

DECLARATION OF PROTECTIVE COVENANTS
FOR

LAS VENTANAS a los ORGANOS SUBDIVISION
Phase 2

KNOW ALL MEN BY THESE PRESENT: Thomas N. Tate and Donna R. Tate, owners of Las Ventanas a Los Organos Subdivision, Phase 2, a subdivision in Dona Ana County, City of Las Cruces, New Mexico, according to the Map and Plat Number 3810 thereof on file in Plat Record Book 20, Pages 417 and 418 of the County Clerk's Office of Dona Ana County New Mexico, in consideration of the mutual interest of the owners of real estate in the subdivision, covenant and agree with all future purchasers of lots or building sites in said subdivision, that the following restrictions shall apply to all lots and all conveyances, also including sale of lease, of any lot therein shall likewise be subject to said restrictions, as follows:

PROPERTY IDENTIFICATION

Lots 58 through 85, Las Ventanas a los Organos Subdivision, Phase 2, City of Las Cruces, Country of Dona Ana, State of New Mexico, Plat No. 3810 as filed on August 25, 2003 in Plat Record Book 20, Pages 417 and 418, all in Section 10, T23S, R2E, Dona Ana County, New Mexico, hereinafter referred to as "the property".

The above described real property is hereby made subject to the following Protective Covenants, conditions, reservations and restrictions, which shall run with the land and shall be binding upon all persons owning lots affected by these covenants or claiming under them for ten (10) years after date of execution of this document, after which time said protective covenants shall be automatically renewed for successive periods of ten (10) years, provided, however, that said protective covenants, except for the provisions dealing with the design controls and the maintenance and repair of the drainage easements, the private roads and the road and utility easements, may be changed, altered, amended or revoked, in whole or in part, as set forth herein below in Section XIV.

I. PURPOSE

The purpose of these Covenants is to insure: (1) the land is used for single family residential purposes only (no lot shall be used for other than single family residential purposes, except for home occupations as set forth herein below), (2) to prevent the impairment of attractiveness of the property, (3) to maintain the desired tone of the community and thereby to secure each site owner the full benefit and enjoyment of his property with no greater restriction on free and undisturbed use of his site than as set forth herein, (4) to allow only that use which is consistent with these covenants.

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21

II. DESIGN STANDARDS

Certain architectural design, planning and landscaping standards have been established. The Design and Landscaping Standards are attached hereto as Exhibit "A" and incorporated herein by reference. The Design and Landscaping Standards also set forth the procedures for submittal of plans to the Architectural Review Committee. These standards are to serve as guidelines as well as a frame of reference for property owners, builders, planners, architects and others.

In addition, the Design Standards will be used by the Architectural Review Committee to guide development in a sensibly managed process, while allowing for individual freedom of expression within the parameters of these Protective Covenants and its Design and Landscaping Standards. The express purpose of the Architectural Review Committee is to consistently and reasonably apply these Design and Landscaping Standards further contributing to the overall aesthetics of the community.

III. APPLICABILITY

The conditions and restrictions imposed herein shall apply to all lots and open spaces, unless variations are granted by the Architectural Review Committee as provided herein.

IV. ARCHITECTURAL REVIEW COMMITTEE

There is hereby established the Architectural Review Committee. This committee shall initially be composed of Tom and Donna Tate and Jake Sims. The Committee assumes no responsibility with regard to structural, mechanical, electrical or other construction details. The Architectural Review Committee members shall be indemnified and held harmless by the Las Ventanas a los Organos Property Owners' Association from any and all liability, claims and demands of any nature whatsoever that may arise out of any and all actions, inactions or omissions by such members related to their service as members of the Architectural Review Committee.

The primary function of the Architectural Review Committee is to review and approve or disapprove exterior design, appearance, architectural vocabulary and aesthetics within the parameters of these Protective Covenants and its Design and Landscaping Standards, and the Architectural Review Committee shall have the rights and duties set forth below:

- A. A majority of the Committee may designate a representative to act on its behalf. In the event of death or resignation of any member (s) of the Committee, the remaining members, whether or not constituting a majority, shall have full authority to designate a successor to fill such vacancy. Neither the members of the Committee or its designated representative shall be entitled to any compensation for services performed in connection with their

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activities as members or representatives of the Committee. The above named members of the Architectural Review Committee shall have, retain and reserve certain rights until 100% of the lots within the subdivision have been sold to the initial buyers by the Developer. The Committee shall have then been deemed to have resigned without further notice. After such date, all privileges, powers, rights and authority of the Architectural Review Committee shall be exercised by and vested in members of the Architectural Review Committee to be selected by the owners of a majority of the lots in the subdivision with one vote allocated to each lot in the subdivision.

- B. Powers of the Architectural Review Committee: The Committee shall have the power to authorize, on a case-by-case basis, variances from the requirements herein contained, where the requirements cannot reasonably be met due to the topography, location or shape of a particular lot. The Committee's approval or disapproval as required in these covenants must be in writing. It is expected, however, that these Protective Covenants and Design Standards shall be followed by all builders, property owners, and residents of the subdivision.
- C. No improvements of any kind, including but not limited to dwelling houses, sheds, outbuildings, swimming pools, tennis courts, parking areas, fences, walls, garages, driveways, antennae, flagpoles, curbs and walks, shall be constructed or altered on any lands within Las Ventanas Subdivision, nor may any vegetation be altered or destroyed nor any landscaping performed on any lot, unless the complete plans for such construction or alteration or landscaping are approved in writing by the Architectural Review Committee prior to the commencement of such work. In the event the Committee fails to take any action within fifteen (15) working days after complete plans for such work have been submitted to it, then all such submitted plans shall be deemed to be approved. All submissions, rejections, approvals, and/or disapprovals shall be submitted in writing, shall be dated and shall be signed for as proof of receipt. In the event that the Committee disapproves any plans, they are required to state the reason(s) for disapproval.
- D. Upon resubmittal of plans, the Architectural Review Committee will review the revised plans and provide a written response no later than fifteen (15) working days after the resubmittal. Should final plans be approved, the Owner may apply for the appropriate building permits, and when approved, begin construction. In the event of disapproval, the resubmittal of final plans shall follow the same procedure as previous described.

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LVO Protective Covenants (Cont.)

In the event the Architectural Review Committee fails to act on resubmitted plans within the fifteen (15) working day review period, then the plans shall be deemed approved. There are no fees for the review process.

- E. The Architectural Review Committee shall monitor construction of houses, improvements, and landscaping within the Subdivision to see that trash and debris are disposed of properly and that no damage is done to roads or neighboring property during construction. To this end, the Committee shall at the time of approval of plans for a lot, collect a damage deposit of \$500.00 to be used by the Committee for clean up and/or repair made necessary by the construction referenced herein. This deposit shall be held by the Architectural Review Committee and returned to the owner of the lot upon completion of construction less any sums expended by the Committee for the clean up and repair referenced herein. In the event that the damage exceeds the sum of \$500.00, the Committee may require an additional damage deposit. The Committee urges each lot owner to encourage contractors working for the lot owner to control trash and debris during periods of construction.
- F. Application to the City of Las Cruces for a Building Permit shall not be made prior to approval of plans by the Architectural Review Committee. The Committee shall disapprove any plans submitted to it that are not sufficient for it to exercise the judgment required of it by these Covenants. Construction of any residence that has been approved by the Committee shall commence within eighteen (18) months of purchase of lot by builder/owner and shall be completed in six (6) months.
- G. Members of the Architectural Review Committee or their representatives, shall not incur any liability whatsoever to any person or entity, their successors or assigns or personal representatives submitting plans and specifications as hereinbefore provided for, or to any homeowner of a lot or lots within the land covered herein, for any action, inaction, or omission of any nature whatsoever by such members related to their service as members of the Architectural Review Committee.
- H. The Architectural Review Committee shall keep and safeguard for at least three (3) years, complete permanent written records of all applications for approval submitted to it (including one set of all plans submitted) and of all actions of approval or disapproval and all other actions taken by it under the provisions of this instrument.

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V. PROPERTY OWNERS ASSOCIATION FEES

Each property owner will be assessed an annual fee of \$125.00 per lot owned payable on or before December 1 of each year for the calendar year to follow, with the provision that fees for the first year of ownership shall be paid at closing of the purchase of a lot or lots on a prorated basis. Fees will be used for such expenses as procurement of insurance and maintenance of public areas including landscape upkeep, and any other reasonable and necessary expenses items that may arise. Enforcement of payment of fees and imposition of increases in fees shall be pursuant to the provisions of Article IX, ASSESSMENTS, of the Bylaws of Las Ventanas a los Organos Property Owners Association, Inc. Beginning on December 1, 2003, a maintenance reserve fund shall be established by the Property Owners' Association by the automatic assessment of an additional reserve fund fee of \$15.00 per lot beginning on December 1, 2003 with that additional reserve fund fee payable on or before December 1 of each year thereafter.

Open spaces will be retained within designated areas, landscaped with desert plants to maintain a natural environment, and a park area, known as Ventanas Park, will be maintained by the Property Owners' Association using the above described Property Owners' Association fees.

VI. OTHER CONDITIONS

Approval of plans by the Architectural Review Committee shall not be deemed to assure compliance with the requirements of any local building, zoning, safety, health or fire standards and it shall be the responsibility of the owner to assure such compliance. Nor shall approval waive any requirements on the part of the owner or his representative to comply with setbacks, height restrictions or requirements unless such waiver or variance is specifically requested at the time of submittal and provided that the waiver or variance may lawfully be granted by the Architectural Review Committee and local jurisdictions, where applicable.

These Protective Covenants, conditions and restrictions are established by the applicable declarations and shall remain in force as legal restrictions governing all construction as long as they are not in violation of the law, subject to the provisions of Section XIV below.

VII. GENERAL RESTRICTIONS FOR SITE DEVELOPMENT AND BUILDING STANDARDS

A. ZONING

1. All lots are zoned R-1, and shall be deemed to be for residential single-family dwellings only and subject to all applicable ordinances, codes and rules of all government agencies having appropriate jurisdiction over such matters.

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LVO Protective Covenants (Cont.)

2. No manufacturing or commercial enterprises shall be maintained on, in front of or in connection with any property in the subdivision. However, home occupations may be permitted in accordance with the codes of the City of Las Cruces, but no signs advertising the home occupation may appear anywhere on the property.
3. General zoning setbacks for the development are as required by the City of Las Cruces building codes. PUD allowances have been approved by the City of Las Cruces. (Resolution number 01-217)
4. No building or any part hereof, including garages, shall be erected on any lot closer to the respective property line than as follows:

Side Street Setback	15 feet	
Front Setback	20 feet	(See PUD variance a. below)
Side Yard Setback	7 feet	
Rear Yard Setback	25 feet	(See PUD variance b. below)

PUD VARIANCES

- a. Front yard setbacks can be reduced to 15 feet if garage is set back at least 25 feet from front property line.
- b. Rear lot line setbacks that abut open space areas are reduced to 10 feet.
- c. Shared access and utility easement lots (64-66, 74-77) will have two (2) 15 foot wide frontages (30') on the public R.O.W. All of these lots obtain access from this entrance, not from public R.O.W. A common use agreement between owners will be required.
- d. Lot line setbacks between shared access lots parallel to road right of ways are 10 feet each side of the property line.
- e. Dual access easements are established between pairs of lots (68-73) where rear lot garages are desirable. A common use agreement between users will be required.
- f. Accessory structures, as defined by the City of Las Cruces Zoning Ordinance, may occupy up to 40% of the rear yard. Accessory structure rear setbacks are five (5) feet.
- g. No variation from the "side yard setback" shall be approved.
- h. All buildings erected, placed or permitted to remain on any lot shall be situated only within that portion of said lot not restricted from use by a setback or right-of-way. At street intersections, lots having frontage on two (2) streets shall have one (1) street declared by the Architectural

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LVO Protective Covenants (Cont.)

Review Committee, on approval of plans, as the street where the "front setback" applies. The other street shall have a minimum "side street setback which shall apply.

- i. Should any building be constructed on more than one lot, the lines of lot ownership shall be used for determining the front, rear and side lot lines.

B. GRADING, DRAINAGE, SOILS

1. A grading plan will be provided showing finished elevations of areas to be graded and paved, building sites, retention or detention areas, retaining walls and other structures that has been approved and permitted by the City of Las Cruces. No grading, land filling, excavating or other alterations will be done except pursuant to plans or revisions approved by the City of Las Cruces and the Architectural Review Committee.
2. All excess excavation material that is removed from the lot will be deposited in the subdivision in a location to be designated by the developer. Contractors are not permitted to spread excess debris or material over the remainder of the lot or onto any other lots. Upon completion of any residence or associated structure, the lot shall be graded in a manner as shown on the Subdivision Grading Plan to ensure positive drainage away from the structure's foundation. Drainage swales shall be designed to have a minimum grade of one percent (1%).
3. Some properties contain parcels of land that have been improved by the developer that must function as drainage facilities for the overall project and which must be incorporated into the drainage design for the specific lot.
4. Drainage is to be safe and efficient and blend into the overall design. There will be no on lot ponding except as shown on the Subdivision Grading Plan.
5. Builder (s) shall conform with the requirements of the subdivision approved drainage plan without altering existing drainage easements in any way.

C. SITE DEVELOPMENT STANDARDS

1. Wherever possible, consideration should be given to privacy and views of adjacent lots. The following lots have been identified as having the potential for construction of two story dwellings: Lots 68, 69, 70, 71, 72, 73, 75, and 77. All remaining lots in Phase 2 will be restricted to single story dwellings not to exceed 18 feet in height without approval of the Architectural Review Committee.

25/6/03

LVO Protective Covenants (Cont.)

2. No residence shall be erected, altered, placed or permitted to remain on any lot with fully enclosed living area of less than 1200 square feet or more than 2600 square feet exclusive of garages, open porches and accessory buildings .
3. The Las Ventanas development is dedicated as an owner occupied subdivision. No more than 12.5 % (1 in 8) of all developed lots are allowed to exist as rental property without approval of the Architectural Review Committee. Owners considering conversion of their property to rental status shall notify the Architectural Review Committee of their intent and receive approval of the Committee prior to execution of the lease or rental agreement. Under no circumstances shall the Architectural Review Committee increase the 12.5 % rental property standard without the written approval of a least two-thirds of the existing developed property owners. The Property Owners Association has the right to require that the rental property be maintained and kept in good appearance by the owner.
4. No building shall exceed two stories in height at ground level as measured from the lowest grade level on the respective lot abutting the structure. Single story buildings are encouraged except on those lots noted above in Phase 2 of the development.
 - (a). The grades ESTABLISHED by the developer or detailed on the final approved subdivision grading plan shall not be altered without approval of the Architectural Review Committee.
 - (b). From the ESTABLISHED grades the highest point of a building roof line shall not exceed one story. Chimneys and other pipes and vents are excepted from the height limitation as long as their height and size are reasonable and within prescribed codes and regulations.
5. Each dwelling shall have a minimum two car garage, being a minimum size of 400 square feet, with minimum one 16"W by 7' H door.

D. BUILDING SPECIFICATIONS

1. There shall be no mobile or manufactured homes allowed either permanently or temporarily in the subdivision.
2. All buildings shall be of frame and stucco, adobe and stucco. Brick veneer exteriors and wood, vinyl or aluminum siding are not allowed.
3. Garages shall conform in material and design to the dwelling to which they pertain. Carports will not be allowed.

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4. Roofs: flat roof: all flat roofs shall have parapet walls on all sides of the house, including the front porch.

 pitched roof: shall not have a pitch of more than 5:12 and must use clay tile in colors harmonizing with exterior color (s) of residence. Imitation terra cotta tiles made with concrete, cement or plastic will not be permitted unless a sample of the imitation material is presented to the Architectural Review Committee for approval or disapproval. An exception to clay tile on the pitched roofs may be made in favor of quality tin if appropriate to the dwelling style. This variance will be considered by the Architectural Review Committee after a sample of the tin material is submitted.
5. Only desert tone colors shall be used on the exterior surface material for any residence. This includes tones of brown, tan, rose, yellow or terra cotta. No stark white exterior colors will be permitted.

E. DRIVEWAYS AND PARKING

1. R-1 zoned lots shall have access to each residence via the public streets. The exceptions are the shared and dual access lots. Those lots are accessed via a shared driveway starting at the public street. These lots are as follows: Shared access – (64, 65, 66), (74, 75, 76, 77); Dual access – (68,69), (70,71), (72,73).
2. Driveways and shared access driveways should intersect the street at no less than sixty (60) degrees for maximum visibility and should not exceed twelve percent (12%) slope except where use of short pitches up to fifteen percent (15%) may lessen site impacts.
3. Driveways in the shared access lots and other driveways that will be shared are subject to the same codes and standards as described above.
4. The public parking bays within the cul-de-sacs are guest parking only. Extra vehicles belonging to Property Owners will not be permitted to use the guest parking spaces. RVs, whether belonging to guests or Property Owners, will not be permitted to park in the guest parking areas except when loading or unloading.

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LVO Protective Covenants (Cont.)

5. Recreational vehicles, boats etc. will not be allowed to park on public streets or in visitor parking spaces at any time. In addition, these vehicles will only be allowed to park permanently on driveways if they do not project beyond the front wall of the house.
6. All vehicle parking is restricted to designated paved parking areas only. No parking on private yards, in open spaces or visitor parking areas shall be permitted.

VIII. TEMPORARY USE

- A. Any lot or portion thereof may be used temporarily by the developer as a sales office, model home complex or storage and construction yard during the construction and sales period, provided that all temporary uses defined herein have prior written approval of the Architectural Review Committee. Model homes constructed as examples of styles and layout available shall be deemed permanent and are an exception to the temporary use definition.
- B. No lot shall be used for the storage of any construction or other materials except for a period or up to thirty (30) days prior to the start of construction and during the construction period.
- C. During initial sales of lots and new houses, the Developer may allow flags and banners to mark lots for sale. When a house is "open", open house flags on poles not exceeding six (6) feet may be used.

IX. WALLS AND FENCES

- A. Any wall or fence placed on the lot shall be in compliance with the set back and zoning requirements of the City of Las Cruces and shall not impair the drainage function of the ponding areas or drainage easements as shown on the approved construction drawings of the subdivision and the lot. All perimeter walls and fences shall be placed on the dividing lines between lots, except those lots that are immediately adjacent to and bounded by land not in the Las Ventanas Subdivision shall have walls or fences along said perimeter lines completely within the perimeter lot lines, and said perimeter wall shall not be a party wall. Grade differentials require "terrace" walls, which are not perimeter walls, to be constructed on lot 89. The requirements of height, construction, materials, color and repair of calls shall apply to lot terrace walls. Terrace walls are not party walls and are contained solely within the perimeter lot lines.
- B. Retaining walls shall be party walls if placed on the common property line between two (2) lots, and shall not be removed by either property owner without the written consent of the other party and the Architectural Review Committee.

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LVO Protective Covenants (Cont.)

- C. Perimeter walls, if erected, whether retaining, terrace or garden in nature, shall extend along the entire rear lot line and along the side lot lines from the rear lot line to a point even with the rear of the principal dwelling, as a minimum, and may extend to the front lot line. The location and design of all walls and fences must be approved by the Architectural Review Committee.
- D. Each wall, including fences and patio walls, which is constructed as part of the original construction of the structure, and is placed on common property lines of two lots or adjacent thereto, between separate units, shall constitute a party wall and shall not be removed by either property owner. Party wall construction shall be paid for prorate by the respective property owners.
1. Every such wall shall be consistent in height with walls to which it abuts, and in no case more than six feet (6) high from grade to the higher of the lots it divides. Party walls shall be constructed on the lot property lines such that, rear yards and side yards are enclosed, subject to other limitations contained herein and in the Zoning Ordinance. Necessary retaining walls from building setback line to the front property line shall be not more than one (1) foot above grade of the higher of the lots it divides.
 2. In the event any such party wall is damaged or destroyed through the act of one adjoining owner, or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or the fault of any person) so as to deprive the other adjoining owner of the full use and enjoyment of such wall, then such owner who caused or is responsible for such damage, shall forthwith proceed to rebuild and repair the wall to as good a condition as formerly existed, at such owner's sole cost and expense.
 3. In addition to meeting the other requirements of these Protective Covenants and of any building code or similar regulations or ordinances, any owner proposing to modify, make additions to or rebuild a party wall in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining owner and the Architectural Review Committee.
 4. No fence or wall may be erected, placed, altered, relocated or removed without the express written consent of the Architectural Review Committee. Tin or other sheet metal, wood, chain link, wire and barbed wire are specifically prohibited, except wire fences may be constructed for dog runs when located within and enclosed by a permitted exterior wall. The fence height for such runs shall be a maximum of one (1) foot taller in height than the exterior wall.

26/8/03

LVO Protective Covenants (Cont.)

5. All walls within the subdivision shall be rock, except those attached to a structure which may be of the same material as the structure. Rock walls will match rock walls constructed in the initial phase of site development and will be tan/beige/terra cotta/ tan, not black. Top of all walls will be flat, not peaked. No alternative will be allowed.
6. Decorative wrought iron may be used for wall accents, gates and such, subject to Architectural Review Committee approval. Wrought iron shall be painted black unless a variance is requested and approved by the Architectural Committee. Decorative wrought iron placed as accent on the top of party walls shall require the approval of both property owners as well as the Architectural Review Committee.
7. PERIMETER/PARTY WALLS ARE NOT REQUIRED, except for required and necessary retaining walls. In the event of a dispute between adjacent lot owners as to whether a perimeter/party wall should be constructed, the decision of the first in time lot owner of record, or his or her successor in interest, shall control.

X. EASEMENTS

- A. The utility easements on the shared access or flag lots shall be as shown on the plat.
- B. Easements for installation and maintenance of utilities and drainage facilities are reserved and are hereby expressly acknowledged and granted as shown on the recorded plat. No structures, ground cover, planting or other material shall be placed or permitted to remain within the described easements which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.
- C. No trees shall be planted in the twelve foot (12') utility easement.
- D. The easement area of each lot and all improvements thereon shall be maintained by the owner of the lot, except those improvements for which the public authority or utility company is responsible. All or any public utility shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs, or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of its respective system in easements, any public utility for the purpose of construction, re-constructing, inspecting, patrolling, maintaining and adding to or removing all or parts of its respective systems may do so without the necessity of procuring permission at any time from anyone.

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LVO Protective Covenants (Cont.)

- E. The easement areas of each lot and all improvements thereon shall be maintained by the owner of the lot, except those improvements for which the public authority or utility company is responsible.
- F. The owner of each lot shall also be responsible for maintaining the strip of land between his property line and the back of the curb on the near side of any street adjacent to or in front of the owner's lot.

XI. NUISANCES

- A. No noxious or offensive activity shall be carried out upon any lot, nor shall anything be done therein which may be or may become an annoyance or nuisance to the neighborhood
- B. No signs of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than two square feet advertising the property for sale either before or after construction, or signs used indicating who is the builder during the construction period..
- C. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs or cats may be kept, providing that they are not kept, bred or maintained for any commercial purpose. When allowed to be kept, all pets must be secured within a fenced or bounded area upon the owner's property and must be accompanied by the owner and on a leash or within the direct control of a responsible person when outside the fenced or bounded area. In addition, all waste must be picked up when the animal is outside the fenced or bounded area and deposited in the owner's trash.
- D. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, junk cars, paint cans, oil, flammable objects, concrete tailings, rock wall residue, refuse or debris of any kind shall not be kept on any lot. Garbage and trash shall be kept in sanitary containers, screened from view from all streets and other lots within the subdivision. Refuse placed on the curb or sidewalk for pickup shall not be placed in open view before 5:00 PM the day before the scheduled pickup time.
- E. No structure of a temporary character, trailer, automobiles not in use, tent, shack, garage, barn or other outbuilding shall be placed or used on any lot at any time as a residence either temporarily or permanently.

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LVO Protective Covenants (Cont.)

- F. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.
- G. No radio or television transmission tower or radio or television receiving towers shall be erected, placed or permitted upon any part of said property. Television receiving antennae shall not be included in the meaning of this paragraph, but the height of all antennae shall be subject to prior written approval by the Committee. Pipes for water, gas, sewer, drainage or other purposes, electricity and utility meters or other utility facilities, such as solar equipment, shall be kept and maintained, to the extent possible, underground or within an enclosed structure and shall not be visible from the street.
- H. No elevated tanks of any kind shall be erected, placed or permitted except where required for the water distribution system. Any tanks for use in connection with any residence constructed on said property including tanks for the storage of gas, fuel oil, gasoline or oil, must be buried or walled in sufficiently to conceal them from the view from neighboring or other lots, roads or streets.
- I. Evaporative or refrigerated air cooler (s), if erected or maintained on the roof of any premises, shall be effectively screened or otherwise hidden from view from any public place or adjoining lot as determined by the Architectural Review Committee.

XII. COMPLETION OF CONSTRUCTION

Construction of any residence that has been approved by the Architectural Review Committee and the City of Las Cruces shall commence within eighteen (18) months of the original date of purchase of the applicable lot from the developers notwithstanding a subsequent sale of that lot by the original purchaser. If construction is not commenced within that eighteen (18) month period then the Developer shall have the option to repurchase such lot at the original price of purchase less closing costs including but not limited to title insurance, recording fees and title company closing fees. Written notice of Developer's intent to exercise the option to repurchase such lot shall be mailed to the lot owner within 90 days after the last day of the above described eighteen (18) month period with date of notice to be deemed date of mailing. The developer shall then have 45 days from date of notice to close on the repurchase. If the Developer fails to serve notice of intent to exercise the option within the above 90 day period, or fails to close on the repurchase within the above 45 day period, then the option set forth above shall be deemed terminated, null and void and of no further force and effect. The construction of the residence and all other structures contained the approved plans shall be completed within 180 days from date of commencement of construction.

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LVO Protective Covenants (Cont.)

Approved landscaping shall be completed within 90 days of completion of construction. Failure to complete construction and/or landscaping within the above time periods shall be deemed a breach/violation of these Protective Covenants, and shall give rise to the remedies set forth more particularly below in Section XIII

The construction of all buildings, landscaping, grading, utilities, drainage, easements, driveways and other work done on the site shall proceed and be completed in accordance with the approved plans. The construction shall be undertaken with diligence continuously from time of commencement until fully completed and no building shall be occupied for dwelling purposes until construction has been completed and a Certificate of Occupancy has been issued. Approved accessory buildings/structures may not be constructed prior to the construction of the main residential structure, and any subsequent additions, alterations, or modifications, will be completed within three (3) months from start of construction.

XIII. BREACH OF COVENANTS

All persons and entities owning a lot or lots in the Las Ventanas a los Organos Subdivision, contract purchasers and sellers with an interest in a lot or lots in the subdivision, and holders of mortgages covering a lot or lots in the subdivision shall have the right and standing to enforce these Protective Covenants. In the event of a breach/violation of these Protective Covenants, said parties shall have the right to pursue their legal and equitable remedies, and, in the event of legal proceedings for enforcement of these Protective Covenants, the prevailing party shall be entitled to an award of its reasonable attorney fees and costs incurred. If injunctive relief is pursued, such injunctive relief shall include but not be limited to mandatory injunction compelling removal or modification of structures in violation of these Protective Covenants or in non-compliance with the applicable approved plans.

Invalidation of any one or more of the provisions of these covenants by judgment or court order shall in no way affect any of the other remaining provisions which shall remain in full force and effect.

XIV. AMENDMENTS

- A. Until such time as the Developer has sold 100% of the lots in Las Ventanas a los Organos Subdivision, Phase 2, the Developer shall have the sole right and authority to modify these Protective Covenants with the provision that such modifications or amendments shall not materially modify the nature and purposes of these Protective Covenants including the character, quality and number of lots within the subdivision, and provided further that the Developer obtains the prior written consent from a majority of the members of the Architectural Review Committee for such modifications or amendments.

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LVO Protective Covenants (Cont.)

The Developer shall, however, have the right to relinquish this sole right and authority in which case modification of or amendment of these Protective Covenants shall be governed by the provisions of this Section XIV., subparagraph 2., below.

- B. After such time as the Developer has sold 100% of the lots in Las Ventanas a los Organos Subdivision, Phase 2, or after the Developer has relinquished the sole right and authority to amend or modify these Protective Covenants as set forth above, these Protective Covenants may be amended, modified or revoked, in part or in whole, by written and recorded instrument signed by the owners of not less than 60% of the lots in said subdivision. Any modification, amendment or revocation of these Protective Covenants shall be effective only when filed for record in the office of the County Clerk of Dona Ana Country, in the State of New Mexico.

XV. EFFECTIVE DATE

The protective covenants and any amendments or exceptions thereto shall be effective as of the date of their filing with the County Clerk of Dona Ana County in the State of New Mexico and shall run with the land and shall be binding upon and inure to the benefit of all owners of lots in the Las Ventanas a los Organos Subdivision, Phase 2, their personal representatives, heir, devisees, successors in interest and assigns.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed this 25th day of August, 2003.

LAS VENTANAS A LOS ORGANOS SUBDIVISION, Phase 2

By Thomas N. Tate
Thomas N. Tate

Donna R. Tate
Donna R. Tate

STATE OF NEW MEXICO)
 ss
COUNTY OF DONA ANA)

The foregoing instrument was acknowledged before me this 25th day of August, 2003, by Thomas N. Tate and Donna R. Tate.



Wendy Creason
Notary Public

11/25/03

EXHIBIT "A" TO THE DECLARATION OF PROTECTIVE COVENANTS
FOR
LAS VENTANAS a los ORGANOS SUBDIVISION

DESIGN AND LANDSCAPING STANDARDS
FOR
LAS VENTANAS a los ORGANOS SUBDIVISION

I. DESIGN STANDARDS

A. Intent

To insure that various planning concepts are followed throughout the design and construction phases of this community and in order to establish and preserve a quality environment, certain Design Standards have been adopted. These standards are to serve as guidelines to owners, architects and builders in preparing designs for construction.

An Architectural Review Committee has been created who will review and evaluate plans and specifications submitted by owners and builders for Las Ventanas Subdivision prior to submission to the City of Las Cruces for a permit. In addition, the Architectural Review Committee will use the Protective Covenants and these Design Standards as guides to evaluate construction and landscape plans submitted to them for review.

PLEASE REFER TO THE PROTECTIVE COVENANTS FOR SPECIFIC DETAILS AND SPECIFICATIONS ON ALL DESIGN STANDARDS RELATIVE TO ARCHITECTURAL REVIEW, LOT/SITE DEVELOPMENT, CONSTRUCTION AND LANDSCAPING.

B. Professional Assistance

It is strongly recommended that all persons proposing any construction subject to review under these Design Standards seek the assistance of qualified design professionals to lend their expertise and guidance.

II. ARCHITECTURAL STYLES

Designs may be contemporary or traditional interpretations of the recommended styles as long as they are of a consistent and appropriate architectural concept that is as representative of the principles of the recommended styles as possible. Recommended architectural styles are as follows:

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LVO Design Standards (Cont.)

- A. Southwest Traditional
- B. Las Cruces Traditional
- C. Spanish Colonial
- D. Southwest/New Mexico Contemporary
- E. Territorial
- F. Pueblo

Examples of these styles are attached hereto and incorporated herein by reference, and will be provided to the future home owner and builder(s). These are examples and shall be used as guidelines for the architectural style of the residence and accessory structures.

Designs not in keeping with the recommended architectural styles shall be approved or disapproved on a case by case basis by the Architectural Review Committee but such approval/disapproval will not set a precedent for future designs.

III. PROCEDURE FOR SUBMITTAL TO THE ARCHITECTURAL REVIEW COMMITTEE

All owners (owners, builders, consultants and any other designated representatives, hereinafter referred to as "owners") shall comply with the following process in order to gain approval from the Architectural Review Committee.

A. Preliminary Review

All owners shall submit to the Architectural Review Committee a letter of request providing a full legal description, including phase number and lot, name and address of the property owner, name and address of the builder and the name and address of the party for whom the construction will be accomplished, if known. Two sets of plans shall be submitted and shall include the following:

1. A preliminary site plan at a scale of 1" = 10' or 1" = 20' of all proposed improvements, including building location, rock walls, fencing, gates, driveway and curb cuts (please show existing street curb). Include all legal restrictions, rights-of-ways, property lines, setbacks, drainage and other easements dimensioned the same as all documents to be submitted to the City of Las Cruces and matching the applicable plat and noted PUD variances.

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2. Floor plans at a scale of $1/8"$ or $1/4" = 1 - 0"$, fully dimensioned with any details necessary to explain the design.
3. Exterior elevations, at a scale of $1/8"$ or $1/4" = 1 - 0"$, including both existing and proposed grade lines, finish floor elevations, top of slab elevations and building height calculations.
4. All submissions shall be in writing, shall be dated and shall be signed and dated by the receiving party as proof of receipt. In the event that the committee disapproves any submittal, it is required to state the reasons(s) for its disapproval. In the event the Architectural Review Committee fails to respond in writing within fifteen (15) working days after submission of the above described preliminary review materials, then the items set forth in the preliminary review materials shall be deemed to be approved. However, such deemed approval shall not cover any additional items contained in the final review materials submitted.

B. Final Plan Submission

Plans shall include the site plan, floor plan and elevations as described above. Plans must be to scale, dimensioned and completed as for the City of Las Cruces and in accordance with the subdivision plat and PUD variances. All documents shall be submitted in duplicate with one copy to be retained by the Architectural Review Committee and one returned to the applicant.

The final plan submission shall include a landscape plan showing locations (with dimensions), variety and full growth size at maturity of proposed plantings. Landscape plans are to be at a scale of $1" = 20'$ or larger.

The final plan submission shall include a color sheet which shall include:

1. A list of all exterior materials and colors.
 - (a) stucco brand, color name and number
 - (b) roof finish, brand, color name and number
 - (c) exterior paint colors
 - (d) types and colors of any other exterior elements

NOTE: Only desert and southwest tone colors shall be used on the exterior surface material for any residence, including tones of

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brown, tan, rose, terra cotta and yellow. Stark white will not be permitted as a surface, trim, door or accessory color without the specific approval of the Architectural Review Committee.

2. Front elevation details clearly depicting trim colors (whether paint or stucco color), fascia color, window trim color and finish, door and garage door colors and finishes and accent locations.
3. In the event the architectural Review Committee fails to respond in writing within fifteen (15) working days after submission of the above final review documentation and materials, then all such submitted plans and materials shall be deemed to be approved. All submissions, rejections, approvals and/or disapprovals shall be submitted in writing, and shall be dated and signed by the receiving party as proof of receipt. In the event that the Committee disapproved any plans, it is required to state the reason(s) for disapproval.

IV. LANDSCAPING

Landscaping is required on all lots. Specifications and landscaping requirements are set forth hereinafter and should be referred to by landscape architects, builders, owners, designers and landscapers. The Architectural Review Committee shall be the final authority as to acceptability of proposed landscape materials and plans. The following criteria shall be used as a guideline for all landscaping design in the Subdivision.

- A. Preserve existing native shrubs and plants, if any, where possible.
- B. Protect existing trees, if any, and where possible.
- C. Keep all landscape plans in harmony with the environment, using plants and materials indigenous to the area.
- D. Plants should be of low maintenance and drought tolerant.
- E. Grassy yard areas or cultivated garden areas should be restricted in size, closely associated with the house and in the back yard areas, not in the front.
- F. Drip water systems will be standard except for the minimal yard areas.

The Architectural Review Committee shall review and approve all landscaping and exterior lighting plans for building lots for all front yards and side yards facing streets on corner lots. Landscaping must be completed within 90 days of completion of a residential building on the respective lot. The intent is to protect

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and enhance the property values, desirability and attractiveness of the subdivision

Typical desert environment and drought resistant landscaping will be standard. However, a sufficiently visible amount of foliage must be present on each building lot to comply with the landscaping requirements. The Architectural Review Committee will be the final authority as to acceptability.

At anytime that a substantial change, alteration or modification is made to the front yard or side yard of a lot relative to landscaping, the Committee must approve such change, modification or alteration. Included within the preview of this paragraph shall be the instance where plants, trees, shrubbery or other landscaping materials may die, be destroyed, removed or similarly be caused to be reduced in quantity and as such require replanting or replacement according to the same rules as apply to the initial planting requirements above set forth.

Protective screening or planting shall be maintained by owners of the respective lot and at their expense for the protection of residential areas. No building or structures, except screening or drainage facilities shall be permitted to remain in such areas.

G. Landscaping Plants and Materials Specifications

1. Front Yard – minimum of one (1), 2 inch caliper broadleaf tree at maturity will reach a minimum of 20 feet high (two are required if side yard abuts street).

Examples: Seedless Locust, Ash, Red Leaf Maple

2. Front Yard – minimum of one (1) intermediate size shrub/bush which at maturity will reach minimum height and width of 8 feet. (two required if side yard abuts street)

Examples: Photon, Texas Sage, India Hawthorne, Pyracantha, Forsythia, Spirea, Sumac

NOTE: OLEANDER WILL NOT BE APPROVED

3. Front Yard - Six (6) lower foundation plantings which at maturity will reach a height of 2 to 3 feet (eight required if side yard abuts street).

Examples: Nandina, Rosemary, Mock Orange, Tam Junipers and most of the above mentioned. NOTE: NO MORE THAN TWO (2) OF THE ABOVE SHALL BE A JUNIPER VARIETY.

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LVO Design Standards (Cont.)

4. Front Yard - an assortment of hardy, drought resistant broad leaf plantings are acceptable and encouraged in addition to or instead of the above. A limited use of cacti, yucca and other commonly used desert plants shall be permitted.
5. Front Yard - inorganic material shall be used to cover those areas not planted or covered otherwise. In no event is the natural sandy surface to be left exposed and un-landscaped.

Examples: Crushed rock, crusher fines, brick, crushed brick, paving stone, slate slabs

NOTE: A minimum of 6MM black plastic shall be used under any inorganic material in the front and side yards. The landscaping material shall cover the plastic in such quantity that the under lying plastic shall not show through the surface material.

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SOUTHWEST TRADITIONAL

THWEST TRADITIONAL

Sketch below indicates the typical architectural vocabulary of the SOUTHWEST TRADITIONAL style as applied to a single story house. The same vocabulary would be applicable to multi-story and commercial projects.

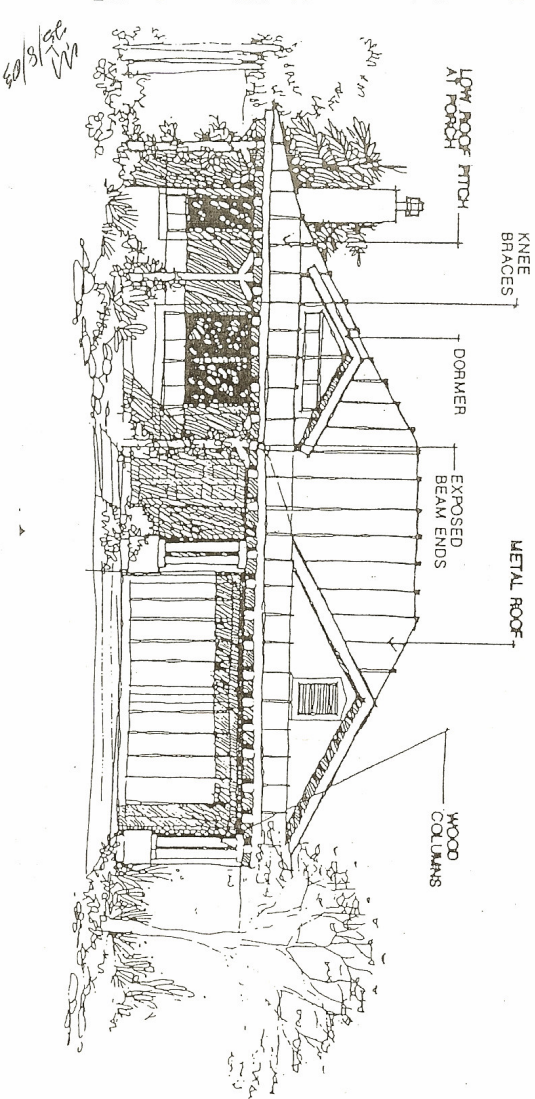
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Simple one story volumes with pitched roofs, using the volume inside the gable as a "second" story. Dormers are used with restraint.

Hip or gable roofs are common with pitches occasionally being less steep for porches and loggias.

MATERIALS AND COLORS

- Stucco, with a smooth texture is typical wall material, using desert tones of beige, tan and sand for wall colors.
 - Roof is metal, corrugated or standing seam, typically in red, green, or silver.
 - Trim is typically lighter in tone than the body, usually white.
- ### OPENINGS
- Doors and windows are set flush with the wall surface.
 - Wood trim, reminiscent of the Territorial (Greek Revival) detailing defines major openings.
 - Doors typically are "Colonial" styles or paneled wood.



PUEBLO

PUEBLO

The sketch below indicates the typical architectural vocabulary of the PUEBLO style as applied to a single family house. The same vocabulary would be applied to multi-family and commercial projects.

FORM AND MASS

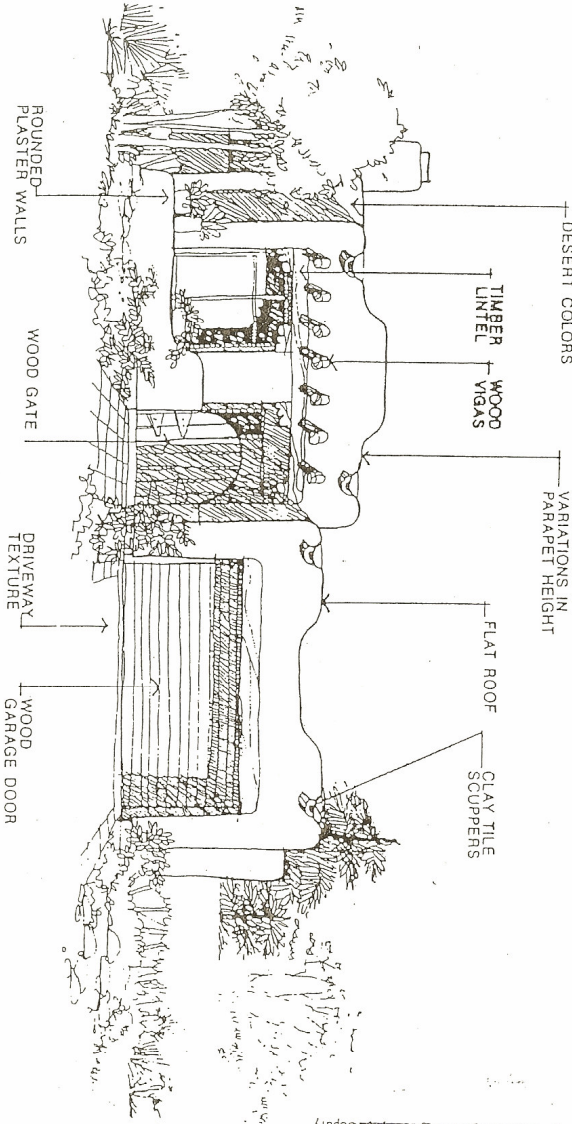
- Simple one and two story volumes with softly rounded corners.
- Flat roofs (varying heights) with parapets and canals to drain water.
- Corners are thickened, buttresses used occasionally to emphasize mass.
- Portales and loggias are typical entry features.

MATERIALS AND COLORS

- Stucco (smooth texture) is typical wall material.
- Desert earth colors: beige, tan and sand are typical.
- Trim is a slightly darker tone.

OPENINGS

- Doors and windows deeply set and defined with a wood lintel.
- Doors typically of heavy paneled wood.
- Windows have straight tops, with wood the preferred material.



State of New Mexico County of Santa Fe
 REC'D I CON NO. 20149
 I hereby certify that this instrument
 was filed for recording and duly recorded on
 AUG 25 2003
 at 2:42 o'clock PM
 Book 455 Page 402-409
 County Clerk By: [Signature]



SPANISH COLONIAL

SPANISH COLONIAL

The sketch below indicates the typical architectural vocabulary of the SPANISH COLONIAL style as applied to a single family house. The same vocabulary would be applicable to multi-family and commercial projects.

FORM AND MASS

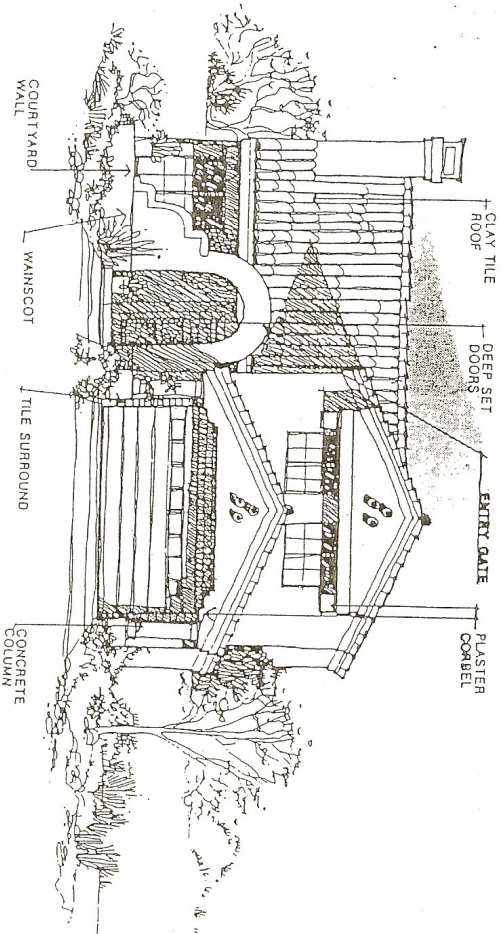
- Simple strong one and two story volumes.
- Roofs of 4 in 12 to 5 in 12 pitch.
- Clipped eaves and simple brackets.
- Courtyards and patios used extensively.
- Finished edge of platforms with molding continuing around the building as a belt mold.
- Typical chimney cap and molding.

MATERIALS AND COLORS

- Stucco (smooth texture) is typical.
- Clay barrel tiles are preferred.
- White, tones of peach or sandy pink should be the primary colors with accents of blue or green.
- Timber framing and accents.

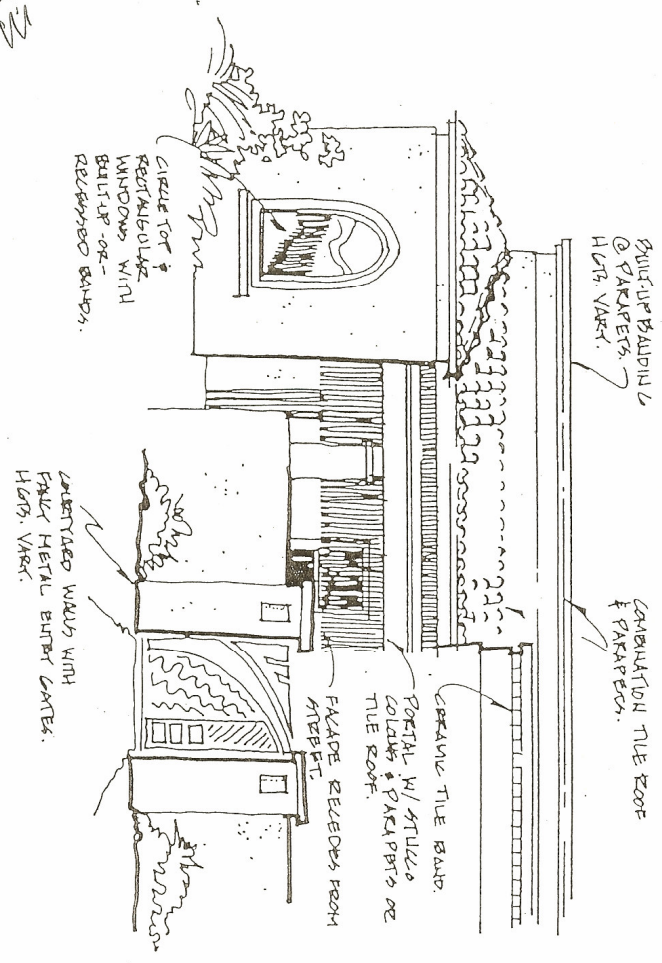
OPENINGS

- Limited use of arches.
- Windows deeply set or defined with molded surrounds. Window grills may be used with divided lights.
- Doors should appear to be of heavy carved wood.



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LAS CRUCES TRADITIONAL



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TERRITORIAL

TERRITORIAL

The sketch below indicates the typical architectural vocabulary of the TERRITORIAL STYLE as applied to a single family house. The same vocabulary would be applicable to multi-family and commercial projects.

FORM AND MASS

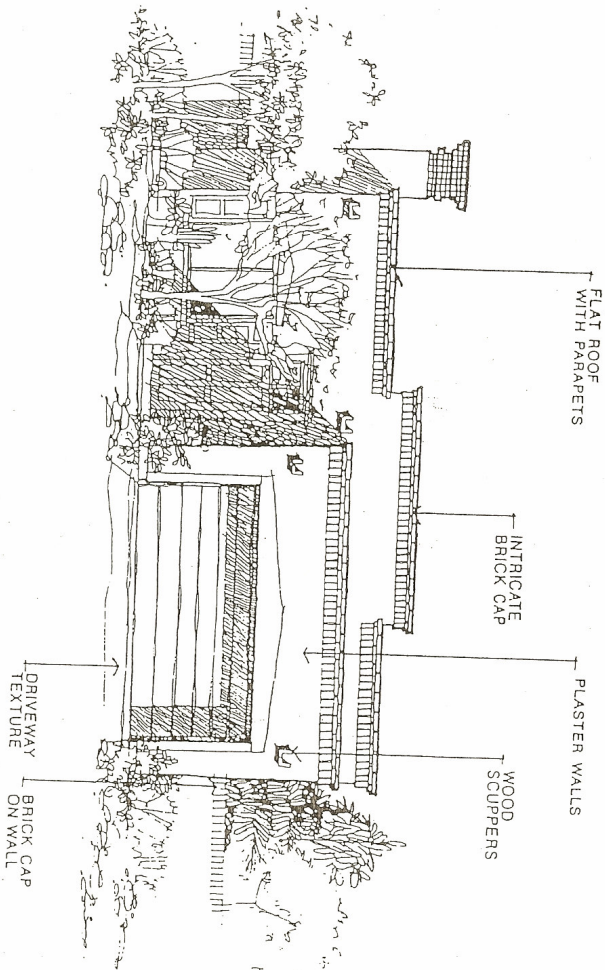
- Simple one and two-story volumes.
- Flat roofs of varying heights.
- Parapet copings typically capped with brickwork, masonry, or occasionally wood.
- Portales and loggias are typical.

MATERIALS AND COLORS

- Stucco (smooth texture) is typical. Brick or masonry are also used.
- Desert earth tones: beige, tan and sand are typical colors.
- Trim is typically lighter in tone and occasionally a contrasting color.
- Delicate wood moldings and accents.

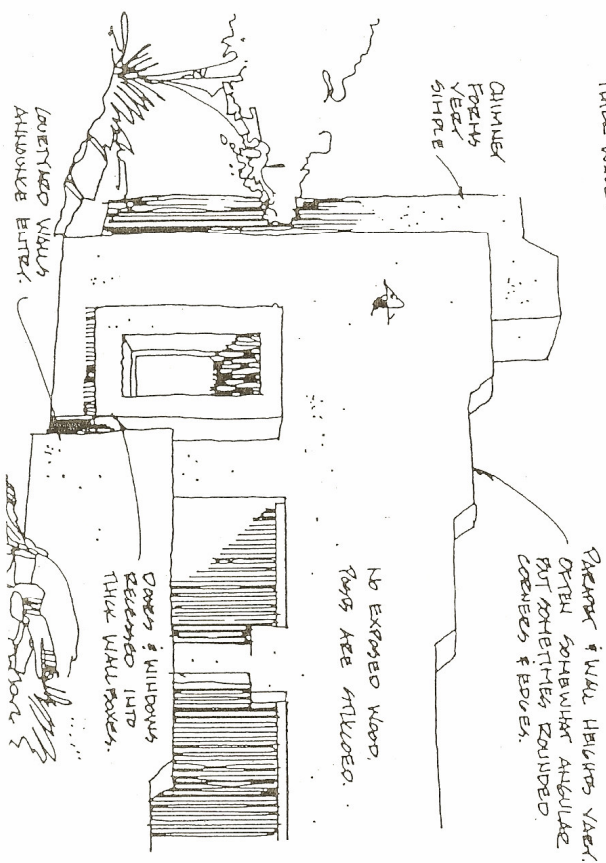
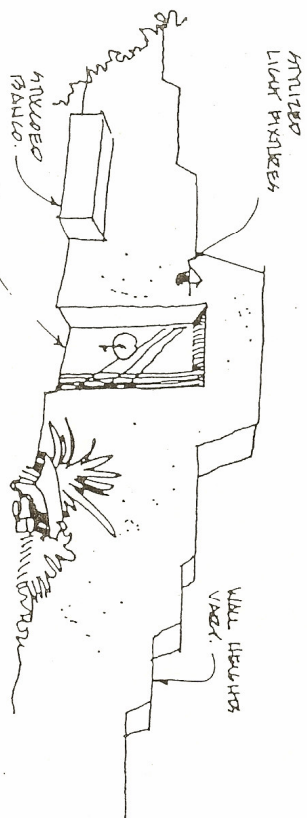
OPENINGS

- Doors and windows are set flush with wall surface. Windows are divided or small, multi-paned lights.
- Wood trim, reminiscent of the Greek Revival detailing, defines major openings.



2/25/83

SOUTHWEST / NEW MEXICO CONTEMPORARY



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