

Return To: F1000071120FH  
FORTUNATE NATIONAL TITLE INSURANCE CO.

## RESTRICTIONS REGARDING LANDSCAPING, GRADING & DRAINAGE

These Restrictions Regarding Landscaping, Grading and Drainage are made by DR Horton, Inc., a Delaware corporation ("Horton") as follows:

WHEREAS, Horton is the owner in fee simple and developer of that certain lot whose legal description is as follows:

Lot numbered Eleven (11) in Block numbered Eight (8) of Vista Vieja Subdivision Unit Two, City of Albuquerque, Bernalillo County, New Mexico, as the same is shown and designated on the plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on October 3, 2006, in Map Book 2006C, folio 298, as Document No. 150317.

Commonly known as 8405 Wild Dunes Road NW, Albuquerque, New Mexico 87120 (the "Lot")

WHEREAS, Horton deems it desirable to establish, adopt and impose covenants, conditions and restrictions upon any landscaping, grading and drainage alterations to the Lot in addition to any as may already be imposed, or shall hereafter be imposed by a homeowners association.

WHEREAS, Horton declares that the Lot is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the limitations, restrictions, covenants and conditions herein set forth. These restrictions shall be appurtenant to and run with the Lot and shall bind not only the original purchaser of the Lot from Horton, but his heirs, purchasers, assignees and successors-in-interest.

NOW, THEREFORE, Horton hereby establishes the following specific landscaping, grading and drainage restrictions on the Lot:

1. A Plot Plan of the Lot, which sets forth spot elevations and flow arrows depicting the grading and drainage plan approved by the applicable governmental entities and built by Horton, the proper implementation of which has been verified by a licensed surveyor, is attached hereto as **Exhibit A**. The purpose of the grading and drainage plan is to allow water accumulated on the Lot to drain to the public street. Construction or landscaping that materially alters the grades and flow patterns shown on **Exhibit A** hereto are prohibited unless the following are first obtained:

a. written approval of any homeowners association or architectural control committee with control over any landscaping, grading and drainage modifications, and

b. a written certification from a licensed New Mexico geotechnical engineer that such proposed modification will not negatively impact the grading and drainage pattern or otherwise cause potential damage to the Lot or improvements thereon, or to any adjacent lots or improvements thereon, and a copy of such engineer's certification has been provided to Horton at the address listed below.

2. Improper alteration of or failure to stabilize and/or maintain drainage patterns as provided in the Plot Plan may result in significant damage, including but not limited to, damage to the foundation of the house or adjacent slopes, patios and/or yard walls. Horton shall not be responsible for any damages to persons or property resulting from post closing changes in the existing drainage course as set forth in the Plot Plan as a result of (a) the alteration of swales, drainage pipes or drainage courses, or failure to maintain the same as established by Horton and/or failure to keep them free of buildings, structures and obstructions, including but not limited to debris, blowing sand and weeds (b) a change in grading, (c) erosion, or (d) any landscaping or other improvements, including waterlines, that are installed in such a way as to alter the

drainage flow on the Lot. This applies both to drainage from the Lot on to any other property as well as drainage within the Lot. In some subdivisions, landscaping and irrigation systems, other than xeriscaping with drip irrigation, may be discouraged or even prohibited. The Lot owner must check the applicable homeowner association documents for details.

3. In subdivisions which do not require xeriscaping, Horton nevertheless requires that landscaping be of a type which conserves water to the highest degree possible. Sod and grass require a lot of water to maintain and are, therefore, discouraged by Horton. Moreover, the use of excessive water can cause soil settlement or soil consolidation and damage to improvements on the Lot and/or on adjacent lots and the improvements thereon. Consequently, if the Lot is in a subdivision which permits sod or grass the Lot owner is required to use drought tolerant sod/grass such as blue grama, buffalo grass and drought tolerant fescues, and to familiarize himself with the soils reports related to the subdivision and the current planting and watering recommendations available by the State of New Mexico and/or its Universities and their cooperative extensions, and to follow those recommendations. Copies of these documents may be obtained from Horton upon request. Horton is not, and will not be, responsible for specific plant and watering recommendations and any loss or damage resulting directly or indirectly from floods, surface water (including but not limited to irrigation water) or water below the surface of the ground.

4. Any sprinkler system or drip irrigation system installed or modified on the Lot must be installed or modified by a New Mexico licensed contractor. The Lot owner bears the full liability and responsibility for any installation, modification or alteration to such system which occurs during his ownership. All new or modified lines must be tested for leaks by a licensed New Mexico contractor prior to usage. The Lot owner is responsible for ensuring that all water lines are maintained and any leaks are promptly repaired.

5. Each of the covenants, conditions and restrictions provided herein shall be deemed established upon the recording of this document and shall thenceforth be deemed covenants running with the land and shall inure to the benefit of and bind the successors and assigns of the lot owner and the heirs, personal representatives, grantees, tenants, successors and assign of such owner.

DR Horton, Inc.

By:

Division CFO

#### ACKNOWLEDGMENT

STATE OF NEW MEXICO      )  
                                    ) ss.  
COUNTY OF BERNALILLO      )

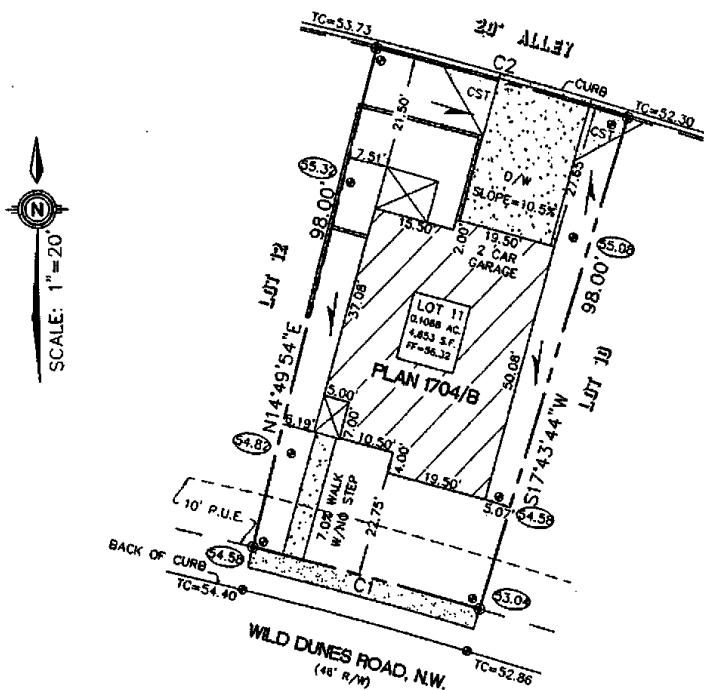
Dawn Anderson Division CFO This instrument was acknowledged before me this 25<sup>th</sup> day of February, 2011, by  
of D. R. Horton, Inc., a Delaware corporation, on  
behalf of said corporation.

My commission expires 12/29/13

Mary F. Holmes  
NOTARY PUBLIC



## Exhibit A



## LEGEND

4' SIDEWALK

— FLOW ARROW

**CST** CLEAR SIGHT TRIANGLE

C1:  
R=890.00  
L=45.00  
 $\Delta=2^{\circ}53'50''$   
Ch Brg=N73°43'11''W  
Ch L=45.00

C2:  
R=988.00  
L=49.96  
Δ=2°53'50"  
Ch Brg=N73°43'11"W  
Ch L=49.96

CONCRETE TABLE (SQUARE FEET)	
DRIVeway INSIDE PROPERTY:	499
TOTAL DRIVEWAY:	527
TOTAL FRONT LEADWALK:	97
TOTAL SIDEWALK:	162

THE SPOT ELEVATIONS AND FLOW ARROWS SHOWN  
HEREON CONFORM TO THE GRADING AND DRAINAGE PLAN  
APPROVED BY THE CITY OF ALBUQUERQUE CONSTRUCTION  
OR LANDSCAPING THAT MATERIALLY ALTERS THE LOT  
GRADES AND FLOW PATTERNS IS NOT PERMITTED. THE  
BUYER FURTHER AGREES TO MAINTAIN THE PROPERTY  
AND REMOVE ANY TRASH, GARBAGE, ALLUVIUM,  
COLLUVIUM, DETRITUS OR ANY OTHER OBSTRUCTIONS  
WHETHER CREATED BY AN ACT OF MAN OR NATURE THAT  
WOULD ALTER THE DESIGNED DRAINAGE PATTERN.

## PILOT PLAN

LOT 11, BLOCK 8  
VISTA VIEJA UNIT 2  
8105 WILD DUNES ROAD, NW

CUSTOMER \_\_\_\_\_ DATE \_\_\_\_\_

NOTE: THERE SHALL BE A DISTANCE OF NOT LESS THAN 10' TO FEET BETWEEN RESIDENTIAL GUARDRAILS.

# D.R. HORTON HOMES

4400 ALAMEDA N.E. SUITE B  
ALBUQUERQUE, NEW MEXICO 87113

12-23-08 DKS/SLN. 1/14/10 DKS

commodity  
sciences  
corporation

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AUG 12 2010  
W. Tamura, M.D.