



October 19, 2011

JDM Partners, LLC  
2400 East Arizona Biltmore Circle  
Building 2, Suite 1270  
Phoenix, AZ 85016

Re: Mountain Shadows

Dear Jerry, David, and Mel:

As you know, attorneys for the Town of Paradise Valley ("Town") and attorneys for JDM Partners ("JDM") have met on several occasions over the past few months to discuss various matters relating to the possible redevelopment of the Mountain Shadows property by its current owner (MTS Land LLC), by JDM, or by unidentified third parties. The conversations have been constructive and assisted the parties in focusing on redevelopment issues of importance to the Town and to the prospective redeveloper.

I am confident that the discussions among our respective legal representatives have identified a process by which the zoning of the property can be clarified and the necessary entitlements conferred within a timeframe acceptable to JDM, the current owner, or any other prospective owner/developer. It is my current view that this should be accomplished through a new Special Use Permit (and possibly a new development agreement, coupled with termination of the existing development agreement), superseding any current zoning entitlements, to avoid any zoning disputes in the future.

I believe that the Town is willing to streamline and accelerate the Special Use Permit ("SUP") process to the extent possible in light of the alleged lack of clarity of the current property entitlements. Please understand that certain matters (e.g., proposed uses, density of these uses, general location of each permitted use, setbacks, building heights, and traffic and circulation plans) will need to be specifically addressed in the SUP. A mutually agreed concept plan would also be required.

I do not believe that the conceptual plan(s) in their current form are likely to be acceptable to either the Town's Planning Commission or the Town Council.

Stated simply, I believe that there are at least five matters that remain of concern regarding the development of a mutually satisfactory conceptual plan:

- (1) the Town desires to assure that a traditional “resort” use is ultimately part of the redevelopment of the Mountain Shadows property. Your representatives have indicated, from time to time, that the ultimate “resort” element might involve as few as 25 keyed resort rooms. It is my belief that the Town views the resort element as including not less than 75 rooms, and preferably 90 to 100 rooms, at minimum. I also believe that consideration would be given to permitting some of the “residential” units west of 56<sup>th</sup> Street to count towards a minimum “keyed” resort room requirement if those units are contractually obligated to be placed in a rental pool of rooms available to the resort operator for rent to resort guests;
- (2) if the keyed room resort element of any redevelopment of the property is at the low end of an acceptable range of units, I believe that the Town will likely require: (i) construction of all resort-related amenities in the first phase of development; (ii) a schedule, or deadline, for construction of all of the resort “keyed” units; (iii) a per unit fee in lieu of construction of the “keyed” units in the event the minimum number of guaranteed units are not constructed or the target number of units is not constructed in compliance with the agreed-upon schedule; and (iv) you should also be aware that there is some sentiment that the developer should pay an additional fee for the time the resort property element remains undeveloped, and that the density of residential development should be to the number of anticipated resort rooms, and/or tied to the commencement of construction of any commercial, non-resort development;
- (3) it is also likely that: (i) the Town will limit the aggregate residential square footage of development and establish minimum square footage sizes for each residential unit (in addition to the requirement of free-standing residential units only on the property east of 56<sup>th</sup> Street); and (ii) if the proposed residential square footage is more than 50% of the of total square footage of proposed development, an in lieu will also be required;
- (4) I believe that relocation of the clubhouse adjacent to Lincoln Drive would be acceptable to the Town. Other limited retail uses would be acceptable on the interior of the site. The precise location, maximum square footage, construction timing, and occupancy timing of any commercial development would need to be specified in the ultimate entitlement document(s);
- (5) I believe that all discussions to date have been based on the assumption that the Mountain Shadows Golf Course would remain. This is an important consideration for the Town and the owners of homes in proximity to the Golf Course. The Town would, nevertheless, consider elimination of the driving range, relocation and reconstruction of the old clubhouse, and conversion of the entire course to par 3 holes.

I hope this letter is of value to you in understanding the likely position of the Town. If the points in this letter can be promptly resolved, and if an acceptable conceptual plan can be agreed upon by the developer and the Town staff, I believe that all necessary preliminary work can be accomplished in 30 to 45 days, Planning Commission review in 45 to 60 days thereafter, and that this matter can be brought to Council for final consideration within 150 days on agreement upon a mutually acceptable concept plan.

While I feel confident that the comments set forth in this letter are reflective of the views of many residents and representatives of the Town, they are not the formally adopted position of the Town Council.

I appreciate your courtesy, cooperation, and professionalism throughout our recent discussions.

Sincerely,

James C. Bacon, Jr.  
Town Manager

cc: Steven Earl, Esq.  
Robert Flaxman  
Mayor and Council  
Andrew Miller, Esq.  
Gary Birnbaum, Esq.  
Eva Cutro, Community Development Director

Steven Earl, Esq.  
Earl Curley & Lagarde  
3101 N Central Avenue, Suite 1000  
Phoenix, AZ 85012

Robert A. Flaxman  
President & CEO  
Crown Realty & Development  
18201 Von Karman Avenue, Suite 950  
Irvine, CA 92612

Gary Birnbaum, Esq.  
Mariscal Weeks  
2901 N Central Avenue, Suite 200  
Phoenix, AZ 85012-2705