

WHEN RECORDED RETURN TO:
Desert Mountain Properties
Attn: James B. Ekins
6263 N. Scottsdale Road, Suite 200
Scottsdale, AZ 85250



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
95-0703206 11/15/95 04:08
LILIAN 1 OF 12

First American Title

AGREEMENT REGARDING EXCEPTION TO BUFFER ZONE (The Village of Painted Sky)

This Agreement Regarding Exception to Buffer Zone is entered into as of ~~October~~ ^{November} 6, 1995, by and between DESERT MOUNTAIN PROPERTIES, an Arizona general partnership ("Desert Mountain"), and THE TONTO HILLS IMPROVEMENT ASSOCIATION, an Arizona non-profit corporation, on behalf of its constituent members ("Tonto Hills").

RECITALS

A. WHEREAS, Desert Mountain's master planned development in Scottsdale, Arizona is subject to approved zoning stipulations set forth in Zoning Case #10-Z-89, including, without limitation, Stipulation No. 15 (the "Zoning Stipulation"); and

B. WHEREAS, the Zoning Stipulation was imposed at the request of, and for the benefit of, Tonto Hills; and

C. WHEREAS, Tonto Hills interprets the minutes of the June 6, 1989 Scottsdale City Council meeting pertaining to the Zoning Stipulation as implying an intent to impose development limitations more restrictive than those set forth therein; and

D. WHEREAS, Desert Mountain is in the process of recording a plat entitled "Desert Mountain Phase II, Unit Eighteen (The Village of Painted Sky)" (the "Plat") which creates and defines a "Buffer Zone" depicted thereon in satisfaction of the Zoning Stipulation as it pertains to the Plat; and

E. WHEREAS, with respect to the Plat, Desert Mountain is desirous of complying with the requirements of the Zoning Stipulation in a manner satisfactory to Tonto Hills and its constituent members and clarifying a limited exception to such Buffer Zone; and

F. WHEREAS, Desert Mountain and Tonto Hills desire that such compliance and clarification be memorialized by an executed recorded instrument as a final expression of the parties' agreement and understanding regarding such compliance and exception;

NOW, THEREFORE, Desert Mountain and Tonto Hills agree as follows:

AGREEMENT

1. There is hereby established a limited exception to the Buffer Zone created by, and depicted on, the Plat such that, within that portion of the Buffer Zone described and depicted in Exhibit "A" attached hereto and incorporated herein by reference, the construction of a driveway, grading and other related improvements and structures no higher than one (1) foot above finish grade are expressly permitted, for the purpose of providing access and utilities to Lots 46 and 47 within such Plat.

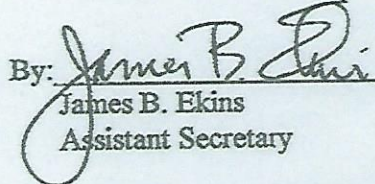
2. Tonto Hills has satisfied itself that the Buffer Zone, as depicted on said Plat, is in satisfactory compliance with Tonto Hills' interpretation of the Zoning Stipulation and any and all related City Council meeting minutes.

3. This Agreement shall become effective upon its recordation in the official records of Maricopa County, Arizona.

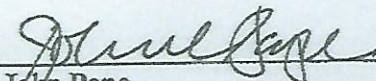
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

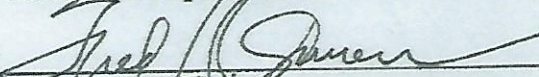
DESERT MOUNTAIN PROPERTIES,
an Arizona general partnership

By: DMLAND CORPORATION,
a Delaware corporation,
as general partner

By: 
James B. Ekins
Assistant Secretary

THE TONTO HILLS IMPROVEMENT
ASSOCIATION, an Arizona non-profit corporation

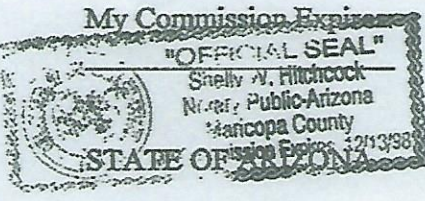
By: 
John Pape
Authorized Representative

By: 
Fred Osmon
Authorized Representative

STATE OF ARIZONA)
) ss
County of Maricopa)

This instrument was acknowledged before me this 11 day of November, 1995, by James B. Ekins, who acknowledged that he is the Assistant Secretary of DM Land Corporation, a Delaware corporation, general partner of Desert Mountain Properties, an Arizona general partnership.

[Signature]
Notary Public



My Commission Expires:)
) ss
County of Maricopa)

This instrument was acknowledged before me this 6 day of Nov, 1995, by John Pape and Fred Osmon, who acknowledged that they are the authorized representatives of The Tonto Hills Improvement Association, an Arizona non-profit corporation, for purposes of executing such instrument.

[Signature: Susan M. Messick]
Notary Public

My Commission Expires:
12.8.97

EXHIBIT "A"

**LAND DESCRIPTION
Exception to Buffer Zone
Within Desert Mountain Phase II,
Unit Eighteen, a Proposed Subdivision
("The Village of Painted Sky")**

That certain portion of the southwest 1/4 of Section 15, Township 6 North, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the southeast corner of Lot 149 of "Desert Mountain Phase II, Apache Peak Part Four" a subdivision according to Book 396 of Maps, Page 29, records of Maricopa County, Arizona;

THENCE S05°58'36"E along the westerly boundary of "Tonto Hills", a subdivision according to Book 93 of Maps, Page 5, records of Maricopa County, Arizona, a distance of 417.21 feet; THENCE leaving said westerly boundary N89°14'28"W a distance of 80.48 feet; THENCE S00°19'28"W a distance of 11.61 feet to the POINT OF BEGINNING;

THENCE traversing the following courses and distances:

S26°34'27"E	72.55 feet;	
S04°29'55"E	56.15 feet;	
S10°39'37"W	119.03 feet;	
S00°51'50"E	98.50 feet;	
N05°58'36"W	166.11 feet;	
N00°19'28"E	171.12 feet	to the POINT OF BEGINNING.

Containing 6366.31 square feet or 0.146 Acres, more or less. Said property lies within the boundaries of Lot 46 of the proposed subdivision referenced above.

(see next page for informational diagram)

DESERT MOUNTAIN
PHASE II, PART FOUR
(396/29)

EXHIBIT "B"

Exception to the Buffer Zone
as defined by the Final Plat
for Desert Mountain Phase II
Unit 18.

S.E. CORNER OF LOT 149
OF APACHE PEAK PART FOUR

TRACT F

SCALE: 1" = 100'

DESERT MOUNTAIN PHASE II,
UNIT EIGHTEEN, (THE VILLAGE
OF PAINTED SKY)
(PROPOSED)

TONTO
HILLS
(93/5)



BUFFER
ZONE

N89°14'28"W
80.48'

S08°19'28"W
11.61'

S26°34'27"E
72.55'

EXCEPTION TO
BUFFER ZONE

S04°29'55"E
56.15'

EXCEPTION TO
BUFFER ZONE

TONTO
HILLS
(93/5)

BUFFER
ZONE

44

1280.59'
N82°36'01"E

137.64'
S53°40'00"E

164.33'
N83°41'56"E

UNIT 18

CONCEPT PLAN

OPEN AREA TRACT N

S78°35'12"W
238.23'

BUILDING ENVELOPE

50' BUFFER

BOUNDARY LINE

TONTO HILLS

GOLF COURSE

S89°14'26"E
258.59'

DRIVEWAY

N89°31'30"W
232.59'

DRIVEWAY

100' BUFFER

BUILDING ENVELOPE 15

100' BUFFER

TONTO HILLS

N63°16'06"W
111.80'

S87°51'11"E
60.70'

PASH SHELDE

63.02' CONCRETE BUFFER ZONE PATH

N67°15'57"E
108.78'

N69°02'18"E
58.31'

N87°20'43"W
215.23'

S26°25'11"E
288'