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PROTECTIVE COVENANTS, LIMITATIONS AND RESTRICTIONS

JUN 19 1998

24TH PLACE SUBDIVISION

SUE HODGES
Clerk and Recorder
BENTON COUNTY, ARK.

An addition to Rogers, Benton County, Arkansas covering the following described Property situated in Benton County, Arkansas to-wit, herein called the Property:

EAST SIDE OF 24th STREET

DESCRIPTION:

A PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 11, TOWNSHIP 19 NORTH, RANGE 30 WEST, CITY OF ROGERS, BENTON COUNTY, ARKANSAS DESCRIBED AS:
FROM THE NORTHWEST CORNER OF SAID SW 1/4, NW 1/4 RUN S 00°00'00"E 76.94 FEET ALONG THE WEST LINE OF SAID SW 1/4, NW 1/4; THENCE S 89°37'22" E 200.45 FEET TO THE POINT OF BEGINNING ON THE EAST RIGHT-OF-WAY LINE OF NORTH 24th STREET; THENCE N 89°39'20" E 187.47 FEET; THENCE S 00°06'45" W 291.00 FEET; THENCE N 89°39'20" E 400.00 FEET; THENCE S 00°06'45" W 305.65 FEET; THENCE N 89°26'22" W 174.12 FEET; THENCE S 00°06'17" W 310.40 FEET; THENCE N 89°24'45" W 402.26 FEET TO THE EAST RIGHT-OF-WAY LINE OF NORTH 24th STREET; THENCE N 00°00'00"E 797.63 FEET ALONG SAID EAST RIGHT-OF-WAY LINE; THENCE 100.65 FEET ALONG A CURVE TO THE LEFT WITH A 539.00 FOOT RADIUS AND A N 05°20'58" W 100.50 FOOT CHORD ALONG SAID RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING CONTAINING 8.05 ACRES MORE OR LESS. SUBJECT TO ANY AND ALL LEGAL EASEMENTS AND OR RIGHTS-OF-WAY.

WEST SIDE OF 24th STREET

DESCRIPTION:

A PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 11, TOWNSHIP 19 NORTH, RANGE 30 WEST, CITY OF ROGERS, BENTON COUNTY, ARKANSAS DESCRIBED AS:
BEGINNING AT THE NORTHWEST CORNER OF SAID SW 1/4, NW 1/4 THENCE S 89°27'54" E 117.01 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH 24th STREET; THENCE 178.83 FEET ALONG A CURVE TO THE RIGHT WITH A 479.00 FOOT RADIUS AND A S 10°41'44" E 177.79 FOOT CHORD ALONG SAID RIGHT-OF-WAY LINE; THENCE S 00°00'00"E 301.20 FEET ALONG SAID RIGHT-OF-WAY LINE; THENCE N 89°45'01"W 150.00 FEET TO THE WEST LINE OF SAID SECTION 11; THENCE N 00°00'00"E 476.35 FEET ALONG SAID SECTION LINE TO THE POINT OF BEGINNING CONTAINING 1.60 ACRES MORE OR LESS. SUBJECT TO ANY AND ALL LEGAL EASEMENTS AND OR RIGHTS-OF-WAY.

KNOW ALL MEN BY THESE PRESENTS, that Smith and Palmer Development Company, P.O. Box 802, Rogers, AR 72757-0802, as Owner and Developer of this tract in 24th Place Subdivision, City of Rogers, Arkansas, hereby enters the following protective covenants, conditions and restrictions with respect to said subdivision, hereby make the following declaration as to limitations, restrictions and uses to which the tracts constituting said addition may be put, hereby specifying that said declaration shall constitute covenants to run with all of 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 addition, this declaration of protective covenants, conditions, and restrictions being designed for the purpose of keeping said addition desirable, uniform and suitable in architectural design and use as herein specified:

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I.

COVENANTS, CONDITIONS AND RESTRICTIONS

1. All lands herein covered by these Protective Covenants shall be used only for the approved usages allowed in the commercial or office zonings of the City of Rogers Zoning Codes.
2. No fence or wall shall be erected, placed or altered on any tract nearer to any street than the minimum building setback lines nor shall any fence be erected or placed on any tract nearer to the street than the "front" of the main building.
3. No building shall be located on any tract nearer to the front tract line or nearer to the side street line than the minimum building setback line shown on the recorded plat.
4. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements no structure, planting or other material, other than paved parking, shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow or drainage in the easements or which may obstruct or retard the flow of water, and all improvements in it shall be maintained continuously by the owner of the tract, except for those improvements for which a public authority or utility company is responsible or for repairing or replacing any damage to parking lot paving.
5. No noxious or offensive activity shall be carried on upon any site, nor shall anything be done thereon which may become an annoyance or a nuisance to the neighborhood.
6. No structure or vehicle such as a trailer, basement, tent, shack, garage, barn, camper, mobile home or other outbuilding shall be used on any tract at any time as a residence.
7. All signs are prohibited on this tract except:
 - (a) Signs that meet the current City of Rogers Code regulating the location, design, and quality of maintenance.
 - (b) Signs erected by the City of Rogers or Developer for identification of streets, traffic control and directional purposes;
 - (c) Signs of a temporary nature advertising property for sale and construction signs, which signs shall not exceed 9 square feet in area unless approved by Developer;
 - (d) Signs erected by the Developer advertising the name and entrance of the said properties.
 - (e) Promotional banners may be displayed, if Rogers City Codes allow, for a maximum of 14 days.
8. No tract shall be used or maintained as a dumping ground. Rubbish, trash, garbage and/or other wastes shall not be kept except in approved sanitary containers. All equipment for the storage and/or disposal of such rubbish, trash, garbage or other wastes shall be kept in a clean and sanitary condition. No garbage or trash containers are to be kept in view of the street unless it is to be picked up that day.

9. All automobiles and other motorized vehicles on the tract must be state licensed, state inspected and in running order at all times. All vehicles are to be parked at all times in a designated parking area.
10. No antenna, aerial, or other device shall be permitted on any structure where some form of TV cable is available, including pay satellite furnished by others. Where TV cable or pay satellite is not available, the owner is permitted one (1) antenna which will be allowed for the sole purpose of reception of television broadcast only, and such antenna shall be raised to a height necessary for the TV reception in the area. No CB, ham radio, satellite dish, or other antennas shall be permitted. The Developer may waive any item of this Article.
11. No fence, wall, hedge or shrub planting which obstructs site lines at elevations between two and six feet above the roadway shall be placed or be permitted to remain on any interior corner tract within the triangular area formed by the street property line and the line connecting them at points 30 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines attended. The same site line limitations shall apply on any tract within ten feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such site lines.
12. In the event that any tracts are sold and no structure is immediately erected, the owner or owners of such tract or tracts shall keep said property mowed and in a sanitary condition at all times.
13. No boats, motorhomes, utility trailers and any other non-everyday vehicle will be allowed on the tract.
14. Tracts cannot be re-subdivided for the purpose of creating additional tracts unless approved by Developer.
15. No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration herein be made until the plans and specifications showing the nature, size, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the Developer. In the event said Developer fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this article will be deemed to have been fully complied with. After 90% of the total platted area in the complete 24th Place Subdivision have been sold to a second party from the Developer, and thereafter, changes as listed above in the paragraph do not have to be approved by the Developer.
16. In the event a building on any tract in said 24th Place Subdivision is destroyed by fire or otherwise destroyed, the owner of said tract shall raze the structure and clean off the tract or start to rebuild the building within 120 days from the time the building was destroyed.
17. A minimum of 75% of the exterior walls of a building shall have brick, Dryvit or stone covering on the outside walls of the structure unless approved otherwise by Developer.
18. Sidewalks shall be 4 ft. wide and be constructed 3 ft. behind the curb unless approved otherwise by the City or the Developer.
19. Outside Storage. No materials, supplies, equipment, finished or semi-finished products or articles of any nature shall be stored or permitted to remain on any building site outside of the building unless the same shall otherwise be screened by such walls, fences, and landscaping to attractively conceal areas visible from outside of the building site boundaries.

20. **Height Restrictions.** No building or appurtenance, including but not limited to, water towers, standpipes, penthouses, elevators or elevator equipment, stairways, ventilating fans or similar equipment required to operate and maintain any building, fire or parapet walls, skylights, tanks, cooling or other towers, wireless radio or television masts, or flagpoles shall exceed a height of 50 feet above the finished building grade without the prior written approval of the Developer.
21. **Landscaping.** Owner or lessee shall landscape that portion of his property between building or buildings and the curb between building or buildings and the curb line of abutting streets and shall remove undergrowth, weeds, debris, and any other unsightly materials from the remainder of the property at his own expense. Each owner or lessee in 24th Place Subdivision shall maintain his landscaping in a safe, clean, and attractive condition. Should the Declarant, its successors and assigns find any owner or lessee negligent in this regard, it may give notice of the fact to the offending party. Failure of the owner to take corrective measures shall result in enforcement in accordance with Article 29 hereof.
22. **Off-Street Parking.** It shall be the responsibility of the owner to provide parking space for employees, customers and visitors and public streets shall not be used for parking. Off-Street parking area shall be located at least 10 feet from a public street and at least 5 feet from a building or property line.
23. **Paving.** All driveways and parking areas shall be constructed with a hard surfaced pavement and shall include adequate drainage facilities to dispose of all stormwater. It shall be the owner's responsibility to extend driveways to the existing or presently projected streets at no expense to Declarant, even though part of this construction is within the street right-of-way.
24. **Maintenance.** Each owner shall keep its buildings, improvements and appurtenances in a safe, clean, maintained, neat, wholesome condition and shall comply in all respects with all governmental statutes, ordinances, regulations, heat and police and fire requirements. Each such owner, tenant or occupant shall remove at his own expense, any rubbish or trash of any character which may accumulate on its building site. Rubbish, trash, garbage or other waste shall be kept only in suitable containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Rubbish and trash shall not be disposed of on the premises by burning in open fires.
25. These Covenants shall run with the land, and shall be binding on all parties and all persons claiming under them for a period of 25 years from the date this instrument is recorded.
26. **Termination and Modification.** This Declaration or any provision hereof, or any covenant, condition, restriction, or reservation contained herein, may be terminated, extended, modified or amended, as to the whole of said property or any portion thereof, with the written consent of the owners of 51% of the ground area in 24th Place Subdivision. Such termination, extension, modification or amendment shall be immediately effective upon recording a proper instrument in writing, executed and acknowledged by such 51% owners in the Office of the Clerk and Recorder of Beriton County, Arkansas.
27. **Benefits and Burdens.** The terms and provisions contained in this Declaration of Protective Covenants shall bind and inure to the benefit of the Declarant, the owners of all building sites located within the property, the owners of additional property made subject to this Declaration of Protective Covenants and their respective heirs, successors, personal representatives and assigns.
28. **Enforcement of these Covenants** 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 allowed by law.

29. Severability. Invalidation of any restriction set forth herein, or any part thereof, by an order, judgment, or decree of any court, or otherwise, shall not invalidate or affect any of the other restrictions, or any part thereof, as set forth herein, but they shall remain in full force and effect.

30. No tract herein shall be used for any of the following uses: A bar or tavern where alcoholic beverage sales exceed forty percent (40%) of its gross sales, night club, entertainment hall, disco or other dance hall, private or commercial adult massage, adult entertainment or adult bookstore use including the sale or display of pornographic material, manufacturing, warehousing, distilling, refining, smelting, agriculture or mining operation, trailer court, junk yard, animal raising, drilling, dumping, veterinary hospital with exterior facilities, car wash, alley, skating rink, carnival, off-tract betting establishment, flea market, bingo or card parlor, shooting gallery, amusement park, secondhand store or surplus store, drug rehabilitation center or "halfway" house, or any nuisance or illegal use, or use which would project objectionable noises, obnoxious or toxic odors (other than normal cooking odors), dust dirt, or fire hazards.

EXECUTED this 17 day of June, 1998.

OWNER AND DEVELOPER:

SMITH AND PALMER DEVELOPMENT COMPANY,
A GENERAL PARTNERSHIP

Frank M. Smith
Frank M. Smith, Partner
R. A. Palmer
Ronald A. Palmer, Partner

STATE OF ARKANSAS)
) ss
COUNTY OF BENTON)

On this day, before me, a Notary Public duly commissioned and acting for the State and County aforesaid, personally appeared Frank M. Smith, and Ronald A. Palmer of Smith and Palmer Development Company, and that they, being authorized so to do, had executed the foregoing instrument for the purposes therein contained, by signing the name of A General Partnership by themselves.

WITNESS my hand and official seal this 17th day of June, 1998.

Vicki S. Loun
Notary Public

My Commission Expires:

6-7-2000

