

CHAMBERS

DECLARATION OF RESTRICTIVE COVENANTS FOR
LOTS AND PORTIONS OF LOTS OF THE MORENO VALLEY LAND,
THIRD SUBDIVISION, COLFAX COUNTY, NEW MEXICO

THIS DECLARATION made this 20th day of October,
1983, by The Angel Fire Corporation, a New Mexico Corporation, being the owner
in fee and herein referred to as Declarant,

WITNESSETH:

WHEREAS, Declarant is the owner of all the real property set forth and
described below:

All tracts (parcels) of land situate in the Moreno Valley Third Subdivision as
the same is filed in the Colfax County Clerk's Office on September 13, 1917
in Plat Book 2, Page 49, Colfax County, New Mexico and more particularly
described as Lots 178 and 188.

WHEREAS, Declarant is about to sell and convey said parcels and before
doing so desires to subject them to and impose upon them mutual and beneficial
restrictions, covenants, conditions and charges, hereinafter collectively referred to
as "Restrictions", under a general plan or scheme of improvement for the benefit
and complement of all said parcels in the Subdivision;

NOW, THEREFORE, Declarant hereby declares that all of said parcels are
held and shall be held, conveyed, hypothecated or encumbered, leased, rented,
used, occupied and improved subject to the following Restrictions, all of which are
declared and agreed to be in furtherance of a plan for the subdivision, improvement
and sale of said parcels and are established and agreed upon for the purpose of
enhancing and protecting their value, desirability and attractiveness.

All of the Restrictions shall run with the land and shall be binding upon
Declarant and upon all parties having or acquiring any right, title or interest in and
to the real property or any part or parts thereof subject to such Restrictions.

1. APPLICABILITY

These Restrictions shall apply to the above described parcels only and are
specifically excluded from application to other lands included in the plat of Moreno
Valley Land, Third Subdivision.

2. TERM

A. These Restrictions shall affect and run with the land and shall exist and
be binding upon all parties and all persons claiming under them until January 1,
2020, after which time the same shall be extended for successive periods of ten
(10) years each, unless an instrument, signed by a majority of the then owners of
parcels and divisions thereof subject thereto, has been recorded agreeing to change
the covenants in whole or in part; provided, however, that at any time after
January 1, 2000, these Restrictions may be amended by the vote of the then record
owners of the majority of such parcels and divisions thereof and thereafter by the
record owners of three-fourths (3/4) of such parcels and divisions thereof.

B. Declarant reserves to itself, its successors and assigns the right to revoke at any time prior to the sale of any parcel within the Subdivision all or any of these Restrictions and, further, to vacate any or all of the roads, and/or easements and rights-of-way, therefore, which are shown on the recorded plats, provided, however, that Declarant will not prevent access to or installation of utilities to parcels in any other part or section of the Subdivision.

3. AIR SPACE

The Declarant hereby reserves unto itself, its successors and assigns a reservation and perpetual easement in, through and across the air space overlying the above described property for the present and future utilization of an airport consisting of one or more runways for use by all types of commercial, private or military aircraft, as the airport presently exists or as it may be expanded in the future. Declarant also reserves a perpetual easement in, through and across the air space over the above described property.

4. MUTUALITY OF BENEFIT AND OBLIGATION

The Restrictions and agreements set forth herein are made for the mutual and reciprocal benefit of each and every parcel in the Subdivision and are intended to create mutual, equitable, servitudes upon each of said parcels in favor of each and all of the other parcels therein; to create reciprocal rights between the respective owners of all or said parcels; to create a privity of contract and estate between the grantees of said parcels, their heirs, successors and assigns, and shall, to the owner of each such parcel, his heirs, successors and assigns, operate as covenants running with the land for the benefit of each and all other parcels in the Subdivision and their respective owners.

5. ENVIRONMENTAL AND ARCHITECTURAL CONTROL COMMITTEE

A. All plans and specifications for any structure or improvement whatsoever to be erected on or moved upon or to any portion of the real property, and the proposed location thereof, the construction material, the roofs and exterior color schemes, any later changes or additions thereto shall be subject to and shall require the approval in writing before any such work is commenced of the Environmental and Architectural Control Committee (hereinafter called "Committee") as the same is from time to time composed.

B. The Committee shall be composed of not less than three (3) nor more than five (5) members to be appointed by Declarant, its successors or assigns. Committee members shall be subject to removal by Declarant and any vacancies from time to time existing shall be filled by appointment by Declarant, its successors or assigns; provided, however, that at any time hereafter the Declarant may, at its sole option, relinquish to The Angel Fire Property Owners Association the power of appointment and removal reserved herein to Declarant. Such transfer of power must be evidenced in writing.

C. There shall be submitted to the Committee, a building application on forms approved by Declarant together with three (3) sets of plans and specifications for any and all proposed improvements, the erection or alteration of which is desired, and no structures or improvements of any kind shall be erected, altered, placed or maintained upon any parcel unless and until the final plans, elevations, and specifications therefor have received written approval as herein provided. Such plans shall be drawn to scale and shall include plot plans showing the location on the lot of the building, wall, fence, or other structure proposed to be constructed, altered, placed or maintained, together with floor plans, schemes for roofs and exteriors thereof and proposed landscape plantings. A reasonable fee may be required to defray Committee expenses.

D. The Committee shall approve or disapprove plans, specifications and details within sixty (60) days as outlined in the committee procedures. The Committee shall advise the applicant the reason for the disapproval and suggest changes.

E. The Committee shall have the right to disapprove any plans, specifications or details submitted to it in the event the same are not in accordance with all of the provisions of these Protective Covenants; if the design or color scheme of the proposed building or other structure is not in harmony with the general surroundings of the real property or with the adjacent buildings or structures; if the plans and specifications submitted are incomplete; or in the event the Committee deems the plans, specifications or details, or any part thereof, to be contrary to the interest, welfare, aesthetics or rights of all or any part of the real property subject hereto, or the owners thereof. The decisions of the Committee shall be final.

F. Neither the Committee nor any architect or agent thereof or of The Angel Fire Corporation shall be responsible in any way for any non-compliance or defects in any plans or specifications submitted, revised, or approved in accordance with the foregoing provisions, or any resulting from changes suggested by the Committee, nor for any structural or other defects in any work done according to such plans and specifications.

6. OWNERSHIP, USE AND ENJOYMENT OF PARKS AND RECREATIONAL AMENITIES

Any common areas designated as private upon a newly platted area shall be available to the owners of parcels therein and their guests and neither the recording of a plat, nor any other act with respect to a plat, shall be construed as a dedication to the public, unless so designated on such plat.

7. LAND USE AND IMPROVEMENTS

A. Uses Permitted:

- (1) One single-family dwelling per lot
- (2) Use, building and structures customarily incidental to single-family dwellings, including barns, stables, and fencing incidental to the keeping of livestock (paragraph P. under number 8, General Restrictions), other than trailers, recreation vehicles and/or mobile homes, which are prohibited, or
- (3) Commercial, to the exclusion of residential, for parcels or portions of parcels within 300 feet from the current easterly right of way of State Highway 38 which bounds the subject real property on the west. The term commercial shall mean any use that would be compatible with a recreation community, specifically excepting real estate operations and manufacturing operations and any operation emitting smoke, nauseous gases, or causing excessive noise or being offensive to the senses. The declaration of restrictive covenants filed with Colfax County as the Amended Protective Covenants of Commercial Area and Apartment Sites of Angel Fire Village Unit One, recorded May 24, 1976 in Miscellaneous Book 81, Page 264, is hereby extended to include and equally apply to the property described in this Section 7A(3). The Environmental and Architectural Control Committee shall in its sole discretion, make a determination as to whether a particular commercial enterprise falls within the prohibitions of this definition.

B. Minimum Lot Size

A parcel may be divided into smaller lots or parcels of not less than 217,800 square feet if approved by Colfax County and the State of New Mexico.

C. Set Back Requirements

(1) Single Family Dwellings

No building or structure shall be located within seventy-five (75) feet of all property lines.

(2) Commercial

A minimum set back of 20 feet shall be maintained from all property lines, and road rights of way or easement lines for all parcels. It is the intent that a varied set back within each parcel be provided. A continuous building facade maintaining a uniform set back will not be accepted. There are no minimum side or rear yard set back distances required. It is the intent that each proposed building location be judged on its own merits as it relates to adjoining buildings, topography, fire protection, easements and aesthetics.

D. Minimum Living Area

No single family dwellings shall be constructed on any parcel in the Subdivision having less than the following minimum square footage of living space exclusive of porches, garages, carports, breezeways or other appurtenances:

(1) One-story houses shall have a minimum of 1,200 square feet of living space.

(2) Multiple-story houses shall have a minimum of 1,000 square feet of living space on the main or ground floor.

E. Parcel Coverage

(1) Single Family Dwelling

No building or structure or combined totals thereof shall be constructed on any parcel which covers more than ten (10) percent of the total area of the parcel.

(2) Commercial

Parcel coverage by buildings, parking and roads shall not exceed 65% of the total area of the parcel.

F. Height

All buildings and structures will be limited to a maximum height of thirty-five (35) feet.

8. GENERAL RESTRICTIONS

A. Laundry drying yards shall be screened from view from the streets, neighbors and common areas.

B. Outdoor lighting shall be controlled so that it is not offensive. Unusual lighting that may create a nuisance to another is prohibited.

C. Garbage cans and trash areas on parcels shall be concealed from view from the streets, neighbors and common areas.

D. Signs. Except as otherwise provided, no sign in excess of one and one-half (1½) square feet in area shall be permitted on a purchased single family parcel. Only one real estate sign for resale or otherwise may be displayed on a purchased parcel. Nothing in this provision restricts placing signs for sale, construction, safety, or otherwise, prior to the full sale of all parcels in the Subdivision. The Committee may waive this requirement where in its opinion the public health or safety is concerned.

E. Each owner or tenant or occupant of a commercial building shall be permitted one identification sign. All signs shall be designed, proportioned and positioned as an integral element of the total design of the building. All signs shall be flat wall signs composed of individual free standing letters. Necessary sign supports shall be completely concealed. Signs or lighting of premises utilizing animation, moving parts, flashing, oscillating, smoke-emitting, sound-emitting designs, moving lights or variable light intensities will not be permitted. Signs if illuminated shall derive light from a concealed source. Signs or placards or other advertising media attached to the windows or doors of the premises will not be permitted. No sign shall occupy more than five (5) percent of the background to which it is attached, and in no case may the sign exceed 50 square feet in gross area. All signs are subject to review and approval by the Environmental and Architectural Control Committee.

F. Landscaping shall be completed in conjunction with the completion of the improvements on a commercial parcel.

G. All commercial parcels shall be carefully integrated as to form, material, color and landscaping with the primary structures. Metal buildings, metal fences, and metal screening will not be permitted.

H. No owner of a parcel nor any other person shall be permitted to store wrecked vehicles (automobiles or trucks) on a parcel or on any street.

I. Temporary construction toilets may be approved by the Committee. No permanent outside toilets are permitted. Permanent toilets and all other plumbing for waste are to be connected by the individual parcel owner to a septic tank approved by the State of New Mexico.

J. No temporary house, trailer, tent, garage, or other outbuilding shall be placed or erected on any parcel, provided, however, that the Committee may grant permission for any such temporary structure for storage of materials during construction. No such temporary structures as may be approved shall be used at any time as a dwelling place. Small outbuildings approved by the Committee may be placed for permanent use.

K. No parcel shall ever be used in a fashion which unreasonably interferes with the other real property owners or the Association's right to the use and enjoyment of their respective properties, or the other real property owners' right to the use and enjoyment of the common area. The Committee shall determine whether any given use of a lot unreasonably interferes with those rights, and such determination shall be conclusive.

L. Once construction of improvements is started on any parcel, the improvements must be substantially completed in accordance with plans and specifications, as approved, within eighteen (18) months from commencement.

M. No residence shall be occupied until the same has been substantially completed in accordance with its plans and specifications.

N. All structures constructed or placed on any parcel shall be constructed with a substantial quantity of new material.

O. No owner shall change or interfere with the natural drainage of the real property without the prior written approval of the Environmental and Architectural Control Committee and the State Engineer's office.

P. A reasonable number of animals or livestock for private, non-commercial use, and a reasonable number of usual household pets, may be kept on any parcel, dependent upon the size of the parcel, subject to moderation by the Committee.

Q. Every tank for the storage of fuel installed outside any building shall be either buried below the surface of the ground or screened to the satisfaction of the Committee by fencing or shrubbery. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground, screened or so placed and kept as not to be visible from any street or common area.

R. All parcels, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in such manner as to prevent their becoming unsightly by unattractive growth on such parcel or the accumulation of rubbish or debris thereon.

S. No noxious, offensive or illegal activities shall be carried on on any parcel nor shall anything be done on any parcel that shall be or become an unreasonable annoyance or nuisance to the neighborhood.

T. No trash, garbage, rubbish, refuse, or other solid waste of any kind, including inoperable automobiles and other vehicles, appliances, and furniture, shall be thrown, dumped, stored, disposed of, or otherwise placed on any part of the real property or be thrown onto or left on any of the common areas. Garbage and similar waste shall be kept in sanitary containers well suited for that purpose. The owners or occupants of each parcel shall be responsible for the disposal of solid waste at disposal facilities established by The Angel Fire Services Corporation.

9. VARIANCES

The Committee may allow reasonable variances and adjustment of these Restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that such is done in conformity with the intent and purposes hereof and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the Subdivision.

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10. EASEMENTS

There are hereby created the following easements for public ingress and egress, which easements shall run with the land and which easements shall serve and be for the benefit of the parcels described herein:

A 50 foot perimeter easement for roads and utilities adjoining all parcel property lines except that property line which is the right of way of New Mexico State Route #38 or El Camino Grande, a dedicated County road.

Natural Drainage Course. No dams, interruptions, stoppages, land fill, alignment changes, or impounding of water shall be allowed which will impede the natural drainage course.

11. REMEDIES

A. The Committee or any party to whose benefit these Restrictions inure, its successors and assigns, may proceed at law or in equity to prevent the occurrence, continuation or violation of any of these Restrictions; provided, however, that it is expressly understood that neither the Committee, nor the Declarant shall be liable for damages of any kind to any party for failing to either abide by, enforce, or carry out any of these Restrictions.

B. No delay or failure on the part of an aggrieved party to invoke an available remedy set forth above with respect to a violation of any of these Restrictions shall be held to be a waiver by that party of (or an estoppel of that party to assert) any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

C. Provided, however, that any breach of these Restrictions shall not defeat or affect the lien of any mortgage or deed of trust made in good faith and for value, but all of these Restrictions shall be binding upon any owner whose title is acquired by foreclosure or otherwise.

12. GRANTEE'S ACCEPTANCE

The Grantee of any parcel subject to the coverage of these Restrictions by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such parcel, shall accept such deed or contract upon and subject to each and all of these Restrictions and the agreements herein contained, and also the jurisdiction, rights and powers of the Committee and the Declarant and by such acceptance shall for himself, his heirs, personal representatives, successors and assigns covenant, consent, and agree to and with the Committee, the Declarant and to and with the grantees and subsequent owners of each of the parcels to keep, observe, comply with and perform said Restrictions and agreements.

13. SEVERABILITY

Every one of the Restrictions is hereby declared to be independent of, and severable from the rest of the Restrictions and of and from every other one of the Restrictions and of any from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, that holding shall be without effect upon the validity or enforceability of any other one of the Restrictions.

IN WITNESS WHEREOF, The Angel Fire Corporation has executed this Declaration on the day and year first above written.

THE ANGEL FIRE CORPORATION

BY *Robert H. Walker*
Robert H. Walker, Vice President

STATE OF ~~ARIZONA~~ NEW MEXICO)
County of ~~ARIZONA~~ COLFAX) ss.

The foregoing instrument was acknowledged before me this 20 day of October, 1983, by Robert H. Walker, Vice President, on behalf of The Angel Fire Corporation, A New Mexico Corporation.

My Commission Expires:
9-11-85

Barbara J. Mitchell
Notary Public



APPROVED BY PURCHASER:
John S. ...
Herra Del Cielo, Inc.