

TONTO HILLS ARCHITECTURAL CONTROL COMMITTEE

42033 North Old Mine Road
Cave Creek, Arizona 85331
480-595-5784

October 28, 2003

Mr. J. Richard & Nury Smail
P.O. Box 5102
Carefree, AZ 85377

Re: Lot 215 Preliminary Development Plans

Dear Richard,

We have had several meetings discussing your vision for development of the commercial properties and parking tracts in Tonto Hills. As we have stated to you, the committee is pleased with the concepts you have presented to us and anticipate this project as a positive & attractive addition to the community.

On October 21, you submitted to the ACC, your preliminary plan for an office building on lot # 215, its rear yard and wall, as well as parking areas. In reviewing your submittal, the ACC has the following points which we request your consideration:

1) the building is attractively designed from the front and rear and as we had discussed with you at the last meeting, the ACC is concerned with the design of the north and south elevations of the building. Your preliminary plan's north & south elevations show blank walls, 80 feet on the north side and approximately 59 feet on the south. Both these building sides would be very visible upon entering as well as exiting Tonto Hills. We anticipate your submitting elevations to the committee dealing with these two areas.

2) The committee requests that the roof of the building not be treated with white or a reflective material, (i.e. foam roofing to be colored to blend more with the building). Parapets to conceal any mechanical units.

3) At the next meeting you schedule to meet, please include a Grading & Drainage plan, desired signage ideas, as well as your electrical plan to review outdoor lightning treatments.

In review of the parking areas, the ACC has the following 4 positions to consider:

1) The parking for the commercial lots should be limited to the tract areas inasmuch as the lots and tracts were designated as separate parcels reflecting the intent of the subdividers that the lots and tracts were separated for a reason "i.e. the lots were for individual building and the tracts were for common parking. Had this not been the case the subdividers would not have separated each commercial area into lots and one tract of irregular configuration- i.e. the parking areas in front of each lot are disproportionate, and therefore create greater or lesser parking areas adjacent to each lot. Since the lots are roughly the same size, it is obvious that each lot was not to have separate parking, but enjoy a proportionate share of the tract for its parking requirements.

2) This position is further reinforced by the language of the amended D/R's establishing that each tract is to be used for the designated individual appurtenant lots on an exclusive basis (Docket 3667, page 259). This language creates group use and consequent cross easements allowing each lot to have the right to use all areas of the tract parking without regard to actual individual ownership of the tract or any portion thereof. The irregular configuration of the tract areas further reinforces the group intent and language in the D/R's (as explained above).

3) This D/R provision and the plat configuration creates a situation which could be construed to be at cross purposes with tract ownership however a strict interpretation requires that the ACC only approve parking in the designated tracts.

4) The group use of the tract creates the need for a methodology of allocating the amount of buildable space that can be built on each lot based on the County's building codes. It is imperative that each lot owner must participate in the determination of the methodology of prorating the buildable space available to each lot. Any such agreements should be reviewed and approved with the County inasmuch as they will be involved on a case by case basis in approving each buildings allowable square footage.

5) The primary responsibility of developing within the parameters of the foregoing lies with the property owners of the commercial properties. The ACC stands ready to assist on an as needed basis

The ACC looks forward to our next meeting. Please call at my home number 480-488-6970. and schedule when ready for our next meeting, or if there are any questions I can help with.
Thank you.

Regards,

Chris Camiolo
on behalf of the THACC

**Tonto Hills Improvement Association
42033 North Old Mine Road
Cave Creek, AZ 85331**

March 31, 2005

Tonto Hills Commercial Lot Owners

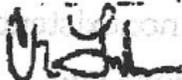
Gentlemen:

Construction was recently commenced on the first building on a commercial lot in Tonto Hills. The THIA Board of Directors would like to take this opportunity to remind all commercial lot owners of an amendment to the THIA Declaration of Restrictions (Docket 3667, Page 259) duly approved by the Association in 1988. This amendment, copy enclosed, particularly restricts Tract F (Lot 229), Tract G (Lot 230A & 230B), Tract H (Lot 231 A, C, D and E), and Tract J (Lot 232) for use as driveways and parking areas in connection with their specified lots.

It is the interpretation of the THIA Board of Directors and The Architectural Control Committee that this amendment confers the right of communal use of the designated driveways and parking areas by the adjacent lot owners on an equal basis.

This interpretation will be utilized in the evaluation of building plan approval by the ACC on commercial lots.

Yours sincerely,



**Eric Luker, President
Tonto Hills Board of Directors**

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