

MARBLE CANYON

PHASE ONE

A

RESTRICTIVE SUBDIVISION

LEGAL DESCRIPTION: SEE EXHIBIT "A" ATTACHED

PART A:

WHEREAS, WILLIAM I. DANLEY AND VIVIAN L. DANLEY, HIS WIFE; R. MILES LEDGERWOOD AND KAREN LEA LEDGERWOOD, HIS WIFE; DENNIS C. CRIMMINS AND RAY NELL CRIMMINS, HIS WIFE; JAMES J. KLUMP AND DEBORAH G. KLUMP, HIS WIFE; AND TERRY D. GREEN AND LEAH R. GREEN, HIS WIFE; ARE THE OWNERS OF THE ABOVE DESCRIBED PROPERTY, LOCATED IN ALAMOGORDO, OTERO COUNTY, NEW MEXICO:

WHEREAS, SAID ABOVE NAMED PARTIES DESIRE TO PLACE CERTAIN RESTRICTIONS IN REGARD TO THE BUILDING AND IMPROVEMENTS TO BE PLACED ON THE ABOVE DESCRIBED REAL ESTATE AND ACTIVITIES WHICH MAY BE CONDUCTED ON SAID PROPERTY, OR PORTIONS THEREOF, AS FOLLOWS, TO-WIT:

PART B:

FULLY RESTRICTED AREA. THE RESIDENTIAL AREA COVENANTS IN PART "C" IN THEIR ENTIRETY SHALL APPLY TO ALL THE LAND DESCRIBED IN THE ABOVE LEGAL DESCRIPTION, KNOWN AS MARBLE CANYON, PHASE ONE, A RESTRICTIVE SUBDIVISION, ALAMOGORDO, OTERO COUNTY, NEW MEXICO.

PART C:

(C-1) LAND USE AND BUILDING TYPE. NO LOTS SHALL BE USED EXCEPT FOR RESIDENTIAL PURPOSES. NO BUILDING SHALL BE ERECTED, ALTERED, PLACED, OR PERMITTED TO REMAIN ON ANY LOT OTHER THAN ONE

DETACHED SINGLE FAMILY DWELLING NOT TO EXCEED THIRTY FEET (30') IN HEIGHT MEASURED FROM THE BASE OF THE FRONT DOOR AND A PRIVATE GARAGE FOR NO MORE THAN THREE (3) CARS AND NO LESS THAN TWO (2) CARS GARAGE AND A PRIVATE CARPORT FOR NO MORE THAN THREE (3) CARS AND THAT THE MINIMUM SIZE OF A CARPORT SHALL BE 336 SQ.FT. ALL DETACHED OUT-BUILDINGS MUST MATCH THE MAIN STRUCTURE AND MUST BE PRE-APPROVED BY THE ARCHITECTURAL CONTROL COMMITTEE. MODULAR AND PREFABRICATED CONSTRUCTION IS PROHIBITED. ALL ANTENNAE, SOLAR COLLECTORS, SATELLITE DISCS AND SIMILAR APPARATUS SHALL BE SUBJECT TO THE ARCHITECTURAL CONTROL COMMITTEE.

(C-2) ARCHITECTURAL CONTROL. NO BUILDING SHALL BE ERECTED, PLACED OR ALTERED ON ANY LOT UNTIL THE CONSTRUCTION PLANS AND SPECIFICATIONS AND A SITE PLAN SHOWING THE LOCATION OF THE STRUCTURE HAVE BEEN APPROVED BY THE ARCHITECTURAL CONTROL COMMITTEE AS TO THE QUALITY OF WORKMANSHIP AND MATERIALS, HARMONY OR EXTERNAL DESIGN WITH EXISTING AND OR PLANNED STRUCTURES, AS TO LOCATION WITH RESPECT TO TOPOGRAPHY AND FINISH GRADE ELEVATION. NO FENCES OR RETAINING WALLS SHALL BE ERECTED WITHOUT APPROVAL OF THE ARCHITECTURAL CONTROL COMMITTEE.

(C-3) LANDSCAPING. LANDSCAPING SHALL BE APPROPRIATE FOR THE AREA AND MAINTAINED AT ALL TIMES. THE NATURAL DESERT IS TO BE PRESERVED, WITH A MINIMUM PAD SITE AND LAWN. ANY MAJOR (OVER ONE HALF OF AN ACRE) LANDSCAPING PROJECTS SHALL BE PRE-APPROVED BY THE ARCHITECTURAL CONTROL COMMITTEE

(C-4) DWELLING. THE GROUND FLOOR AREA OF THE MAIN STRUCTURE EXCLUSIVE OF ONE-STORY PORCHES, CARPORTS, AND GARAGES, SHALL BE NOT LESS THAN 1,500 SQUARE FEET.

(C-5) BUILDING LOCATION. NO BUILDING SHALL BE LOCATED ON ANY TRACT OF LAND NEARER THAN TWENTY-FIVE (25) FEET FROM THE FRONT LOT LINE OR NEARER THAN FIFTEEN (15) FEET FROM AN INTERIOR/SIDE LOT LINE WITHOUT APPROVAL FROM THE ARCHITECTURAL CONTROL COMMITTEE.

(C-6) TEMPORARY DWELLINGS. TEMPORARY DWELLINGS MAY BE LOCATED ON ANY LOT OR LOTS DURING THE PERIOD OF ACTUAL OR CONTINUOUS CONSTRUCTION OF A RESIDENCE FOR A PERIOD NOT TO EXCEED 12 CONSECUTIVE MONTHS FROM THE DATE CONSTRUCTION COMMENCES.

(C-7) DIVISION OF LOTS OR TRACTS. NO SINGLE LOT OR TRACT AS SHOWN ON SUBDIVISION MAPS SHALL BE RE-SUBDIVIDED BY ANY OWNER.

(C-8) LIVESTOCK. NO LIVESTOCK OR POULTRY OF ANY KIND SHALL BE RAISED, BRED OR KEPT ON ANY TRACT OF LAND.

a) DOGS, CATS AND OTHER HOUSE-HOLD PETS MAY BE KEPT PROVIDED THAT THEY ARE NOT BRED, KEPT OR MAINTAINED FOR COMMERCIAL PURPOSES.

b) ANIMALS WHICH ARE PROJECTS FOR 4H, FFA, AND SIMILAR ORGANIZATIONS MUST BE PRE-APPROVED AND MAINTAINED IN A MANNER WHICH WILL NOT CREATE A NUISANCE TO OTHER PROPERTY OWNERS.

(C-9) GARBAGE AND REFUSE DISPOSAL. NO LOT SHALL BE USED OR MAINTAINED AS A DUMPING GROUND FOR RUBBISH. TRASH, GARBAGE OR OTHER WASTE SHALL NOT BE KEPT EXCEPT IN SANITARY CONDITION.

(C-10) NOXIOUS ACTIVITY. NO NOXIOUS OR OFFENSIVE ACTIVITY SHALL BE CARRIED ON UPON ANY TRACT OF LAND WHICH MAY BE OR MAY BECOME AN ANNOYANCE OR NUISANCE TO THE NEIGHBORHOOD. LOTS SHALL

BE KEPT CLEAN AND FREE OF ACCUMULATIONS OF RUBBISH.

(C-11) OIL AND MINING. NO OIL DRILLING, OIL DEVELOPMENT OPERATIONS, OIL REFINING, MINING OPERATIONS OF ANY KIND SHALL BE PERMITTED UPON OR IN ANY LOT, NOR SHALL OIL WELLS, TANKS, TUNNELS, OR SHAFTS BE PERMITTED UPON OR IN ANY LOT. NO DERRICK OR OTHER STRUCTURE DESIGNED FOR BORING FOR OIL OR NATURAL GAS SHALL BE ERECTED MAINTAINED OR PERMITTED FOR ANY COMMERCIAL PURPOSE.

ARCHITECTURAL CONTROL COMMITTEE

(D-1) MEMBERSHIP. THE ARCHITECTURAL CONTROL COMMITTEE IS COMPOSED OF WILLIAM I. DANLEY, DR. JAMES J. KLUMP, DENNIS CRIMMINS AND MILES LEDGERWOOD AND THEIR APPOINTEES, ASSIGNEES OR SUCCESSORS. 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 MEMBER SHALL HAVE FULL AUTHORITY TO DESIGNATE A SUCCESSOR. NEITHER THE MEMBERS OF THE COMMITTEE. NOR ITS DESIGNATED REPRESENTATIVES, 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 TO RESTORE TO IT ANY OF ITS POWERS AND DUTIES.

(D-2) 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 PLAN 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.

(D-3) OTHER DUTIES. THE ARCHITECTURAL CONTROL COMMITTEE SHALL FUNCTION AS A PROPERTY-OWNER'S ASSOCIATION AND SHALL DO ALL ACTS NECESSARY FOR MAINTENANCE OF ANY NEIGHBORHOOD IMPROVEMENTS NOT OTHERWISE PROVIDED WITH SUITABLE MAINTENANCE (AS OF THE DATE OF THE EXECUTION HEREOF THERE ARE NO SUCH NEIGHBORHOOD IMPROVEMENTS IN EXISTENCE OR CONTEMPLATED), AND FOR ANY OTHER APPROPRIATE NEIGHBORHOOD SERVICES SUBSEQUENTLY AUTHORIZED OR DIRECTED BY THE ARCHITECTURAL CONTROL COMMITTEE.

GENERAL PROVISIONS

(E-1) TOLERANCE. A SIX INCH (6") TOLERANCE BY REASON OF MECHANICAL VARIANCE OF CONSTRUCTION IS ALLOWED FOR MINIMUM DISTANCE REQUIREMENTS FROM LOT LINE.

(E-2) TERM. 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 THIRTY (30) YEARS FROM THE DATE THESE COVENANTS ARE RECORDED, AFTER WHICH TIME SAID COVENANTS SHALL BE AUTOMATICALLY EXTENDED FOR SUCCESSIVE PERIODS OF TEN (10) YEARS UNLESS AN INSTRUMENT SIGNED BY A MAJORITY OF THE THEN OWNERS OF THE LOTS HAS BEEN RECORDED AGREEING TO CHANGE SAID COVENANTS IN WHOLE OR IN PART. VOTES SHALL BE COUNTED ON THE BASIS OF ONE (1) VOTE FOR EACH PROPERTY OWNER.

(E-3) ENFORCEMENT. ENFORCEMENT SHALL BE BY PROCEEDINGS AT LAW OR IN EQUITY AGAINST ANY PERSON OR PERSONS VIOLATING OR

ATTEMPTING TO VIOLATE ANY COVENANT EITHER TO RESTRAIN VIOLATION OR TO RECOVER DAMAGES. PREVAILING PARTY SHALL ALSO BE ENTITLED TO REASONABLE ATTORNEY FEES.

(E-4) SEVERABILITY. INVALIDATION OF ANY OF THESE COVENANTS BY JUDGMENT OR COURT ORDER OR BY ORDINANCE OF THE COUNTY OF OTERO, NEW MEXICO, SHALL IN NOWISE AFFECT ANY OF THE OTHER PROVISIONS WHICH SHALL BE AND REMAIN IN FULL FORCE AND EFFECT.

(E-5) AMENDMENT. THESE COVENANTS MAY BE AMENDED IN WHOLE OR IN PART AT ANY TIME THAT AN INSTRUMENT SIGNED BY A MAJORITY OF THE OWNERS OF THE LOTS HAS BEEN RECORDED AGREEING TO AMEND SAID COVENANTS IN WHOLE OR IN PART TO INCLUDE ADDITIONAL PROPERTY UNDER THE TERMS HEREOF OR TO EXCLUDE SPECIFICALLY DESCRIBED PROPERTY FROM THE PROVISIONS HEREOF. VOTES SHALL BE COUNTED ON THE BASIS OF ONE (1) VOTE FOR EACH PROPERTY OWNER WITHIN THE SUBJECT AREA.

ROAD MAINTENANCE AGREEMENT:

THE FOLLOWING ROAD MAINTENANCE AGREEMENT SHALL BE IN FORCE UNTIL THE ROAD MAINTENANCE HAS BEEN ACCEPTED BY OTERO COUNTY OR THE CITY OF ALAMOGORDO, NEW MEXICO. MR. WILLIAM I. DANLEY, THE DEVELOPER, SHALL PROVIDE INITIALLY A ROUGHED-IN ROAD. WHEN THE FIRST HOMES ARE FINISHED, THE DEVELOPER SHALL PROVIDE ACCESS TO THE PROPERTIES VIA AN ALL WEATHER GRAVEL ROAD. ONCE THE ALL WEATHER GRAVEL ROAD HAS BEEN PROVIDED BY THE DEVELOPER AND ACCEPTED BY THE ARCHITECTURAL CONTROL COMMITTEE, THE MAINTENANCE SHALL BE PERFORMED AND THE COST SHALL BE PRORATED BETWEEN THE PROPERTY OWNERS. IN THE EVENT, THAT SAID ALL WEATHER GRAVEL ROAD IS PAVED OR A SECURITY GATE IS INSTALLED THE COST SHALL BE

PRORATED BETWEEN PROPERTY OWNERS.

IN WITNESS WHEREOF, THE SAID OWNERS HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED THIS 28th DAY OF April 1995.

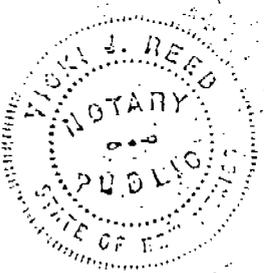
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ACKNOWLEDGMENTS

STATE OF NEW MEXICO))SS
COUNTY OF OTERO)

ON THIS 28th DAY OF April, 1995 BEFORE ME PERSONALLY APPEARED KNOWN TO ME TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT, AND THEY ACKNOWLEDGED THAT THEY EXECUTED SAID INSTRUMENT AS THEIR OWN FREE ACT AND DEED.

WITNESS MY HAND AND SEAL ON THIS DAY AND YEAR LAST WRITTEN ABOVE.



Vicki J. Reed
NOTARY PUBLIC 10-24-95

EXHIBIT A

DESCRIPTION

A TRACT OF LAND IN THE SW 1/4 OF SECTION 22, T16S, R10E, NMPM, DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER AND GOING S00°05'08"W ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 1020.18 FEET, THENCE ALONG THE ARC OF A CURVE TO THE LEFT WHOSE CENTRAL ANGLE IS 90°00'00" AND WHOSE RADIUS IS 125.00 FEET AND WHOSE CHORD BEARS S44°54'52"E AN ARC DISTANCE OF 196.35 FEET, THENCE S89°54'52"E A DISTANCE OF 105.00 FEET, THENCE S00°05'08"W A DISTANCE OF 806.06 FEET. THENCE N89°57'21"E A DISTANCE OF 1600.00 FEET, THENCE N00°01'08"E A DISTANCE OF 600.00 FEET, THENCE N02°16'00"W A DISTANCE OF 1352.78 FEET, THENCE S89°27'21"W A DISTANCE OF 1773.78 FEET TO THE SAID PLACE OF BEGINNING, AND CONTAINING 76.773 ACRES, MORE OR LESS.

STATE OF NEW MEXICO
COUNTY OF SHERIDAN

FILED IN THE PUBLIC OFFICE

This 5th day of January 1996
At 1:40 o'clock P.M. and duly recorded
in Book No. 820 Page 844-851

the records of Sheridan County, New Mexico

By Mary D. Quintero
County Clerk, Sheridan County, New Mexico

By Wendell A. Sanford Deputy

96-175

