

DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS

FOR

VINEYARD ESTATES, UNIT 5

A SUBDIVISION IN THE CITY OF ALBUQUERQUE, NEW MEXICO

THIS DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS is made this 23rd day of April, 2003, ("Declaration"), by Llave Construction, Inc., a New Mexico corporation, as to that real property described as follows:

Lots 1 through 6, inclusive, Vineyard Estates, Unit 5, as the same are shown on the plat thereof recorded in the Bernalillo County, New Mexico real estate records on Page 109 of Book 2003 C, filed 4/21/2003.

DEFINITIONS

The word "Lot" as used herein is intended to refer to single parcels of land shown as Lots on the recorded plat described above. A "Corner Lot" is one which abuts more than one street, and in the absence of any other designation shall be deemed to front on the street on which it has the smaller dimension; but the Owner reserves the right, through the 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, steps, projections and every other permanent part of the improvements, except roofs.

The word "street" as used herein shall include any street, road, lane, path or public way as shown on the plat.



2003066864
5849874
Page 1 of 9
04/24/2003 08:41A
Bk-A54 Pg-6728

NOW, THEREFORE, Vineyard Estates, Unit 5, the "Subdivision") is hereby subjected to the following protective covenants, reservations and restrictions, which are to run with the land and shall be binding upon all parties and all persons owning Lots in the Subdivision or claiming under them.

1. LAND USE AND BUILDING TYPES

- a. All Lots within the Subdivision are hereby declared to be single family residential Lots, and no Lot shall be used for any purpose other than single-family residence.
- b. No building shall be erected, altered, placed or permitted to remain on any Lot other than (1) one detached single family dwelling, and a private garage for not more than three (3) cars and not less than two (2) cars. Storage sheds, workshops, swimming pools, gazebos and such shall be allowable upon approval being granted by the Architectural Control Committee.
- c. No Building shall be erected, altered, placed or permitted to remain on any such Lot with a fully enclosed heated area less than 2000 square feet, exclusive of garages and open porches or patios. The Architectural Control Committee may allow a variance of less than 2000 square feet if the Lot, setbacks, or floor plans indicate an unusual condition
- d. No building shall be erected, altered, or permitted to remain on any such Lot that will exceed the height limitation of the City of Albuquerque Comprehensive Zoning Ordinance except where there is a more restrictive height limitation shown on the Plat or the subdivision Declaration of Protective Covenants and Restrictions.



Mary Herrera Bern Co. DEC R 25.06 2003066864
 5849874
 Page: 2 of 8
 04/24/2003 08:41A
 Bk-A54 Pg-672B

It is understood that ordinary roof projections, belt courses, cornices and ornamental features may project as much as twenty-four inches (24") into the front, rear and side set back lines. For the purpose of this paragraph, eaves, steps, flues and equipment pads shall not be considered as part of the building. Where contiguous Lots are owned by one owner, the side lot lines shall refer only to the lot lines bordering the adjoining property owners. Notwithstanding anything to the contrary herein, the Architectural Control Committee shall have the right to permit reasonable modifications of the side yard set back requirements where a minimum of ten feet (10') will be maintained between structures and where, in the discretion of the Committee, strict enforcement of the set back provisions would work an extreme hardship.

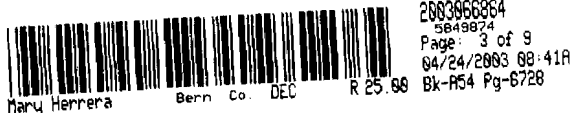
2. ARCHITECTURAL CONTROL COMMITTEE

The Architectural Control Committee, hereinafter referred to as the "Committee", is hereby established and shall be comprised of three (3) persons: who shall be appointed by the Grantor to serve for a period of one (1) years from the date hereof and until their successors shall be appointed and qualified. Vacancies occurring at the end of the one (1) year term may be appointed by a majority of the residential Lot owners on the Subdivision, who are present at a special meeting called for the purpose of filling such vacancy.

No member of the Committee shall be entitled to any compensation for services performed on said Committee.

Any two (2) members shall be able to act on the behalf of the Committee, and in rendering any decision, a majority of the Committee shall rule.

Before the commencement of construction, remodeling, addition to, or alteration of any Lot grade, building, swimming pool, wall, fence, tank, out building or any other structure whatsoever on any Lot, there shall be submitted to the Architectural Control Committee:



(1) A complete set of plans, including but not limited to, foundations, floor plan, elevation, detail, specifications, a plot plan, landscaping plan, and grading plan showing the location and finished grade of the structure on the Lot.

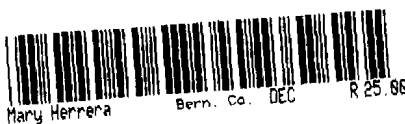
(2) Within three (3) calendar days after constructing the foundation, the Owner will submit to the Committee a letter containing the "as-built" set back dimensions of the structure.

(3) One (1) complete set of plans and specifications upon approval will be retained by the Committee to remain on file.

NO STRUCTURE OR IMPROVEMENTS OF ANY KIND shall be erected, altered, placed or maintained, including Lot grading alterations, upon any Lot unless and until the complete set of final plans therefore have received such written approval as herein provided

The Committee shall have the right to disapprove any plans, specifications or details submitted to it as aforesaid, in the event such plans and specifications are not in accord with all the provisions of the restrictions, or if a design or color scheme on the proposed structure is not in harmony with the general surroundings or in harmony with such Lot or adjacent structure, or if the plans and specifications submitted are incomplete, or if the Committee deems said plans and specifications to be contrary to the interest, welfare and rights of the owners of all or any part of the Subdivision. The decision of the Committee shall fail to approve or disapprove the plans, specifications and other such information as may be required within fourteen (14) days after submission, then such approval shall not be required, provided that no building or structure shall be erected which violates any of the covenants contained herein.

Neither the Committee, nor any of its members, shall be responsible in any manner whatsoever for any defect in any plans or specifications submitted or as revised by said Committee, or for work done pursuant to the plans and specifications of any requested changes of said plans and specifications.



2003066864
5849874
Page: 4 of 9
84/24/2003 08:41A
Bx-R54 Pg-6728

A majority of the Committee may, from time to time; grant exceptions or variances to any of the Articles hereto without the consent of any of the owners of the other Lots in the Subdivision.

3. WALLS

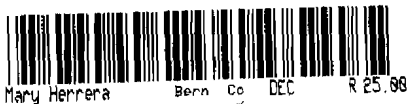
Retaining walls shall be party walls if placed on the common property line between two (2) Lots and shall not be removed by either property owner. Liability as between the owners with respect to the maintenance of the party wall shall be as provided for in New Mexico law.

Except for necessary retaining walls, which shall be of minimum height, the following requirements shall apply to all walls and fences:

- a. No wall or fence shall be erected or allowed to remain nearer the street than the front of the dwelling.
- b. On corner Lots, no wall or fence facing the side street shall be erected or allowed to remain nearer to the front street than the rear of the dwelling.
- c. All rear walls must extend the full length of the rear property line. All side walls must extend frontward at least to the rear of the Residence on both sides.
- d. All walls shall be constructed of a minimum of seven course 6" x 8" x 16" concrete block including solid top cap. Exposed tops of pilasters shall be finished with mortar or with 4" cap blocks. Any side lot line wall or side lot line wall return that is facing a street must be finished on a texture and color that is compatible with the Residence.

ALL WALLS MUST BE SUBJECT TO THE APPROVAL OF THE

ARCHITECTURAL CONTROL COMMITTEE.



2003066884
5848874
Page: 5 of 9
04/24/2003 08:41A
8k-A54 Pg-6728

All builders and/or Lot owners shall be responsible for the construction of retaining walls on common property lines including rear property lines in accordance with all applicable Federal, State, City and County codes and ordinances.

4. SUBDIVISION OF LOTS

None of the Lots within the Subdivision shall be further subdivided to create two (2) or more building sites; however, two (2) or more lots may be combined into one (1) building site.

5. UTILITY EASEMENTS

Easements are hereby reserved as shown on the recorded plat for the purpose of installing and maintaining municipal and public utility facilities and for other similar purposes incidental to the development of the property.

6. TOLERANCE

A two-inch (2") tolerance by reason of mechanical variance of construction is hereby automatically allowed for any distance requirements imposed by these covenants.

7. GENERAL PROVISIONS

The Grantors may include restrictions, other than those set out herein, in any contract or deed to any Lots(s) without otherwise modifying the general plan above outlined, and such other restrictions shall insure to the benefit of all other Lot owners and Grantor, and bind the respective parties in the same manner as though they had been expressed herein.

The restrictions herein set out shall be deemed incorporated and made part of each and every contract of sale and deed of any Lot or parcel within the Subdivision, to all intents and purposed as though repeated in full therein; and each such contract and/or deed shall be conclusively held to have been executed, delivered and accepted upon the express conditions herein stated.

8. MISCELLANEOUS

The construction or maintenance of billboard, poster boards, or advertising structures of any kind or any part of any Lot is prohibited, except that architects and builders may display a



sign with their name and insignia thereon during construction, and brokers and owners may display temporary "For Sale" signs. The sign shall not exceed more than six (6) square feet in size.

No trash, ashes, paper or refuse of any kind may be thrown or dumped in any vacant Lot in the Subdivision.

No trailer, house trailer, motor home, or boat shall ever be parked or placed on any vacant Lot, nor shall any trailer, house trailer, motor home, boat, shack, tent, garage or other out building be used as a residence, either temporarily or permanently, additionally, no trailer, house trailer, motor home, or boat shall be parked in a driveway for over forty-eight (48) hours.

Owners of vacant Lots will be responsible for keeping their Lots cleared of all weeds, trash and other detracting impediments as determined by the Architectural Control Committee.

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

All buildings constructed on Lots shall be finished in accordance with the plans and specifications as approved by the Committee within six (6) months of the start of construction.

No cotton bearing cottonwood trees of any nature or fruit bearing mulberry trees shall be planted or permitted to grow on any Lot within the Subdivision.

Where externally visible air conditioners are erected or installed, they shall be so installed that they will not be visible from the front or a side street, and for Lots which back up to major streets, from major streets. Roof mounted units shall be allowed, however, they shall be installed as to comply with this restriction as much as possible.

No antennas (radio, short-wave radio, television or others) shall be erected upon any Lot or dwelling without prior written approval of the Architectural Control Committee.

In the event that a structure is destroyed, wholly or partially, by fire or other casualty, said structure shall be properly rebuilt, repaired or replaced to conform to these restrictions, or all remaining structures, including the debris and foundations, shall be removed from the Lot.

9 LANDSCAPING



2003066964
5849824
Page: 7 of 9
04/24/2003 08:41A
Bk-A54 Pg-6728

All front yard landscaping and side yard (if Corner Lot) shall be completed within thirty days of completion of the home. A landscaping plan will be submitted to the Architectural Control Committee prior to commencement of landscaping construction and shall be in compliance with City of Albuquerque codes and regulations. The plan shall include at least one deciduous tree with a tree trunk caliber size of at least four inches (4").

10. 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 the Grantors, their successors and assigns. Each and every purchaser of and any person acquiring any interest in any part of such 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 and the grantors, their successors and assigns, the Committee and the owner or owners, of any part of such land and of any interest therein acting jointly to 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 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 any one or more owners thereof, be deemed a waiver of the right to enforce them as to any and all other Lots and owners.

11. AMENDMENTS

These covenants may be amended from time to time by an affirmative vote of the then record holder of title to Lots representing a seventy-five percent (75%) majority of the total Lots in the Subdivision, or by Grantor, providing Grantor then holds title to at least thirty (30%) of the Lots in the Subdivision.

12. DURATION

All of the restrictions and covenants herein set forth as amended from time to time shall continue and be binding upon, for a period of twenty-five (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 fifteen (15) years each; provided, however, that any time during the first five (5) years of any twenty five (25) year period or during the first five (5) years of any fifteen (15) year period thereafter, the owners of 90% on number of the Lots then covered by this dedication may provide for the release of any and all of the Lots hereby restricted, from and on or more of said restrictions and covenants at the end of such twenty-five (25) year period or such fifteen (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.

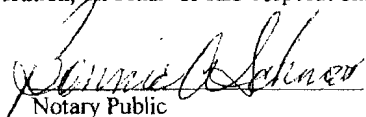
IN WITNESS WHEREOF, Llave Construction, Inc., has caused this instrument to be executed this 23rd day of April 2003.

Llave Construction, Inc.,
a New Mexico Corporation

By: 
Robert Keeran, President

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

This instrument was acknowledged before me on 4-23, 2003, by Robert Keeran, President of Llave Construction, Inc., a New Mexico Corporation, on behalf of said corporation.


Notary Public

My Commission Expires:

August 31, 2003

