

RESERVATIONS, COVENANTS AND RESTRICTIONS

[Filed for Record August 8, 1972]

Recorded Book Misc. 272, Page 66 to 71

A tract of land situate in the City of Albuquerque and in Bernalillo County, New Mexico, being and comprising:

All of FOUR HILLS VILLAGE TENTH INSTALLMENT,
an addition to the City of Albuquerque, New Mexico,
(being a replat of Tract C of replat of portions of Four Hills Village
Fifth Installment) as recorded February 22, 1972, in the office of the
County Clerk of Bernalillo County, New Mexico and being further described as
Lots 17 through 30, inclusive of Block 21;
Lots 8 through 28, inclusive, Block 26;
Lots 1 through 23, inclusive, Block 27; and
Lots 1 through 9, inclusive of Block 28, of
FOUR HILLS VILLAGE (TENTH INSTALLMENT) an
addition to the City of Albuquerque, New Mexico,
as the same is shown and designated on the Plat thereof,
filed in the Office of the County Clerk of Bernalillo County,
New Mexico, on the 22nd day of February, 1972.

The land above was shown on a Plat of Four Hills Village, Tenth Installment, in the office of the County Clerk of Bernalillo County, New Mexico, and shall be subject to, and shall be conveyed subject to, the reservations, covenants and restrictions herein set forth:

1. DEFINITIONS

The word "lot" as used herein is intended to refer to the single pieces or parcels of land shown as lots on the plat of said Addition to be filed in the Office of the County Clerk of Bernalillo County, New Mexico.

A corner lot is one which abuts on more than one street, and in the absence of any other designation, shall be deemed to front on the street on which it has its greater dimensions; but ARCHITECTURAL CONTROL COMMITTEE to designate the street on which any corner lot shall be deemed to front.

The word "residence" as used herein with reference to building lines shall include galleries, porches, port-cocheres, steps, projections, and every other permanent part of the improvements, except roofs.

The word "street" as used herein shall include any street, drive, road, lane, path, or public way as shown on the plat of said Addition filed in the Office of the County Clerk of Bernalillo County, New Mexico.

2. USE OF LAND

No lot shall ever be used for any purpose other than single family residence purposes. No dwelling house located thereon shall ever be used for other than single family residence purposes, nor shall any out building or structure purposes. The erection and/or maintenance and/or use of any building, or the use of any lot for other purposes, including, but not restricted to such examples as stores, shops, flats, duplex houses, apartment houses, rooming houses, tourist courts, schools, churches, hospitals, and filling stations is hereby expressly prohibited.

Only one single family residence shall be constructed or permitted on any lot.

No garage or out building on any lot shall be used as a residence of living quarters, except by servants engaged as such on the premises, and said out building must be planned as such. No servants shall be quartered on the premises without the express permission of the ARCHITECTURAL CONTROL COMMITTEE.

3. ARCHITECTURAL CONTROL

No building shall be erected, placed or altered on any lot until the construction plans and specifications, and a plan showing the location of the structure have been approved by the ARCHITECTURAL CONTROL COMMITTEE as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topograph [sic] and finish grade elevations. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building set back line unless similarly approved. The use of the term "building" in this paragraph shall specifically include other substantial improvements such as fences, walls, retaining walls, and driveway copings, exceeding six inches in height, whether temporary or permanent in nature.

No shrubs, trees or bushes shall be allowed to grow to a height which unduly restricts the view of adjoining property, ad [sic] the ARCHITECTURAL CONTROL COMMITTEE, in its discretion after an investigation, may require any such offending shrub, tree or bush to be pruned, trimmed or removed.

4. ARCHITECTURAL CONTROL COMMITTEE

The ARCHITECTURAL CONTROL COMMITTEE shall be composed of:

D. E. Boyle
Travis B. Shaw
Lloyd N. Strosnider
Larry D. Stroup
E. M. Wilson

A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor.

5. PROCEDURE

The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event if no suit to enjoin constructions [sic] has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

6. FRONTAGE

Every residence erected on any lot shall face and present a good frontage on the street on which the lot is deemed to front.

Residences on corner lots shall have a presentable frontage on all streets on which the particular corner lot faces.

7. SET BACK FROM SIDE STREET AND ADJOINING LOT

No residence, out building, structure, improvement or obstruction of any character, (fence, hedge, bushes and trees excluded), shall be erected or maintained on any of the said lots nearer than 30 feet to an adjoining street, and no residence, out building, structure, improvement or obstruction of any character, (fence, hedge, bushes and trees excluded), shall be erected or maintained on any of the said lots nearer than a distance equal in distance to ten (10) percent of the total distance from a point on the side line nearest to the residence measured to the opposite side line at a point on said opposite side line that is nearest to the opposite side of the residence. In any event, the ARCHITECTURAL CONTROL COMMITTEE may vary the side line restrictions from lot to lot as it may deem necessary in the discretion of the said ARCHITECTURAL CONTROL COMMITTEE. In the event of a corner lot, the set back restrictions will prevail as to one street only.

Dale Bellamah Land Co., Inc. reserves to itself and the ARCHITECTURAL CONTROL COMMITTEE for either to change the building lines on any lot so long as it holds legal title to such lot, and likewise reserves the right to change the same after it has parted with such legal title provided the consent of the owner of such title is first obtained.

However, in the case of houses with two or more floors (not to include split levels), taking into consideration obstructing views of adjoining or facing lots, Dale Bellamah Land Co., Inc. reserves the right to change in writing the building lines shown on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, or the set back from the side-line hereinabove indicated, of any lot so long as it holds legal title to such lot, and likewise reserves the right to change the same after it has parted with such legal title, provided, the consent of the owner of such title is first obtained.

8. FENCES, HEDGES, WALLS, BUSHES, AND TREES

Fences, hedges, bushes and trees may be built or planted nearer the street and side lines than the building lines above indicated [sic], but in no event shall any such be built, planted or maintained on any land shown on the plat filed in the Office of the

County Clerk of Bernalillo County, New Mexico, to be dedicated for use as a public street or on which any easement has been served.

Fences will be built in keeping with the structural design of the dwelling house and shall be subject to the approval of the ARCHITECTURAL CONTROL COMMITTEE.

9. MINIMUM AREA OF RESIDENCES

No residence shall be erected on any lot of said Four Hills Village (Tenth Installment) which at the time of construction shall consist of less than 1,800 square feet of heated living floor space.

By "floor area" as that term is used above, is meant the floor area of the residence structure only, exclusive of the floor area of out buildings, servant's quarters, garages or similar buildings, even though attached to the main dwelling and exclusive of the floor area of porches, covered or uncovered, basements, attics, etc.

No residence or building of any other character may be moved from a location outside this area covered by this dedication to any lot herein included.

Bridges over arroyos may be constructed only with the approval of the ARCHITECTURAL CONTROL COMMITTEE.

10. PUBLIC UTILITIES

No out building or other permanent structure shall be erected or maintained over any easement as shown on the plats of the Addition reserved for the purpose of constructing, maintaining and supplying of public utilities in the Addition.

11. MISCELLANEOUS

The construction or maintenance of bill-boards, poster-boards, or advertising structures of any kind on any part of any lot is prohibited, except that architects and builders may display a sign with their name and insignia thereon during construction. Said sign not to exceed 30 inches square inside.

No trash, or ashes, paper or other refuse may be thrown or dumped in any vacant lot in this Addition.

In no event shall any trailer, house-trailer, camper, camper body, camper mounted on pick-up or truck, camper-trailer, boat, boat and trailer, or any other movable structure or thing except a passenger automobile or unloaded pick-up truck ever be parked or placed on any lot or in driveways, nor shall any utilities be connected from any residence or structure in this subdivision to any trailer-house for any purpose.

No fowl, hogs, pigs, horses, rabbits, cows, sheep, goats, or other livestock or animals shall ever be raised or kept on any lot in this subdivision, with the sole exception of dogs and cats.

Fowl of the canary or parakeet variety may be raised or maintained on any lot as a pet. No cats, dogs or birds allowed under this covenant shall ever be raised for commercial purposes and further all birds allowed must be maintained within the residence of any lot.

Owners of vacant lots will be responsible for keeping their lot cleared of all weeds, trash and all other detracting impedimenta, keeping in mind the beautification of the Addition.

No cooler, air conditioner or other unnatural protrusion shall be attached to any residence in the area during construction or at any time thereafter, except that air conditioning compressors or units may be attached to the residence at ground level in a position that is as concealed as possible upon the approval of the ARCHITECTURAL CONTROL COMMITTEE.

12. GENERAL PROVISIONS

Dale Bellamah Land Co., Inc. may include restrictions, other than those set out herein, in any contract or deed to any lots without otherwise modifying the general plan above outlined, and such other restrictions shall inure to the benefit of and bind the respective parties in the same manner as though they had been expressed herein.

The restrictions herein set out shall be referred to, adopted and made part of each and every contract and deed executed by and on behalf of Dale Bellamah Land Co., Inc. conveying said property, or any part thereof, to all such intents and purposes as though incorporated in full thereof; and each such contract and/or deed shall be conclusively held to have been so executed, delivered [sic] and accepted upon the express conditions herein stated.

All lots shall be kept clean and maintained during the course of construction.

All of the restrictions, covenants and reservations and charges appearing herein as well as those appearing in any contract, deed or other conveyance, to or covering any part of this property, shall be construed together, but if any one of the same shall be held to be invalid, or for any reason is not enforced, none of the others shall be affected or impaired thereby, but shall remain in full force and effect.

13. RIGHT TO ENFORCE

The restrictions herein set forth are imposed upon each lot for the benefit of each and every other lot, and shall constitute covenants running with the land, and shall inure to the benefit of and be binding on Dale Bellamah Land Co., Inc., its successors and assigns, the individuals comprising such corporation, their assigns, and each and every purchaser of and person acquiring any interest in any part of such land, their assigns, and all persons acquiring any of the land covered by these restrictions shall be taken to agree and covenant to conform to and observe all such restrictions as to the use of said land (no restrictions or covenants herein set forth shall be binding on any corporation, person or persons, except in respect to breaches committed during the time such corporation, or persons, owns or has an interest in said land and/or part thereof); and Dale Bellamah Land Co., Inc., its successors and assigns, and the stockholders hereof, their heirs, assigns, executors, and administrators, and the owner or owners of any part of such land and of any interest therein, acting jointly or severally, shall have the right to sue for and obtain an injunction, to prevent the breach of, or to enforce the observance of, the restrictions, and covenants above set forth in addition to the ordinary legal action for damages, and the failure of any or all of such persons to enforce any of the

restrictions or covenants herein set forth at the time of its violation, shall in no event be deemed to be a waiver of the right to do so at any time thereafter, except as herein specifically set out, nor shall the failure to enforce such restrictions as to any one or more lots, or as to anyone [sic] or more owners thereof, be deemed a waiver of the right to enforce them as to any and all other lots and owners.

The ARCHITECTURAL CONTROL COMMITTEE shall have the same rights as Dale Bellamah Land Co., Inc. or any individual to enforce these restrictive covenants.

Dale Bellamah Land Co., Inc. specifically reserves the right to correct any breach of these restrictive covenants, including, but not limited to, moving structures, cleaning, removing trash or other detracting impedimenta, the cost of which shall constitute a lien upon the property and which shall be enforceable as any other labor, mechanical or materialman's lien.

14. CHANGES

Dale Bellamah Land Co., Inc. or a majority of the ARCHITECTURAL CONTROL COMMITTEE may from time to time make amendments as to Articles VII, VIII, and IX without the consent of any of the owners of any of the other lots of the subdivision.

15. DURATION

All of the restrictions and covenants herein set forth shall continue and be binding upon Dale Bellamah Land Co., Inc., its successors and assigns, the individual stockholders thereof, and their heirs, assigns, executors and administrators, and all parties claiming by, through, or under it, or them, for a period of 25 years from the date this instrument is filed for record in the Office of the County Clerk of Bernalillo County, New Mexico, and shall automatically be extended for successive periods of 15 years each; provided, however, that at any time within five years prior to the expiration of the first 25 year period, or within 5 years of the expiration of any 15 year period thereafter, the owners of the legal title to the lots having at the time more than 50% of the area shown on the plats filed in the Office of the County Clerk of Bernalillo County, New Mexico, and covered by this dedication, may provide for the release of any and all of the lots hereby restricted, from any one or more of said restrictions and covenants at the end of the first 25 year period or at the end of any successive 15 year period, by executing and acknowledging a proper agreement or agreements in writing for such purpose, and filing same for record in the manner then required for the recording of land instruments.

IN WITNESS WHEREOF, Dale Bellamah Land Co., Inc., and Willis A. Smith, Jr. Construction Company has caused this instrument to be executed this 7th day of July, 1972.

(Signed by D. E. Boyle as President of Dale Bellamah Land Co., Inc.)