

How Did We Get Here?

Covenants, Conditions and Restrictions (CC&Rs)

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[Updated by S Pettigrew 06/03/2025]

Below is a listing of recorded documents from the Maricopa County Recorder's web site that I specifically selected to highlight transactions and events revolving around San Marcos Fairways to give perspective to timelines, evolution of changes to declarations and restrictions, and identifying some of the players/companies involved. It is by no means an exhaustive list. The curious are welcome to go to the Recorder's website and conduct your own research. My primary interest was San Marcos Drive (specifically north of the rolling gate, thru the area legally known as San Marcos Lodges) and I concluded the primary means for affecting the roadway was through CC&R's, parcel ownership and platting which is why most of my quotes of "recitals" point to what changed or stayed the same through the respective events. S. Pettigrew

1929 – Recording of "Protective Restrictions" for San Marcos Fairways

Record Number: 19290020214 (Maricopa County Recorder files at <https://recorder.maricopa.gov/>)

Recitals:

...."parcels numbered from One (1) to Eighty-eight (88) inclusive, according to the Map or Plat of San Marcos Fairways filed in the office of the County Recorder of Maricopa County, Arizona, in Book 20 of Maps, at Page 33 thereof...."

...."established....for the protection, maintenance, development and improvement of all said property....subject to which all lots, parcels and portions....shall be held....and shall inure to and pass with said property....bind the respective successors...."

Article I, Section 1. Exclusive Residence District.

"Said premises, consisting of parcels of land numbered one (1) to eighty-eight (88) inclusive, shall be used for residence purposes only, and no building....shall be used....for any purpose other than that of a single family dwelling...."

Created CC&R's for the neighborhood, an organization named San Marcos Fairways Association, and a committee called the Art Jury for review of plans, changes, etc.

1929 – Warranty Deed, Lot 13, San Marcos Fairways

Record Number: 10290002811

2. Each and every provision, condition, restriction, reservation, lien, charge, easement and covenant contained in the Declaration of Establishment of Protective Restrictions executed by the San Marcos Hotel Company, the Grantor, dated the 1st day of March, 1929, and recorded in the office of the County Recorder of Maricopa County, State of Arizona,including the establishment, maintenance and operation of San Marcos Fairways Association, an Arizona

corporation, and of the Art Jury as therein provided....are hereby made a part of this conveyance....

[Lot 13 was the first lot sold in San Marcos Fairways.]

1037 – Warranty Deed, sale of all property of Chandler Improvement Company to San Marcos Hotel Company

Record Number: 19370002839

TO HAVE AND TO HOLD the above described property, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, its successors and assigns, forever “....provisions, conditions, restrictions, reservations, liens, charges, easements and covenants contained in that certain Declaration of Establishment of Protective Restrictions, executed by the San Marcos Hotel Company, dated March 1, 1929, recorded March 1, 1929 in Book 38 of Miscellaneous Records, page 179, Records of Maricopa County, Arizona....”

1. **1943 – Warranty Deed**, sale of “That portion of Block J of TOWNSITE OF CHANDLER....” by AJ and Rosa Chandler to John & Ruth Markey. In the SUBJECT TO section, mention of “part of Lot 88, San Marcos Fairways....”
Record Number: 19430013983
2. **1950 – Warranty Deed**, sale of “AN UNDIVIDED ONE HALF INTEREST IN AND TO THE FOLLOWING DESCRIBED PROPERTY. That portion of Block J of TOWNSITE OF CHANDLER....” by Grace & George Lowder to Grace & Carl Ekholm. In the SUBJECT TO section, mention of “part of Lot 88, San Marcos Fairways....”
Record Number: 19500049973
3. **1950 – Warranty Deed**, sale of Grace & Karl Ekholm and John & Ruth Markey parcel above to Bogle Farms, Inc.
Record Number: 19500027476
4. **1955 – Warranty Deed**, sale of lot six (6), San Marcos Fairways, to Frances & Rae Bell
Record Number: 19550040960
5. **1956 – Warranty Deed**, sale of North 20 feet of lot seven (7), to Frances & Rae Bell
Record Number: 19560030778
6. **1957 – Warranty Deed**, sale of South 30 feet of lot five (5), to Frances & Rae Bell
Record Number: 19570066454

All 6 of the above transactions had the following recital on the Warranty Deed:

“[Year of the deed] and all subsequent taxes, which the Grantees herein assume and agree to pay; Reservation of right to use private driveways as set forth in the Dedication of the Plat of San Marcos Fairways, rec. in Book 20 of Maps, page 33; and reservation for future improvements of an easement as

shown on the Plat of San Marcos Fairways, rec. in Book 20 of Maps, page 33; Provisions, conditions, restrictions, reservations, liens, charges, easements and covenants contained in Declaration of Establishment of Protective Restrictions, rec. in Bk. 38 of Misc., pg. 179....”

1957 – Warranty Deed, sale of Lot 34 (Dobson family farmhouse) to John & Angele Quarty

Record Number: 19570049224

With the notation “....SUBJECT however, to all easements, restrictions, reservations, rights-of-way and encumbrances of record.”

1961 – Warranty Deed, sale of portions of lots 7 and 8 of San Marcos Fairways, to Helen Munsell

Record Number: 19610037416

With the notation: “SUBJECT TO: 1960 and all subsequent taxes....Restrictions, conditions and covenants contained in the instruments recorded in Book 38 Miscellaneous records at page 179 and upon the plat recorded in Book 20 Maps at page 33....”

1961 – Warranty Deed, sale of Lot 31 of San Marcos Fairways, to Eleanor Prince

Record Number: 19610037416

With no recitals regarding Plat or Protective Restrictions on the Deed

1962 – Warranty Deed, sale portions of lot 14 and 15, to Carl & Grace Ekholm

Record Number: 19620097561

With the following recital: “Subject to current taxes and other assessments, reservations in patents, and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record....”

1962 – Mortgage or Lease, Lots 1, 2, 3, 4 and 5 plus PARCEL NO. 2 (of section 33....) between San Marcos Hotel Company and San Marcos Lodge, Inc.

Record Numbers: 19620095190 and 19620095191

25 year lease for “Lodge” buildings on referenced lots

[No recitals or mention of San Marcos Fairways Plat (except in property descriptions) nor Protective Restrictions. The Lodge was a commercial venture – hotel rooms – which was in direct conflict with the Protective Restrictions and violated Article I, Section 1. Exclusive Residence District.]

1963 – Warranty Deed, sale of Lot 9 of San Marcos Fairways, to Carl & Grace Ekholm

Record Number: 19630011700

“SUBJECT to restrictions, reservations, conditions, covenants, rights of way, liens and encumbrances of record.”

1968 – Amendment to Article V, Protective Restrictions San Marcos Fairways

Record Number: 19680124366

Changed the building set back minimum on side yard to 12 ½ ft. from 15 ft. specifically for Lot 12 (owned by John Quarty).

[This is the only recorded record found that changed the CC&Rs.]

1983 – Declaration of CC&Rs and Easements, San Marcos Fairways

Record Number: 19830088038

New set of CC&Rs prepared by San Marcos Partnership I, covering their undeveloped lots in San Marcos Fairways and San Marcos Fairways Replat; incorporated a number of existing residences in the neighborhood, but not all; included the following:

3. Additional Restrictions. (a) The lots are hereby restricted to single family dwellings for residential use only. No business activity of any kind whatsoever shall be conducted upon any of the said Lots....
4. Golf Course Use and Road Easements. The Property shall be further subject to a perpetual easement for all roadways now existing on said tracts, said easements being for the use and benefit of all owners of Lots within said subdivision and their invitees.

1992 – Declaration of CC&Rs and Easements San Marcos Country Club Estates

Record Number: 19920259876

Declaration on May 1, 1992, for SMCCA HOA with the following specific recitals:

....no Owner/Member hereby relinquishes any preexisting road easement rights with respect to the roadways within the Property or access easement rights with respect to San Marcos Drive north to Dakota and Buffalo Streets or at the Boston Street entrance (hereinafter, the "Reserved Rights").

B. Specific Restrictions.

- (xvi) Residential Use. The Lots are hereby restricted to single family dwellings for residential use only. No business activities of any kind whatsoever shall be conducted upon any of said Lots or improvements located thereon.

1994 – Agreement to Modify, Amend and Terminate Protective Restrictions San Marcos Fairways

Record Number: 19940200303

Termination of the original Protective Restrictions dated March 1, 1929, signed by 90% of affected homeowners, to be replaced by new set of CC&R's

Notes: Anticdotally, I found no recorded document(s) that altered the original CC&Rs to allow a commercial use of the lots 1-4 plus a part of lot 5 for the Lodges enterprise. I found no recorded documents that altered the private road designation for San Marcos Drive from our current rolling gate northward to the canal.

The San Marcos Hotel Company (through John Quarty) filed a San Marcos Fairways Replat in 1969 but it did not include the area occupied the Lodges. I'm not certain whether this exclusion means those "lots" remained under the declarations of the original 1929 Plat, or Quarty quietly carved them out totally.....he did renumber lots for the 1969 Replat starting at 1 (which means one should use caution when lots are referred to by number and be sure you know which plat/replat is applicable) and maybe that was his way of taking the Lodges out of the picture.