

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

THIS THIRTY-FIFTH SUPPLEMENTAL DECLARATION (the "Piñon Point Declaration") is made this 14th day of April, 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 and (iv) Fourth 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 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- , Pages 9673-9699, 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 and (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, (xxxii) 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 and (xxxii) Thirty-Fourth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Desert Mountain at High Desert, Tract 11A) to be re-recorded in the 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 the owners of the property described on Exhibit "A" (the "Piñon Point Village Property") attached hereto and by this reference incorporated herein. The Piñon Point Village Property is a portion of the property described on Exhibit "B" of the Declaration (the "Property"). Declarant wishes to subject the Piñon Point Village Property to the additional covenants set forth in this Thirty-Fifth Supplemental Declaration.

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

Declarant hereby declares 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 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. The easements, restrictions, covenants, and conditions contained in this Thirty-Fifth Supplemental Declaration 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"). This 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.

2. Restrictions on Height of Homes. Lots 9-11 inclusive shall be single story homes with the maximum height not to exceed 19 feet 6 inches, provided, however, that the maximum height of the south 20 feet of the home shall not exceed 16 feet. Lots 12-20 and 34-45 inclusive shall be single story homes with a maximum height not to exceed 19 feet 6 inches. The height of all homes shall be measured from the finished grade for the lot approved by the City of Albuquerque, as certified on the completed final Grading and Drainage Plan for the Piñon Point Village Property (plan dated November 11, 1999) to be certified by the engineer (the "Grading and Drainage Plan"), to the highest point on the roof, excluding chimneys.

3. Special Rear Yard Setbacks. The rear yard setback shall be no less than 25 feet from the rear lot line on lots 5-8 inclusive and lots 12-14 inclusive and no less than 35 feet from the rear lot line on lots 9-11 inclusive. "Rear yard" and "setback" shall be as defined in the City of Albuquerque Zoning Code in effect on the date of recordation of this Thirty-Fifth Supplemental Declaration (Article 16 of Chapter 14 of the Revised City of Albuquerque Ordinances).

4. Walls.

A. All walls that are located on the common property line between adjoining Units (the words "Unit(s)" and "Lot" or "lot" are used interchangeably in this Thirty-Fifth Supplemental Declaration to mean "Unit" as defined in the Declaration) shall be party walls that may not be removed by either property owner of the adjoining lots. The cost of installation and maintenance of such party retaining walls shall be split equally between the property owners of the adjoining Units. The height of walls may not be changed by either party without the written consent of both parties.

B. The height of a any wall in the interior of the Pinon Point Village Property shall not exceed 6 feet as measured from the approved grade in the Grading and Drainage Plan on the high side of a wall and 8 feet as measured from the approved grade in the Grading and Drainage Plan on the low side of a wall. All walls must be constructed from the elevation specified by the subdivision engineer and indicated in the Grading and Drainage Plan. Provided, however, that the lot boundary walls (rear walls) on lots 10 and 11 shall be a minimum of 4 feet and a maximum of 5 feet 4 inches above the retaining walls that are shown on the approved engineer plan dated November 11, 1999 Grading and Drainage Plan approved by the City of Albuquerque.

C. No wall or fence may be erected on a Unit that is closer to the street than the front of the dwelling on the Unit, except for courtyard walls.

D. A Unit is located on a corner when such unit abuts more than one street. The corner Unit shall be deemed to front on the right-of-way on which the Unit has a smaller/narrower dimension, subject to possible redesignation by the Piñon Point Village Architectural Approval Committee (PPVAAC) and approved by the New Construction Committee (NCC) upon the request of the owner of any such corner Unit.

- E. Each Unit must have a rear wall and two side walls. All rear walls shall extend the entire length of the rear property or easement line. All side walls shall extend from the rear of the lot to at least the rear of the dwelling on the Unit.
- F. The Piñon Point Village Property perimeter walls (walls that front on major streets and designated open space) shall not exceed 7 feet measured on the outside of the wall (the side of the wall that does not face into the Piñon Point Village Property).
5. Plant Material. Plant material shall not exceed twelve feet in the rear yard of lots 5-15 inclusive.

6. Vacant Lots; Destruction. There shall be no trash, ashes, paper or refuse of any kind thrown or dumped onto vacant Units in the Piñon Point Village Property. In addition to any obligation of Owners set forth in the Declaration relating to maintenance of Units, (i) the Owner of a Unit within the Piñon Point Village Property that is vacant shall be responsible to keep the Unit cleared of all weeds, trash and any other impediment that is visually or otherwise undesirable and (ii) the Owner of a Unit upon which a structure is destroyed by fire or other casualty shall either promptly rebuild, repair or replace the structure in compliance with the Declaration and Design Guidelines or remove the debris (including foundations) from the Unit.

7. Timing of Construction. All dwellings constructed on Units within the Piñon Point Village Property shall be completed in accordance with the plans and specifications approved by the PPVAAC and NCC within six months after the date that construction was commenced. No construction may commence until the plans have been approved by the PPVAAC and NCC.

8. Restricted Activities. Declarant hereby supplements Section 12.6(b) of the Declaration to amend subsections (i) , (vi) and (xi) and to add the following new subsections which shall apply to the Piñon Point Village Property:

(i) subsection (i) is amended to prohibit the use of any trailer, motor home, recreational vehicle, boat, shack, tent, garage or any other outbuilding (permitted or not) as a residence, either temporarily or permanently, provided however, that one motor home, recreational vehicle or boat may be kept in the driveway or in front of a Unit for no more than ten days per year. Storage of any trailer, motor home, recreational vehicle or boat is not permitted unless stored in a garage.

(vi) subsection (vi) is amended to provide that, with the approval of Declarant, one or more Units may be combined through replatting of the Units to form one Unit and one building site;

(xi) subsection (xi) is amended to prohibit the placement, permanently or temporarily, of any kind of antenna (radio, shortwave radio, television or others) or satellite dish on the outside portions of the Unit, without the prior written approval of the PPVAAC and NCC;

(xiii) subsection (xiii) is added to prohibit any construction, erection, placement, assembly, or maintenance of any outbuilding or storage building or other auxiliary building of any nature, permanent or temporary, detached from the permitted improvements on the Unit, except as approved in writing by the PPVAAC and NCC. Gazebo or shade structure-type outbuildings may be acceptable, but the design and placement must be approved by the PPVAAC and NCC on an individual basis. These structures cannot exceed 10 feet in height and construction or installation cannot commence until written approval is received from the PPVAAC and NCC.

(xiv) subsection (xiv) is added to prohibit any construction or maintenance of any billboard, poster board or advertising structure of any kind on any part of any Unit except those permitted by

the Design Guidelines by builders and architects during construction of permitted improvements on the Unit;

9. Amendment. This 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 that constitutes the Piñon Point Village Property, 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 (including the PPVAAC).

10. Consent of Owners. Owners, by their signature below, consent to this Thirty-Fifth Supplemental Declaration. This consent constitutes the written consent of the property owners required under Section 9.4 of the Declaration.

IN WITNESS WHEREOF, the undersigned, on behalf of the Declarant, have executed this 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: April 14, 2000

CONSENTED TO:

MESA VERDE DEVELOPMENT CORPORATION,  
a New Mexico corporation

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

Date Signed: April 14, 2000

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

This instrument was acknowledged before me on April 14, 2000, by Douglas H. Collister, President of High Desert Investment Corporation, a New Mexico corporation.

/s/ Cindy Edson  
Notary Public

My Commission Expires:  
August 4, 2001

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

This instrument was acknowledged before me on April 14, 2000, by Jack Eichorn, Vice President of High Desert Investment Corporation, a New Mexico corporation.

/s/ Cindy Edson  
Notary Public

My Commission Expires:  
August 4, 2001

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

This instrument was acknowledged before me on April 14, 2000, by Scott P. Schiabor, President of Mesa Verde Development Corporation, a New Mexico corporation.

/s/ Cindy Edson  
Notary Public

My Commission Expires:  
August 4, 2001

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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