

2004 51464
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Recorded: 11-04-2004 11:38:28
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REC Recording Fee
Total Fees: \$ 32.00

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DECLARATION OF COVENANTS AND RESTRICTIONS
FOR PERRY PLACE SUBDIVISION

THIS DECLARATION made this 2nd day of November, 2004 by Stealth Development (Herein "the developers")....

WITNESSETH:

WHEREAS, the Developers, as owners of certain real property located in Rogers, Arkansas, desire to create thereon a development known as PERRY PLACE (sometimes herein "Development") as more particularly described on the recorded Plat of said subdivision; and

WHEREAS, the Developers desire to provide for the preservation and enhancement of value when and as the property is improved and desires to subject the development to certain covenants and restrictions as hereinafter set forth, each and all of which are hereby declared to be for the benefit of the Development and each and every owner of any and all parts thereof; and

WHEREAS, the Developers have deemed it desirable, for the efficient preservation of the values and amenities in the Development, to create an entity to which should be delegated and assigned the power and authority of holding title to and maintaining and administering the Common Properties (as hereinafter defined) and administering and enforcing the covenants and restrictions governing the same and collecting and disbursing all assessments and charges necessary for such maintenance, administration and enforcement, as hereinafter created; and

WHEREAS, the Developers have caused or will cause to be incorporated under the laws of the State of Arkansas, The PERRY PLACE Property Owners' Association, Inc. (herein "PPPOA"), an Arkansas nonprofit corporation, for the purpose of exercising the above functions and those which are more fully set out hereafter;

NOW, THEREFORE, the Developers subject the Development property to the terms of the Declaration and declares that the same is and shall be held, transferred, sold, conveyed, occupied and used, subject to the covenants and restrictions (sometimes herein "Covenants") hereinafter set forth. These Covenants shall touch and concern and run with the property and each lot thereof.

ARTICLE I
ARCHITECTURAL CONTROL

1.01 Architectural and Design Review. In order to establish and preserve a harmonious design for the Development, to promote and protect the property values, to insure that all dwellings and accessory buildings constructed or erected shall have good quality materials and workmanship and are compatible with other dwellings and accessory buildings constructed or to be constructed in the Development, the Developer, Builders or the Architectural Control Committee of the PPPOA shall approve the details of construction plans including dwelling placements. The Builders shall have sole architectural and design reviewing authority for the Development until the PPPOA home owners association has been established.

1.02 Approval Requirements. 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 and a finished floor elevation (FFE) relative to the street curb have been approved by the Developer. If the FFE is not at least one (1) foot higher than the street curb elevation, the building plans shall include a drainage plan. Such plans shall be submitted for approval at least 15 days prior to the planned commencement of construction of same, and the written approval of the developer shall be required before construction. A satisfactory FFE relationship or a satisfactory drainage plan will be required for developer's approval. Should any plans submitted hereunder fail to be approved or disapproved within the time period herein provided, or in any event, if no suit to enjoin the construction proposed is commenced prior to the completion thereof, approval will not be required, and the related Covenants shall be deemed to have been fully complied with.

1.03 Approval Guidelines and Limitations. Approval of any proposed plans submitted shall be withheld unless such plans and specifications comply with the applicable Covenants. Approval of plans and specifications by the Builders is for the mutual benefit of all PERRY PLACE property owners and is not intended to be, and shall not be construed as, an approval or certification that the plans and specifications are technically sound or correct from an engineering or architectural viewpoint. Each

property owner shall be individually responsible for the technical aspect of the plans and specifications.

ARTICLE II
COVENANTS, USES AND RESTRICTIONS

2.01 Residential Use. The provisions of the City of Rogers codes and regulations regarding single-family residences shall govern all lots within the Development on the date the subdivision plat was approved.

2.02 Building Limitations. The building codes of the City of Rogers, as they presently exist or are herein after amended, shall be and are hereby made applicable to all lots in the Development. All dwellings and other improvements shall comply with said ordinances as they exist on the date of such construction. Any conflict between such ordinances and the provisions of these Covenants shall be resolved in favor of the more restrictive provisions. No dwelling structure shall be constructed on any lot within the Development of a size less than 1,800 square feet of heated and cooled living space, without the approval of the Builders. Further, each dwelling shall have a private garage for not less than two (2) cars and shall have a concrete driveway at least 18 feet wide. All building exteriors must be at least 85% brick, stone, stucco or other material specifically approved by the Builders. All roofs must have a pitch of at least 10/12 and consist of architectural roofing shingles or other roofing material specifically approved by the Builders. No standard 3-tab roofing material will be allowed.

2.03 Home Occupations. Home occupations as defined by the City of Rogers shall be prohibited.

2.04 Setbacks. No building shall be erected on any lot in the Development nearer than: (1) 25 feet to the front lot line; (2) 20 feet to the rear lot line; (3) 20 feet to the exterior side lot line; (4) 7½ feet to the interior side lot line. For the purposes of this Covenant, eaves, steps and open porches shall not be considered as part of the building, providing, however, this shall not be construed to permit any portion of the building on a lot to encroach upon another lot. Should any building setback lines shown upon the PERRY PLACE plat vary from the setback requirements required herein, the building setback lines shown upon said plat shall control and take precedence over those stated herein. Variances to the setback requirements established herein as may from time to time be permitted by the City of Rogers shall take precedence and be controlling.

2.05 Fences. The approval requirements outlined in subsection 1.02 for buildings shall also apply to fences. Fencing of front yards is prohibited. Fencing on corner lots may extend to, but not beyond, the exterior side setback lines established in Section 2.04. No fences shall exceed 6 feet in height. All fences shall be 6 feet wood

privacy fences. All fences shall be shadow box style fences. The Builders or Developer shall approve all fencing materials. Chain link and other forms of wire fencing are specifically prohibited.

2.06 Vehicle Parking. All vehicles, and equipment, owned by lot owners, shall be parked only in the lot owner's garage or driveway. 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 the subdivision.

2.07 Signs. No signs, either permanent or temporary, of any kind, shall be placed or erected on any property, without the consent of the Builders, unless signage upon property advertises the same for sale or rent, and does not exceed 6 square feet in area. Provided, however, that the Builders may erect signs to advertise the Development and model homes.

2.08 Temporary Structures. No trailer, tent, shack, garage, barn, or other outbuilding or structure erected on a building site within the Development 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 or equipment on the lots when done in accordance with subsection 2.06. This restriction does not prohibit the Builders from placing temporary construction trailers and/or storage facilities on lots as deemed necessary.

2.09 Accessory Structures. Accessory buildings, in-ground swimming pools, cabana structures and gazebos may be built within the building area on any lot subject to the approval of the Builders. The approval requirements outlined in subsection 1.02 for buildings shall apply to these structures. No Accessory buildings shall be prohibited on any given lot. Permanent and semi-permanent above-ground swimming pools shall be prohibited.

2.10 Antennas. No television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any dwelling or other structure within the Development without the approval of the Builders; nor shall radio, television signals, nor any other form of electromagnetic radiation be permitted to originate from any Development lot which may unreasonably interfere with the reception of television or radio signals upon any other Development properties. EXCEPTION: Digital satellite system receivers not more than 18 inches in diameter shall be allowed provided they are not visible from the street.

2.11 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept and

maintained provided that they not be kept, bred or maintained for any commercial purposes. Household pets shall be maintained in a clean and sanitary situation and shall not be noxious or a nuisance to the surrounding owners. Each household shall be limited to not more than 3 dogs and/or cats. Dogs must be considered tame. No reptiles shall be kept as pets.

2.12 Easements. Perpetual easements have been reserved, as shown on the approved plat, for the construction and maintenance of utilities and drainage, and no permanent structure of any kind shall be erected or maintained upon or over said easements.

2.13 Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereupon which may be or may become an annoyance or a nuisance to the neighborhood. Grass, trees and various vegetation shall be kept neatly cut and maintained. Lawns shall not be allowed to exceed six (6) inches from the ground surface. Fences or other outside structures or outdoor decorations shall be maintained so as not to become unsightly or an annoyance or a nuisance to the neighborhood. Upon owner's failure to comply with this subsection, the Builders or PPPOA may perform, or have performed, the necessary action to remedy the problem, and shall be entitled to recover the expense associated with such remedial action from the offending owner.

2.14 Building Materials. No building material of any kind or character shall be placed or stored upon any lot until the owner is ready to commence construction of the improvements requiring such materials. Building materials shall not be placed or stored in the street or between the curb and property lines. Upon completion of the improvements requiring such materials, all remaining building materials and refuse shall be removed from the subdivision.

2.15 Inoperative Vehicles. No vehicle, bus, tractor, or other conveyance or rig, other than a lawn grass apparatus, shall be left inoperative on any lot for a period of more than 3 days.

2.16 Sight Distance at Intersections. No fence, wall, hedge or shrub, which obstructs sight lines at intersections within the subdivision, shall be permitted.

2.17 Sound Devices. No exterior speaker, horn, whistle, bell or other sound device which is unreasonably loud or annoying, except security devices used exclusively for security purposes, shall be located, used or placed upon lots in the subdivision. The playing of loud music from porches or decks shall be considered offensive, obnoxious activity constituting a nuisance.

2.18 Laundry. The hanging of laundry from any area within or outside a residence, which places the laundry within public view, is prohibited.

2.19 Landscaping. The front, side and back yards will be sodded within 90 days after completion of construction, weather conditions permitting. The Builders shall approve landscaping.

2.20 Lighting. The placement of ornamental pole yard-lights either in front or back yards shall be prohibited. Christmas lights must be removed from houses by January 31st of each year.

2.21 Mailboxes. To enhance the appearance of the Development as much as possible with United States Postal Service regulations, mailboxes in the Development will be located as required by the United States Postal Service. A decorative mailbox will be supplied and installed by the Builders within 2 feet of the nearest property line.

2.22 Basketball Goals: The placement and quality of all basketball goals must be approved by builders.

2.23 Garage Sales. Garage sales shall only be held semi-annually and only as a neighborhood event. The dates of the sale will be determined by the PPPOA.

ARTICLE III **COMMON PROPERTIES**

3.01 Common Properties Defined. "Common Properties" shall mean and refer to those tracts of land and any improvements thereon which are deeded to the PPPOA and designated in said deed as Common Properties and any personal property acquired by the PPPOA if said property is designated as Common Property. All Common Properties are intended for and are to be devoted to the common benefit of the owners of PERRY PLACE properties. The Common Properties shall include but not be limited to the entries to the Development.

ARTICLE IV **ASSESSMENTS**

4.01 Amount of Annual Assessments. On or before the first day of December of each year, the PPPOA Board will adopt a budget for the upcoming year. The budget will establish the total amount of annual assessments on all lots in the Development. The

amount of annual assessments for the individual lots will be the same for the builders and homeowners.

4.02 Changes in Annual Assessments. The amount of the annual assessments on all lots may be increased or decreased by an affirmative vote of at least 75% of the lot owners in attendance or represented by proxy at any annual or special meeting of the PPPOA duly called for such purpose.

4.03 Commencement of Assessments. The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Builders to be the date of commencement, but not earlier than January 1, 2005.

4.04 Pro Rata Assessments. The amount of the first annual assessment shall be based pro rata upon the balance of the calendar year and shall become due and payable by the Builders and Homeowners on the closing of the lot. The assessments for any year, after the first year, shall become due and payable the first day of January of said year.

4.05 Statements. On the first business day after adoption of the budget for the upcoming year (or as soon as practicable thereafter) the Builders or PPPOA shall mail a statement to each owner informing him or her of their annual assessment and the due date for payment thereof.

4.06 Late Fees. The Builders or PPPOA shall be authorized to charge a late fee to any lot owner who fails to pay any assessment on or before the due date thereof.

ARTICLE V **GENERAL PROVISIONS**

5.01 Duration of Covenants. The Covenants shall run with and bind the land and shall inure to the benefit of and be enforceable by the PPPOA, the Builders, their respective legal representatives, heirs, successors and assigns, and shall be effective for a period of twenty (20) years following the effective date hereof, and may be continued thereafter as provided by Arkansas law.

5.02 Amendments. These Covenants may be amended upon the affirmative vote of 75% of the lot owners in attendance or represented by proxy at any annual or special meeting of PPPOA duly called for such purpose, provided that no amendments shall be allowed which would be in violation of any federal, state or county regulation.

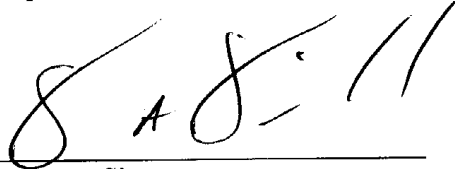
5.03 Severability. Invalidation of any restriction set forth herein, or any part thereof, by any order, judgment, or decree of any court, or otherwise, shall not invalidate or affect any of the other restrictions, or any part thereof, as set forth herein, but they shall remain in full force and effect.

5.04 Violations. In the event of any violation or attempt to violate any of the Covenants herein, it shall be lawful for any person, persons or entity owning any lots in PERRY PLACE, including the Builders and PPPOA, to prosecute any proceedings at law or in equity against a person or persons violating or attempting to violate such Covenants, and either prevent him or them from so doing and/or to recover damages for such violations. Provided further, however, that the Builders or PPPOA shall first advise any violator of said violations prior to legal action being taken. The Builders or PPPOA shall receive from residents any complaints as to violations of the Covenants, and shall reasonably notify any violator prior to legal actions being taken.

Signed, sealed and delivered this 2nd day of November, 2004.

Stealth Development LLC. & Terminella-Gibson, LLC

By: _____



Signature
Tom Terminella

By: _____



Signature
Tom Morter.

By: _____



Signature
Doug Gibson

2004 51472
Recorded in the Above
Deed Book & Page
11-04-2004 11:38:19 AM
Brenda DeShields-Circuit Clerk
Benton County, AR


State of Arkansas)

ss. ACKNOWLEDGEMENT

County of Benton)

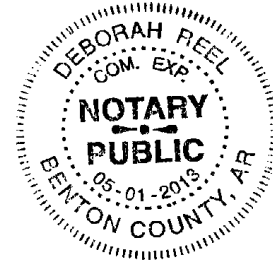
On this 2nd day of November, 2004 came before the undersigned, a Notary Public within and for the State and Country aforesaid, duly commissioned and acting. Executed the above and foregoing Declaration of Covenants and Restrictions for PERRY PLACE.

WITNESS my hand, at office, this 2nd day of November, 2004.



Notary Public

My Commission Expires



Benton County, AR
I certify this instrument was filed on
11-04-2004 11:38:19 AM
and recorded in Deed Book
2004 at pages 51464 - 51472
Brenda DeShields-Circuit Clerk