

History of Broken Arrow Subdivision and Son Silver West Gallery, Sedona AZ

Lots 1 - 37

- July 8, 1952 the original tract owners, Frank and Ann Bradley establish the Deed Restrictions for lots 1 through 37 which were duly registered with the County Recorder of Coconino County on July 8, 1952, Book 34, pages 258-261.
- July 19, 1952 Frank and Ann Bradley amended the restrictions for lots 1 through 37 which were duly registered with the County Recorder of Coconino County on July 21st, 1952 in book 34, pages 414-415.
- July 28, 1952 Frank and Ann Bradley consolidated the previous restrictions for lots 1-37 into one document which were duly registered with the County Recorder of Coconino County on July 28, 1952 in Book 34, pages 576-579

Lots 38 – 61

- July 8, 1952 Frank and Ann Bradley established Deed Restriction for lots 38 to 61 which were duly registered with the County Recorder of Coconino County on July 21, 1955 in Book 77, pages 509-512
- June 13, 1956 Frank E Bradley amended and supplemented the Deed Restriction for lots 38 to 61 specifically, as they pertained to lots 38, 39, 40, 41, 42, 43 and 44.

All of the above documents specify ***“that said Lots shall be used for single family dwelling house purposes only, excepting business Lots hereinafter specified.”***

Business lots for Broken Arrow Estates (located on the East side of Sedona Rimrock Highway – (now ST Rte. 179) were designated as lots Numbered 1 to 7 inclusive.

Business lots for Broken Arrow West (located on the West side of Sedona Rimrock Highway – (now ST RT 179) were designated as lots Numbered 38 to 44 inclusive.

Both sets of “business lots” had specific restrictions regarding the type of businesses that are acceptable. Both stated that ***“said lots shall be considered residential tracts and as such shall be, and are hereby declared, subject to all of the covenants, conditions and restrictions as set for in the original instrument.”***

For Lots/Tracts 38 through 44 inclusive, the specific language is: ***“said Tracts 38, 39, 40, 41, 42, 43, and 44 shall be used for single family dwelling home purposes only, except that professional offices for surgeons, physicians, osteopaths, chiropractors, dentists, attorneys, architects, realtors or engineers may be***

maintained thereon in conjunction with the use of the premises by any such professional persons for their own residential purposes as single family dwellings.”

- **In 1960**, owners of lot 42, artist Al Nestler and his wife Ernestine, requested approval from the property owners to open a ~ 600 sq. ft. art gallery (to be named “La Galleria”) in accordance with the Deed Restrictions. They received the support of the property owners and built the gallery in their home (as required by the Deed Restrictions). The gallery displayed art by local artists that was for sale in the gallery – there was no other sales area for the sale of merchandise outside the gallery – the remainder of the structure was their home. Zoning in Coconino County was initiated in 1964. The subject property was subsequently placed in the C-RS-18,000 (Single-family Residential) zone classification along with other properties in the Broken Arrow subdivision in which it is located. (i.e. –Century 21 Real Estate office located on lot 43) The gallery and its primary structures have operated on a legal, nonconforming basis since 1964. After Mr. Nestler’s death, the property continued to operate as a gallery, run by Mr. Nestler’s wife until the property was sold.
- **In 1981** William and Linda Robson purchased the property from Mrs. Nestler and they renamed the site **Son Silver West Gallery, Inc.** Almost immediately they began expansion both inside and outside the residence.
- **In 1988**, upon the City’s incorporation, the city zoned the property residential (RS-18b) and the present Sedona Community Plan designates the properties as “Single Family Low Density”. Thus the property retained the residential zoning established by Coconino County in 1964, both governmental entities acknowledging the residential charter set forth in the Deed Restrictions. The City issued a Conditional Use Permit allowing them to continue the existing operation as a nonconforming use with specific requirements, **including a prohibition on expansion.**
- In **May 3, 1989**, after an inspection of the property, the City of Sedona, issued a citation for a Zoning Ordinance violation related to the expansion of a nonconforming use (the gallery) without compliance with applicable City Ordinance requirements. As recently as 1986, the Coconino County Assessor’s office records indicated that the 5,000 sq. ft. property area being used as an outside display and sales area had been assessed as vacant land. **The Robson family made a bold misstatement of fact by stating that they had made no material changes to the display areas associated with the previous owner and thereby enjoyed nonconforming “grandfather” status.** The City disagreed **having pictures** from Coconino Assessor’s office showing the property vacant in 1986; however, the City chose not to take the issue to court as an enforcement action but to alternately allow the property owners to seek approval at public hearings for a zone change. The owner’s zone change request was filed in 1991 but subsequently withdrawn. The Gallery continued to operate in violation of codes.

- On **February 7, 1991**, the applicant filed for a Conditional Use Permit request to allow for the expansion of nonconforming use, including the construction of a 12-space parking lot. This request was also withdrawn by the applicant. The Gallery continued to operate in violation of codes.
- On **March 11, 1992**, the applicants, William and Linda Robson of Son Silver West Gallery, again filed a similar Conditional Use Permit request to allow for the expansion of a nonconforming use. As suggested to them by the City, this request was designed to bring the existing retail space and the disputed expansions, in what is required to be a single-family residential zone, into compliance with City zoning requirements without the City having to take enforcement action. The Gallery continued to operate in violation of codes.
- On **July 7, 1992**, the site characteristics were cited by City staff as follows:
 1. 2,250 square feet of retail space in enclosed buildings.
 2. 5,000 square feet of outside retail display area.
 3. 1,950 square foot single family dwelling.
 4. 1,300 square foot pottery shop with kiln
 5. 590 square feet of storage space
 6. 750 square foot workshop
 7. Sculpture
 8. 2 free standing signs
 9. Building coverage approximately 17%
 10. Parking located between gallery and Highway 179
- **September 15, 1992**, the requested CUP was approved with conditions that required them to not exceed the site characteristics as described above. It allowed them to retain the existing 5,000 sq. ft. outside sales/display area and to construct a 12-space parking lot. At this point, they had been operating in violation of the CUP for 3 additional years. The Gallery continued to operate under the new CUP but did not meet the conditions required by that CUP and received numerous non-formal notices of violations from the Director of Community Development via phone and emails. See City Correspondence, meeting notes and public input at <http://www.sedonaaz.gov/Home/ShowDocument?id=26603>.
- **Jan 11, 2006 Notice of Violations given to Son Silver West.** Constructing buildings without building permits, without Fire District approval and violating setback requirements. Removing screening required by the 1992 CUP. Commercial storage on an undeveloped residential property. Ingress and egress through undeveloped residential property, Non-approved parking on residential property, creating a non-approved driveway without permitting. Utilizing 61 Arrow Drive for non-compliant storage and for employee parking. The unauthorized use of portable toilets and the unauthorized use of a resort information booth. While they did remove the portable toilets and the information booth, they were not in compliance with the 1992 CUP on signage, screening, lighting or expansion.

- **Oct 8, 2014** Audree Juhlin, current Director of the Community Development Department, issued a new 'Notice of violation' to the Robson's and Son Silver West Gallery for the Gallery's continued unauthorized expansion of the 92 CUP into 61 Arrow Dr. and 365 Bowstring Drive and 1535 SR179.
- **Nov 10, 2015** a new Notice of Violation was issued listing the ongoing violations. Commercial food services, unauthorized structures, unauthorized expansions of outdoor sales space, unauthorized conversion of residential living space into sales areas, unauthorized parking, warehousing, manufacturing, shipping/receiving.
- **Nov 24, 2015, *Chocola Tree*** The City recommends against their alcohol license request and on Aug 28 pulled their business license for non compliance of City codes.