

Questions & Answers About the New Covenants

This letter is to address some of the covenant comments and questions that La Senda residents have sent to Marja Springer and the Home Owner's Board. We, the covenants committee, have taken several of these suggestions to heart and brought what we could into line with Los Alamos County codes. Even though much (not all) of the covenants is covered by the county codes, it's much easier to look through the covenants for relevant restrictions than it is to dig through the county documents for what you want.

A main reason the board wanted the covenants rewritten was that the old one is quite out of date, not having been touched since 1975. Which brings up another point that I would like to make. Some La Senda homeowners are not subject to the covenants because they, or former owners, bought their properties before the covenants went into affect. These owners, I believe, are all in tract A. Others think that they are not subject to the covenants because when they bought their respective properties, the old owners did not give them a copy of the covenants. But once a homeowner has signed the covenants, all future owners of that property are subject to the covenants as well. That is my understanding at least. If you wonder whether you are indeed subject to the covenants, give the board a call. They will be able to look that information up for you.

The following are some questions and concerns from La Senda homeowners that I would like to address.

Comment: Covenants should not be more restrictive than county ordinances.

Ans: Where possible, we have followed the county ordinances.

Questions: Covenants appear to state that they apply only to the properties whose owners sign the covenants. What happens if homeowners have not signed – will they be binding? What percentage of homeowners should support the covenants?

Ans: If the former owner of your property has signed the covenants at the time he/she bought the land, then they are binding on new owners as well because they accompany the land. My understanding is that the La Senda Home owner's Association needs a 51% “yes” vote for the new covenants to take affect. If we don't get that 51%, then the old covenants stay in affect for ten more years. Take a good look at the old covenants and the new, then decide which you prefer.

Comment: Main dwelling: text should be structured to allow for unheated basements, garages, shop area or wine cellar, etc.

Ans: The current main dwelling description does not disallow those things.

Comments: Accessory building text could be interpreted as one accessory building allowed for each lot. A total building area of 10% is too restrictive. A limit of 15 feet in height is too restrictive for accessory buildings – increase to 20 feet and allow for 30. No allowance for small sheds either. One homeowner wants to build a garage which is 2450 sq. feet to house vehicles.

Ans: Accessory bldg. text is clearer now. The total building area of 10% is county code,

so it will have to stand as is. We have changed bldg. height to 20 feet – which again is county code. Try measuring the height of a motor home – 20 feet should give you plenty of clearance. You can build any outbuildings you want on your property, just one purpose for each building. The restriction is the 10% total area, which is ~ 80,000 sq. ft.

Comment: Structural control is too restrictive and potentially time consuming/costly.

Ans: We have worked on this section and it is better now. Be glad that the architectural control section has disappeared.

Comments: Building location restrictions: different from county requirements. There are structures that have been built over the years that are not in compliance. A grandfather clause should be written to include those instances.

Ans: Yes. We are adding a grandfather clause. This does not, however, mean that the county cannot enforce those violations against its codes (and there are quite a few of those).

Comments: Signs. Signs that are no more than one foot are worthless – increase. Why restrict signs at all?

Ans: The sign size is now in agreement with the county code. That's all we can do.

Comments: Animals – questions about the 165 foot setback from the front property line.

Ans: We have changed this from the old covenant restriction of 165 feet to the current county code setback of 45 feet from human habitation or dwelling. That can be as much as 85 feet or more from the front property line. It depends on where the house is and where you want to put your animal housing.

Question: Why wasn't the issue of home businesses addressed?

Ans: I suppose the answer is because it was not addressed in the old covenants. Home businesses are quite strictly controlled by the county, and if the business follows those restrictions, surrounding home owners probably wouldn't be aware that the business was even there. Other than business signs, which the whole neighborhood can see, home businesses are something that only a few of us are involved in.

Question: Why wasn't the issue of disturbing noise at late hours addressed?

Ans: Because noise disturbance is an on again/off again thing, it would be difficult for the board to assess what is going on. It is probably best to get in touch with the police directly.

Comments: Restrictions put on appraised value of future homes – retired persons and young families might not be able to meet those requirements.

Ans: It seems to me that the appraisal value we chose for new dwellings is very reasonable for these economic times. I doubt if there is a house in La Senda that doesn't meet at least that. Also, the cost of a lot here is quite high – so if someone can afford that they would want to put at least a moderately nice house on it.

Comment: Passive solar houses may not have conventional heated areas.

Ans: That may be true, but we have taken all mention of “heated areas” out of the description for the main dwelling.

Comments: Why not just follow Los Alamos County ordinances regarding easements, building permits, accessory buildings, etc. No intention of voting for LASHA to become a policing agency.

Ans: There are good reasons for having comprehensive covenants in place. A minor one is addressed in my opening comments. Another is this. When we do have a problem that most of us can relate to, such as the one about a year ago, having a set of covenants that the whole membership agrees with carries quite a bit of weight with judges and the judicial system in general. About the problem of this becoming a policing agency, I don't think anyone currently on the board wants it to be like that. And we need to keep people with that kind of attitude from getting on the board when it comes to appointing new members. I guess that kind of thing could happen whether sufficient votes are cast for these covenants, or whether the old ones remain in place.

Question: Why can't easements be shared?

Ans: They can. The covenants, however, needed a legal description. Here is a reason for that: The problems come when a business such as the current cable company lays cable on our private easements without first asking for permission. Our easements are indeed private property and not like PAHOA's horse club easements. We are responsible for what happens on them and, legally, should be giving the cable company some sort of yay/nay before they do what they have been doing. It is hoped that the easement description in the covenants will help us if a court case ever arises. According to Chuck Martin (a board member for those who don't know him) the legal system gives some weight to the covenants agreed on by a home owner's group such as ours.

Comment: Feels that the covenants are too restrictive.

Ans: Check out the old covenants and the new ones. Decide for yourself which you would rather have. We are still open to suggestions, but much of the covenants are now a restatement of the county code.

Comment: Additional buildings, thinks “reasonable size” should be clarified.

Ans: We purposely kept this vague because we feel that homeowners can make those decisions for themselves. The one restriction is the 10% rule.

Comment: Clarify how many horses per acre are allowed.

Ans: The number of horses or other livestock is limited to 1 ½ per acre, plus one. For two acres, that would be 4 adult horses. This is straight from the county code.

Leslie Parkinson of the Covenants Committee