

Recording Requested By: .

Rancho Bernardo Swim & Tennis Club -
Bernardo Greens Unit No. 18

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. 18, 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 1249 through 1265 inclusive of Bernardo Greens Unit No. 18, in the City of San Diego, County of San Diego, State of California, according to the Map thereof No. 5985, filed in the office of the County Recorder of San Diego County, October 31, 1967;

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 November 1, 1967 at File/Page No. 170834 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. 83-153801 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 24, provides that it may be amended with the approval of a majority of the owners of lots subject to the Declaration. Paragraph 24 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 24 of the Declaration is deleted in its entirety and replaced with the following Paragraph 24:
 24. **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 31 of the Declaration is deleted in its entirety and replaced with the following Paragraph 31:
 31. **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, President

By: 
Richard W. Thorson, Secretary

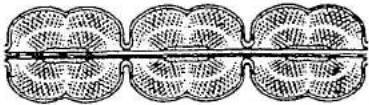
STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

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.

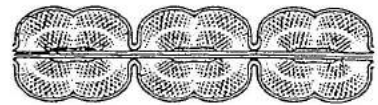
WITNESS my hand and official seal.

Notary Public

CALIFORNIA



ALL-PURPOSE



ACKNOWLEDGEMENT

STATE OF CALIFORNIA)

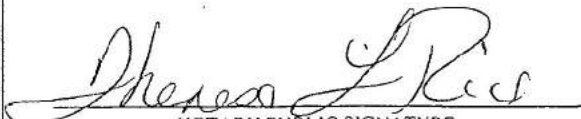
COUNTY OF SAN DIEGO)

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

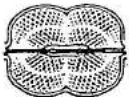
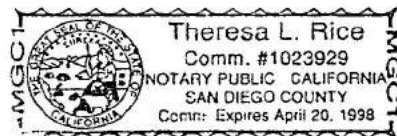
personally appeared, **Stuart G. Hunt and Richard W. Thorson**

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.

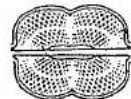
WITNESS my hand and official seal.


NOTARY PUBLIC SIGNATURE

(SEAL)



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:

1991

83-153801

RECORDED IN
OFFICIAL RECORDS
OF SAN DIEGO COUNTY, CA.

1983 MAY 10 PM 3:50

VERA L. LYLE
COUNTY RECORDER

RF 9 A1
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 November 1, 1967, at File/Page No. 170834, 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 1249 to 1265, inclusive of Bernardo Greens Unit No. 18 in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 5985, 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.

RETURN TO DESK RCK.

Greens 18

CC&R 156 8/67

Recorded November 1, 1967
Document No. 170834

DECLARATION OF RESTRICTIONS

This Declaration of Building Restrictions and Architectural Control, made this 5th day of July, 1967 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 1249 to 1265 inclusive of BERNARDO Greens Unit No. 18, according to Map No. 5985 filed in the office of the County Recorder of San Diego County October 31, 1967.

WHEREAS, Owner is about to sell and convey some or all of the lots located within said Bernardo Greens Unit No. 18, and before selling or conveying any of said lots, desires to subject all of said lots in said Bernardo Greens Unit No. 18 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.

WITNESSETH:

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 out-buildings, 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 owner of a majority

CC&R 156 8/67

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 two stories 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. 18.

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 cost of grading, walks, driveways and construction features 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 abutting 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 feet (4') in height unless a swimming pool is placed in rear yard, and then the fence shall be five feet (5') in height. No solid face fencing will be allowed on the side lot lines closer than fifteen feet (15') from the rear lot line. The owners of said lots will maintain and keep in good condition and repair all of said fence located on their respective lot lines. Owner has or will at Owner's expense construct a fence of wood and masonry along or parallel to the easterly boundary of Lots 488, 499, 500, 501 and 502. The owners of said lots will maintain and keep in good condition and repair that part of said fence located on their lots respectively, and they will not remove or deface or in any way change or alter said fence or 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. 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. 18, and in no event shall any fence, wall (except a retaining wall), rail or hedge be over 72 inches in height elsewhere on the lot except with the prior written consent of the Architectural Committee.

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

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

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

18. 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 be parked on any lot except temporarily and solely for the purpose of loading or unloading.

19. 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

CC&R 156 8/67

other structure thereon, without the prior written permission of the Architectural Committee.

20. 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 be placed, operated or maintained thereon for use in connection with any trading, manufacturing or repairing business.

21. 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.

22. 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 purposes 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.

23. 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.

24. 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

CC&R 156 8/67

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 restrictions.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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. 18, their successors or assigns or by Architectural Committee.

33. 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.

34. 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.

35. 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.

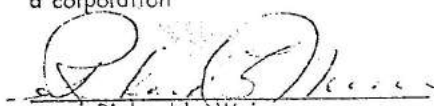
36. CONSTRUCTION CLEAN UP AND CONFORMITY OF CONSTRUCTION WITH PLANS. When Plans and Specifications for the construction of improvements are submitted to the Architectural Committee pursuant to these restrictions, said submission shall, at the request of the Architectural Committee, be accompanied by a deposit of \$200.00 to guaranty that the construction site during the course of construction will be maintained reasonably free of debris at the end of each working day and that the construction will be completed and the lot drainage swales and structures correctly drain surplus water to the street or other approved outlets, all as shown on the Plans and Specifications submitted to the Architectural Committee for approval. In the event of a violation of this restriction, the Architectural Committee may give written notice thereof to the builder and the owner of the lot in question that if such violation is not cured or work commenced to cure the same within forty-eight (48) hours after the mailing of said notice, the Architectural Committee may correct or cause to be corrected said violation and use said deposit, or as much thereof as may be necessary to cover the cost of such correction work. In the event that the cost

CC&R 156 8/67

of curing said violation shall exceed the amount of said deposit, said excess cost shall be paid by the owner of the lot in question to the Architectural Committee. Said deposit or any part thereof remaining in the hands of the Architectural Committee at the completion of the construction work shall be returned by the Architectural Committee to the person who made the deposit.

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

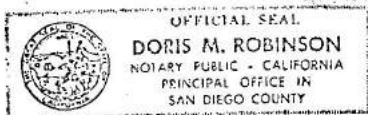
RANCHO BERNARDO HOMES, INC.,
a corporation


Richard L. Weiser
Executive Vice President

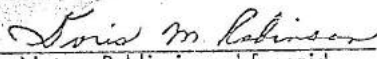
STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO) ss

On July 31, 1967, 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.



DORIS M. ROBINSON
My Commission Expires Aug. 20, 1968


Notary Public in and for said
County and State

FIRST AMENDMENT TO DECLARATION OF RESTRICTIONS

THIS FIRST AMENDMENT TO DECLARATION OF RESTRICTIONS made this 7th day of November, 1967 by RANCHO BERNARDO HOMES, INC., a California corporation, hereinafter called "Owner", amends that certain Declaration of Restrictions dated July 5, 1967 made by Owner, all as hereinafter more fully set forth;

W I T N E S S E T H :

WHEREAS, Owner did heretofore under date of July 5, 1967 make a certain Declaration of Restrictions which was thereafter recorded in the Recorder's Office of San Diego County, California on November 1, 1967, File/Page 170834; and

WHEREAS, said Declaration of Restrictions covers the following described real property located in the City of San Diego, County of San Diego, State of California, to-wit:

Lots 1249 to 1265 inclusive of BERNARDO Greens Unit No. 18, according to Map No. 5985 filed in the Office of the County Recorder of San Diego County October 31, 1967; and

WHEREAS, Owner is the present owner of seventy-five per cent (75%) or more of the lots located in said real property; and

WHEREAS, said Declaration of Restrictions provides for the amendment thereof by an instrument in writing signed by the owners of seventy-five per cent (75%) or more of the lots located in said real property; and

WHEREAS, Owner desires to amend said Declaration of Restrictions as hereinafter set forth;

CC&R 156 11/67

NOW, THEREFORE, in consideration of the premises, said Declaration of Restrictions is hereby amended in the following particulars, to-wit:

1. Paragraph 13 of said Declaration of Restrictions is hereby stricken and in lieu thereof is substituted the following Paragraph 13:

"13. FENCING. All lots abutting 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 feet (4') in height unless a swimming pool is placed in rear yard, and then the fence shall be five (5') in height. No solid face fencing will be allowed on the side lot lines closer than fifteen feet (15') from the rear lot line. The owners of said lots will maintain and keep in good condition and repair all of said fence located on their respective lot lines. Owner has or will at Owner's expense construct a fence of wood and masonry along or parallel to the easterly boundary of Lots 1260, 1261, 1262, 1263 and 1249. The owners of said lots will maintain and keep in good condition and repair that part of said fence located on their lots respectively, and they will not remove or deface or in any way change or alter said fence or 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

CC&R 156 11/67

owners of the lot upon which such work is performed. No fence, rail or hedge over 36 inches in height shall be placed in front of the setback line on a lot, as shown on the recorded map of said Bernardo Greens Unit No. 18, and in no event shall any fence, wall (except a retaining wall), rail or hedge be over 72 inches in height elsewhere on the lot except with the prior written consent of the Architectural Committee."

2. Except as hereinabove expressly modified, said Declaration of Restrictions is hereby in all respects reaffirmed.

IN WITNESS WHEREOF, RANCHO BERNARDO HOMES, INC., a corporation, Owner, has signed this instrument the day and year first hereinabove written.

RANCHO BERNARDO HOMES, INC.

By

Richard L. Weiser
Executive Vice President

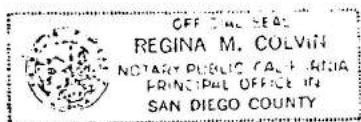
STATE OF CALIFORNIA)

COUNTY OF SAN DIEGO)

ss

On November 7, 1967, before me, the undersigned, a Notary Public in and for said State, personally appeared RICHARD L. WEISER, known to me to be the Executive Vice President, of the corporation that executed the within instrument, 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 within instrument pursuant to its By-Laws or a resolution of its Board of Directors.

WITNESS my hand and official seal.



Regina M. Colvin
Notary Public in and for said
County and State

REGINA M. COLVIN - Notary Public - Cal.
COM. EXP. JULY 27, 1971 - SAN DIEGO CO.
12425 Rancho Bernardo Rd., San Diego, Ca. 92128

APPOINTMENT OF ARCHITECTURAL COMMITTEE

WHEREAS, RANCHO BERNARDO HOMES, INC., a corporation, as Owner of Bernardo Greens, Unit No. 18, according to Map No. 5985, filed in the Office of the County Recorder of San Diego County on October 31, 1967, 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 November 1, 1967 as Document No. 170834.

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.

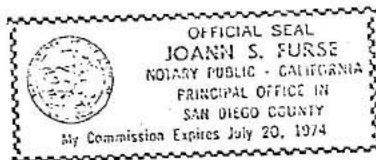
By Frank M. Files
Assistant Secretary

Attest: Judy R. Fredel
STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.

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
Joann S. Furse



The foregoing Instrument is a full, true and correct copy of the original executed on 9-4-1970.
File No. 101833
Book _____ of _____ of San Diego County.

Title Insurance and Trust Company

Miss Lennier

This Instrument shall be covered by Title Insurance and Trust Company of California, Inc. only. It has not been examined as to its execution or as to its effect upon the title.

BERNARDO GREENS UNIT NO. 18

SHEET 2 OF 2 SHEETS

JANUARY 1967
of 5 4023

SCALE: 1"=50'

DETAIL

IDENTICAL POINT

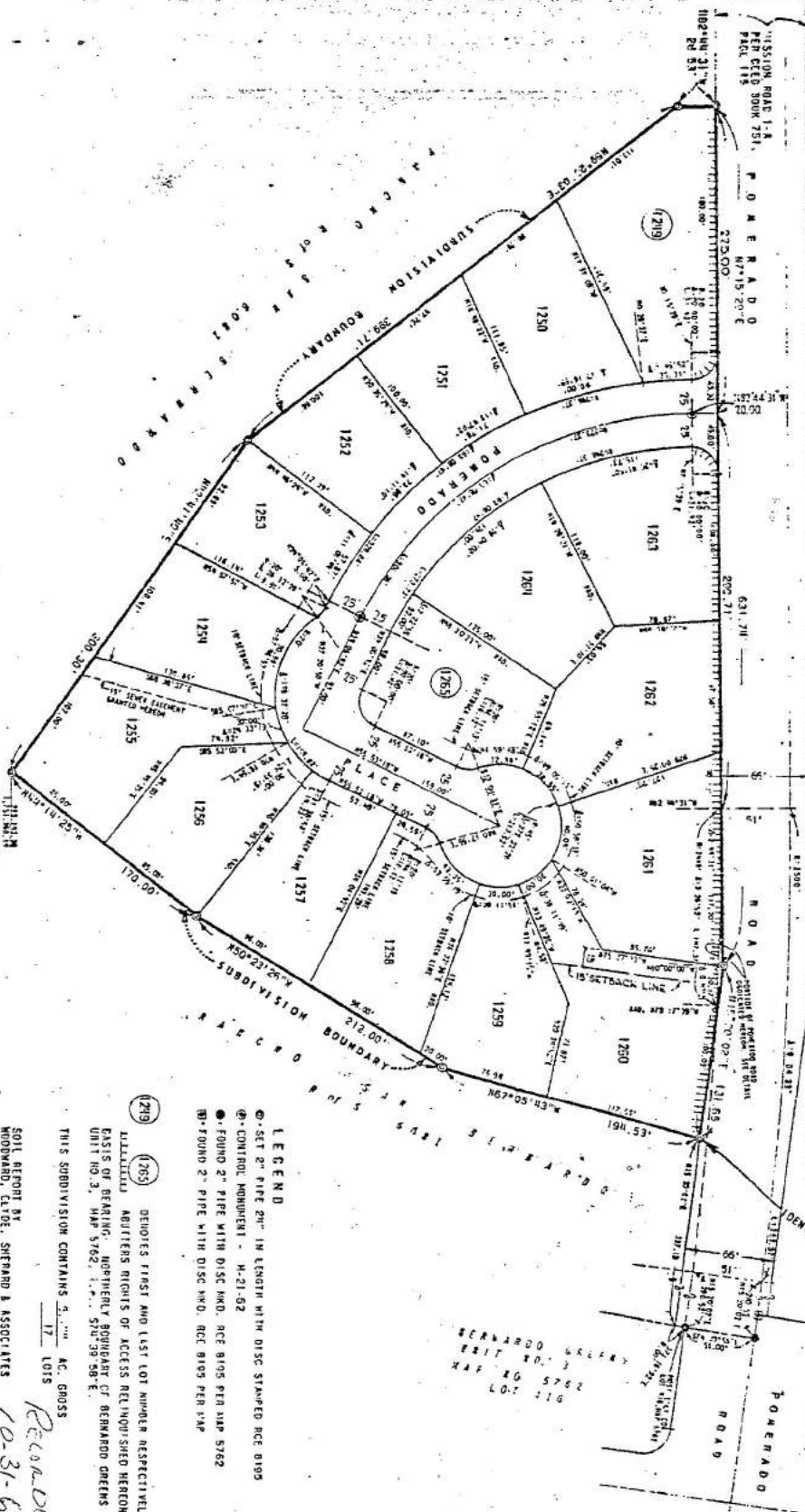
BERNARDO GALLERY

MISSION ROAD 1-8
P.O. BOX 751
P.O. BOX 115
27300
67-15-20-E

POWERS ROAD

ROAD

POWERS ROAD



LEGEND

- SET 2" FIRE 2ND 1/4" LENGTH WITH DISC STAMPED RCE 8105
- CONTROL MONUMENT - M-21-62
- FOUND 2" PIPE WITH DISC AND RCE 8105 PER MAP 5762
- FOUND 2" PIPE WITH DISC AND NOT FOUND 2" PIPE PER MAP

1219

1265

DEPOTES FIRST AND LAST LOT NUMBER RESPECTIVELY
ALL LOTS ARE SUBJECTS RIGHTS OF ACCESS RELYING HEREON
UNIT NO. 3, MAP 5762, 1-1-67, 57U-39-58-E
THIS SUBDIVISION CONTAINS 17 AC. GROSS
17 LOTS

SOIL REPORT BY
WOBWARD, CLYDE, SHEPARD & ASSOCIATES
81 STANLEY F. GILLENKAMP, RCE 10352
DATED JULY 3, 1967

RECORDED
10-31-67

SHEET 2 OF 2 SHEETS

