

2005 48497
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09-13-2005 01:29:03 PM
Brenda DeShields-Circuit Clerk
Benton County, AR

**Restrictive Covenants
Walnut Creek Subdivision
Gravette, Benton County,
Arkansas**

Book/Pg: 2005/48497
Term/Cashier: CIRCLK07 / DPiper
Tran: 3367.102125.280426
Recorded: 09-13-2005 13:29:18
DFE Deed
REC Recording Fee
Total Fees: \$ 38.00

38.00
0.00

WHEREAS, Hendren Construction & Development, LLC, an Arkansas limited liability company (hereinafter called "Developer") is the owner of the real property located in the City of Gravette, Benton County, Arkansas (hereinafter called the "Property") more particularly described as the Walnut Creek Subdivision.

WHEREAS, Developer plans to sell the Single Family Lots to persons who will construct thereon single family residences, and desires to impose on the Single Family Lots mutually beneficial restrictions under a general plan of improvements for the benefit of all Single Family Lots and the future owners of the Property.

WHEREAS, the undersigned party, as Developer of the above described lots in Walnut Creek Subdivision now desires to establish the Protective Covenants affecting said subdivision as hereinafter set forth.

NOW, THEREFORE, Developer hereby declares and agrees that covenants and restrictions hereinafter set forth which are to run with the Single Family Lots for the purpose of enhancing and protecting their value and desirability and shall benefit and be binding upon all parties and all persons owning single Family Lots, and their heirs, personal representatives, successors and assigns. Any and all contracts, purchase agreements, or deeds affecting any Single Family Lot shall be conclusively held to have been executed, delivered, and accepted with full knowledge of all covenants and restrictions contained herein. Furthermore, it is expressly declared and agreed that these covenants also benefit the Developer and future owners of the Property because of the interest of the Developer and such future owners in having the entire Property maintained in an attractive manner for the benefit of all owners of any portion of the Property.

1. ARCHITECTURAL CONTROL COMMITTEE

- (a) **DESIGNATION.** Developer shall appoint three individuals to serve as an architectural control committee (hereinafter called the "Committee"). The Committee may designate a representative to act for it. Until such time as Developer no longer owns any interest in the Property, members of the Committee may be removed for any reason by Developer, and in the event of the death, resignation or removal of a member of the Committee, Developer

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shall have full authority to designate a successor. At such time as the Developer no longer owns any interest in the Property, the rights of the Developer with respect to removal and appointment of members of the Committee shall vest in the record owners of the Single Family Lots, who may exercise such rights by a majority vote.

- (b) **AUTHORITY.** No building, fence or other structure shall be erected, placed or altered on any Single Family Lot until plans and specifications therefore have been submitted to and approved by the Committee. Following the completion of construction, no building, fence or other structure shall be occupied or otherwise utilized until the Committee has determined that the complete building, fence or other structure was erected, placed or altered on the Single Family Lot in compliance with the approved plans and specifications.
- (c) **PROCEDURE.** Plans and specifications shall be submitted to the Committee at least fifteen (15) days prior to the commencement of any construction. These plans and specifications shall include at least the following: (1) plans and elevations of all faces of the structures; (2) a description of all exterior construction materials; and (3) a statement certifying the square footage of heated area. The committee shall review the plans and specifications and notify the owner in writing of its approval or disapproval. If said Committee fails to approve or disapprove said plans and specifications with fifteen (15) days after the same has been submitted to it, they will be deemed to have been approved by the Committee. A completed building, fence or other structure shall be deemed to have been constructed in compliance with the plans and specifications unless within sixty (60) days after completion of construction the Committee places on record an instrument setting forth its disapproval. Any disapproval shall set forth the elements disapproved and the reason or reasons therefore, but need not contain suggestions as to methods of curing any matters or things disapproved. The judgment of the Committee in this respect in the exercise of its sole and absolute discretion shall be final and conclusive. The Committee may approve any deviation from these covenants and restrictions the Committee, in its sole and absolute discretions, deems consistent with the purposes hereof. Approval by the Committee of the plans and specifications or its determination that the completed building, fence or other structure has been constructed in accordance with the plans and specifications shall be deemed to be an acknowledgment by the Committee that such are in accordance with these covenants and restrictions and such acknowledgment shall be binding against the owners of the Single Family Lots and the Property.

Review and approval of plans and specifications by the Committee will be made on the basis of aesthetic considerations only and the Committee shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements.

2. USE None of the Single Family Lots shall be used for other than single family residence purposes. There shall not exist on any Single Family Lot at any time more than one residence. No building erected on a Single Family Lot shall exceed two stories in height. No permanent tent, shack or barn shall be allowed or permitted to be placed or erected on any Single Family Lot. No trailer, temporary building, outbuilding, or guesthouse shall be erected on any of the Single Family Lots without the prior written approval of the Committee. Except as provided herein, no trade or business of any kind shall be conducted upon a Single Family Lot or any part thereof. Only construction of new buildings shall be permitted, it being the intent of this covenant to prohibit the moving of any existing building on to a Single Family Lot and remodeling or converting same into a dwelling house.

No trade or business may be conducted in, upon, or from any Single Family Lot or any building thereon, except that an Owner or occupant of a residence may conduct business activities within the residence so long as the following conditions are met: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the residence; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve regular visitation of the residence by clients, customers, suppliers or other business invitees or door to door solicitation of residents of the Subdivision; and (d) the business activity is consistent with the residential character of the Subdivision and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subdivision.

3. BUILDING AREA. All buildings on Single Family Lots must be constructed in accordance with any and all applicable City codes, rules and regulations. Any single family residence shall have at least 1200 square feet of heated area, excluding porches, garages, and breezeways.

4. BUILDING MATERIALS. All buildings on Single Family Lots must be constructed in accordance with all applicable City codes, rules and regulations applicable to building materials. Additionally, the following shall apply to all residences constructed within the Subdivision:

- (a) All foundations shall be constructed of #1 grade concrete block or shall be constructed by using a monolithic poured concrete slab method.**
- (b) All roof overhangs will be a minimum of twelve (12") inches after brick.**

(c) Roof pitches will not be less than 6/12.

(d) All fascia boards will be of 2" x 6" construction and covered with aluminum.

(e) All residence exteriors must be 100% covered in brick or stone or a combination thereof, excluding windows, doors and garage doors, on the ground floor only.

5. **FENCES.** All fences shall be of new materials only, and be made of wood shadow boxed privacy fence on all sides. All fencing shall be left natural, stained or clear sealant. There shall be no wire, hog wire, barbed wire, or similar materials used for exterior fencing. No fence on any Single Family Lot shall exceed, toward the front property line, past the front building line. All fences shall be maintained in an attractive manner. By choice by owner or builder, a privacy fence on any Single Family Lot shall be no more or less than 6 feet in height.

6. **UTILITIES.** All utilities, including without limitation telephone wiring, shall be placed below grade, except that transformers or any other equipment, which is impractical to place below grade, may be placed above grade.

7. **AIR CONDITIONING APPARATUS.** No air conditioning apparatus shall be installed on the ground in front of a residence unless approved by the Architectural Control Committee. No air conditioning apparatus or evaporation cooler shall be installed on any front wall of a residence.

8. **GARAGES.** Any garages constructed on any Lot shall be not less than two (2) car size and shall be fully enclosed and contain full length doors at the entrance way thereto and be a minimum of 21 feet x 21 feet. No garage shall be used by anyone other than the Owner of a Lot on which the garage is situated or his family or bona fide guest. Each residence shall have a concrete driveway connecting the garage to the street, and each drive way shall be of adequate width to accommodate two (2) automobiles when parked side by side, but in any event not less than sixteen (16) feet in width. No garage may be enclosed for living purposes when initially constructed. The owner may choose to use the garage as heated space, but shall leave the garage door in place and otherwise leave the appearance of the outside of the residence the same. Carports will not be allowed to be constructed on any Lot or attached to any residence within the Subdivision without the prior approval of the Committee.

9. **WATER AND SEWER.** No individual water supply system or sewage disposal system shall be permitted on any Single Family Lot and all

dwelling must attach to such facilities as are provided by the water and sanitation district serving the area.

10. **MINERAL EXPLORATION DEVELOPMENT.** No operations for mining or exploration for or removal of any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind shall be conducted on any Single Family Lot.
11. **SIGNS.** No signs whatsoever (movable or affixed) including, but not limited to, commercial and similar signs, which are visible from adjacent property or from public thoroughfares shall be erected or maintained on any lot, with the exception of the following:
 - (a) Such signs as may be required by law.
 - (b) A residential identification sign not more than twenty-four (24) by twenty-four (24) inches in height and width.
 - (c) During the time of construction of any residences or other improvements, on job identification signs not larger than thirty-two (32) by twenty-four (24) inches in height and width.
 - (d) A "for sale" or "for rent" sign, of a reasonable type, size and appearance, which is similar to other signs customarily used in the Gravette, Benton County, Arkansas area to advertise the sale or rental of individual parcels of residential real property.
 - (e) A political sign, of a reasonable type, size and appearance, provided such signs are allowed no earlier than thirty (30) days prior to the election and are removed no later than seven (7) days following the election.

The provisions of this paragraph shall not prevent the Developer from constructing, erecting or maintaining structure or signs of any content or size on Lots owned by it when the Developer, in its sole discretion, deems it necessary or convenient to the development, sale, operation or other disposition of the Single Family Lots or other portions of the Property. In addition, the provisions of this paragraph shall not prevent any home builder from erecting or maintaining signs of any size advertising model homes on Lots owned by such home builder provided that such signs are in compliance with all applicable ordinances of the City of Gravette, Arkansas.

12. **ANIMALS.** No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Single Family Lot, except that dogs, cats or other

household pets may be kept thereon; provided that they are not kept, bred or maintained for any commercial purpose; and provided that no more than three (3) household pets may be kept on any Single Family Lot at any one time. No household pet shall be allowed to become a nuisance to the adjoining Single Family Lot owners.

13. **CLOTHESLINES.** Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained.
14. **MACHINERY AND EQUIPMENT.** No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Single Family Lot, except such machinery or equipment as is usual and customary in the Gravette area in connection with the use and maintenance or construction of a private residence or appurtenant structures; provided, however, such machinery or equipment may be so placed, operated or maintained by any governmental or quasi-governmental agency or a public utility. However, machinery and equipment for a home workshop may be placed, operated and maintained inside a private residence, including an enclosed garage.
15. **ANTENNAS AND SIGNALS.** No exterior antenna or other device for the transmission or reception of any form of electromagnetic radiation shall be erected, used or maintained on any Single Family Lot, unless the same is appropriately screened so as to not be visible from the front of any other Single Family Lot or any public street. No radio signals, television signals or any other form of electromagnetic radiation shall originate from any Single Family Lot which may unreasonably interfere with the reception of television or radio signals on any other Single Family Lot. No satellite dish antenna shall be erected unless the same is appropriately screened so as to not be visible from the front of any other Single Family Lot or any public street. No antennas shall be placed on the front of the house.
16. **EASEMENTS.** Easements for installation and maintenance of utilities and drainage facilities serving the Single Family Lots are reserved as shown on the recorded plat of the Subdivision referred to herein. Within these easements, no structure, planting or other materials shall be placed or be permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may materially change the direction of flow, obstruct, or retard the flow of water in and through the drainage channels across such easements. The easement area of each Single Family Lot and all improvements in it shall be maintained continuously by the owner of the Single Family Lot, except for those improvements for which one or more public authorities or utilities are responsible. By acceptance of a deed to any such Lot, the owner thereof covenants and agrees to mow weeds and grass and to keep and maintain in a neat and clean condition any and all easements which may traverse any portion of said Lot.

17. TEMPORARY STRUCTURES, VEHICLES. No inoperable motor vehicle of any type shall be kept, placed, maintained, constructed, reconstructed or repaired upon any property or street or private driveway in such a manner as will be visible from the adjacent property of any public thoroughfare; provided, however, that the provisions of this paragraph shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during and used exclusively in connection with the construction approved in accordance herewith. Any temporary construction shelter or facility shall only be permitted or allowed with the prior written approval of the Committee. In addition, no motor vehicle of any type, whether operable or inoperable, may be constructed, reconstructed or repaired upon any Single Family Lot or the Property or any street or private driveway in such a manner as will be visible from neighboring property or any public thoroughfares, except for normal, routine maintenance of motor vehicles and/or minor repairs which typically do not take longer than seventy-two (72) hours. No trailer, tent, camper, mobile home, shack, garage or other temporary structure of any kind shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction, repair or remodeling of a dwelling shall be removed immediately after the completion of construction. No trailer, boat, camper, recreation or commercial vehicle shall be permanently parked or stored in such a manner so as to be directly visible from any public thoroughfares. Permanently parked is deemed to designate the customary location of these vehicles when not in use.

18. PARKING AND PROHIBITED VEHICLES.

(a) **Parking.** Occupant vehicles shall be parked only in the garage or driveway serving the residence dwelling. No occupant vehicles may be parked overnight on any of the streets of the Subdivision. Single Family Lot owners shall provide sufficient off street parking to accommodate vehicles used by their family. For purposes of this provision as vehicle is considered an "occupant" if it is parked on or by the Lot or residence four (4) or more hours per day, four (4) or more days in any seven (7) day period. On-street parking on a temporary basis is allowed for visitors and guests.

(b) **Prohibited Vehicles.** Commercial vehicles, vehicles primarily used or designed for commercial purposes, commercial or heavy tractors, and semi-trailer trucks shall not be allowed to park in the Subdivision, either on the streets or on a privately owned Single Family Lot.

19. OUTBUILDINGS. As previously mentioned, only outbuildings approved by the Committee will be permitted on any Single Family Lot. No outbuilding shall be placed or constructed on any Single Family Lot which shall exceed

150 square feet in area. Only one (1) per Single Family Lot shall be permitted. Any such outbuildings so permitted shall be pre-manufactured outbuildings of sound construction, and the quality of appearance shall be approved by the Committee. No sheet iron, tin or scrap or unpainted or unfinished metal shall be used for siding or roof or any part thereof; notwithstanding the foregoing, pre-manufactured metal outbuildings, as may be approved by the Committee, will be permitted. Any such permitted outbuildings shall only be placed on any Singled Family Lot with the prior written approval of the Committee.

Any outbuilding, of the type to be approved by the Committee, shall be required on any Single Family Lot which has a back yard which is visible to any public thoroughfare or which is not fully enclosed by a privacy fence made of solid material such as wood, brick, stone or masonry, and by acceptance of a deed to any such Lot, the owner thereof covenants and agrees to obtain and place said outbuilding on said Lot. The Committee may also require such an outbuilding on any other Single Family Lot which it deems necessary in order to provide a clean, neat and uncluttered appearance on all Single Family Lots. It is the intent of this provision to ensure that the back yard of any Lot which is unfenced by a privacy fence made of solid material such as wood, brick, stone or masonry, will have a neat, clean and uncluttered appearance. Such outbuildings must be used for the storage of any and all lawn, maintenance and other equipment, and such other various household belongings as it is necessary to keep the yard of said Lot free from a cluttered or unkempt appearance, as determined by the Committee, as may be visible from any adjacent properties and public thoroughfares; and by acceptance of a deed to any such Lot, the owner thereof covenants and agrees to do so.

20. **NUISANCES.** The land and improvements constituting or located on each Single Family Lot shall not be used so as to disturb the neighborhood or occupants of the adjacent property, not to constitute a nuisance, nor to violate any public law, ordinance or regulation from time to time applicable thereto. No such land and improvements shall be used for any purpose which will create or emit any objectionable, offensive or noxious odors, dust, gas, fumes, liquids, noises or other such materials or conditions. Except during the period of construction of a home or other structure, or during time required for the improvement or maintenance of a home or other structure, no owner shall permit any rubbish or debris of any kind to be placed or to accumulate upon any Single Family Lot. No owner shall permit any thing or condition to exist upon any Single Family Lot which shall induce, breed, or harbor diseases or insects or other pests. No lighting or illumination of any type shall be placed upon a Single Family Lot in such a manner as to cause unreasonable glare or illumination on any other Single Family Lot or on public thoroughfares.
21. **GENERAL MAINTENANCE.** Each Owner shall maintain and care for all improvements and all trees, foliage, plants and lawns on his or her Single

Family Lot and otherwise keep his or her Single Family Lot and all improvements thereon in a neat manner and prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Single Family Lot, and otherwise keep his or her single Family Lot in conformity with the general character and quality of properties in the immediate area. In addition, by acceptance of a deed to any Lot, the owner thereof covenants and agrees to mow weeds and grass and to keep and maintain said Lot in a neat and clean condition at all times.

22. **PARTIAL INVALIDITY.** Invalidation of any of these covenants, restrictions or conditions, by court judgments or otherwise, shall not affect, in any way, the validity of the other covenants, restrictions or conditions, all of which shall remain in force and in effect. Acquiescence in any violation shall not be deemed a waiver of the right to enforce against the violator others so violated or any other conditions.
23. **ENFORCEMENT.** Enforcement shall be by proceedings at law or in equity by the owner of any Single Family Lot, the Developer or any future owner of any part of the Property against any person or persons violating or attempting to violate any covenants either to restrain violation or recover damages, or both.
24. **RIGHT TO ASSIGN.** The Developer may, by appropriate instruments, assign or convey to any person, organization or corporation any or all rights, reservations, easements and privileges herein reserved by the Developer. Upon such assignment or conveyance being made, its assigns or grantees may, at their option, exercise, transfer or assign such rights, reservations easements and privileges or any one or more of them at any time or times in the way and manner as Developer may exercise, transfer or assign such rights reservations, easements and privileges.
25. **NOTICES.** All notices given or required to be given to an Owner shall be sent via the United States mail, postage prepaid, certified or registered, return receipt requested.
26. **DEVELOPER'S ACTIVITIES.** Notwithstanding anything to the contrary contained herein, the Developer, its successors and assigns, reserves for itself and its designated agent or agents the right to use any Single Family Lot owned by it for a temporary office location and the right to place thereon a sign or signs.
27. **TERM.** These covenants and restrictions are to run with the Property and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date they are recorded, after which time said easements and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the

owners of 75% or more of the Single Family Lots has been recorded, agreeing to terminate said covenants and restrictions or change them in whole or in part.

28. **AMENDMENT OR MODIFICATION.** The restrictions contained herein may at anytime be altered, amended or modified by written declaration, signed and acknowledged by the owners of 75% or more of the Single Family Lots and recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas. Notwithstanding the above, no alteration or modification of the covenants and restrictions contained herein may be made prior to December 31, 2007, without the express written consent of either the Developer or of the person or entity to whom the Developer shall have expressly assigned its rights under this paragraph. Notwithstanding any provisions hereof to the contrary, the Developer may at its sole discretion and without consent being required of anyone: (i) modify, amend or repeal any one or more of these covenants and restrictions at any time prior to the closing of the sale of the last Single Family Lot, provided said amendment, modification or repeal is in writing and property recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas; and/or (ii) amend these covenants and restriction to cause these covenants and restrictions to be in compliance with any and all applicable laws, rules and regulations (including without limitation any and all applicable laws, rules and regulations of the Federal Housing Administration and/or the Veterans Administration).
29. **LANDSCAPING.** All Lots shall have the front yards and sides to rear corner of the house sodded, and any and all Lots that abut a public thoroughfare or street, shall have that portion of the side yard that shows sodded as well. The back yard may be seeded at the discretion of the builder. Each Lot shall have a minimum of one (1) maple tree of at least 1 ¼ inch caliper planted in the front yard; the maple tree planted in the front yard shall be one or more of the following approved varieties: red maple, red flame, red sunset, and/or flame amur. Shrubs shall be placed in front of the house to give an appealing appearance. These landscaping requirements shall be installed or planted in the yards of each Lot within thirty (30) days of completion of the residence. No fence, wall or shrubs that obstruct sight lines at intersections shall be permitted within the subdivision.
30. **SIDEWALKS.** Sidewalks will be constructed by builder and will be five (5) feet in width and in accordance with city regulations prior to final inspection.
31. **MAILBOXES.** All mailboxes to be approved by the committee.

Executed as of this 13 day of Sept, 2005

HENDREN CONSTRUCTION & DEVELOPMENT, LLC


By: **Jim Hendren, Manager**

2005 48507
Recorded in the Above
Deed Book & Page
09-13-2005 01:29:03 PM
Brenda DeShields-Circuit Clerk
Benton County, AR

Benton County, AR
I certify this instrument was filed on
09-13-2005 01:29:03 PM
and recorded in Deed Book
2005 at pages 48497 - 48507
Brenda DeShields-Circuit Clerk

2005 250936
Recorded in the Above
Mortgage Book & Page
09-13-2005 01:26:41 PM
Brenda DeShields-Circuit Clerk
Benton County, AR

THIS AGREEMENT made and entered into by and between THE CITY OF GRAVETTE, ARKANSAS, herein after called CITY, and HENDREN CONSTRUCTION & DEVELOPMENT, LLC., herein called DEVELOPER, witnesseth:

Now, therefore, in exchange for the various considerations recited herein, the receipt and sufficiency of which are acknowledged by each of the Parties, the Parties agree as follows:

CITY agrees to approve the final plat for the Walnut Creek Subdivision, with notation for completion of required improvements. DEVELOPER agrees to make the required improvements as listed on the attached punch list. The following improvements shall be completed by November 30, 2005. The terms of such conditional approval shall be noted on the final plat filed for record. Upon completion of all of the improvements as required herein, the City Clerk shall note the completion on the original recorded plat to be attested by the County Recorder.

DEVELOPER agrees to submit a five thousand (\$5,000.00) cash deposit to the CITY. Said deposit shall be refunded to DEVELOPER upon completion and final inspection of all required improvements as listed in the attached punch list. DEVELOPER further agrees to provide CITY a letter showing sufficient financing available to complete required improvements.

CITY further agrees to hold DEVELOPER harmless in the event that above completion date is not reached due to circumstances beyond DEVELOPER'S control. Such circumstances include, but are not limited to, acts of God, unusually severe weather or unforeseen delays in equipment delivery. If, but for the excusable cause, DEVELOPER would have completed the required improvements, the completion date shall be revised accordingly.

IN WITNESS WHEREOF, CITY AND DEVELOPER have hereunto set their hands this 25 day of August, 2005.

CITY OF GRAVETTE

By: Jonathan Rogers
Jonathan Rogers, Mayor

HENDREN CONSTRUCTION & DEVELOPMENT, LLC.

By: Jim Hendren
Jim Hendren, Manager

Book/Pg: 2005/250936
Term/Cashier: CIRCLK07 / DPiper
Tran: 3367.102125.280424
Recorded: 09-13-2005 13:26:53
MTG Mortgage
REC Recording Fee
Total Fees: \$ 11.00

11.00
0.00

Subscribed and sworn to before me, the undersigned notary public this 29th day of August, 2006.

Linda Wells
Notary Public

My Commission Expires:



2005 250937

Recorded in the Above

Mortgage Book & Page

09-13-2005 01:26:41 PM

Brenda DeShields-Circuit Clerk

Benton County, AR

Benton County, AR

I certify this instrument was filed on

09-13-2005 01:26:41 PM

and recorded in Mortgage Book

2005 at pages 250936 - 250937

Brenda DeShields-Circuit Clerk