

2004 36051
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Brenda DeShields-Circuit Clerk
Benton County, AR

**BILL OF ASSURANCE AND RESTRICTIVE COVENANTS
FOR
CREEKSTONE SUBDIVISION**

Book/Pg: 2004/36051
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VanCon, L.L.C., is the sole Owner and Developer of Creekstone, more particularly described as set forth in the attached Exhibit A.

The owner hereby establishes and creates the following Protective Covenants, which shall apply to said lots as shown on the recorded Plat of the said subdivision.

1. BUILDING LIMITATIONS.

(a) General. The subdivision and building codes of the City of Bentonville, Arkansas, as they presently exist or are hereinafter amended, shall be and are hereby made applicable to all lots in Creekstone. 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 protective Covenants shall be resolved in favor of the more restrictive provisions. Buildings, architectural, and design specifications shall be in accordance with those regulations set forth in the Bentonville zoning ordinance designated in R1 (Residential 1), or these Protective Covenants, whichever shall be the more restrictive provisions.

(b) Dwelling Size. No dwelling structure shall be constructed upon any lot within Creekstone of any size less than two thousand four hundred (2,400) square feet of heated living space, with the minimum of sixteen hundred (1,600) square feet on the first floor of two (2) story structures, without approval of the Architectural Control Committee (as hereinafter set forth and referred to as "ACC"). Further, each dwelling shall have a private garage for not less than two (2) cars with dimensions of not less than twenty two (22) feet, and shall have a concrete driveway.

(c) Architectural Control Committee Approval. Compliance with the City of Bentonville subdivision and building codes shall be judged and determined by and require a prior approval of the ACC (as hereinafter set forth), which shall view all plans and specifications for all structures prior to construction and be given the power to amend or alter any such designs or specifications prior to approval for construction in Creekstone. The specifications and requirements of the above mentioned R1 zoning designation are designed as a minimum requirement for architectural and design specifications and may be supplemented from time to time, where not inconsistent, by the ACC, and such requirements shall be binding

for prior approval of construction as required by these covenants. All builders and owners must contact the ACC prior to commencement of construction to be apprised of current requirements. Revisions to approved architectural plans are disallowed unless approved by the ACC.

2. **BUILDING MATERIALS.** The exterior walls of each building constructed or placed on a lot shall be at least fifty percent (50%) brick, brick veneer, stone, stone veneer or masonry, and exterior portion of any fireplace chimney shall be one-hundred percent (100%) brick, stone or masonry. No concrete block shall be visible from any street, alley or adjoining lot.

3. **ROOFS.** All roofing materials shall be approved in writing by the ACC prior to the installation of such materials, and shall be otherwise in compliance in all respects with applicable City of Bentonville Ordinances. The roof pitch of any structure shall be six feet by twelve feet (6 x 12) minimum.

4. **PRE-DESIGNATED BUILDERS.** It is specifically understood and agreed between the Developer and the property owner that only pre-designated building contractors shall be authorized to construct dwellings within Creekstone. Neither an owner nor anyone not a pre-designated builder may construct dwellings within the subdivision. An owner cannot select a builder other than a pre-designated builder. The Developer is not obligated to have more than six (6) designated builders for any calendar year.

5. **ARCHITECTURAL CONTROL COMMITTEE.**

(a) **General.** To insure that all dwellings and accessory buildings constructed or erected in Creekstone shall have good quality materials and workmanship and are compatible with other dwellings and accessory buildings constructed or to be constructed in the development, no dwelling or accessory building can be constructed within Creekstone unless the plans therefor have been submitted to and approved by the Architectural Control Committee of Creekstone (hereinafter the ACC).

(b) **ACC.** The developer shall appoint a committee of three (3) individuals who shall serve as the Architectural Control Committee (hereinafter the ACC). The ACC shall have sole architectural and design reviewing authority for the development until such time that seventy-five percent (75%) of the lots in the development have been sold and until the Creekstone Property Owners Association (hereinafter "CPOA") has been established. At such time as seventy-five percent (75%) of the lots in Creekstone have been sold by the Developer and the CPOA has been established, the Developer shall relinquish control and authority of the ACC to said Creekstone Property Owners Association (CPOA). Thereafter the ACC may be appointed by the board of directors of the Creekstone Property Owners Association. Thereafter, regulation of the ACC, its membership, size and authority shall be subject to the policies of the CPOA as may be determined from time to time by the CPOA.

(c) Approval of Plans. The ACC shall approve the details of construction plans, including dwelling placements. No building shall be erected on any lot until the construction plans, specifications, and a plot plan showing the location of the structure and utilities for the house to be constructed have been approved by the ACC. The name of the building contractor and plans and specifications, including a plot plan reflecting the location of all the improvements, shall be submitted to the ACC at least fifteen (15) days prior to the planned commencement of construction. The request and either approval or disapproval of the planned construction shall be given with written notification up to, but not to exceed the fifteen (15) day period. If plans properly submitted are not either approved or disapproved within fifteen (15) days, the written approval of the ACC shall no longer be required and the planned construction shall be deemed to be in compliance herewith.

(d) Streets. The cutting of streets is strictly prohibited.

6. CREEKSTONE PROPERTY OWNERS ASSOCIATION.

(a) Creekstone Property Owners Association. The Developer shall form a not-for-profit association whose members shall be any record title owner of any lot within Creekstone. Each member shall be allowed one vote for each lot owned and there shall be only one vote for each lot regardless of the number of record title owners of the lot.

(b) Covenant for Maintenance Assessments. The Developer covenants and each Owner of a lot, by acceptance of a deed therefore, whether or not it shall be expressed in the deed or conveyance, shall be deemed to covenant and agree to pay the CPOA any assessment that shall from time to time be fixed, established and collected as hereinafter provided. CPOA shall be empowered to establish an assessment for the purpose of promoting the health, safety and welfare of its members. Assessments shall be permitted for maintenance of the common properties of Creekstone, and for such other purposes as shall benefit the members of CPOA.

(c) Establishment of Assessment. The membership shall establish the amount and the frequency of the assessment by an affirmative vote of a majority of its membership then voting. For these purposes, a majority vote of its membership shall be fifty percent (50%) plus one of the members eligible to vote which shall constitute a quorum.

(d) Increase of Decrease of Assessment. After the membership has established the first assessment, the CPOA, by its board of directors, may increase or decrease the assessment provided the increase or decrease shall not exceed ten percent (10%) of the established assessment. However, the assessment may be increased or decreased, without limit, by majority vote of the members. Quorum shall be determined as set forth in paragraph 6 (b).

(e) Default in Payment of Assessment: Lien, Remedies of POA. If the assessments are not paid on the date when dues as set by the POA, then such assessments shall be considered delinquent. The POA may declare the entire assessment due and payable, together with such interest thereon as allowed under Arkansas law for judgments, and costs of collection. The assessments, interest thereon and costs of collection shall constitute a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns.

The POA may sue the owner and may foreclose the lien as herein provided. The POA shall be entitled to recover the delinquent assessments, interest as provided by law, attorney fees, and costs of collection including attorney fees, titles costs and all other costs reasonably associated with collection of the sums due the POA.

The lien of the assessments provided for herein shall be subordinate to the lien of any purchase money mortgage now or hereafter placed against any lot, provided however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

7. **ACCESSORY STRUCTURES.** Gazebos, pool pavilions, trellis, green houses, children's playhouses, tree houses, storage shed or other similar structures may not be erected without prior written approval of the ACC. The ACC shall have the right to deny the building or placing of any of the foregoing improvements on a lot.

8. **HOME OCCUPATIONS.** Home occupations as defined by the Bentonville City codes shall be prohibited.

9. **OFF-STREET PARKING.** All vehicles, except recreation vehicles, of the respective lot owners shall be parked in the garage or driveway of the respective lot, and parking on the streets as shown on the plat of the subdivision shall be prohibited for a period of time exceeding twenty-four (24) hours. Any automobile, truck, motorcycle, boat, boat trailer, mobile home, motor home, camp mobile, camper, motorized vehicle, or trailer shall be stored, placed or parked in such a manner that the vehicle is not visible from any street, alley or adjoining lot. Provided further, however, that recreational vehicles and equipment may be parked in the back yard for a period not exceeding three (3) days, so long as same is screened by proper fencing or other shrubs so as to reasonably screen the sight of said equipment from neighbors.

10. **SIGNS.** No signs, either permanent or temporary, of any kind, including political yard signs, 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 for construction site purposes. The Developer hereby reserves the right to have signs to designate the name of the addition, and restrictions on size shall not apply to said signs.

11. **OUTBUILDINGS.** One (1) outbuilding per lot may be constructed on the back yard provided its design and size is architecturally compatible with material in the design with the existing structure. Design and size of outbuildings is subject to the approval of the ACC.

12. **SATELLITE DISHES.** Satellite television receiver dishes must be screened from view and may be located only in the rear yard building area.

13. **OIL AND MINING OPERATIONS.** No oil drilling or mining operations of any kind shall be permitted.

14. **LIVESTOCK AND POULTRY.** No animals, livestock or poultry of any kind shall be raised or kept except that dogs, cats or other household pets may be kept, provided that they are not kept or maintained for any commercial purposes.

15. **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 nuisance to the neighborhood. All dead trees or dead limbs shall be removed immediately. Grass, weeds, and tree sprouts shall be kept neatly cut and shall not be allowed to exceed six (6) inches from the ground surface. Fences or 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 Developer or other property owners may remove dead trees or remove dead limbs, cut grass or weeds or perform maintenance upon fences, outside structures or outdoor decorations, or remove building materials and debris, or maintain street lights, and shall be entitled to reasonable charge not less than Two-hundred fifty dollars (\$250.00) to the owner of the lot for said service. No building material of any kind or character shall be placed or stored upon any lot in the subdivision until the owner is ready to commence construction of the improvements requiring such materials. Construction sites shall always be neat and orderly. Building materials shall not be placed or stored in the street or between the curb and property lines. Job construction site shall be kept neat and clean during the period of construction. Upon completion of the improvements requiring such material, all remaining building materials shall be removed from the subdivision.

16. **INOPERATIVE VEHICLES.** No automobile, bus, tractor, or other vehicle shall be inoperative on any platted lot for a period of more than three (3) days.

17. **SIGHT DISTANCE AT INTERSECTIONS.** No obstructions to sight lines at intersections in the subdivision shall be permitted.

18. **UTILITIES.** All utilities in this subdivision shall be placed underground.

19. **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. No fence shall exceed six (6) feet in height.

20. **TEMPORARY STRUCTURES.** No trailer, tent shack, garage, barn, or other out building or structure erected on a building site within the development shall at any time be used for human habitation, temporarily or permanently. This restriction does not prohibit the developer or approved builders from placing temporary construction trailers and/or storage facilities on lots as deemed necessary.

21. **LAUNDRY.** The hanging of laundry from any area within or outside a residence which places the laundry in public view is prohibited.

22. **LANDSCAPING.** The front and side yards will be sodded within ninety (90) days after completion of construction, weather permitting. All landscape plans must be approved by the ACC.

23. **MAIL BOXES.** To enhance the appearance of the development as much as possible within United States Postal Service regulations that require most of the mailboxes in the development to be located on only one side of the street, a decorative mail box that coordinates with the street lights will be supplied and installed by the builder within two (2) feet of the nearest property line.

24. **AMENDMENTS OF COVENANTS.** These covenants may be amended at any time with the written approval of two-third (2/3rds) of the lots within the subdivision. Further, no amendments shall be allowed which would be in violation of the zoning designation in effect at the time of the amendment.

25. **DURATION OF COVENANTS.** These covenants and restriction shall run with the land for a minimum period of thirty (30) years, to be automatically extended for successive periods of five (5) years without further action unless terminated by a majority of lot owners in the subdivision.

26. **SEVERABILITY.** Invalidation of any restriction set forth herein, or any party thereof, shall not invalidate or affect any of the other restrictions, but they shall remain in full force and effect.

Approved this 28 day of March, 2004.

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Phase I, Lots 2 through 48, except Lots 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 16, 18, 19, 30, 31, 32, 33, 34, 37, 38, 39, 42, 43, 44, Creekstone Subdivision.

Larry Vandevor

VanCon, L.L.C., by Larry Vandevor, Managing Partner

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35, 36

pl

Lots 2, 3, 4, 5, 7, 12, 31, 33, 34, Creekstone Subdivision.

2004 36057

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Larry Vandevor

Van Construction, by Larry Vandevor, Owner

Lots 16, 19, 39, 42, 44, Creekstone Subdivision.

Christopher Trudo

Christopher's Custom Homes, Inc., by Christopher Trudo, President

Lots 11, 43, Creekstone Subdivision.

David Goodman President

David S. Goodman Construction, Inc., by David Goodman, President

Lot 10, Creekstone Subdivision.

Craig Whited Donna Whited

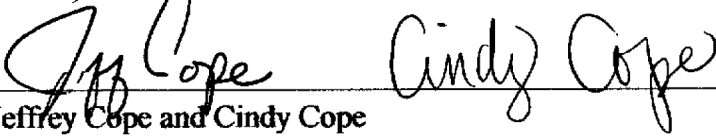
Craig Whited and Donna Whited

Lot 18, Creekstone Subdivision.

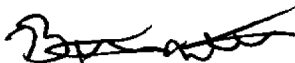
Marc Lieberman Tracy Lieberman

Marc Lieberman and Tracy Lieberman

Lot 32, Creekstone Subdivision.


Jeffrey Cope and Cindy Cope

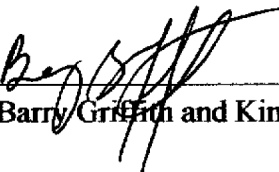
Lot 9, Creekstone Subdivision.


Britain White and Kim White

Lot 30, Creekstone Subdivision.

Steve Witt and Teresa Witt

Lot 38, Creekstone Subdivision.


Barry Griffith and Kim Griffith

Lot 37, Creekstone Subdivision.


Dan S. Kallesen and Carla S. Kallesen

Lot 6, Creekstone Subdivision


Robert House and Merrilee House

Phase II, Lots 1 through 32 except, Creekstone Subdivision.

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Larry Vandevor

VanCon L.L.C., by Larry Vandevor, Managing Partner

Phase III, Lots 1 through 50 except, Creekstone Subdivision.

Larry Vandevor

VanCon L.L.C., by Larry Vandevor, Managing Partner

ACKNOWLEDGMENT

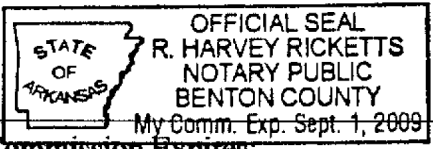
STATE OF ARKANSAS)
)ss.
COUNTY OF BENTON)

BE IT REMEMBERED, that before me, a Notary Public, duly commissioned, qualified and acting, within and for the state and county aforesaid, personally appeared, **Larry Vandevor**, who stated that he is the **Managing Partner of VanCon L.L.C.**, and is duly authorized in that capacity to execute the foregoing instrument for and in the name and behalf of said company and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this 28 day of March, 2004.

R. Harvey Ricketts

NOTARY PUBLIC



My Commission Expires.

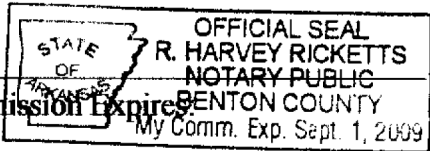
ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss.
COUNTY OF BENTON)

BE IT REMEMBERED, that before me, a Notary Public, duly commissioned, qualified and acting, within and for the state and county aforesaid, personally appeared, **Larry Vandevor**, who stated that he is the **Owner of Van Construction**, and is duly authorized in that capacity to execute the foregoing instrument and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this 28 day of March, 2004.

R. Harvey Ricketts
NOTARY PUBLIC



My Commission Expires

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss.
COUNTY OF BENTON)

BE IT REMEMBERED, that before me, a Notary Public, duly commissioned, qualified and acting, within and for the state and county aforesaid, personally appeared, **Christopher Trudo**, who stated that he is the **President of Christopher's Custom Homes, Inc.**, a corporation, and is duly authorized in that capacity to execute the foregoing instrument for and in the name and behalf of said corporation and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this 28 day of March, 2004.

Larry Vandevor
NOTARY PUBLIC

4-1-2010
My Commission Expires:

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss.
COUNTY OF BENTON)

BE IT REMEMBERED, that before me, a Notary Public, duly commissioned, qualified and acting, within and for the state and county aforesaid, personally appeared, **David S. Goodman**, who stated that he is the **President of David S. Goodman Construction, Inc.**, a corporation, and is duly authorized in that capacity to execute the foregoing instrument for and in the name and behalf of said corporation and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this 28 day of March, 2004.

Lamy Vandewor
NOTARY PUBLIC

4-1-2010
My Commission Expires:

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss.
COUNTY OF BENTON)

BE IT REMEMBERED, that before me, a Notary Public, duly commissioned, qualified and acting, within and for the state and county aforesaid, personally appeared, **Craig Whited and Donna Whited** known to me to be the person who executed the foregoing instrument and did acknowledge that such had been so executed for the consideration and purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this 28 day of March, 2004.

Lamy Vandewor
NOTARY PUBLIC

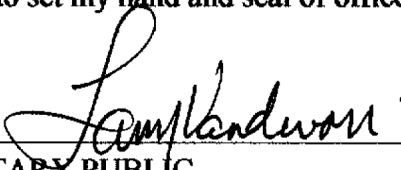
4-1-2010
My Commission Expires:

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss.
COUNTY OF BENTON)

BE IT REMEMBERED, that before me, a Notary Public, duly commissioned, qualified and acting, within and for the state and county aforesaid, personally appeared, **Marc Lieberman and Tracy Lieberman**, known to me to be the person who executed the foregoing instrument and did acknowledge that such had been so executed for the consideration and purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this 28 day of March, 2004.



NOTARY PUBLIC

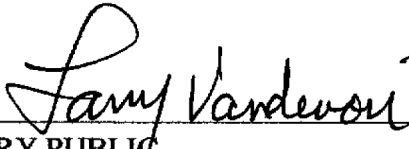
4-1-2010
My Commission Expires:

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss.
COUNTY OF BENTON)

BE IT REMEMBERED, that before me, a Notary Public, duly commissioned, qualified and acting, within and for the state and county aforesaid, personally appeared, **Jeffrey Cope and Cindy Cope**, known to me to be the person who executed the foregoing instrument and did acknowledge that such had been so executed for the consideration and purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this 28 day of March, 2004.



NOTARY PUBLIC

4-1-2010
My Commission Expires: