

DOC # 1994-0585321
04-OCT-1994 10:02 AM

Recording Requested By:

Rancho Bernardo Swim & Tennis Club -
Bernardo Greens Unit No. 16

316

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY SMITH, COUNTY RECORDER

RF: 9.00
AF: 9.00
MF: 1.00

FEES:

19.00

When Recorded, Return To:

Rancho Bernardo Swim & Tennis Club
16955 Bernardo Oaks Drive
San Diego CA 92128

For Recorder's Use

AMENDMENT TO DECLARATION OF RESTRICTIONS

Bernardo Greens Unit No. 16, San Diego, California

THIS AMENDMENT is made on this 28 day of September,
1994, by Rancho Bernardo Swim & Tennis Club, a nonprofit mutual benefit
corporation, hereinafter referred to as "Club," representing the owners of the real
property described below, with reference to the following:

RECITALS

- A. The Club is vested with the responsibility for the architectural control of that certain
real property in the City of San Diego, County of San Diego, State of California,
described as follows:

LEGAL DESCRIPTION

Lots 333 to 368 inclusive of Bernardo Greens Unit No. 16, in the City of
San Diego, County of San Diego, State of California, according to the Map
thereof No. 5747, filed in the office of the County Recorder of San Diego
County, June 22, 1966;

hereinafter referred to as "**Property**."

- B. The individual owners of the Property are members of the Club.

- C. The Property is subject to the covenants and restrictions contained in the following:

1. The Declaration of Restrictions recorded on July 5, 1966 at File/Page No.
109207 of Official records of the County Recorder of San Diego County;

2. The Amendment to Declaration of Restrictions recorded on May 10, 1983 at File/Page No. 83-153799 of Official Records of the County Recorder of San Diego County;

and any other amendments which are now of record with the County Recorder of San Diego County, all hereinafter referred to together as "**Declaration**," unless the context clearly indicates otherwise.

- D. The Declaration, in Paragraph 25, provides that it may be amended with the approval of a majority of the owners of lots subject to the Declaration. Paragraph 25 also provides that any amendment shall become effective upon recordation in the office of the County Recorder of San Diego County.
- E. The undersigned, by signature below, certify that the affirmative vote of at least a majority of the owners of lots subject to the Declaration has been obtained.

DECLARATION

NOW THEREFORE, the Declaration is hereby amended as follows:

1. Paragraph 25 of the Declaration is deleted in its entirety and replaced with the following Paragraph 25:

25. EXTENSION OF CONDITIONS AND RESTRICTIONS. The conditions and restrictions of this Declaration shall continue until January 2, 2005. Thereafter, it shall be automatically extended for successive periods of ten (10) years, unless the owners of a majority of all lots subject to these conditions and restrictions execute and record an instrument terminating these conditions and restrictions.

2. Paragraph 32 of the Declaration is deleted in its entirety and replaced with the following Paragraph 31:

32. FAILURE TO COMPLY WITH ORDER OF ARCHITECTURAL COMMITTEE. In the event of the failure of any individual lot owner to comply with a written directive or order from the Architectural Committee, said Committee shall have the following powers:

- A) Impose reasonable monetary fines as recommended by the Architectural Committee and approved by the Board of Directors of the Rancho Bernardo Swim & Tennis Club.

- B) Perform the subject matter of such directive or order and charge the cost of such performance to the owner of the lot in question.

Any owner of a lot or lots subject to the prescribed conditions and restrictions disagreeing with any decision or directive of the Architectural Committee shall have the automatic right of appeal to the Board of Directors of the Club; provided that such appeal is filed with the said Board within fifteen (15) days following such decision or directive of the said Committee. Any amounts owing to the Club may be recovered by the Club as allowed by Section 1367 of the California Civil Code, or any successor statute or law, with regard to the collection of assessments.

Enforcement of compliance with restrictions contained herein may be by a proceeding at law or in equity against any person or persons violating or attempting to violate said restrictions, either to restrain violation or to recover damages.

3. Paragraph 11 of the Declarations is deleted in its entirety and replaced with the following paragraph 11:

11. LOT AND IMPROVEMENTS MAINTENANCE. Each individual lot owner will keep, maintain, water, plant and replant all slope banks located on such owner's lot so as to prevent erosion and to present an attractive appearance. Such owner shall also maintain his lot and all improvements thereon in an attractive and neat manner and in good condition and repair, including exterior surfaces and roofing of the dwelling and all landscaping thereon. Such owner shall also keep all walls and fences in good repair. No rubbish or debris of any kind shall be placed or permitted by an owner to accumulate upon or adjacent to any lot so as to render such property or portion thereof unsightly, offensive or detrimental to health or safety of any individual. Owner shall also keep his lot free from infested or diseased plants and trees and termite infested wood structures of any kind. The Architectural Committee shall review alleged violations and undertake corrective action consistent with this as well as all provisions of the Declaration of Restrictions recorded July 19, 1965 and all amendments thereto.

4. Except as expressly amended herein, the remaining portions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, this document is executed on the day and year herein above written by the undersigned President and Secretary of the Club.

RANCHO BERNARDO SWIM AND TENNIS CLUB,
a California nonprofit mutual benefit corporation

By: Stuart G. Hunt
Stuart G. Hunt, President

By: Richard W. Thorson
Richard W. Thorson, Secretary

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

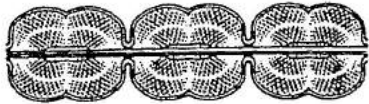
On _____, before me, the undersigned, a Notary Public in and for said State, personally appeared Stuart G. Hunt and Richard W. Thorson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as President and Secretary, on behalf of Rancho Bernardo Swim & Tennis Club, the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal.

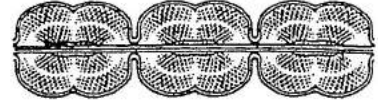
Notary Public

CALIFORNIA

320



ALL-PURPOSE



ACKNOWLEDGEMENT

STATE OF CALIFORNIA)

COUNTY OF SAN DIEGO)

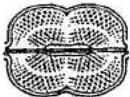
On Sept. 28, 1994 before me, Theresa L. Rice/Notary Public
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared, **Stuart G. Hunt and Richard W. Thorson**

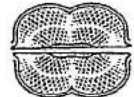
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

 (SEAL)
NOTARY PUBLIC SIGNATURE



OPTIONAL INFORMATION



TITLE OR TYPE OF DOCUMENT Amendment to Declaration of Restrictions

DATE OF DOCUMENT September 28, 1994 NUMBER OF PAGES 4

SIGNER(S) OTHER THAN NAMED ABOVE None

Recording Requested By
and
When Recorded Return To:

1976

83-153799

RECORDED IN
OFFICIAL RECORDS
OF SAN DIEGO COUNTY, CA.

1983 MAY 10 PM 3:50

VERA L. LYLE
COUNTY RECORDER

RF 14 A
MG 1

Secretary
R. B. SWIM & TENNIS CLUB
16955 Bernardo Oaks Dr.
San Diego, California 92128

AMENDMENT TO DECLARATION OF RESTRICTIONS

This Amendment to Declaration of Restrictions is made with reference to the following:

R E C I T A L S

- A. A Declaration of Restrictions (the "Declaration") was filed for record on July 5, 1966 at File/Page No. 109207, Official Records of San Diego County, California.
- B. The undersigned wish by means of this instrument to amend the Declaration pursuant to procedure prescribed in the Declaration.
- C. The Declaration encumbers:
- Lots 333 to 368, inclusive of Bernardo Greens Unit No. 16, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 5747, filed in the Office of the Recorder of San Diego County, California

NOW, THEREFORE, the Declaration is amended as follows:

1. Paragraph 2 of the Declaration is hereby deleted and the following paragraph 2 is substituted therefor:

2. ARCHITECTURAL CONTROL

2.1. The Board of Directors of RANCHO BERNARDO SWIM & TENNIS CLUB, a California nonprofit corporation, (the "Club") may appoint an architectural committee of at least three but no more than five persons. Each architectural committee member shall serve until his removal by the Board of Directors of the Club. Any person who is a regular member of the Club may be appointed an architectural committee member. Upon appointment or replacement of an architectural committee member, a notice thereof shall be filed in the Official Records of San Diego County, California. Any architectural committee member may resign at any time by recording a copy to the Board of Directors. The members of the architectural committee shall receive no compensation for services rendered, but committee members may be reimbursed for their actual out-of-pocket expenditures incurred in performing their duties.

2.2. The architectural committee shall provide guidelines for the submission of plans and specifications which may be amended by the architectural committee from time to time. Failure to comply with the requirements for the architectural approval shall be deemed sufficient basis for the architectural committee to disapprove the submission.

2.3. Neither the architectural committee, nor any member thereof, nor their duly authorized representatives shall be liable to any owner for any loss, damage, or injury arising out of or in any way connected with the performance of the architectural committee's duties hereunder, unless due to the willful misconduct or bad faith of the architectural committee. The architectural committee shall review and approve or disapprove all plans submitted to it solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the project generally. The architectural committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, topography, landscaping, color schemes, exterior finishes and materials and similar features.

2.4. The approval by the architectural committee of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the architectural committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans or specifications, drawings or matter whatsoever subsequently or additionally submitted for approval or consent.

AMENDMENT TO DECLARATION OF RESTRICTIONS, CONT.
PAGE 2 OF 2.

2.5. Any enforcement action set forth in the Declaration may be brought by the owner of a lot, the Architectural Committee, or by the Rancho Bernardo Swim and Tennis Club. Any violation of the architectural committee's order or directive may be remedied by the Club, the architectural committee or any owner of a lot through litigation seeking an order to mandate removal and/or prohibit construction of nonconforming improvements.

2.6. Any legal action authorized by the Declaration may also be brought by the Rancho Bernardo Swim and Tennis Club; the Club shall also have the right to notice any claim of breach pursuant to the Declaration.

2. The following paragraphs are added to the Declaration:

X. ASSESSMENTS - THE CLUB

X.1. In addition to any other assessment rights the Club may have, the Club shall have the right to assess owners on a non-lien basis the cost of the Club's architectural control activities and enforcement activities with respect to enforcement of this Declaration of Restrictions. Assessments for all such purposes are referred to herein as "Architectural Assessments." The Architectural Assessments may include amounts to establish and maintain reserves to be used for architectural control activities and enforcement of this Declaration of Restrictions.

X.2. Each owner agrees to pay all Architectural Assessments within thirty (30) days after imposition of the same by the Club. The Club shall have the right to impose Architectural Assessments on yearly or such other basis as the Club deems appropriate and notice shall be given to each owner as to the due dates of the Architectural Assessments.

X.3. Any Architectural Assessment not paid within thirty (30) days of its due date shall be deemed delinquent and the Club shall be entitled to its actual costs and reasonable attorneys' fees incurred with respect to collection of any delinquent Architectural Assessment.

X.4. Each Architectural Assessment, together with costs and reasonable attorneys' fees shall be the personal obligation of the person who was the lot owner as of the date of the assessment. The personal obligation for delinquent assessment shall not pass to successors in title unless expressly assumed by them.

Y.1. This Amendment shall be and become effective upon filing for recordation of this Amendment with the County Recorder of San Diego, California, signed by the majority of the owners as set forth in the Declaration.

Y.2. This Amendment may be executed in counter part.

Greens no 16

Greens 16

514

DECLARATION OF RESTRICTIONS

This Declaration of Building Restrictions and Architectural Control, made this 1st day of July, 1966 by RANCHO BERNARDO HOMES, INC., a corporation.

WHEREAS, RANCHO BERNARDO HOMES, INC., a corporation, herein referred to as "Owner" is the owner of that certain property situated in the City of San Diego, County of San Diego, State of California, described as follows:

Lots 333 to 368 inclusive of BERNARDO GREENS UNIT No. 16, according to Map thereof No. 5447, filed in the Office of the Recorder of San Diego County, June 22, 1966.

WHEREAS, Owner is about to sell and convey some or all of the lots located within said Bernardo Greens Unit No. 16; and before selling or conveying any of said lots, desires to subject all or said lots in said Bernardo Greens Unit No. 16 to certain conditions and restrictions for the protection and benefit of Owner and any and all future owners of said lots or any of them.

W I T N E S S E T H :

That the said Owner hereby certifies and declares that it has established and does hereby establish the following general plan for the protection and benefit of all said real property, conditions and restrictions upon and subject to which each and all of the lots in said real property shall be hereafter held, used, occupied, leased, sold and/or conveyed. Each and all of which said conditions and restrictions shall inure to the benefit of, be binding upon and pass with said real property, and each and every lot and/or parcel thereof, and shall inure to the benefit of, apply to and bind the respective successors in title, or interest of Owner.

1. RESIDENTIAL PURPOSES ONLY. That said lots shall be used for residential purposes only and that no building or buildings shall be erected, constructed, altered or maintained on any of the said lots other than detached single family dwellings, together with customary outbuildings, as permitted from time to time by City Zoning Ordinances.

FILE/PAGE NO. 109207
RECORDED REQUEST OF
SECURITY TITLE INSURANCE COMPANY

JUL 5 9 02 AM '66

SERIES T BOOK 1960
OFFICIAL RECORDS
SAN DIEGO COUNTY, CALIF.
A. D. GRAY, RECORDER

760

2. ARCHITECTURAL COMMITTEE. There shall be an Architectural Committee consisting of three (3) persons to be appointed by Owner. Each of said persons so appointed shall be subject to removal at the direction of Owner at any time and from time to time, and all vacancies on said Committee shall be filled by appointment of Owner. In the event of failure of Owner to appoint such Committee or to fill any vacancies therein, then in such event the owner of a majority in a number of the lots in said real property shall have the right by written document to appoint the members of said Committee to fill any vacancies therein.

3. NEW BUILDING ONLY. That no building of any kind shall be moved from any other place onto any of said lots, or from one lot to another lot, without the prior written permission of the Architectural Committee.

4. HEIGHT LIMIT OF DWELLINGS. That no dwelling without the written approval of the Architectural Committee shall be more than one story in height.

5. MINIMUM FLOOR AREA OF DWELLINGS. That the floor square foot area, exclusive of porches, patios, exterior stairways and garages, of any building shall not be less than 1400 square feet on the ground floor of a one story building.

6. BALCONIES AND DECKS. No balcony or deck shall be higher above the ground than the second floor level except on written approval of the Architectural Committee.

7. PLANS AND SPECIFICATIONS, ETC. That no building or other structure or improvement shall be commenced upon any of said lots until the location and the complete plans and specifications including the color scheme of each building, fence and/or wall to be erected upon the lot have been approved in writing by the Architectural Committee, and no building shall be located on any lot nearer than the set-back line as shown on the recorded plat. Provided, however, that in the event the Committee fails to approve or disapprove such location, plans and specifications within sixty (60) days after the submission thereof to it, then such approval will not be required, provided any building so to be erected conforms to all other conditions and restrictions herein contained and is in harmony with similar structures, erected within Bernardo Greens Unit No. 16.

8. NO SECOND-HAND MATERIALS, PAINTING REQUIRED. That no second-hand material shall be used in the construction of any building or other structure without the prior written approval of the Architectural Committee; and all buildings and fences which are of frame construction shall be painted or stained with at least two coats upon completion. Exception to this may be given by the Architectural Committee by written approval.

9. DILIGENCE IN CONSTRUCTION REQUIRED. That the work of constructing and erecting any building or other structure shall be prosecuted diligently from the commencement thereof and the same shall be completed within a reasonable time in accordance with the requirements herein contained. No outbuilding shall be completed prior to the completion of the dwelling, except that temporary quarters may be erected for workmen engaged in building a dwelling on the premises, but such temporary quarters must be removed as soon as the dwelling is completed.

10. PLANTING. No later than six (6) months after the completion of any building there shall be expended by each individual owner on each individual lot for ornamental plants, trees, shrubs, lawns and flowers, exclusive of slope bank planting and care as hereinafter provided, a sum of not less than two per cent (2%) of the cost of said dwelling and lot, exclusive of any exterior to said building. Size, type and location of materials to be used shall be submitted to the Architectural Committee, prior to any construction.

11. LOT MAINTENANCE. Each individual lot owner will keep, maintain, water, plant and replant all slope banks located on such owner's lot so as to prevent erosion and to present an attractive appearance. The Architectural Committee shall be the sole judge in determining compliance with the provisions of this paragraph and each individual lot owner will promptly perform or conform to all directives issued by the Architectural Committee for compliance with the provisions of this paragraph.

12. TREES. All trees shall be trimmed by the owner of the lot upon which the same are located so that the same shall not exceed the height of the house on the premises; provided, however, that where trees do not obstruct the view from any other of said lots they shall not be required to be so trimmed; and before planting any trees the proposed location of such trees shall be approved in writing by the Architectural Committee. No trees shall be so located or allowed to reach a size or height that will interfere with the view of the surrounding properties.

13. FENCING. All lots fronting on the golf course shall be allowed with Architectural Committee approval in writing, the right to erect a chain link fence on the rear lot line. Said fence to be four (4') feet in height unless a swimming pool is placed in rear yard, whereas the fence shall be five (5') feet in height. No solid face fencing will be allowed on the side lot line within the rear fifteen (15') feet.

14. EXTERIOR ALTERATIONS. That no alteration shall be made in the exterior design or color of any structure unless such alterations, including any addition, shall have first been approved in writing by the Architectural Committee. Materials to be used must harmonize, complement and be of similar materials used in the construction of existing dwelling. Where higher fences or hedges are allowed, review by the Architectural Committee, in relation to normal enjoyment of view by other lot owners shall be required.

15. FENCE, HEDGES, RADIO POLES AND FLAG POLES. That no fence, rail or hedge over 36 inches in height shall be placed in front of the set-back line on a lot, as shown on the recorded map of said Bernardo Greens Unit No. 16, and no fence, wall (except a retaining wall), rail or hedge shall be over 72 inches in height elsewhere on the lot except with the prior written consent of the Architectural Committee.

16. NO TELEVISION ANTENNA. There shall be no outside television or radio antenna constructed, installed or maintained in said real property.

17. MAIL BOXES. The installation of mail boxes detached from the residence structures shall be subject to prior Architectural Committee approval.

18. DRYING YARDS. That drying yards shall be screened from exterior view by fence, hedge or shrubbery.

19. NO TENTS, SHACKS, ETC. That no tent, shack, trailer, basement, garage or outbuilding shall at any time be used on any lot as a residence either temporarily or permanently; nor shall any residence of a temporary character be constructed, placed or erected on any lot. No truck, camper, trailer, boat of any kind, or other single or multi-purpose engine powered vehicle other than a standard automobile or an approved golf cart shall be parked on any lot except temporarily and solely for the purpose of loading or unloading.

20. NO SIGNS. That no sign of any kind or for any use or purpose whatsoever shall be erected, posted, pasted, painted or displayed upon any of said lots or upon any building or other structure thereon, without the prior written permission of the Architectural Committee.

21. NO WELLS. That no well for the production of, or from which there is produced, water, oil or gas, shall be operated upon any lot; nor shall any machinery appliance or structure to be placed, operated or maintained thereon for use in connection with any trading, manufacturing or repairing business.

22. NO FARM ANIMALS, ETC. That no turkeys, geese, chickens, ducks, pigeons or fowls of any kind, or goats, rabbits, hares, horses, or animals usually termed "farm animals", shall be kept or allowed to be kept on any of said lots.

23. NO RAISING OF DOGS AND CATS, ETC. That no commercial dog raising or cat raising or any kind of commercial business shall be conducted on any of said lots, and no part of any lot shall be used for the purpose of vending liquors or beverages of any kind; and nothing shall be done upon any lot which may become an annoyance or nuisance to the neighborhood.

24. SLOPE AND DRAINAGE EASEMENTS. That each of the owners of a lot in said tract will permit free access by owners of adjacent or adjoining lots to slopes or drainageways located on his property which affect said adjacent or adjoining lots, when such access is essential for the maintenance of permanent stabilization on said slopes, or maintenance of the drainage facilities for the protection and use of property other than the lot on which the slope or drainageway is located.

That each owner of a lot in said tract will not in any way interfere with the established drainage pattern over his lot from adjoining or other lots in said tract, or that he will make adequate provisions for proper drainage in the event it is necessary to change the established drainage over his lot. For the purpose hereof, "Established" drainage is defined as the drainage which occurred at the time the overall grading of said tract was completed by Owner.

25. EXTENSION OF CONDITIONS AND RESTRICTIONS. Each and all of the foregoing conditions and restrictions shall terminate January 2, 1995, unless the owners of a majority of said lots have executed and recorded at any time within six months prior to January 2, 1995, in the manner required for a conveyance of real property, a writing in which they agree that conditions and restrictions shall continue for a further specified period and providing therein a similar provision for the further extension of said restrictions and conditions; and said majority may in said agreement provide that said conditions and restrictions or some of them, shall no longer apply to certain lots; provided, also, that the above and foregoing conditions and restrictions may be modified at the time and in the same manner hereinabove provided for the extensions of said conditions and restriction.

26. NOTICE OF CLAIM OF BREACH. That the Owner, or the Architectural Committee may at any time that it or the Architectural Committee deems a breach of these conditions and restrictions has occurred, execute, acknowledge and record in the Recorder's Office of San Diego County, a Notice of Claim of Breach setting forth the facts of such breach describing the lot or lots upon which such breach occurred and setting forth the name of the owner or owners thereof. Such notices upon being recorded, shall be notice to all persons of such breach, provided an action has been commenced within sixty (60) days after the recording of such notice to establish such breach and if no such action has been commenced within such sixty (60) day period, then and in that event such notices shall be of no force and effect whatsoever and the breach set forth in said notice shall be presumed to have been remedied.

PROVIDED that a breach of any of the foregoing conditions and restrictions shall not affect, impair, defeat or render invalid the lien, charge or encumbrance of any mortgage or trust deed made for value which may then exist upon said land, which said mortgage or trust deed shall be and is hereby declared to be prior and superior to the rights in favor of any person or persons under and by virtue of these conditions and restrictions, provided, however, that in the event of a foreclosure of any such trust deed or mortgage, or if the owner of the note secured by such trust deed or mortgage acquires title to said land in any manner whatsoever in satisfaction of his indebtedness, then any purchaser at the foreclosure or trustee's sale, or any said note owner acquiring title as aforesaid agrees that said property so acquired by them shall immediately upon said acquisition become subject to each and all of the conditions and restrictions and rights herein contained, but free from the effects of any breach occurring prior thereto.

27. NO SUBDIVISION OF LOTS. No residential lot or lots shall be re-subdivided into building sites having a frontage of less than shown on the original recorded map filed for record.

28. MEMBERSHIP IN RANCHO BERNARDO PARK. Each owner and/or owners of a residential unit in the property above described shall be a regular member of Rancho Bernardo Park, a California corporation not for profit, which said membership shall be appurtenant to such residential unit, and the transfer of title to such residential unit shall automatically transfer the regular membership appurtenant to such residential unit to the transferee or transferees and an allocable part of the purchase price paid to Owner for such residential unit shall be for the cost of construction of said Rancho Bernardo Park improvements. Each such owner and/or owners are obligated to promptly, fully and faithfully comply with and conform to the By-Laws of Rancho Bernardo Park, and the rules and regulations from time to time prescribed thereunder by the Board of Directors of said corporation or its officers and to promptly pay in full all dues, fees or assessments levied by said corporation on its members whether such dues, fees or assessments were levied prior or subsequent to the date of acquisition of title except that the purchaser of any such residential unit at a Trustee's Sale on foreclosure or a lender who acquires title by deed in lieu of foreclosure shall not be liable for any dues, fees or assessments levied prior to such sale or acquisition of title.

29. PROTECTION FOR MORTGAGEES AND TITLE INSURANCE COMPANIES. That the owners of any encumbrance made for value on any said lot or lots and any corporation insuring the lien of such encumbrance may conclusively presume that no breach exists under these conditions and restrictions, provided such encumbrance is recorded in the Office of the County Recorder of San Diego County prior to the commencement of any action to establish any such breach and not within sixty (60) days after the recording of any Notice of Claim of Breach, anything contained herein to the contrary notwithstanding.

Declaration of Restrictions
Page Seven

520

30. INVALIDITY OF ANY PROVISION. That in the event any condition or restrictions herein contained be invalid, or held invalid or void by any court of competent jurisdiction, such invalidity or nullity shall in no way affect any other condition or restriction herein contained.

31. NO WAIVER. That a waiver of a breach of any of the foregoing conditions and restrictions shall not be construed as a waiver of any succeeding breach or violation or of any other condition or restrictions.

32. ENFORCEMENT. Enforcement shall be by proceeding 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.

33. LEGAL ACTION IN THE EVENT OF BREACH. As to the Owner and the owner or owners of any of said lot or lots, including any bona fide purchaser under contract, the foregoing conditions and restrictions shall operate as covenants running with the land and a breach of any of them, or a continuance of any such breach may be enjoined, abated or remedied by appropriate proceedings by Owner or the owner or owners of any lot or lots in Bernardo Greens Unit No. 16, their successors or assigns or by Architectural Committee.

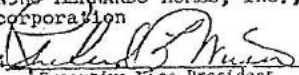
34. AMENDMENTS. These restrictions may be amended at any time and from time to time by an instrument in writing signed by the Owner of seventy-five (75) per cent or more of said lots which said written instrument shall become effective upon the recording of the same in the Recorder's Office of the County of San Diego, California.

35. INTERPRETATION OF RESTRICTIONS. All questions of interpretation or construction of any of the terms or conditions herein shall be resolved by the Architectural Committee, and its decision shall be final, binding and conclusive on all of the parties affected.

36. FAILURE TO COMPLY WITH ORDER OF ARCHITECTURAL COMMITTEE. In the event of the failure of any individual lot owner to comply with a written directive or order from the Architectural Committee, then in such event, the Architectural Committee shall have the right and authority to perform the subject matter of such directive or order and the cost of such performance shall be charged to the owner of the lot in question and may be recovered by the Architectural Committee in an action at law against such individual lot owner.

IN WITNESS WHEREOF, said Rancho Bernardo Homes, Inc., a corporation, as Owner, has signed this instrument the day and year first hereinabove written.

RANCHO BERNARDO HOMES, INC.,
a corporation

By: 
Executive Vice President

Declaration of Restrictions
Page Eight

521

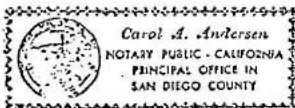
STATE OF CALIFORNIA }
COUNTY OF SAN DIEGO } ss

On July 1, 1966, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Richard L. Weiser known to me to be the Executive Vice President of the corporation that executed the within instrument and known to me to be the person who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

Carol A. Andersen
Notary Public in and for said County and State

My Commission Expires CAROL A. ANDERSEN
My Commission Expires Jan. 25, 1973



DEPARTMENT OF INVESTMENT
DIVISION OF REAL ESTATE
OF THE
STATE OF CALIFORNIA

BURTON E. SMITH, Real Estate Commissioner

In the matter of the application of

RANCHO BERNARDO HOMES, INC.,
a corporation
HARRY L. SUMMERS, President
for a final subdivision public report on.

BERNARDO GREENS UNIT NO. 16

SAN DIEGO COUNTY, CALIFORNIA

FINAL SUBDIVISION
PUBLIC REPORT

FILE NO. 3896-SD

ISSUED: AUGUST 8, 1966
AMENDED: AUGUST 17, 1966
EXPIRES: AUGUST 8, 1971

This Report Is Not a Recommendation or Endorsement of the Subdivision
But Is Informative Only.

Buyer or Lessee Must Sign That He Has Received and Read This Report.
This Report Expires on Date Shown Above or Upon a Material Change.

SPECIAL NOTES: THE SUBDIVIDER IS CONSTRUCTING A COMMUNITY
RECREATIONAL PARK ON PROPERTY DESCRIBED AS LOT 1, RANCHO BERNARDO
RECREATIONAL CENTER. IMPROVEMENTS ARE PLANNED IN THREE PHASES.
THE FIRST AND SECOND PHASES HAVE BEEN COMPLETED. LIEN AND COM-
PLETION BONDS FOR PHASE THREE HAVE BEEN FILED. PHASE THREE
CONSISTS OF TWO BASEBALL FIELDS AND ATTENDANT FACILITIES. PUR-
CHASERS OF LOTS IN THIS SUBDIVISION MUST BECOME MEMBERS OF THE
RANCHO BERNARDO PARK, INC., WHICH MANAGES AND MAINTAINS THE PARK
RECREATIONAL AREAS.

THE PROVISIONS FOR MANAGEMENT INCLUDE THE RIGHT TO LEVY ASSESS-
MENTS, FEES OR DUES AGAINST YOU FOR USE OF THE RECREATIONAL AREAS.

YOUR ATTENTION IS ESPECIALLY DIRECTED TO THE PARAGRAPHS BELOW HEADED:
TITLE, RESTRICTIONS AND PLAN OF MANAGEMENT OF RECREATIONAL AREAS.

LOCATION AND SIZE: In City of San Diego at Mirasol Drive and Alta Mirasol Drive.
Approximately 12 acres divided into 36 lots in addition to the recreational
facilities or areas which consist of: Swimming pool, showers, locker facilities,
tennis courts, children's playground and apparatus area, meeting house, barbeque
areas, lawn and patio.

INTERESTS TO BE CONVEYED: The purchaser will receive fee title to a specified lot
together with a membership in Rancho Bernardo Park, Inc. Association and rights to
use the common area.

TITLE: Title is subject, among other things, to: Easements affecting certain lots
for utility, drainage, ingress and egress, sewer and other purposes. These ease-
ments as they affect individual lots may be determined by an examination of title
report and final recorded tract map.

ZONING: The property is to be sold for residential purposes.

RESTRICTIONS: Restrictions, recorded in Book 1966, Series 7, as Document No.
109207 on July 5, 1966, Official Records of the San Diego County Recorder, affect-
ing the development, among other restrictions or limitations on use, contain the
following provisions:

No building shall be erected, placed or altered on any lot until the construc-
tion plans and specifications, and a plan showing the location of the construction
have been approved by the Architectural Committee.

No sign of any kind or for any use or purpose whatsoever shall be erected,
posted, pasted, painted or displayed upon any of said lots or upon any building
or other structure thereon without the prior written permission of the Architect-
ural Committee. This clause is broadly written and may be unenforceable.

MANAGEMENT AND OPERATION: THE PLAN OF MANAGEMENT AND OPERATION OF THE RECREATIONAL AREAS, among others, includes the following provisions:

Purchasers must become members of Rancho Bernardo Park, Inc. There are three classes of memberships in Rancho Bernardo Park, Inc.:

1. Regular membership - each owner of a residential unit and entitled to one vote;
2. Charter membership - Rancho Bernardo, Inc. is the only charter member. Charter member is entitled to one vote for every regular membership vote until there are a minimum of 2,000 regular memberships at which time the charter member shall no longer be entitled to any voting rights;
3. Associate members - Residents of Rancho San Bernardo whose application has been duly approved by the Board of Directors -- Associate members shall have no voting rights.

The corporation is being managed by a Board of Directors. Annual election meetings are held on the second Tuesday of March at which time a new Board of Directors is to be elected by the owners.

Owners shall be notified of the place, date and hour of any meeting of owners and, in the case of a special meeting, the notice shall set forth the general nature of the business to be transacted. Such notices shall be sent to owners at least seven days before the meeting.

At any meeting, the owners' voting rights shall be allocated on the basis of one vote for each residential unit and owners shall be entitled to cumulative voting on election or removal of members of Board of Directors.

At least a majority of the voting power shall prevail at all meetings, and the presence, in person or by proxy, of owners holding a majority of votes shall constitute a quorum for the transaction of business.

The provisions of any documents relating to management and operation may not be amended without the vote or written approval of a majority of the voting power.

The restrictions relating to this project may not be amended without the approval of 75% of the voting owners.

The Board of Directors, among other things, shall have power to:

- Enforce the provisions of the By-Laws;
- Contract and/or pay for fire, casualty, liability and other insurance and bonding of its members, maintenance, gardening, utilities, materials, supplies, services and personnel necessary for operation, taxes and assessments; and
- Delegate its powers to others.

The accounts of the Rancho Bernardo Park, Inc. shall be subject to an annual audit, a copy of which shall be available to each member upon request at the corporation office.

Members interest in the Park may not be severed from other interest conveyed.

MAINTENANCE AND OPERATIONAL EXPENSES: Owners or members shall be assessed a maximum of \$3.50 per month until there are a maximum of 2,000 regular members at which time other amounts as may be determined necessary by the Board of Directors to meet expenditures and reserves authorized in connection with management and operation. Default in the payment of such assessment will result in suspension of membership until paid.

INSTALLMENT SALES CONTRACTS: The subdivider in his application for this report states that no sales are to be made on installment sales contracts.

PURCHASE MONEY HANDLING WILL BE AS FOLLOWS: All funds received from each purchase will be impounded in a neutral escrow depository until a release is obtained from any blanket encumbrance applying to this subdivision and the legal title is delivered to the purchaser. (Ref. Sections 11013 and 11013.2(a) Business and Professions Code).

NOTE: A blanket encumbrance is one which affects more than one parcel of subdivided land; it can concern money or matters of agreement.

FILLED GROUND: The subdivider's engineer reports that some lots contain filled ground to a depth of 20 feet. Excerpts from the subdivider's engineer's report are as follows: "...Inspection of the site at completion of grading indicates that no potentially expansive soil is evident at rough grade or cut, fill or cut and fill lots....The prepared ground at the site is suitable for support of residential structures designed in accordance with the recommendations in our reports and structural damage to residences is not likely to result due to the soil conditions."

FLOOD AND DRAINAGE: Excerpt from City Engineer's report: "...The subdivision is not subject to flooding. Adequate storm drain facilities and surface improvements are being provided in the development of this subdivision."

WATER: Water will be supplied by the City of San Diego.

FIRE PROTECTION: City of San Diego.

UTILITIES: Electricity and gas will be supplied by the San Diego Gas & Electric Company. Telephone service will be supplied by the Pacific Telephone Company.

Facilities for these services are presently located adjacent to the tract.

SEWAGE DISPOSAL: Public sewers will be installed by subdivider and will discharge into the City of San Diego sewer system.

Lot purchasers will be required to pay a service charge of \$1.50 per living unit per month.

STREETS AND ROADS: Streets within this subdivision have been offered for dedication and have been accepted by the City, for public use and maintenance.

PUBLIC TRANSPORTATION: Is not available.

PUBLIC SCHOOL DISTRICTS WHICH SERVICE THIS SUBDIVISION: The grammar school, junior high school and high school are in the Poway Unified School District.

School bus service is available to all schools.

NOTE: Purchasers should contact the local school board if they desire information regarding school facilities and bus service.

SHOPPING FACILITIES: Are approximately 1/5 mile from the subdivision located at Rancho Bernardo Shopping Center.

APPOINTMENT OF ARCHITECTURAL COMMITTEE

WHEREAS, RANCHO BERNARDO HOMES, INC., a corporation, as Owner of Bernardo Greens, Unit No. 16, according to Map No. 5747, filed in the Office of the County Recorder of San Diego County on June 22, 1966 being real property situated in the City of San Diego, County of San Diego, State of California, did as such Owner, make and declare for said real property certain Declaration of Restrictions with the County Recorder of San Diego, and recorded July 5, 1966 as Document No. 109207.

WHEREAS, THEREFORE, the undersigned does hereby remove the existing members of said Architectural Committee and does hereby appoint as member of said Architectural Committee under said Declaration of Restrictions the following persons; to-wit:

ELWYN BOOTH
FRAZIER ARMBRUSTER
WILLIAM H. CLAUS, III

IN-WITNESS WHEREOF, the undersigned has caused its name to be hereunto subscribed by its officers in this respect duly authorized this 25th day of August, 1970

RANCHO BERNARDO HOMES, INC.

By Frank M. Files

Assistant Secretary

Attest:

Joann S. Furse

STATE OF CALIFORNIA)

) ss.

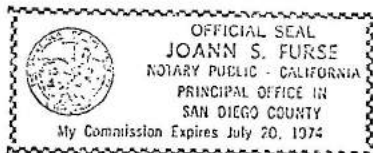
COUNTY OF SAN DIEGO)

On August 25, 1970 before me, the undersigned, a Notary Public, in and for said County and State, personally appeared Frank M. Files, known to me to be the Assistant Secretary of the corporation that executed the within Instrument on behalf of the corporation therein named and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

Signature

Joann S. Furse



The foregoing instrument is a full, true and correct copy of the original recorded on 9-4-1970

File/Page 161831

Book _____ of Official Records, San Diego County.

Title Insurance and Bond Company

Chris Pennino
Assistant Secretary

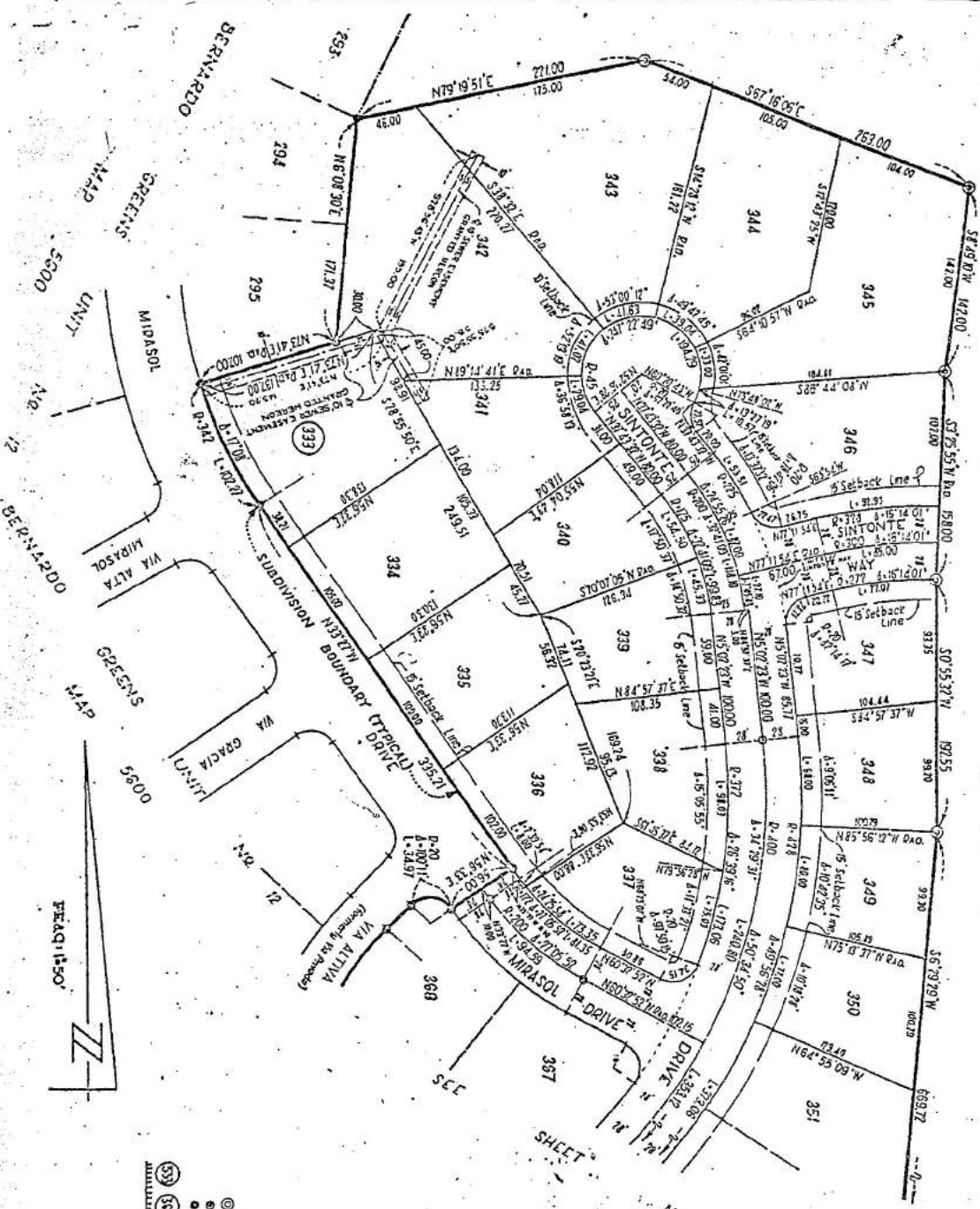
this instrument is not an insurance and Trust Company. It has not been examined as to its execution or as to its effect upon the title

BERNARDO GREENS UNIT NO. 16

RANCHO SAN BERNARDO (P. of S. 6081)

SHEET 2 OF 3 SHEETS

5147



LEGEND

- 2" pipe 24" in length with disc stamped R.C.E. 8195
- 4" Gully CON. MON. M-21-62
- Found 2" pipe with disc stamped R.C.E. 8195 per Map 3500
- Denotes first and last lot number.
- Denotes right of access redefined herein

NOTES

- Scale of drawing: A portion of the existing subdivision boundary is shown.
- UNIT No. 16, Map 3500, L.A. 53327E, 235, 211
- Title subdivision contains 13742 acres gross.

RECORDED

6-22-66

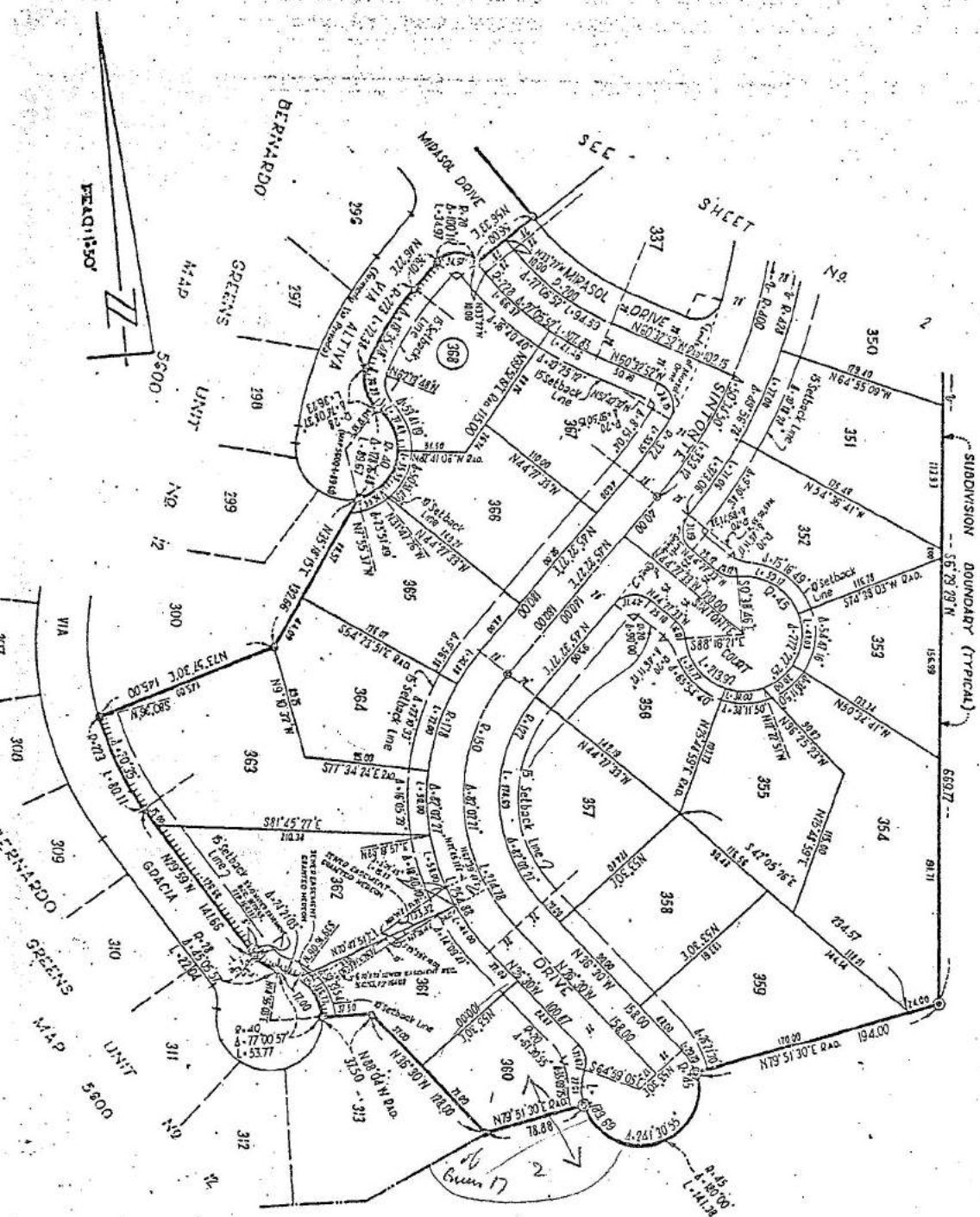
FILED

36-341

FOR RECORD OF
WATER, CANYON, STREAM, RIVER, LAKE, OR OTHER NATURAL
BY ORDER OF THE SUPERVISOR, COUNTY OF LOS ANGELES, CALIFORNIA

BERNARDO GREENS UNIT NO. 16

SHEET 3 OF 3 SHEETS



RANCHO SAN BERNARDO

(2. of 3. 6081)