

Filed: February 17, 1958

DECLARATION OF RESTRICTIVE COVENANTS

The undersigned, Dale Bellamah Properties, Inc., Dale J. Bellamah, President, and L. A. Hendrix and Elizabeth Hendrix, his wife, and E. D. McKinley and Beatrice McKinley, his wife, and Hendrix-McKinley Motor Company, a partnership, being the owners and proprietors of:

A tract of land situate in the City of Alamogordo, Otero County, New Mexico, in the E $\frac{1}{2}$ NW $\frac{1}{4}$ and the W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 21, Township 16 South, Range 10 East, N.M.P.M., being more particularly described as follows:

Beginning at a point on the northly boundary of that tract herein described identical with the northeast corner of the Dale Bellamah Addition No. 1 in the City of Alamogordo, New Mexico, from which point the northeast corner of said Section 21 bears N 81° 39' E a distance of 3966.63 feet; thence N 50° 22' E 490.60 feet; thence N 76° 34' 30" E 390.80 feet; thence N 87° 04' 30" E 528.00 feet to the northeast corner of this tract; thence S 5° 48' E 16.25 feet; thence S 0° 51' E 114.99 feet; thence S 9° 35' W 50.85 feet; thence south 100 feet; thence S 52° 25' E 56.78 feet; thence south 49.63 feet; thence around the arc of a circular curve to the right having a radius of 425.22 feet, an arc distance of 441.21 feet, through a central angle of 59° 27'; thence S 59° 27' W 518.69 feet; thence around the arc of a circular curve to the left having a radius of 1010.67 feet, an arc distance of 463.92 feet, through a central angle of 26° 18'; thence S 33° 09' W 412.79 feet; thence around the arc of a curve to the left having a radius of 489.00 feet an arc distance of 174.11 feet, through a central angle of 20° 24'; thence S 12° 45' W 281.12 feet to the southernmost corner of this tract; thence N 89° 11' 40" W 5.86 feet; thence around the arc of a circular curve to the right having a radius of 745.65 feet an arc distance of 115.01 feet to the southwest corner of block 13 Dale Bellamah Addition No. 1; thence N 12° 45' E 290.38 feet; thence around the arc of a circular curve to the right having a radius of 609.00 feet, an arc distance of 162.75 feet; thence N 0° 27' E 96.96 feet to the southerly corner of Lot B, Block 11, Dale Bellamah Addition No. 1; thence N 56° 51' W 100 feet; thence N 33° 09' E 159.02 feet; thence N 36° 21' W 17.08' feet to the southerly corner of Lot A, Block 11, Dale Bellamah Addition No. 1; thence N 56° 51' W 100 feet; thence N 33° 09' E 177.20 feet; thence N 26° 54' W 57.69 feet to the southerly corner of Lot A, Block 10, Dale Bellamah Addition No. 1; thence N 56° 51' W 100 feet; thence N 33° 09' E 180 feet; thence N 56° 51' W 116 feet to the westerly corner of Lot B, Block 10, Dale Bellamah Addition No. 1; thence N 33° 09' E 70.0 feet; thence N 41° 15' W 51.92 feet to the easterly corner of lot 20, block 9, Dale Bellamah Addition No. 1; thence N 52° 40' W 100.27 feet to the northly corner of Lot 20, Block 9, Dale Bellamah Addition No. 1; thence N 33° 09' E 118.81 feet; thence N 50° 05' 50" E 167.98 feet; thence N 0° 48' 20" E 21.11 feet to the place of beginning containing 32.112 acres of land including 2.365 acres within the plat of Dale Bellamah Addition Unit No. 1 previously filed.

to be known as Dale Bellamah Addition, Unit 2A, an Addition to the City of Alamogordo, New Mexico, as shown on the plat thereof filed in the office of the County Clerk of Otero County, New Mexico; hereby declares that the following restrictive covenants shall apply to that portion of said real estate as hereinbefore described.

1. None of said land shall be subdivided into lots, nor shall any dwelling be erected or placed on any lot having a width of less than 60

feet, at the minimum building set-back line, or an area of less than 6,000 square feet.

2. No lot shall be used except for residential purposes, except as provided in paragraph 15 of these restrictive covenants. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height and a private garage for not more than two cars, except that Lots 1 through 7, both inclusive, in Block 8, shown on the plat of the Dale Bellamah Addition filed in the office of the County Clerk, Otero County, New Mexico, may be used for multi-family dwellings.

3. 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 topography and finish grade elevation. Approval shall be as provided in Paragraph 9 hereof.

4. No dwelling shall be permitted on any lot at a cost of less than \$8,000.00 based upon cost levels prevailing on the date of these covenants, it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date of these covenants at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall not be less than 800 square feet nor less than 750 square feet for a dwelling of more than one story.

5. No building shall be located on any building plot nearer than 25 feet to the front lot line nor more than 35 feet, nor nearer than 15 feet to any side street line. No building shall be located nearer than 5 feet to an interior lot line. For the purpose of this covenant, eaves, steps and open porches shall not be considered as a part of a building provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

6. Easements for installation and maintenance of utilities and drainage facilities are reserved as indicated on the Plat of said Addition.

7. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

8. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently. All construction shall be completed within six months from date of commencement.

9. The Architectural Control Committee is composed of Dale J. Bellamah, Jeanne L. Bellamah, and E. Price Hampson, all of Albuquerque, New Mexico. 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. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

10. 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 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction 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.

11. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then lot owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

12. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain violation or to recover damages.

13. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

14. No fence or garden wall shall be erected between the front building setback line and the front property line, having a height greater than 3 feet.

15. It is expressly understood that the foregoing restrictions do not apply to Block 14 as shown on said Plat of Dale Bellamah Addition, Unit #1, to the City of Alamogordo, New Mexico, said Block being reserved for business or residential purposes; provided, however, that no noxious or offensive activities shall be carried on upon any portion of said Block 14, nor shall anything be done thereon which may be or become a nuisance or annoyance to the neighborhood, or that might impair the residential character in other areas of said real estate.

IN WITNESS WHEREOF the undersigned have hereunder set their hands and seals this 17th day of February, 1958.

DALE BELLAMAH PROPERTIES, INC.

s/ DALE J. BELLAMAH
Dale J. Bellamah, President

(Corporate Seal)

ATTEST:

s/ JEANNE L. BELLAMAH
Jeanne L. Bellamah, Secretary

s/ L. A. HENDRIX
L. A. Hendrix

s/ ELIZABETH HENDRIX
Elizabeth Hendrix

s/ E. D. MCKINLEY
E. D. McKinley

s/ BEATRICE MCKINLEY
Beatrice McKinley

HENDRIX-MCKINLEY MOTOR COMPANY

By: s/ L. A. Hendrix
Partner

STATE OF NEW MEXICO)
) ss
COUNTY OF OTERO)

The foregoing instrument was acknowledged before me by Dale J. Bellamah as President of Dale Bellamah Properties, Inc.; L. A. Hendrix and Elizabeth Hendrix, his wife; E. D. McKinley and Beatrice McKinley, his wife; and L. A. Hendrix as partner of Hendrix-McKinley Motor Company

Dated this 17th day of February, 1958.

(Notary Seal)

/s/ Dale W. Scott
Notary Public

My commission Expires: 10/25/59