

THE ORIGINAL OF THIS DOCUMENT
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GREGORY J. SMITH, COUNTY RECORDER
SAN DIEGO COUNTY RECORDER'S OFFICE
TIME: 11:01 AM

Recording Requested By:
Rancho Bernardo Swim and Tennis Club
Bernardo Greens Unit 7

When Recorded Return To:
RB Swim and Tennis Club
16955 Bernardo Oaks Dr.
San Diego, California 92128

mk

For Recorder's Use

AMENDMENT TO DECLARATION OF RESTRICTIONS

Bernardo Greens Unit No. 7, San Diego, California

THIS AMENDMENT is made on this 21st day of August 2001, by Rancho Bernardo Swim and 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, State of California, described as follows:

LEGAL DESCRIPTION

Lots 95 through 145, inclusive, of Bernardo Greens Unit No. 7 in the City of San Diego, County of San Diego, State of California according to the map thereof No. 5259, filed in the Office of the County Recorder of San Diego County, September 17, 1963:

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 ^{October} 27, 1963 at File/Page No. 52353 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. 83-153794 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 30, provides that it may be amended with the approval of a majority of the lots subject to the Declaration. Paragraph 30 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. Add new paragraph 11A to your CC&Rs of September 17, 1963:

Paragraph 11A. 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 September 17, 1963 and all amendments thereto.

2. Except as expressly amended herein, the remaining portions the Declarations 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: Jane Morgan
Jane Morgan, President

By: Gertrude Aufderheide
Gertrude Aufderheide, Secretary

STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO)

On _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ and _____, 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 and 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 ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego } ss.

On August 21, 2001, before me, Cheryl L. Hollenbeck Notary Public,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Jane Morgan & Gertrude Aufderheide,
Name(s) of Signer(s)

☐ personally known to me
☒ 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.



Place Notary Seal Above

WITNESS my hand and official seal.

Cheryl L. Hollenbeck
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Amendment To Declaration of Restrictions

Document Date: August 21, 2001 Number of Pages: 3 (three)

Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____



Recording Requested By:

Rancho Bernardo Swim and
Tennis Club - Bernardo Greens
Unit No. 7

When Recorded, Return To:

Mary M. Howell, Esq.
EPSTEN & GRINNELL
555 West Beech St., Ste. 200
San Diego, CA 92101

For Recorder's Use

AMENDMENT TO DECLARATION OF RESTRICTIONS

Bernardo Greens Unit No. 7, San Diego, California

THIS AMENDMENT is made on this 22nd day of December, 19 92, by Rancho Bernardo Swim and 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 95 through 145, inclusive, of Bernardo Greens Unit No. 7, in the City of San Diego, County of San Diego, State of California, according to the Map thereof No. 5259, filed in the Office of the County Recorder of San Diego County, September 17, 1963;

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 September 27, 1963 at File/Page No. 165334 of Official Records of the County Recorder of San Diego County; and
2. The Amendment to Declaration of Restrictions recorded on May 10, 1983 at File/Page No. 83-153794 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 30, provides that it may be amended with the approval of a majority of the lots subject to the Declaration. Paragraph 30 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 21 of the Declaration is deleted in its entirety and replaced with the following Paragraph 21:

21. EXTENSION OF CONDITIONS AND RESTRICTIONS. The conditions and restrictions of this Declaration shall continue in effect until January 2, 2002. 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 32:

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, the Architectural 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 and Tennis Club; and
- (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 or owners 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.

3. 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 hereinabove written by the undersigned President and Secretary of the Club.

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

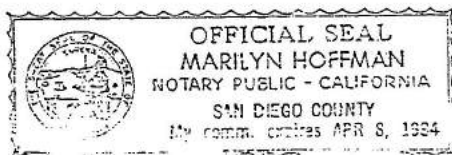
By: Stuart G. Hunt
Stuart G. Hunt, Vice President

By: Hugh E. Sandoz
Hubert ~~Hugh~~ E. Sandoz, Secretary
DES

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

On 22 December 1992, before me, the undersigned, a Notary Public, in and for said State, personally appeared Stuart G. Hunt and ~~Hubert~~ ^{Hugh} E. Sandoz, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as Vice President and Secretary, on behalf of Rancho Bernardo Swim and 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.



Marilyn Hoffman
Notary Public

Greens 7 hole 95-145

AVCO COMMUNITY DEVELOPERS, INC.

16770 WEST BERNARDO DRIVE, P.O. BOX 29199, SAN DIEGO, CALIF. 92127 TEL: (714) 277-2132 487-1011

September 3, 1982

Dear Homeowner:

On October 1, 1982, Avco Community Developers, Inc. and the existing ACD appointed Architectural Committee will officially terminate all CC&R related responsibilities within the Bernardo Hills, Bernardo Greens and Gatewood Hills areas of Rancho Bernardo. To assure that property values are protected and that the Covenants, Conditions and Restrictions are properly enforced, the Board of Directors of the Swim and Tennis Club have agreed to accept the responsibilities of CC&R control, subject to the majority approval of the members of the Club.

In order to legally accomplish this task, it is required that all CC&R's and Bylaws of the Swim and Tennis Club be amended. Enclosed herewith are copies of the actual amendment documents applicable to your property. Please review these documents at the earliest date possible, as a representative of the Swim and Tennis Club will be in your area sometime in the near future to obtain your signature of approval.

If you may have any questions regarding this matter, please feel free to contact me at your convenience at 487-1011, extension 306 or 307.

Yours truly,



Ed Williams
CC&R Coordinator

EW:js

Enclosure

Recording Requested By
and
When Recorded Return To:

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 September 27, 1963, at File/Page No. 165334 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 paragraph 30 of the Declaration.

C. The Declaration encumbers:

Lots 95 to 145, inclusive of Bernardo Greens Unit No. 7 in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 5259, filed in the Office of the Recorder of San Diego County, California.

NOW, THEREFORE, the Declaration is amended as follows:

1. Paragraphs 2 and 7 of the Declaration are 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, INC., 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 (including a non-member of the Club or a Board member) 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 Notice of Resignation with the Office of the San Diego County Recorder and mailing a copy to the Board of Directors.

2.2. No building or other structure or improvement, including, but not limited to, landscaping and grading, shall be erected, placed or altered upon any lot until the location and the complete plans and specifications thereof (including the color scheme of each building, fence and/or wall to be erected) have been approved in writing by the architectural committee. 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 refuse to review the submission. No improvement shall be made which interferes with any easement encumbering any lot. In the event the architectural committee fails to approve or disapprove the location, plans and specifications or other request made of it within sixty (60) days after the submission thereof to it, then such approval will not be required, provided any improvement so made conforms to all other conditions and restrictions herein contained and is in harmony with similar improvements erected within the project. No alteration shall be made in the exterior color design or openings of any building or other construction unless written approval of said alteration shall have been obtained from the architectural committee. When the architectural committee issues an approval as provided for herein, a copy of the plans and specifications shall be returned to the architectural committee for permanent record.

2.3. In the event of the failure of any individual owner to comply with a written directive or order for 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, including, if necessary, the right to enter upon the lot, and the cost of such performance shall be charged to the owner of the lot in question, which cost shall be due within five (5) days after receipt of written demand therefor, and may be recovered by the architectural committee in an action at law against such individual owner.

2.4. The approval of the architectural committee to 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 com-

mittee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatsoever subsequently or additionally submitted for approval or consent.

2.5. 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.

2.6. 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 for any proposed improvement, alteration or addition, 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, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

2.7. The architectural committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including, without limitation, any restrictions upon height, size, setbacks, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be evidenced in writing, must be signed by at least two (2) members of the architectural committee, and shall become effective upon recordation in the Office of the County Recorder of San Diego County. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the owner's obligation to comply with all governmental laws and regulations affecting his use of the premises, including, but not limited

to, zoning ordinances and lot setback lines or requirements imposed by the City of San Diego, County of San Diego or any other governmental authority."

2. Paragraph 28 of the Declaration is amended by adding the following last sentence:

"Such enforcement action may also be brought by any owner of a lot, the architectural committee or by the RANCHO BERNARDO SWIM & TENNIS CLUB."

3. Paragraph 29 of the Declaration is amended by adding the following words to the last sentence of paragraph 29: "or by the RANCHO BERNARDO SWIM & TENNIS CLUB; the Club shall also have the right to notice any claim of breach pursuant to paragraph 22 of the Declaration".

4. The following paragraph 7 is added to the Declaration:

7. "ASSESSMENTS - THE CLUB"

7.1. In addition to any other assessment rights the Club may have, the Club shall have the right to assess owners 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.

7.2. 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 a monthly, quarterly 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.

7.3. Any Architectural Assessment not paid within thirty (30) days of its due date shall be deemed delinquent and shall thereafter bear interest at ten percent (10%) per annum and the Club shall be entitled to its actual costs and reasonable attorneys' fees incurred with respect to collection of any delinquent Architectural Assessment.

7.4. Each Architectural Assessment, together with interest, costs and reasonable attorneys' fees shall (i) be a lien and charge on the lot assessed and (ii) 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. The amount of any such delinquent Architectural Assessment, plus interest, costs and reasonable attorneys' fees shall be and become a lien upon a lot when the Club causes to be recorded with the County Recorder of San Diego County a Notice of Delinquent Assessment which shall state the amount of such delinquent assessment and such other charges thereon as may be authorized by this Declaration, a description of the lot against which the same has been assessed and the name of the record owner thereof. Such Notice shall be signed by an officer of the Club. Upon payment of such delinquent assessment and the charges in connection with which such Notice being so recorded, or other satisfaction thereof, the Club shall cause to be recorded a notice further stating the satisfaction and release of the lien thereof. Unless sooner satisfied and released, or the enforcement thereof initiated as hereinafter provided, such lien shall expire and be of no further force and effect one (1) year from the date of recordation of the Notice of Delinquent Assessment. A one (1) year period may be extended by the Club, not to exceed one additional year by recording a written extension thereof. Such lien may be enforced by sale by the Club, its attorney or other person authorized to make the sale after failure of the owner to pay such assessment in accordance with the terms, such sale to be conducted in accordance with the provisions of Sections 2924, 2924(b), and 2924(c) of the Civil Code, applicable to the exercise of powers of sale in Mortgages or in any other manner permitted by law. The Club shall have the power to purchase the lot at the foreclosure sale and to hold lease mortgage and convey the same.

7.5. The lien of assessments provided for herein together with any interest, costs and attorney's fees pertaining thereto shall be subordinate to the lien of any bona fide and for value mortgage recorded prior to recordation of the Notice of Delinquent Assessment. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to foreclosure of a prior mortgage shall extinguish the lien of assessment as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such lot from liability for any other assessments thereafter becoming due or from the lien thereon."

5. This Amendment shall be and become effective upon filing for recordation of this Amendment with the County Recorder of San Diego, California, signed by owners of twenty-six (26) lots covered hereby.

6. This Amendment may be executed in counterpart.

AMENDMENT TO BYLAWS
OF
RANCHO BERNARDO SWIM AND TENNIS CLUB

ARTICLE X is added to the Bylaws as follows:

ARTICLE X

Architectural Control and Enforcement

Section 1. Architectural Committee. The Board of Directors shall 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. Any person (including a non-member of this corporation or a Board member) 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 Notice of Resignation with the Office of the San Diego County Recorder and mailing a copy to the Board of Directors.

Section 2. Architectural Control. The architectural committee shall have the power to act in any manner authorized under any Declaration of Restrictions covering any part of the real property within the Rancho Bernardo subdivisions commonly known as the Greens, Gatewood Hills and Bernardo Hills. Such power may include architectural control and approval activities, as well as making recommendations to the Board of Directors as to enforcement thereof by the corporation.

Section 3. Enforcement. The corporation shall have the power and authority to bring action, in the corporation's name, against any person who has violated any provision of any Declaration of Restrictions affecting any portion of the real property referred to in Section 2 above, provided that such Declaration so empowers the corporation. The architectural committee may advise the Board of Directors in matters of enforcement, but the final decisions concerning enforcement shall be with the Board.

Section 4. Assessments. In addition to any other power which this corporation has to assess its members, this corporation shall have the right to assess those members who are owners of residences in areas where architectural control and/or Declaration of Restriction enforcement activities are authorized. This corporation shall have the right to enforce any such assessments by foreclosing assessment liens or otherwise. Such assessments may include amounts to establish a reserve for payment of such activities. The corporation shall keep separate accounts for all assessments and expenditures authorized by this Article X for each area covered by a separate Declaration of Restrictions which has been amended to authorize such activities and assessments by this corporation. Each such area shall be separately assessed for the architectural and enforcement activities (and reserve therefor) for such area and the assessments shall be levied equally amongst all residences within each such area. Such assessments may be levied monthly, quarterly or otherwise and may include such interest, costs and attorneys' fees authorized by the particular applicable Declaration of Restrictions.

Section 5. No Compensation to Architectural Committee. No architectural committee member shall receive any compensation for their services rendered; provided, however, committee members may be reimbursed for any reasonable out-of-pocket expenses actually incurred.

Recording Requested By
and
When Recorded Return To:

1895

83-153794

RECORDS DIV.
OFFICIAL RECORDS
OF SAN DIEGO COUNTY, CALIF.

1983 MAY 10 PM 3:50

VEPALLI
COUNTY CLERK

Secretary

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

RF 22 AT
MG 1

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 September 27, 1963, at File/Page No. 165334, 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 95 to 145, inclusive of Bernardo Greens Unit No. 7 in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 5259, 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
7

DECLARATION OF RESTRICTIONS

This Declaration of Building Restrictions and Architectural Control, made this 16th day of September, 1963, 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, State of California, described as follows:

Lots 95 to 145 inclusive of Bernardo Greens Unit No. 7, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 5259 filed in the office of the Recorder of San Diego County September 13, 1963.

WHEREAS, Owner is about to sell and convey some or all of the lots located within said Bernardo Greens Unit No. 7; and before selling or conveying any of said lots, desires to subject all of said lots in said Bernardo Greens Unit No. 7 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, and has fixed and does hereby fix the following protective 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.

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 owners 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. When all of the lots have been sold by the declarant, the then owners of said lots shall appoint a new Architectural Committee.

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 DWELLING. 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 1050 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 plot. Provided, however, that in the event no such Committee is in existence or the Committee is in existence or 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. 7,

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. 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.

11. FENCE, HEDGES, RADIO POLES AND FLAG POLES. That no fence 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. 7 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. Owner has or will, at owners expense construct a fence of chain link material along or parallel to the Westerly and Northwesterly boundary of Lots 96 to 106 inclusive, and Lots 109 to 122 inclusive in said Bernardo Greens Unit No. 7. The owners of said lots will maintain and keep in good condition and repair that part of said fence located on their respective lots and they will not remove or deface in any way, change or alter, said fence in any part, thereof, and if the owners of any of said lots respectively fail or refuse to fully and faithfully comply with, and conform to, the provisions of this paragraph, then Owner shall have the right to enter upon their said lots, respectively, and perform such work as may be necessary to fulfill the provisions of this paragraph and charge the reasonable cost thereof to the owners of the lot upon which such work is performed.

12. NO TELEVISION ANTENNA. There shall be not outside television or radio antenna constructed, installed or maintained in said real property.

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

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

15. 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 and unloading.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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 purposes hereof, "Established" drainage is defined as the drainage which occurred at the time the overall grading of said tract, was completed by the undersigned grantor.

Declaration of Restrictions

Page Five

21. EXTENSION OF CONDITIONS AND RESTRICTIONS. Each and all of the foregoing conditions and restrictions shall terminate on January 2, 1993, unless the owners of a majority of said lots have executed and recorded at any time within six months prior to January 2, 1993, 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 conditions and restrictions; 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, after said termination date, at the time, and in the same manner hereinabove provided for the extensions of said conditions and restrictions; and all of which extensions and modifications shall become effective on the expiration date of the conditions and restrictions in force at the time of such extension or modification.

22. 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 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.

S&T Cont.

23. 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.

24. 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 or 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.

25. 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.

26. INVALIDITY OF ANY PROVISION. That in the event any conditions or restriction 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 restrictions herein contained.

27. NO WAIVER. That no 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 conditions or restrictions.

28. 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.

29. 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. 7, their successors or assigns or by Architectural Committee.

30. AMENDMENTS. These restrictions may be amended at any time and from time to time by an instrument in writing signed by the Owners of a majority 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.

31. 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. Provided, however, an appeal can be made to a court of law of competent jurisdiction for hearing on the matter following the decision of the Architectural Committee.

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, 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 /s/ Richard L. Weiser
Vice President

STATE OF CALIFORNIA }
COUNTY OF SAN DIEGO } ss

On September 16, 1963, 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 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.

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

My Commission Expires January 6, 1964.

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By Mr. Filer
Assistant Secretary

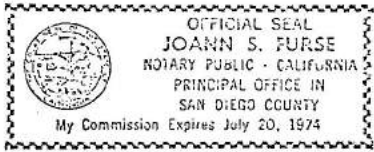
Judy L. Travel

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.

Joann S. Furse



The foregoing instrument is a full, true and correct copy
of the original recorded on 9-4 19 70
File/Page 161825 Series _____
Book _____

Title Insurance and Trust Company
Miss Persim
 Assistant Secretary

This Instrument filed for record by Title Insurance and Trust Company is for accommodation only. It has not been recorded in its execution or as to its effect upon the title.

BERNARDO GREENS UNIT NO. 7

SHEET 2 OF 4 SHEETS

LOCATION MAP & BASIS OF DEPICTION
DETAIL
NOT TO SCALE



LEGEND

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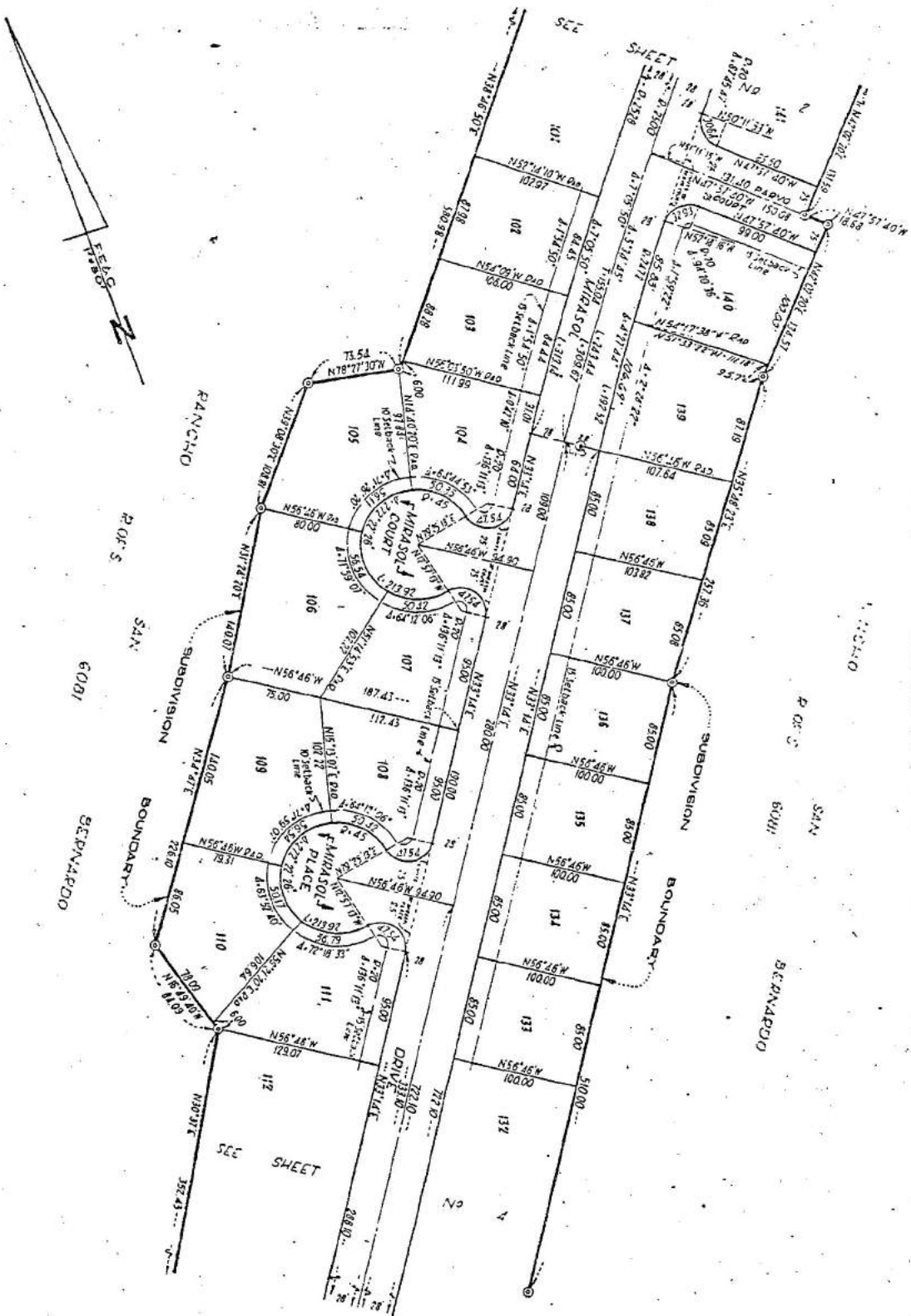
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THIS SUBDIVISION CONTAINS 15,397 ACRES 6003

BERNARDO GREENS UNIT NO. 7

SHEET 3 OF 4 SHEETS



SHEET 4 OF 4 SHEETS

SHEET 4 OF 4 SHEETS

