., four inches above the proposed pad elevation of 6096.65 feet), and shall increase in height a maximum of one foot for every ten feet of horizontal movement eastward toward the front yard setback. In addition, the house or garage must touch the north side yard setback line (which shall be 10 feet from the property line).

Lot 2 - The maximum building height, measured at the rear yard setback line (which shall be 35 feet from the rear property line) shall be 15 feet above finished floor (i.e., four inches above the proposed pad elevation of 6094.25 feet), and shall increase in height a maximum of one foot for every ten feet of horizontal movement eastward toward the front yard setback. In addition, the house or garage must touch the north side yard setback line (which shall be 5 feet from the property line).

Lot 3 - The maximum building height, measured at the rear yard setback line (which shall be 35 feet from the rear property line) shall be 15 feet above finished floor (i.e., four inches above the proposed pad elevation of 6093.00 feet), and shall increase in height a maximum of one foot for every ten feet of horizontal movement eastward toward the front yard setback.

Lot 4 - The maximum building height, measured at the rear yard setback line (which shall be 35 feet from the rear property line) shall be 15 feet above finished floor (i.e., four inches above the proposed pad elevation of 6091.50 feet), and shall increase in height a maximum of one foot for every ten feet of horizontal movement eastward toward the front yard setback.

Lot 5 - The maximum building height, measured at the western side yard setback line (which shall be 20 feet from the western property line) shall be 15 feet above finished floor (i.e., four inches above the proposed pad elevation of 6088.20 feet), and shall increase in height a maximum of one foot for every ten feet of horizontal movement eastward toward the eastern side yard setback. The setback at the north end of the lot shall be 30 feet.

Lot 6 - The maximum building height for the northern one-half of the house shall be 20 feet. The maximum building height for the southern half of the house shall be 24 feet. The height shall be measured from the finished floor (i.e., four inches above the proposed pad elevation of 6092.45 feet). The rear yard setback line shall be 35 feet from the rear property line.

Lot 8 - This lot shall be limited to a single story structure for a distance of 20 feet from the rear yard setback line (which shall be 35 feet from the rear property line).

Lot 9 - The maximum building height, measured at the rear yard setback line (which shall be 50 feet from the rear property line) shall be 15 feet above finished floor (i.e., four inches above the proposed pad elevation of 6103.20 feet), and shall increase in height a maximum of one foot for every ten feet of horizontal movement northward toward the front yard setback. In addition to the 50 foot rear yard setback described above, the rear yard setback shall include the area which is bounded by a triangle with the following points:

(point A) - where the northwest corner of the 50 foot rear yard setback described above intersects the western side yard setback (a point 50 feet north of the rear property line measured along a line perpendicular to the rear property line);

(point B) - 10 feet north of point A along the western side yard setback;

(point C) - where a line, beginning at point B and running perpendicular to the western side yard setback intersects the 50 foot rear yard setback described above.

A representation of this additional triangular setback is highlighted on the attached Exhibit B.

Lot 10 - The maximum building height, measured at the rear yard setback line (which shall be 35 feet from the rear property line) shall be 15 feet above finished floor (i.e., four inches above the proposed pad elevation of 6107.20 feet) for the rear (southern) 20 feet of the house; otherwise the maximum building height shall be 19 feet above finished floor.

Lot 46 - The maximum building height, measured at the rear yard setback line (which shall be 35 feet from the rear property line) shall be 15 feet above finished floor (i.e., four inches above the proposed pad elevation of 6103.00 feet), and shall increase in height a maximum of one foot for every ten feet of horizontal movement eastward toward the front yard setback.

Lot 47- The maximum building height, measured at the rear yard setback line (which shall be 35 feet from the rear property line) shall be 15 feet above finished floor (i.e., four inches above the proposed pad elevation of 6101.70 feet), and shall increase in height a maximum of one foot for every ten feet of horizontal movement eastward toward the front yard setback.

"Rear yard", "front yard", "side yard" and "setback" shall be as defined in the City of Albuquerque Zoning Code in effect on the date of recordation of this First Amendment to Thirty-Fifth Supplemental Declaration (Article 16 of Chapter 14 of the Revised City of Albuquerque Ordinances).

3. Special Rear Yard Setbacks. The rear yard setback shall be 25 feet from the rear property line on lot 33.

4. Amendment. This First Amendment to Thirty-Fifth Supplemental Declaration may be amended only by the affirmative vote or written consent of 75% of the Voting Members of Piñon Point Village, and the consent of the Declarant, so long as the Declarant has an option to subject additional property to the Declaration pursuant to Section 9.1 of the Declaration. The Association shall have the power to veto any action taken by Piñon Point Village or any Piñon Point Village Committee that relates to the Piñon Point Village Property.

5. Consent of Owners. Owners, by their signature below, consent to this First Amendment to Thirty-Fifth Supplemental Declaration. This consent constitutes the written consent of the property owners required under Section 9.4 of the Declaration and the written consent of the Voting Members required under Section 9 of the Thirty-Fifth Supplemental Declaration.

IN WITNESS WHEREOF, the undersigned, on behalf of the Declarant, have executed this First Amendment to Thirty-Fifth Supplemental Declaration as of the day and year first written above.

HIGH DESERT INVESTMENT CORPORATION,  
a New Mexico corporation

By: /s/ Douglas H. Collister  
Name: Douglas H. Collister  
Title: President

By: /s/ Jack Eichorn  
Name: Jack Eichorn  
Title: Vice President

Date Signed: September 12, 2000

CONSENTED TO:

MESA VERDE DEVELOPMENT CORPORATION,  
a New Mexico corporation

By: /s/ Scott Schiabor  
Name: Scott Schiabor  
Title: President

Date Signed: August 28, 2000

STATE OF NEW MEXICO            )  
  )ss.  
COUNTY OF BERNALILLO        )

This instrument was acknowledged before me on September 12, 2000, by Douglas H. Collister,  
President of High Desert Investment Corporation, a New Mexico corporation.

/s/ Edna B. Jones  
Notary Public

My Commission Expires:  
June 6, 2000

STATE OF NEW MEXICO            )  
  )ss.  
COUNTY OF BERNALILLO        )

This instrument was acknowledged before me on September 12, 2000, by Jack Eichorn, Vice  
President of High Desert Investment Corporation, a New Mexico corporation.

My Commission Expires:  
June 6, 2000

/s/ Edna B. Jones  
Notary Public

STATE OF NEW MEXICO            )  
  )ss.  
COUNTY OF BERNALILLO        )

This instrument was acknowledged before me on August 28, 2000, by Scott Schiabor, President of Mesa Verde Development Corporation, a New Mexico corporation.

My Commission Expires:  
August 4, 2001

/s/ Cindy Edson  
Notary Public



PINON POINT VILLAGE - FIRST AMENDMENT TO THIRTY-FIFTH SUPPLEMENTAL  
DECLARATION TO DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR HIGH DESERT RESIDENTIAL  
PROPERTIES

CONSENTED TO:

OWNER:                     Tiara Homes, Inc.                    

                    Lots 48, 53, 65, 66, 67, 68, 69, 70 and 1                    

By:                     /s/ Rich Gantner                    

Name:                     Rich Gantner                    

Title:                     President                    

Date Signed:                     August 22, 2000                    

STATE OF NEW MEXICO   )  
  ) ss.  
COUNTY OF BERNALILLO )

This instrument was acknowledged before me on August 22, 2000 by Rich Gantner.

                    /s/ Cindy Edson                      
Notary Public

My commission expires:  
August 4, 2001

MODIFICATION REGARDING LOT 1

STATE OF NEW MEXICO   )  
  ) ss.  
COUNTY OF BERNALILLO )

This instrument was acknowledged before me on September 11, 2000 by Rich Gantner.

                    /s/ Cindy Edson                      
Notary Public

My commission expires:  
August 4, 2001

















EXHIBIT A

Piñon Point, High Desert as shown and indicated on the plat of PIÑON POINT  
AT HIGH DESERT filed March 3, 2000 in Map Book 2000C, Folio 69,  
document number 2000021553, records of Bernalillo County, New Mexico

**EXHIBIT B**

This Exhibit can be obtained from the  
High Desert Residential Owners Association Office