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93-69429

FILED FOR RECORD
At 1:45 O'clock P.M

OCT 13 1993

BILL OF ASSURANCES AND PROTECTIVE COVENANTS FOR BROOKHAVEN SUBDIVISION, PHASE I, A PLATTED SUBDIVISION, LOWELL, BENTON COUNTY, ARKANSAS. **SUE HODGES**
Clerk and Recorder
BENTON COUNTY, ARK.

Plat - 18-208

B

Know all men by these presents: That Jane Ruge Kinkade, as Trustee of the Jane Ruge Kinkade Trust dated July 13, 1993, as owner of all the lots in Brookhaven Subdivision, a platted subdivision in Lowell, Benton County, Arkansas, hereby enters the following restrictive covenants with reference to said lots:

1. BUILDING LIMITATIONS:

a. Single Family Residence

No structure shall be erected on said designated lots other than a single family dwelling, not to exceed two stories in height and no dwelling shall be erected on said lot that contains less than 1800 square feet excluding porches, garages and breezeways. Further, each dwelling shall have a private garage or carport, for not less than two (2) cars and shall have a concrete driveway with a minimum width of not less than 16 feet. No building shall be located on any lot nearer than thirty (30) feet to the front of the lot line.

b. Multi-family Residences - Duplex

No structure shall be erected on said designated lots other than a two-family dwelling (duplex). No duplex shall be erected on said lot that contains less than 2000 square feet excluding porches, garages and breezeways. Further, each dwelling shall have a private garage or carport, for not less than two (2) cars and shall have a concrete driveway with a minimum width of not less than sixteen (16) feet. No building shall be located on any lot nearer than thirty (30) feet to the front of the lot line.

c. General Specifications:

No dwelling shall be erected with less than seventy five (75) per cent masonry finish. All main roof framing shall maintain a minimum angle of six on twelve (6x12) rise. Ingress and egress within BROOKHAVEN SUBDIVISION shall be by dedicated streets only.

2. ARCHITECTURAL CONTROL COMMITTEE - HEREINAFTER KNOWN AS THE ACC.

No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure on the lot

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have been approved by the ACC. Such plans shall be submitted to the ACC at least fifteen (15) days prior to commencement of construction of same, and the written approval of the ACC shall be required before commencement of construction. In this regard, it is the intention and purpose of the covenants to assure that the exterior design of all the dwellings and accessory buildings will be aesthetically compatible with the other dwellings and accessory buildings in the subdivision. The ACC for Brookhaven Subdivision shall be the developers, Jane and Ted Kinkade or their designated representative.

3. HOME OCCUPATIONS:
Home occupations as defined by the Lowell City Code shall be prohibited.
4. SIDEWALKS:
All lots shall have sidewalks according to the specifications set by the City of Lowell. All sidewalks must conform with each adjacent lot.
5. FENCES:
Fencing of front yards is prohibited, except that decorative wood or masonry fencing of a maximum height of three (3) feet may be constructed upon approval by the ACC. Rear yard fences must be of a decorative wood design. Chain link fences and other forms of wire fencing are specifically prohibited. Dog pens properly screened by walls, fences, or plantings may be constructed and maintained in the rear yard on portion of any lot. So that full back yard view can be utilized, lots 13, 14 and 15, Phase I, will be permitted to use chain link fences on the rear lot line if desired. All other line fences must comply with fence requirements.
6. OFF STREET PARKING:
All vehicles, except recreational vehicles, of the respective lot owners shall be parked in the garage or driveway of the respective lot. No inoperative motor vehicle of any nature shall be permitted to remain on any lot in excess of three (3) days and no operative or inoperative motor vehicles are to be permitted in the streets for a period in excess of twenty-four (24) hours. Recreational vehicles and equipment including but not limited to boats, motor homes, travel trailers, campers and the like, shall not be parked or stored within twenty-five (25) feet of the front lot line for a period of time exceeding three (3) days. No truck tractor or tractor trailer parking is allowed in this subdivision.

7. **SIGNS:**
No sign, either permanent or temporary, of any kind shall be placed or erected on any property except that a single sign not more than five (5) square feet in size may be permitted upon property to advertise the same for sale or rent. Provided further, however, the developer, BROOKHAVEN, hereby reserves the right to construct signs to designate the name of the addition and to advertise same. Said signs shall be restricted to a maximum size of thirty-two (32) square feet.
8. **TEMPORARY STRUCTURES:**
No trailer, tent, shack, garage, barn or other outbuilding erected on a building site covered by these covenants shall at any time be used for human habitation, temporarily or permanently, nor shall any structure of a temporary character be used for human habitation. This restriction does not prohibit the storing of recreational vehicles on the lots.
9. **OUTBUILDING:**
Outbuildings shall be restricted to one (1) per lot. Outbuildings may be constructed on the backyard provided said outbuilding is no larger than ten(10) feet by twenty (20) feet and its design is compatible with existing structure. Design of outbuildings is subject to the approval of the ACC. Cabana structures or gazebos may be built and maintained within the building area on any lot in the addition. The interior area of a detached Cabana will not be included in the determination of the minimum dwelling sizes.
10. **LIVESTOCK AND POULTRY:**
No animals or livestock of any kind shall be raised, bred or kept on said lots except that dogs, cats or other household pets may be kept, provided they are not kept, bred, or maintained for any commercial purpose.
11. **EASEMENTS:**
Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. No trees, incinerators, buildings, pavement, or similar improvements shall be grown, built, or maintained within the easements. Owners are hereby put on notice that any structures or plant material in the easements are subject to removal.
12. **NUISANCES:**
No noxious or offensive activities shall be carried on upon said lots nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood, it being the express understanding that the BROOKHAVEN SUBDIVISION is for residential purposes only.

13. **BINDING EFFECT AND AMENDMENTS TO COVENANTS:**
 All persons or corporations who now or shall hereafter acquire any of the lots in this subdivision shall be deemed to have agreed and covenanted with the owners of all other lots in this subdivision and with their heirs, successors and assigns to conform and observe the restrictions, covenants, and stipulations contained herein for a period as hereinafter set forth. These covenants may be amended at any time upon the affirmative vote of eighty (80) percent of the then existing lots. It is expressly required that each lot shall be given one (1) vote, and a vote of eighty (80) percent of the then existing lots shall be deemed sufficient to amend said covenants. No changes in the protective covenants shall be valid unless the same shall be placed on record in the office of the Recorder of Benton County, Arkansas, duly executed and acknowledged by the requisite number of lot owners.
14. **DURATION OF COVENANTS:**
 These covenants and restrictions shall run with the land for a minimum period of twenty-five (25) years, to be automatically extended for successive periods of five (5) years without further action unless terminated by a majority of the property owners in the development, casting votes as hereinabove set. It is the intent that these covenants promote the aesthetic value of BROOKHAVEN SUBDIVISION.
15. **COMMON PROPERTY:**
 All property owners, Phase I and Phase II shall be owners of an equal portion of the undivided designated common area. Ownership of one of more residential lots does make joint-ownership with other residential lot owners automatic and non-revokable. Joint ownership of the common property does afford ownership characteristics expected, both use, design and burden of expense. Burden of expense payment shall be automatic for each lot owner. Each lot owner shall be accessed a monthly maintenance fee. Collection of this fee will be on a quarterly basis. As soon as feasible, property owners shall form a Property Owners Association, (POA), for the purpose of governing and administering the common property. In the interim period prior to the formation of the POA the developer will perform this function. Each property owner will be accessed a monthly fee for each lot owned. The monthly per lot assessment shall be two (2) dollars per lot. This fee may be changed by an act of the POA.

Executed this 13th day of October 1993

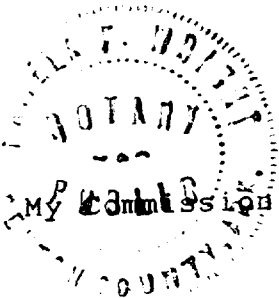
BROOKHAVEN SUBDIVISION

Jane Ruge Kinkade

JANE RUGE KINKADE, Trustee

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the County and State aforesaid, duly commissioned and acting, JANE RUGE KINKADE, Trustee of the JANE RUGE KINKADE TRUST .

WITNESS my hand and seal as such Notary Public this 13th day of October, 1993.



Pamela F. Wright
Notary Public

My Commission Expires: 7-29-1996

MAR 10 1995

SUE HODGES
Clerk and Recorder
BENTON COUNTY, ARK.

AMENDMENT #1 TO BILL OF ASSURANCES AND PROTECTIVE COVENANTS FOR BROOKHAVEN SUBDIVISION PHASE I

1. TO AMEND THE TITLE TO STATE COVENANTS FOR BROOKHAVEN SUBDIVISION PHASE I AND PHASE II.
2. PARAGRAPH 5 TO BE AMENDED AS FOLLOWS: LOTS 10, .11, 12, 13, 14, 15 IN PHASE II WILL BE PERMITTED TO USE CHAIN LINK FENCES ON THE REAR LOT LINE AS IN LOTS 13, 14, 15 IN PHASE I.
3. PARAGRAPH 6 SHALL BE AMENDED TO READ AS FOLLOWS: NO VEHICLE SHALL BE PARKED ON THE STREET OVERNIGHT.
4. PARAGRAPH 15 SHALL BE AMENDED TO READ AS FOLLOWS: THE MONTHLY MAINTENANCE FEE SHALL BE DETERMINED BY THE POA AND WILL BE USED FOR THE EXPRESSED PURPOSE OF MAINTAINING THE COMMON AREA. THERE WILL BE NO SWIMMING OR BOATING ON THE POND. ALL PERSONS USING THE COMMON AREA DO SO AT THEIR OWN RISK. NEITHER THE POA NOR THE DEVELOPER WILL BE HELD RESPONSIBLE FOR ACCIDENTS.
5. PARAGRAPH 16 SHALL BE ADDED. ALL PROPERTY OWNERS WILL MAINTAIN THEIR RESPECTIVE LOTS IN A NEAT AND ATTRACTIVE CONDITION. IF THE MAJORITY OF THE PROPERTY OWNERS AGREEE THAT A LOT IS NOT BEING MAINTAINED TO THE STANDARD OF THE SUBDIVISION, THE POA MAY CORRECT THE PROBLEM AT THE EXPENSE OF THE LOT OWNER.

THESE ADDED PROVISION HAVE BEEN APPROVED BY 80PER CENT OF THE PROPERTY OWNERS, EACH LOT CONSISTING OF ONE VOTE, AT A MEETING HELD MARCH 8, 1995.

Jo Pianalto 1
James T. Murphy 1
Curtis Thompson 1
Jeffrey McCrary 1
Kevin S. Winn 1

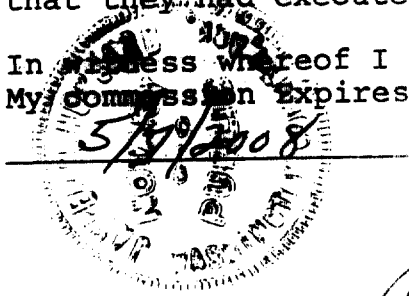
Dennis Fuller 1
Larry McMurray 2
James Ruge Kinkade 17

Acknowledgment

State of Arkansas
County of ~~Benton~~ Washington

On this the 10th day of MARCH, 1995 before me, a notary public, personally appeared Jane Ruge Kinkade, Dennis Fuller, Larry McMurray, Jeff McCrary, Kevin Winn, Curtis Thompson, Jo Pianalto, and James Murphy know to me (or satisfactorily proven) to be the persons whose names subscribed to the foregoing instrument and acknowledged that they had executed the same for the purposes therein set forth.

In witness whereof I hereunto set my hand and official seal.
My commission Expires



Susan O. Hodges
Notary Public

Jane Ruge Kinkade
803B Kinkade Pl.
P.O. Box 72745

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