

RECORD  
1994 OCT 11 AM 9 56  
WASHINGTON CO AR  
A. KOLLMEYER

PHASE I

DECLARATION  
OF  
PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS

BRIDGEPORT ADDITION

PHASE I

**COPY**

WHEREAS, CREEKWOOD HILLS DEVELOPMENT, INC. (hereinafter "Developer") is the record owner of the following-described property (hereinafter "Property"), to-wit:

Part of the SW1/4 of Section 1, T16N, R31W, of the Fifth Principal Meridian in Washington County, Arkansas being more particularly described as follows, to-wit: Beginning at the NE corner of the SE1/4, SW1/4 thence S0°16'21"E 705.00 feet thence west 183.35 feet thence north 45.00 feet, thence west 1195.36 feet, thence north 355.52 feet, thence N06°18'04"E 304.99 feet, thence N89°56'21"E 286.74 feet, thence N00°17'39"W 550.00 feet, thence N89°56'21" 326.00 feet thence, N00°17'39"W 770.89 feet, thence N89°51'08"E 70.00 feet thence, S00°17'39"E 1321.00 feet, thence N89°56'21"E 659.16 feet to the PCB, containing 27.04 acres more or less subject to R/W and easement of record.

KNOW ALL MEN BY THESE PRESENTS:

That Developer has caused the property to be subdivided and platted into lots, said subdivision to be known as BRIDGEPORT ADDITION, PHASE I, in the City of Fayetteville, Arkansas, which plat has been filed of record. Developer hereby makes and enters the following Protective Covenants, Conditions and Restrictions with respect to said subdivision; hereby makes the following declaration as to limitations, restrictions and uses to which the lots constituting said subdivision may be put; hereby specifying that said declaration shall constitute covenants to run with all the land, as provided by law, and shall be binding on all parties and all persons claiming under them, and for the benefit of and limitations upon all future owners in said subdivision, this Declaration of Protective Covenants, Conditions and Restrictions being designed for the purpose of keeping said subdivision desirable, uniform and suitable in architectural design and use as herein specified.

COVENANTS, CONDITIONS AND RESTRICTIONS

1. All streets shown on the recorded plat are hereby dedicated to the use of the public.
2. All easements as shown on the recorded plat are hereby dedicated for construction, operation and maintenance of public utilities, and are provided for the purpose of enabling such utilities, their agents and employees, to enjoy free, open and unobstructed access through, over and along such easements to the end that their personnel, trucks and work equipment may at all times install, service, operate and maintain all utility facilities within the boundaries of said easements.
3. An Architectural Review Board ("BOARD") shall be formed to review plans and specifications for all proposed construction with the subdivision. The Board shall be comprised of such members as Developer shall designate. Plans and specifications showing the nature, size, kind, shape, height, materials and locations of any proposed construction shall be submitted to the Board for approval prior to commencement of construction. In the event the Board fails to approve or disapprove the design and location as shown in the plans and specifications within five (5)

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days after said plans and specifications have been submitted to it, approval will be deemed to have been given. After all of the platted lots in the subdivision have been sold by Developer and a residence constructed on each, the requirement as contained in this paragraph for prior approval of proposed construction shall no longer apply.

4. All houses shall have a minimum of 1,800 sq. ft. heated space except houses construction on lots 1 through 4, 26 through 43, lot 60, 82 through 93, 106 through 108 which will have a minimum of 2,000 sq. ft. of heated space. All houses shall be constructed with an enclosed two-car garage. There shall be no carports. All driveways shall be concrete, brick or stone.
5. Each lot shall be used for single family residential purposes only.
6. All exterior walls shall have masonry veneer from the top seal plate down exclusive of doors and windows. Masonite material shall not be used for exterior materials for siding or soffits shall be wood or an approved maintenance free material. All homes shall have metal gutters and down spouts. All roofs shall have a minimum 6/12 pitch slope. All composition shingles to be architectural grade, have 25 year warranty and be self-sealing.
7. All mailboxes shall be identical and shall be purchased from Bridgeport Property Owners Association at the Association's cost.
8. The cost for construction of sidewalks shall be the responsibility of the Lot Owner and shall be subject to the construction specifications as mandated by the ordinances and regulations of the City of Fayetteville, Arkansas, except that all sidewalks shall be a minimum of four feet in width.
9. No tree shall be disturbed without approval of the Architectural Review Board. This approval shall be in writing prior to start of construction. Lot Owners shall provide a minimum of four (4) trees on tree-less lots, minimum size of 1 1/2" diameter.
10. Lot Owners shall be responsible for the maintenance and site up keep (i.e. mowing of grass) of vacant lots.
11. No commercial building of any kind or type shall be erected. No structure shall be used for commercial purposes.
12. No cars shall be parked in the street, except for visitors. Boats, trailers, mobile homes, jet skis, uncensured cars and temporary sheds shall not be allowed, at any time, either temporarily or permanently.
13. No poultry or livestock of any kind shall be raised, bred or kept on any lot. Kennels for breeding, selling or keeping of domestic pets shall not be allowed. Any pets kept by a Lot Owner shall conform to City ordinances.
14. The parking or storage of any motor vehicles in front of any residence shall comply with City ordinances. No vehicles in inoperative condition shall be left on lots more than 60 days.
15. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept, except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.
16. All fences must be constructed of wood or masonry materials and must be submitted to the Architectural Review Board in accordance with the procedure set out in paragraph 3 of this Article I.
17. The grass on each lot shall be maintained by mowing. Lawn shall be established within 90 days of house completion. Finish grading and seeding shall be a part of Lot Owners responsibility.
18. No sign of any kind shall be displayed to the public view on any lot during construction except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property.
19. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance.

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20. Lot Owners agree to be bound by the foregoing covenants. Any party violating these covenants will be responsible for any attorney fees incurred because of their violation.

21. These Covenants, Conditions and Restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until March 1, 2004, at which time said covenants shall be automatically extended for successive periods of ten (10) years. Notwithstanding the above, at any time, these covenants may be waived, terminated and/or modified with the written consent of a majority of Lot Owners in said Addition; and if only a portion of said Addition is intended to be affected by said waiver, termination and/or modification, then the written consent of a majority of Lot Owners of said lots in the portion to be affected shall also be secured. No such waiver, termination and/or modification shall be effective until the proper instrument in writing shall be executed and recorded in the office of the Recorder for the County of Washington, State of Arkansas.

22. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of these covenants. Violators shall be subject either to restraint or to an action for damages as may be provided by law.

23. Invalidation of any one of these covenants, conditions or restrictions, or any part thereof by order or judgment of any court shall in no way affect any of the other provisions which shall remain in full force and effect.

II

#### PROPERTY OWNERS ASSOCIATION

Developer deems it desirable for the efficient preservation of the values of interests in the Project to create an association to which should be delegated and assigned powers of (i) maintaining and administering the street light fixtures, the traffic separation islands on Bridgeport Drive and any other common property which might be deeded to the Association in the future, (ii) administering and enforcing the Covenants, Conditions and Restrictions contained in this Declaration, and (iii) establishing, collecting and disbursing the assessments and charges hereinafter created, and for this purpose hereby creates and establishes under the laws of the State of Arkansas, Bridgeport Property Owners Association, (hereinafter referred to as the "Association"), for the purpose of exercising the functions described herein.

#### ARTICLE I

#### DEFINITIONS

In addition to the definitions herein above set forth, the following words or phrases when used in this Declaration (except when the context otherwise requires) shall have the following definitions.

Section 1. "Assessment" shall mean and refer to an assessment, whether annual or special, which is levied, charged or assessed against a Lot Owner in accordance with the provisions of this Declaration, and shall become a debt of such Lot Owner and a lien against his lot as hereinafter provided.

Section 2. "Association" shall mean and refer to the Bridgeport Property Owners Association, or its successors or assigns, which entity shall consist of all the Lot Owners of lots in the Project.

Section 3. "Bylaws" shall mean and refer to the duly adopted Bylaws of the Association as the same may from time to time be amended.

Section 4. "Limited Common Property" shall mean and refer to the entire Project except for the lots, dedicated public streets and easements as shown on the recorded subdivision plat of the Project. The Limited Common Property is intended to be devoted to the common use and enjoyment of the Lot Owners within the Project.

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Section 5. "Lot Owner" shall mean and refer to any person, firm, corporation, or other association which owns a lot in the Project, but shall not include any person, firm, corporation or other association having such interest merely as security for the performance of an obligation.

Section 6. "Association Property" shall mean (i) all tangible and intangible personal property acquired by Developer in connection with its development of the project and transferred to the Association by Developer, (ii) the Limited Common Property transferred to the Association by Developer, and (iii) any real or personal property which shall hereafter be acquired, owned, held or controlled by the Association for the use, benefit, and enjoyment of the Lot Owners as a whole, and any replacements, substitutions or additions thereto. No Lot Owner shall have any proprietary interest in Association property.

Section 7. "Project" shall mean the Bridgeport Residential Addition being developed by Developer, including all planned phases whether platted or unplatted as of the date of filing this Declaration.

Section 8. "Person" means any individual, corporation, partnership, association or other legal entity.

## ARTICLE II

### ASSOCIATION

Section 1. Membership in Association. Each Lot Owner (including Developer as to any unsold or retained lots) shall automatically become a member of the Association and shall remain a member thereof until he shall cease to be a Lot Owner. The Lot Owner may assign his membership privileges to a lessee, tenant, or contract purchaser, so long as the same shall be in writing and upon ten (10) days' prior written notice to the Association.

Section 2. Transfer of Membership. The membership of each Lot Owner in the Association is appurtenant to and inseparable from his ownership interest in his lot and shall be automatically transferred upon any authorized transfer or conveyance of his lot to any transferee or grantee, and except as provided herein, said membership shall be non-transferable.

Section 3. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Members of Class A shall be all Lot Owners other than the Developer. Each Class A member shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot, nor shall there be any split votes among multiple owners of a single lot.

Class B. The Class B member shall be the Developer. The Class B member shall be entitled to three (3) votes for each lot owned by Developer. Class B membership shall cease and convert to Class A membership on the happening of the first to occur of the following events:

- (a) when the total votes outstanding in Class A membership are equal to or greater than the total votes outstanding in the Class B membership, or
- (b) five (5) years from the date of the filing of record of this Declaration.

Upon conversion of the membership, the Class B member shall be entitled to one vote for each lot in which it holds the interest required for membership hereunder.

The voting rights of both classes of membership shall be subject to the restrictions, conditions and limitations provided in this Declaration and in the Bylaws of the Association.

Section 4. Board of Directors. The Board of Directors shall consist of three (3) persons. The initial Board of Directors shall be named by the Developer. At the time of the first annual meeting of the members of the

Association, the members thereof (including Developer with respect to any unsold or retained lots) shall elect, in accordance with the Bylaws, a Board of Directors replacing the initial Board of Directors.

Section 5. Bylaws. The Association shall be governed by a set of Bylaws which have been made and adopted by the Developer and which are incorporated herein by referenced as if set out herein word for word.

### ARTICLE III

#### COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Developer for each lot owned by it hereby covenants and each Lot Owner of any lot, by acceptance of a deed therefor, whether or not expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay all assessments duly fixed by the Association. Such assessments may be fixed, established and collected from time to time as hereinafter provided. The assessments, together with such interest thereon and costs of collection thereof, including reasonable attorneys' fees as hereinafter provided, shall be a charge on the lot and shall constitute a continuing lien on the lot against which each assessment is made. Each assessment, together with interest thereon and costs of collection thereof, including reasonable attorneys' fees as hereinafter provided, shall also be the personal obligation of the person who was the Lot Owner at the time the assessment was made. The personal obligation for delinquent assessments shall not pass to a Lot Owner's successor in title unless expressly assumed by such successor in title; however, the lien herein created against the lot for delinquent assessments shall continue against the lot, notwithstanding transfer of title to the lot. The personal obligation for delinquent assessments shall be joint and several for multi-owners of a single lot. *(one owner only)*

Section 2. Purpose of Assessments. Assessments shall be used exclusively for the operations of the Association, the improvement and maintenance of limited common properties, including the street light fixtures and traffic separation islands on Bridgeport Drive; the payment of taxes and levies on the limited common property, if any; and the payment of insurance obtained by the Association on the Association's property.

Section 3. Amount of Annual Assessments. Lot owners (including the Developer for any lots remaining unsold or retained by Developer) shall begin paying annual assessments on the date specified in Section 8 of this Article. The initial annual assessment shall be \$100.00 per lot. From and after January 1, 1995, the annual assessments may be increased in accordance with the procedures outlined in Section 4 of this Article or, if deemed appropriate by the Board of Directors of the Association after consideration of current maintenance costs and future needs of the Association, the amount of such annual assessment may be reduced.

Section 4. Change in Amount of Annual Assessments. From and after January 1, 1995, the annual assessment may be increased by the Board of Directors of the Association in an amount not exceeding twenty percent (20%) above the annual assessment for the previous year. From and after January 1, 1995, the membership of the Association may change the amount of the annual assessment by any amount above the annual assessment for the previous year. Any such change shall have the consent of two-thirds (2/3) of the votes cast by each class of members who are present and voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting. In the event that neither the Board of Directors nor the members of the Association elect to increase the annual assessment in any year, the annual assessment for that year shall remain at the amount prevailing for the previous year.

Section 5. Special Assessments. The membership of the Association may establish special assessments as deemed necessary for the welfare of the Association and the purposes for which it exists. The establishment of such special assessments shall require the consent of two-thirds (2/3) of the votes cast by each class of members who are present and voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 6. Uniform Rate of Assessment. Annual and special assessments shall be paid at a uniform rate by each lot, so that each Lot Owner pays an equal assessment regardless of the size of his lot. Annual assessments shall be paid without regard to the extent of use or non-use of the Limited Common Property, and such assessments shall be collected on an annual basis. Special assessments shall be collected at the time as determined by the Board

of Directors of the Association, and shall also be divided equally among the Lot Owners, except that for any damage or destruction due to negligence, intentional or malicious act or omission of any Lot Owner, any member of his family, guests, tenants, agents, licensees, or employees, the Board shall assess only such Lot Owner for the cost of repair or replacement of such damaged area. In the event of such occurrence, such special assessment shall thereafter be due as a separate debt of such Lot Owner and payable in full to the Association within thirty (30) days following the mailing of such notice from the Board of Directors of the Association.

Section 7. Required Quorum for Levying Special Assessments for Capital Improvements and for Changing Amount of Annual Assessment. At any meeting called as provided in Sections 4 and 5 hereof, the presence at the meeting of members, in person or by proxy, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in Sections 4 and 5, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8. Date of Commencement of Annual Assessments; Due Dates. The initial annual assessment provided for herein shall commence on the date (hereinafter referred to as the "Commencement Date") fixed by the Board of Directors of the Association. The Commencement Date shall fall on the first day of the month. The initial annual assessment shall be made for the balance of the calendar year in which the Commencement Date falls and shall become due on the Commencement Date. Thereafter, annual assessments shall be due and payable on the first day of March each year. The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be in an amount which bears the same relationship to the annual assessment specified in Section 3 hereof as the remaining number of months in that year bears to twelve. The same prorated reduction in the amount of the assessment shall apply to the annual assessment levied against lots which may hereafter be added to the Project if such assessment falls due at the time other than the beginning of any assessment period. The due date of any special assessment established pursuant to Section 5 hereof shall be fixed in the resolution authorizing such assessment.

Section 9. Assessment Duties of the Board of Directors. The Board of Directors of the Association shall establish the amount of the annual assessment at least thirty (30) days in advance of the initial commencement date and the first of March of any subsequent calendar year. The Board of Directors of the Association shall cause records to be kept of the due dates and payments made by each Lot Owner within the Project, and such records shall be kept at the office of the Association and shall be open to inspection to any Lot Owner. Written notice of all assessments established by the Board of Directors or by the membership of the Association shall be sent to each Lot Owner. The Association shall, upon request, furnish to any Lot Owner liable for an annual or special assessments a certificate in writing signed by a duly-authorized officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 10. Effect of Non-Payment of Assessment; the Personal Obligation of the Lot Owner, the Lien; Remedies of the Association. If the assessments are not paid on the dates specified by the Board of Directors in accordance with Sections 6 and 8 above, then such assessments shall become delinquent and shall, together with such interest thereon and costs of collection thereof as hereinafter provided, become a continuing lien on the lot which shall bind such lot in the hands of the then Lot Owner, his or her heirs, devisees, personal representatives and assigns. The personal obligation of the then-Lot Owner to pay such assessment, however, shall remain his or her personal obligation for the statutory period and shall not pass to his or her successors in title unless expressly assumed by them. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the maximum rate of interest allowed by law, and the Association may bring an action at law against the Lot Owner personally obligated to pay the same or to foreclose the lien against the lot, and there shall be added to the amount of such assessment a reasonable attorneys' fee to be fixed by the Court, together with the costs of such action. No Lot Owner may exempt himself from liability for assessments provided herein by (i) his non-use of the Limited Common Property and appurtenances, (ii) his waiver of the use of the Limited Common Property, or (iii) by abandonment of Owners's lot.

*anything that is used by the land for its benefit. mineral rights, air right, water right, easements.*

Section 11. Subordination to the Lien of Mortgages. The lien of the assessments provided for herein shall be subject and subordinate to the rights of any mortgagee of any recorded first mortgage or second mortgage upon any lot made in good faith and for value.

*lien for nonpayment of dues is relegated to a lesser position than payments due to the mortgage holder*

ARTICLE VI

PROPERTY SUBJECT TO THIS DECLARATION  
AND ADDITIONS THERETO

Section 1. Additions to Project by Developer. Developer, its successors and assigns shall have the right to bring within the scheme of this Declaration additional properties provided (i) that such additional properties are in the general area, and (ii) that the additional properties are developed, designed, and planned in a manner comparable to the Project subject to this Declaration. Nothing herein shall require the Developer to add any such property.

Section 2. Other Additions. Notwithstanding the foregoing, additional properties may be added to the Project even though such properties are not consistent with the scheme and design of the Project upon the consent of a majority of the votes of each class of members of the Association who are voting in person or by proxy at a regular meeting of the Association or at a meeting duly called for such purpose.

Section 3. Method of Authorizing Additions. The additions authorized under Sections 1 and 2 of this Article shall be made by filing of record one or more supplementary declarations of covenants, conditions and restrictions with respect to the additional property which shall extend the scheme of the provisions of this Declaration to such property

EXECUTED this 20 day of SEPTEMBER, 1994.

CREEKWOOD HILLS DEVELOPMENT, INC.  
Wayne Burnett  
WAYNE BURNETT, President

ATTEST:  
John T. Mack  
JOHN T. MACK, Secretary

ACKNOWLEDGMENT BY CORPORATION

State of Arkansas  
County of Benton

On this 20 day of September, 1994, before me, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named Wayne Burnett and John T. Mack, being the person or persons authorized by said corporation to execute such instrument, who stated that they were the President and Secretary of Creekwood Hills Development, Inc., a corporation, and were duly authorized in their respective capacities to execute the foregoing instruments for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

Sworn to and subscribed before me this 20 day of September, 1994.

Larry Eaton  
Notary Public

My commission expires:

7-01-2004

screekwood.dec

