

PLAT No.
5456

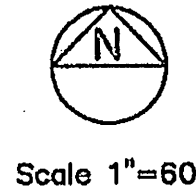
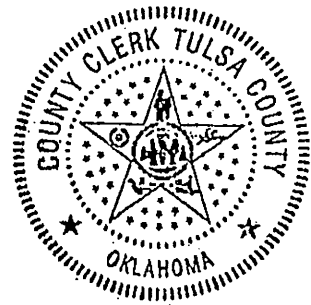
MAGNOLIA GARDENS AT BATTLE CREEK

A SUBDIVISION IN THE S/2 OF SECTION 27, T-19-N, R-14-E,
CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA

STATE OF OKLAHOMA
COUNTY OF TULSA

I, Joan Hastings, Tulsa County Clerk, in and
for the County and State above named, do
hereby certify that the foregoing is a true
and correct copy of a like instrument now
on file in my office.

Dated the 20 day of July, 2000
JOAN HASTINGS, Tulsa County Clerk
Deputy



Owner/Developer
BATTLE CREEK GROUP, L.L.C.
2838 E. 84th ST.
Tulsa, OK 74137
918/495-1716

Planner
PITTMAN-POE & ASSOCIATES
10820 E. 45th Street
Tulsa, OK 74146
918/665-8800

Engineer/Surveyor
WILLIAM E. LEWIS, P.E.
5879 S. Garnett
Tulsa, OK 74146
918/254-4689

LEGEND
U/E - Utility Easement
B/L - Building Line
D/E - Drainage Easement
L.N.A. - Limits of No Access
P.O.B. - Point of Beginning
630 - Existing Contour
R.O.W. - Right of Way
3920 - Street Address

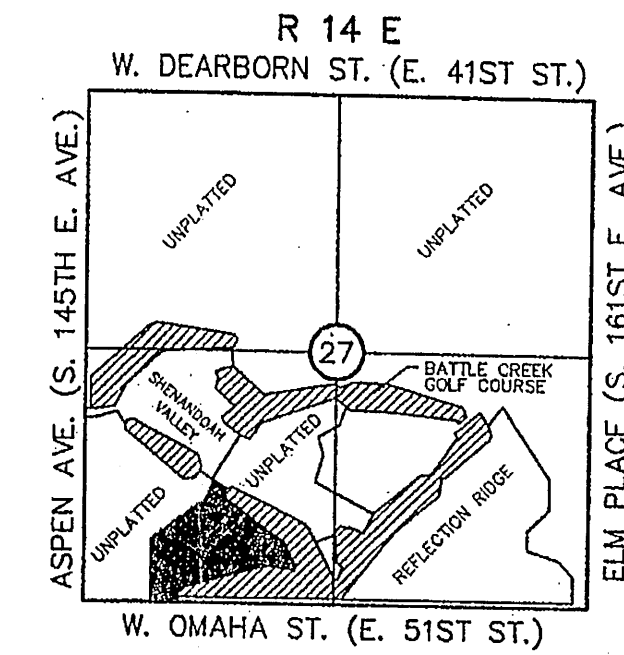
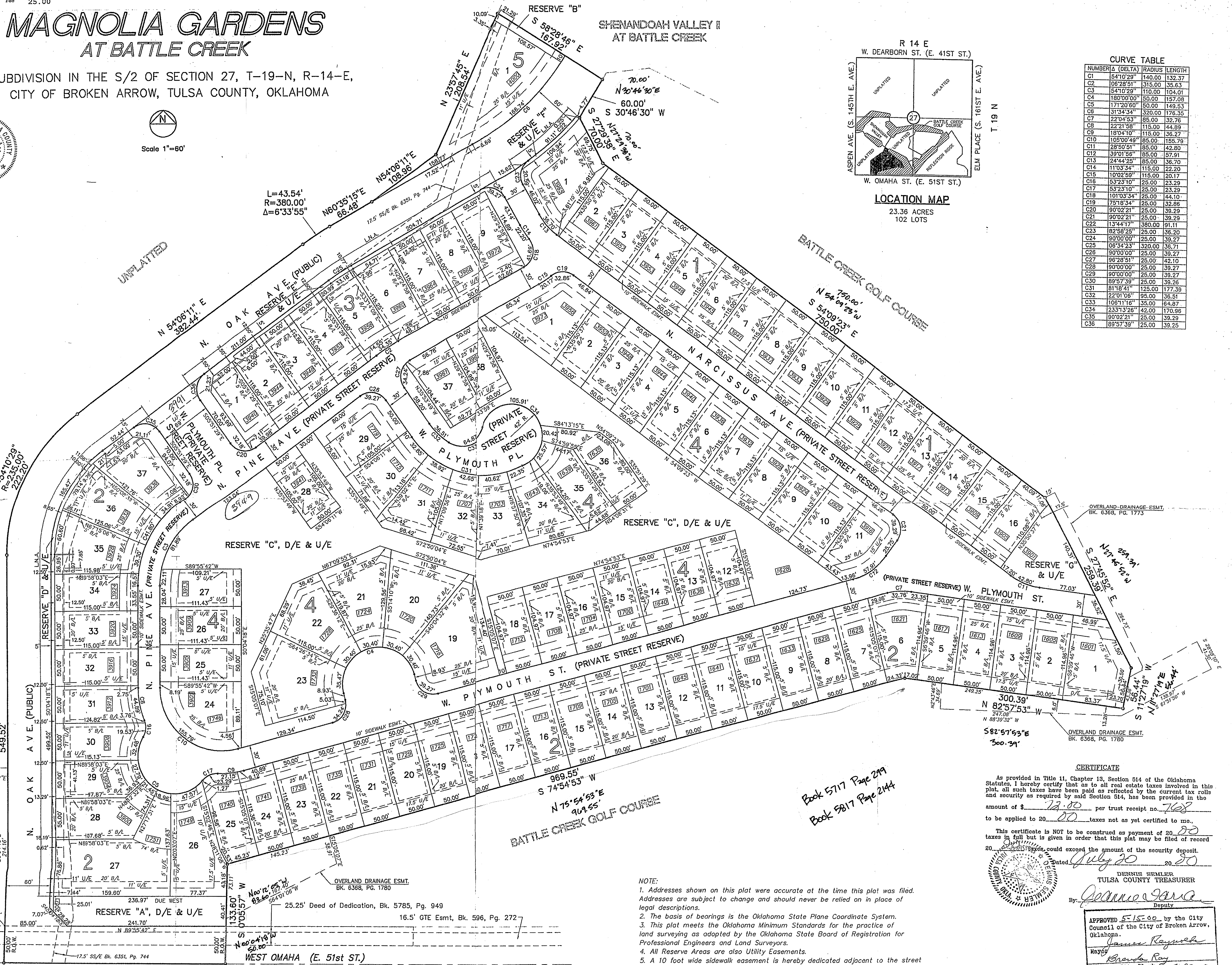
DRAINAGE ESMT.
BK. 6291, PG. 375

176.55' N42°48'W
500'±16'E
211.15'

51.20' N42°20'W
142.20'±

SOUTHWEST CORNER OF THE SW/4;
SECTION 27, T-19-N, R-14-E

301.70' S 89°55'42" W
690.84' ± 301.70' = 992.54' N 89°55'42" W = 992.54'



LOCATION MAP
23.36 ACRES
102 LOTS

NUMBER (DELTA)	RADIUS	LENGTH
C1	5410'29"	140.00 132.37
C2	06'28'51"	315.00 35.63
C3	5410'29"	110.00 104.01
C4	180'00'00"	50.00 157.08
C5	171'20'00"	50.00 149.53
C6	31'34'34"	320.00 176.36
C7	2204'53"	85.00 32.76
C8	2221'58"	115.00 44.89
C9	1804'10"	115.00 36.27
C10	105'00'49"	85.00 155.79
C11	28'50'51"	85.00 42.80
C12	39'01'58"	85.00 57.91
C13	24'44'25"	85.00 36.70
C14	11'03'34"	115.00 22.20
C15	10'02'59"	115.00 20.17
C16	53'23'10"	25.00 23.29
C17	53'23'10"	25.00 23.29
C18	101'03'34"	25.00 44.10
C19	75'18'34"	25.00 32.86
C20	90'02'21"	25.00 39.29
C21	90'02'21"	25.00 39.29
C22	13'44'17"	380.00 91.11
C23	82'58'25"	25.00 36.20
C24	90'00'00"	25.00 39.27
C25	06'34'23"	320.00 36.71
C26	90'00'00"	25.00 39.27
C27	89'28'51"	25.00 42.10
C28	90'00'00"	25.00 39.27
C29	90'00'00"	25.00 39.27
C30	89'57'39"	25.00 39.26
C31	81'18'41"	125.00 177.39
C32	22'01'06"	95.00 36.81
C33	106'11'16"	35.00 64.87
C34	233'13'26"	42.00 170.98
C35	90'02'21"	25.00 39.29
C36	89'57'39"	25.00 39.25

CERTIFICATE

As provided in Title 11, Chapter 13, Section 514 of the Oklahoma Statutes, I hereby certify that as to all real estate taxes involved in this plat, all such taxes have been paid as reflected by the current tax rolls and security as required by said Section 514, has been provided in the amount of \$ 12.00 per trust receipt no. 768 to be certified to 20 00 taxes not as yet certified to me. This certificate is NOT to be construed as payment of 20 00 taxes in full but is given in order that this plat may be filed of record 20 00 taxes could exceed the amount of the security deposit.

Dated July 20 20 00
DENNIS SEAMER
TULSA COUNTY TREASURER
By: Joanna Ray Deputy

APPROVED 5-15-00 by the City Council of the City of Broken Arrow, Oklahoma.
James Ray
Mayor
Attest: City Clerk Joanna Ray 7-20-00

- NOTE:
- Addresses shown on this plat were accurate at the time this plat was filed. Addresses are subject to change and should never be relied on in place of legal descriptions.
 - The basis of bearings is the Oklahoma State Plane Coordinate System.
 - This plat meets the Oklahoma Minimum Standards for the practice of land surveying as adopted by the Oklahoma State Board of Registration for Professional Engineers and Land Surveyors.
 - All Reserve Areas are also Utility Easements.
 - A 10 foot wide sidewalk easement is hereby dedicated adjacent to the street frontage of all lots in Blocks 1, 2 & 3 for the purpose of installing sidewalks to be constructed by the house builder.
 - A sidewalk on Lot 1, Block 5 to be constructed by the house builder.

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
MAGNOLIA GARDENS AT BATTLE CREEK

KNOW ALL MEN BY THESE PRESENTS:

Battle Creek Group, L.L.C., an Oklahoma Limited Liability Company, hereinafter referred to as "Owner/Developer", is the Owner of the following described land in the City of Broken Arrow, County of Tulsa, State of Oklahoma, to-wit:

Part of the SW/4 of Section 27, T-19-N, R-14-E, Tulsa County, Oklahoma, more particularly described as follows:

Commencing at the Southwest Corner of the SW/4 of said Section 27; thence N89°55'42"E along the South line of said Section 27, 690.84 feet; thence N00°04'18"W - 549.52 feet; thence along a curve to the right, having a central angle of 54°10'29" and a radius of 235.00 feet for 222.20 feet; thence N54°06'11"E - 382.44 feet; thence along a curve to the right, having a central angle of 06°33'55" and a radius of 380.00 feet for 43.54 feet; thence N60°35'15"E - 66.49 feet; thence N54°06'11"E - 108.96 feet; thence N23°57'45"E - 208.54 feet; thence S58°28'46"E - 167.92 feet; thence S30°46'30"W - 60.00 feet; thence S27°29'38"E - 70.00 feet; thence S54°09'23"E - 750.00 feet; thence S27°45'52"E - 259.39 feet; thence S11°27'19"W - 56.44 feet; thence N82°57'53"W - 300.39 feet; thence S74°54'53"W - 969.55 feet; thence S00°05'57"W - 133.60 feet to a point on the South line of said Section 27; thence S89°55'42"W along the South line of said Section 27 301.70 feet to the Point of Beginning, containing 1017728 square feet or 23.36 acres more or less.

and has caused the same to be surveyed, staked and platted into blocks, lots and streets and has designated the same as MAGNOLIA GARDENS AT BATTLE CREEK, a subdivision in the City of Broken Arrow, Tulsa County, Oklahoma.

ARTICLE I. DECLARATION

1.1 Declaration. Developer hereby declares that the Property hereinafter defined shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, uses and obligations, all of which are declared and agreed to be for the protection of the value of the Property and for the benefit of persons acquiring interests therein, shall be deemed to run with the land and shall be a benefit and a burden to any persons acquiring an interest in the Property, their grantees, successors, heirs, legal representatives and assigns.

ARTICLE II. PURPOSE AND PROPERTY AFFECTED

2.1 General Purpose. This Declaration is established to provide that the Property shall be developed and maintained as a single-family residential area of the highest possible quality, value, desirability and attractiveness.

2.2 Property Affected. The Property referred to herein which is hereby made subject to the provisions of this Declaration is described above.

ARTICLE III. DEFINITIONS

3.1 Architectural Control Committee. "Architectural Control Committee" shall mean the Architectural Control Committee appointed as provided in Article VIII of this Declaration.

3.2 Association. "Association" shall mean the Magnolia Gardens Property Owners' Association, an Oklahoma non-profit corporation.

3.3 Board. "Board" shall mean the Board of Directors of the Association.

3.4 Change in the Existing State of Property. "Change in the Existing State of Property" shall mean and include, without limitation: (a) any change or alteration of the construction, installation, alteration or expansion of any temporary or permanent building, structure or other improvement, including but not limited to utility facilities, fencing or recreational equipment; (b) the destruction by voluntary action or the abandonment of any building, structure or other improvement; (c) the excavation, filling or similar disturbance of the surface of the land; (d) the landscaping or planting of trees, shrubs, lawns or plants, including but not limited to vegetable or flower gardens in excess of 200 square feet in area, or the clearing (other than removal of dead trees or shrubs), mowing, defacing or damaging of trees or shrubs; (e) any change or alteration, including without limitation any change of color (other than those colors approved from time to time by the applicable standards of the Architectural Control Committee), texture, or exterior appearance, of any previously approved Change in the Existing State of Property; and (f) any change or alteration of the color (other than those colors approved from time to time by the applicable standards of the Architectural Control Committee) of awnings, shutters or similar exterior items visible from another Lot or Lots, Common Areas or the private streets, gates, gate house and landscape areas.

3.5 Common Areas. "Common Areas" shall mean all real property in which the Association now or hereafter owns an interest for the common use and enjoyment of its members, as described in Article XI hereof.

3.6 Compliance Expenditures. "Compliance Expenditures" shall mean all costs and expenses, including but not limited to reasonable attorneys' fees, incurred by the Association (or Declarant prior to its transfer of the performance and enforcement of the responsibilities under this Declaration to the Association) in order to cause compliance by any Owner with the provisions hereof or any standards of the Architectural Control Committee in effect.

3.7 Declarant. "Declarant" shall mean the Developer and its successors and assigns. No party shall be deemed a successor or assign of Declarant unless such party is specifically designated as a successor or assign of Declarant under this Declaration by a written Designation of Successor Assign executed by Declarant. The Association hereafter provided for may become a successor or assign of Declarant.

3.8 Declaration. "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions of MAGNOLIA GARDENS at Battle Creek.

3.9 Lot. "Lot" shall mean any parcel of the Property shown on the Plat and identified therein as a lot or site, excluding that portion, if any, of such Lot which is shown on the Plat as being a portion of the Common Areas or street as shown on the plat.

3.10 Member. A "Member" shall mean any person or entity holding membership in the Association.

3.11 Owner. "Owner" shall mean the party or parties who own fee simple title to a Lot or own that estate or interest with respect to a Lot which is most nearly equivalent to fee simple title.

3.12 Plat. "Plat" shall mean the Plat of MAGNOLIA GARDENS at Battle Creek, Broken Arrow, Tulsa County, Oklahoma, recorded in the office of the Tulsa County Register of Deeds, as it may be modified or supplemented from time to time.

3.13 Property. "Property" shall mean the real property referred to in Section 2.2 above.

ARTICLE IV. RESTRICTIONS ON USE OF THE PROPERTY

4.1 Limitation on Improvements. No Lot shall be improved except with a residential structure designed to accommodate no more than a single-family, its servants and occasional guests, plus other improvements and structures as are necessary or customarily incident to a single-family residence, all as approved by the Architectural Control Committee. No permanent outdoor recreational improvements, facilities or equipment shall be permitted except with the specific written consent of the Architectural Control Committee, which consent shall not be granted unless the Architectural Control Committee determines that such improvements, facilities or equipment will not be unduly apparent from other Lots or constitute an infringement of the use and occupancy of other Lots.

4.2 Excavations. No excavation shall be made except in connection with (a) improvements approved as herein provided, and (b) Declarant's development of the Property. Upon completion of such construction, exposed openings shall be backfilled and disturbed ground shall be graded and landscaped.

4.3 Drainage. No Owner shall do any work, construct any improvement, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Lots or Common Areas as established in connection with the approval of the final plat maps applicable to the Property, except to the extent such alteration in drainage pattern is approved in writing by the Architectural Control Committee, the Board, any public authorities having jurisdiction and the owner of the Battle Creek Golf Course if the drainage affects the Battle Creek Golf Course or is utilized by it in any way.

4.4 Maintenance of Landscaping. The Home Owners Association shall maintain the landscaping upon his or her Lot or Lots in good condition. Each Owner shall diligently maintain, cultivate, husband, protect and preserve the shrubs, trees and lawn upon the Lot of the Owner, including, but without limitation: removal of dead branches, dead trees and brush, lawn mowing and performance of other tasks calculated to remove or eliminate material which constitutes or creates a fire hazard or unsightly appearance.

4.5 Antennas; Trailers and Campers. No facilities, including poles and wires, for the transmission or generation of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any Lot, and no external or outside antennas of any kind shall be allowed. Satellite dishes shall be no larger than twenty-four inches (24") in diameter and shall be screened from view of the street, neighboring lots and golf courses. Any installation of a satellite dish shall require the approval of the Architectural Review Committee. No activity shall be conducted on any Lot which interferes with television or radio reception on any other Lot. No boats, boat trailers, house trailers, campers, motor homes, panel trucks, camper trailers, recreational vehicles or similar items shall be stored or parked in the open on any Lots, streets or the Common Areas.

4.6 Trees. With the exception of trees within the perimeter of proposed improvements on any Lot or Common Areas (which improvements are approved by the Architectural Control Committee pursuant to this Declaration) or within ten feet (10') of such improvements, or trees referred to in Section 4.16 hereof, no tree having a diameter of three inches (3") or more (measured from a point two feet (2') above ground level) shall be removed from any Lot without the express written authorization of the Architectural Control Committee. The Architectural Control Committee, in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife upon the Property. Except as to the trees within the perimeter of proposed improvements or within ten feet (10') thereof as mentioned above, the Architectural Control Committee may designate certain trees, regardless of size, as not removable without written authorization. In carrying out the provisions of this Section 4.9, the Architectural Control Committee and its agents may come upon any Lot during reasonable hours for the purpose of inspecting or marking trees or in relation to the enforcement and administration of any rules and regulations adopted and promulgated pursuant to the provisions hereof. Neither the Architectural Control Committee nor its agents shall be deemed to have committed a trespass or wrongful act by reason of any such entry or inspection.

4.7 Animals. No birds, reptiles, animals or insects shall be kept or maintained on any Lot except for domestic purposes. Under no circumstances shall any commercial or agricultural business enterprise involving the use of animals be conducted on the Property without the express written consent of the Association. The Association may, from time to time, publish and impose reasonable regulations setting forth the type and number of animals that may be kept on any Lot. Dogs and other animals shall be kept confined at all times to the residence site and must be kept on a leash when outside the residence site and on the Common Areas. Dogs and other animals shall not be allowed to trespass on the Battle Creek Golf Course property whether on leash or not. Owners shall control emitted noises (e.g., barking howling, etc.) at all times to provide quiet enjoyment for all owners. All pets will be kept inside after dark. There shall be no dog pens on any lot.

4.8 Mobile Homes and Prefabricated Buildings. No building, trailer, mobile homes, prefabricated house (other than elements of houses which are prefabricated and approved by the Architectural Control Committee), garage, tent, outbuilding or building in the course of construction shall be used temporarily or permanently as a residence on any Lot.

4.9 No Storage. Trash. No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any Lot or on the Common Areas, except that building materials may be stored on a Lot during the course of construction of any approved structure. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open on any day that a pickup is to be made, at such place on the Lot so as to provide access to persons making such pickup. At all other times, such containers shall be stored in such a manner so that they cannot be seen from adjacent and surrounding property. The Architectural Control Committee, in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same.

4.10 Sight Lines. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet (2'-6") above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at a point twenty-five feet (25') from the intersection of the street lines (or in the case of a rounded property corner, from the intersection of the street lines extended past the corner), unless written approval of the Architectural Control Committee is obtained. The same sight line restrictions shall apply to any Lot within ten feet (10') from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained to a sufficient height to avoid obstruction of such sight lines.

4.11 Garages. Each dwelling unit shall have an enclosed garage for at least two automobiles and garage doors which face on a street shall be kept closed at all times except for purposes of entry, exit or maintenance. Garage doors shall be wood, no steel doors allowed.

4.12 Noxious, Dangerous and Offensive Activities Prohibited. No noxious, dangerous, offensive activity or loud music shall be carried on or permitted, nor shall anything be done which may become an annoyance or nuisance to the neighborhood.

Only one garage sale per year shall be permitted for all homes in Magnolia Gardens. Garage sales shall be conducted only on Saturdays from 7AM to 5 PM.

4.13 Maintenance of Drainage Channels and Swales. Each Owner shall maintain, mow and keep in good repair any condition any drainage channels and swales located on any Lot owned by such Owner, in accordance with the meter drainage plan in effect from time to time.

4.14 Model Homes and Real Estate Offices. All else herein notwithstanding, any Lot owned by Declarant or persons so authorized by Declarant may be used for a model home or real estate office until residences have been constructed on all Lots.

4.15 Occupancy of Residential Structures. No residential structures on any Lot shall be used or occupied by more than a single family, its servants and occasional guests.

4.16 Laundry and Machinery. No clothing or any other household fabric shall be hung in the open on any Lot and no clotheslines or similar devices shall be allowed. No machinery shall be placed or operated upon any Lot, except such machinery as is usual in the maintenance of a private residence, yard or garden. All outside hot tubs/spas shall be masonry enclosed.

4.17 Interior Fences or Walls. Interior fences situated along the sides and rear lot lines shall comply with the following:

(A) No such fence shall exceed four feet (4') in height. No fence shall be erected or maintained nearer to the streets within the subdivision than the building setback lines depicted on the plat, except for decorative fences set forth in paragraph (C) immediately below. Except as set forth in paragraphs (B), (C) and (D) immediately below, all four foot fences occurring on the Lot or property lines will be constructed of four foot (4') green chain link with treated wood post and double rails.

(B) Interior fences on all lots in Block 4 shall be four (4) feet wrought iron

(C) Decorative fences or walls shall be permitted on that portion of any Lot in front of the building setback line. "Decorative fencing or walls" shall not exceed three feet (3') in height and shall be of the same decor, materials, (i.e., wrought iron, etc.) and styling as used in the architecture and construction of the dwelling situated on the Lot.

(D) Notwithstanding the foregoing or anything contained herein to the contrary, perimeter fencing shall be required along and parallel to the common boundary of all Lots within this subdivision and that certain land owned and operated by the Broken Arrow Public Golf Authority as the "Battle Creek Golf Course" shall perimeter fencing shall meet the following specifications:

(1) Perimeter fencing shall be required upon all Lots sharing a common boundary with the land owned and operated by the Broken Arrow Public Golf Authority as the "Battle Creek Golf Course", which perimeter fencing shall be constructed along and parallel to said common boundary.

(2) Said perimeter fencing shall be four feet (4') in height.

(3) Said perimeter fencing shall be limited to galvanized chain link construction, and theencing materials shall be limited to hot-dipped galvanized, residential grade fencing material, which shall be green in color. Post and top and bottom rails shall be 6" diameter wood. Perimeter fencing shall be uniform in height, design and material, and no gates or other openings shall be permitted in the perimeter fencing.

(4) Fencing shall be installed and accepted by the City of Broken Arrow prior to receiving an occupancy permit.

(E) Screening fencing not to exceed 6 feet in height can be constructed inside of the above fencing provided no fence shall be closer than the edge of the house from the side lot line and no nearer than thirty (30) feet from the rear lot line.

(F) No fence or wall shall be erected on any Lot until the plans, specifications and design thereof have been approved by the Architectural Control Committee as provided in Article VII, and the Architectural Control Committee may waive in a particular instance the requirements or limitations set forth in paragraphs (A), (B) and (C) of this Section.

4.18 Outside Burning. There shall be no exterior fires, except barbeque, outside fireplaces, braziers and incinerator fires contained within facilities or receptacles and in approved areas designated for such purposes. No Owner shall permit any condition on his or her Lot which creates a fire hazard or is in violation of fire prevention regulations.

4.19 Noise. No exterior horns, whistles, bells or other sound devices which may annoy neighboring Owners, except doorbells and security devices, shall be placed or used on any Lot, Common Area or improvement thereon.

4.20 No Obstruction. There shall be no obstruction of the pedestrian walkways located upon any Lot for purposes of circulation of foot traffic or any interference with free use thereof, except such obstruction as may be reasonably required in connection with repairs of such walkways.

4.21 No Business or Commercial Activity. No Lot shall be used at any time for business, commercial or professional activity, including home occupations, except that (a) Declarant and those designated by Declarant may use any portion of the Property owned by Declarant or those designated by Declarant in connection with real estate sales efforts, and (b) individuals may conduct limited business activities as approved by the Board, in its sole discretion, from time to time, which business activities shall not result in any significant traffic from customers or business associates.

4.22 Damage or Destruction of Improvements. In the event of complete or partial damage or destruction of any improvements on a Lot for any reason whatsoever, the Owner of such Lot shall promptly proceed to repair and replace such improvements, subject to approval of the Architectural Control Committee, as though such repair or replacement involved construction of an original structure, or shall promptly proceed to raze the improvement and landscape the Lot formerly occupied by such improvement in a manner approved in writing by the Architectural Control Committee.

4.23 Restrictions Not Exclusive. The restrictions contained in this Declaration shall not be taken as permitting any action or thing prohibited by applicable zoning laws or the laws, rules or regulations of any governmental authority or by specific restrictions imposed by any deed or lease. In the event of any conflict, the most restrictive provisions of such laws, rules, regulations, deeds, leases or this Declaration shall be taken to govern and control.

4.24 Solar Panels. No solar panels or similar items may be installed upon any Lot, or upon any improvement on any Lot, without the prior approval of the Architectural Control Committee.

4.25 Basketball Backboards. Basketball backboards and goals shall be installed consistent with good taste and any standards adopted from time to time by the Architectural Control Committee.

4.26 Entrance Treatments; Walls. Declarant hereby reserves the right and easement, in its sole discretion and at its own expense, to construct or install (whether before or after transfer of title to Owners) entrance treatments, landscaping, fences and/or walls, of Declarant's own choice, type and design, at the entry of the development. The Association is hereby granted a perpetual, nonexclusive easement to enter upon any Lot on which there is situated an entrance treatment, landscape, fence or wall installed or erected by Declarant and to maintain, improve, repair and/or replace the same. (See Landscape easements as shown on the Plat).

4.27 Setback Regulations. All buildings, structures or other improvements to be constructed or maintained on a Lot, except landscaping and necessary crossings by access drives and underground utility lines, shall be set back from the boundaries of the Lot as prescribed below or the ordinances of the City of Broken Arrow, whichever is more restrictive:

Side yard - 5 feet
Side yard abutting public/private street - 20 feet/25 feet (private)
Rear yard - 20 feet

provided, however, but nothing contained in this provision shall be deemed to permit the installation or operation of any lighting equipment in such areas. Additionally, in order to enhance the appearance of the residential development on the Property, Declarant has established recommended set back requirements for such buildings, structures or other improvements which may be more restrictive than those required by either the Plat or applicable ordinances. Variance from the setback requirements recommended by Declarant must be obtained from the Architectural Control Committee prior to initiating construction of any such buildings, structures or improvements and from the City of Broken Arrow.

4.28 Public Streets and General Utility Easements. The Owner does hereby dedicate for the public use, West Omaha Street and North Oak Avenue, as designated on the accompanying plat, and does further dedicate for the public use the utility easements as designated on the accompanying plat, and does dedicate the private streets and Reserve Areas designated on the accompanying plat as utility easements for the several purposes of constructing, maintaining, operating, repairing, and/or removing any and all public utilities including storm sewers, sanitary sewers, telephone and communication lines, electric power lines and transformers, gas lines, water lines, and cable television lines, together with all fittings, including the poles, wires, conduits, pipes, valves, meters and equipment for each of such facilities and any other appurtenances thereto with the rights of ingress and egress to and upon said utility easements and right-of-ways for the uses and purposes aforesaid; PROVIDED, HOWEVER, that the Owner hereby reserves the right to construct, maintain, operate, lay and relay water lines and sewer lines, together with the right of ingress and egress for such construction, maintenance, operation, laying and relaying over, across and along the public street and utility easement, shown in said plat for the purpose of furnishing water and/or sewer services to the area included in said plat.

No building, structure, or other above or below ground obstruction that will interfere with the purposes aforesaid, will be placed, erected, installed or permitted upon the easements or rights-of-way as shown.

The owner shall be responsible for the repair and replacement of any landscaping and paving located within the utility easement in the event it is necessary to repair any underground water or sewer mains, electric, natural gas, communications or telephone service.

4.29 Private Streets. (Private Street Reserve) The streets, except West Omaha Street and North Oak Avenue, as shown on the accompanying plat are herein designated as private streets for the common use and benefit of the owners of lots within the Subdivision, their guests and invites, for the purpose of providing access to and from the various lots and for providing street paving, parking, entrance security facilities, security gates, lighting, sidewalks, decorative fencing, landscaping, trees, shrubs, ground cover, grass, decorative rock, boulders, pebbles, sand and patterned paving, and are reserved by the Declarant for subsequent conveyance to the property owners' association to be formed as provided in Article IX below for the purpose of the administration and maintenance of the above items and other facilities in the private street reserve and other common areas of the Subdivision subject to the grants contained in the next succeeding paragraph.

The Declarant hereby grants to the City of Broken Arrow, the United States Postal Service and to any public utility providing a utility service to the Subdivision, the right to enter and traverse the private streets and to operate thereon all service, emergency and government vehicles including, but not limited to, police and fire vehicles, code enforcement, waste disposal and equipment, and does further grant to the City of Broken Arrow and to any public utility providing a utility service to the Subdivision the right to make various underground utility crossings of the Reserve Areas as reasonably necessary to provide service, and upon the installation of any such utility line, cable or facility, such grantee shall be deemed to have a definitive perpetual easement covering a strip ten (10) feet in width extending five (5) feet on each side of the utility line, cable or facility.

The City of Broken Arrow shall have no duty, or any obligation to maintain any private street or other facilities in the private street reserve or have any obligation to accept any subsequent tender of dedication of any such private street.

4.30 Electric, Gas and Communication Service

(A) Street light poles or standards shall be served by underground cable and elsewhere throughout MAGNOLIA GARDENS at Battle Creek all supply lines shall be located underground in the easement-ways reserved for general utility services shown on the attached plat. Service pedestals and transformers, as sources of supply at secondary voltages and communication pedestals, may also be located in said easement-ways.

(B) Underground service cables and gas lines to all houses which may be located on all Lots in MAGNOLIA GARDENS at Battle Creek may be run from the nearest service pedestal, transformer or gas main to the point of usage determined by the location and construction of such house as may be located upon each said Lot; provided that upon the installation of such a service cable or gas line to a particular house, the supplier of electric, communication or gas service shall thereafter be deemed to have a definitive, permanent and effective right-of-way easement on said Lot, covering a five foot (5') strip, extending two and one-half feet (2.5') on each side of such service cable or gas line, extending from the service pedestal, transformer or gas main to the service entrance on said house.

(C) The supplier of electric, communication or gas service, through their proper agents and employees shall at all times have right of access to all such easement-ways shown on said plat, or provided for in this Declaration for the purpose of installing, maintaining, removing or replacing any portion of said underground electric, communication or gas facilities so installed by them.

(D) The Owner of each Lot shall be responsible for the protection of the underground electric, communication or gas facilities located on his property and shall prevent the alteration of grade or any construction activity which may interfere with said electric, communication or gas facilities. The companies will be responsible for ordinary maintenance of underground electric, communication or gas facilities, but the Owner will pay for damage or relocation of such facilities caused or necessitated by acts of the Owner of his agents or contractors.

(E) The foregoing covenants concerning underground electric, communication and gas facilities shall be enforceable by the supplier of electric, communication and gas service, and the Owner of each Lot agrees to be bound hereby.

4.31 Water and Sewer Service

(A) The Owner of each Lot shall be responsible for the protection of the public water and sewer mains located on or in his Lot.

(B) Within the depicted utility easement areas, if the ground elevations are altered from the contours existing upon the completion of the installation of a public water or sewer main, all ground level apertures, to include: valve boxes, fire hydrants and manholes will be adjusted to the new grade by the owner or at the owner's expense.

(C) The City of Broken Arrow or its successors will be responsible for ordinary maintenance of public water and sewer mains, but the Owner will pay for damage or relocation of such facilities caused or necessitated by acts of the Owner, his agents or contractors.

(D) The City of Broken Arrow or its successors, through its proper agents and employees, shall at all times have right of access with their equipment to all such easement-ways shown on said plat, or provided for in this Declaration for the purpose of installing, maintaining, removing or replacing any portion of said underground water or sewer facilities.

(E) The Owner of the Lot shall be responsible for the repair of damage to landscaping and paving occasioned by necessary maintenance or repair of the public water or sewer facilities within the easement areas; provided, however, the City of Broken Arrow shall use reasonable care in the performance of such activities.

(F) The foregoing covenants set forth in this paragraph (B) shall be enforceable by the City of Broken Arrow or its successors, and the Owner of each lot agrees to be bound hereby.

4.32 Limits of No Access. The undersigned Declarant hereby relinquishes right of vehicular ingress or egress from any portion of the property adjacent to East Omaha Street (East 51st Street South) within the bounds designed as "Limits of No Access" (L.N.A.) as shown on the attached plat, which "Limits of No Access" may be modified, amended, or released by the concurring approval of the Department of Public Works and the Broken Arrow Planning Commission, or its successor, or as otherwise provided by the Statutes and Laws of the State of Oklahoma pertaining thereto.

The foregoing covenant concerning Limits of No Access shall be enforceable by the City of Broken Arrow, and the Owner of each Lot agrees to be bound hereby.

4.33 Landscaping Easement. Areas designated on the Plat as "Landscaping Easement" are hereby designated by the Owner as perpetual easements for the benefit of Homeowners' Association, Inc. for the purpose of providing a landscaped green area and sprinkler system, proper visual screening of the Addition from surrounding areas and for the construction and maintenance of any screening fence or wall.

4.34 Sidewalk Easements. Areas designated on the Plat as "Sidewalk Easements" are hereby designated by the Owner as perpetual easements for the benefit of the Association for the purpose of the installation of sidewalks by the house builders and for the utilization of the same by the home owners of Magnolia Gardens at Battle Creek, their guest and invites.

ARTICLE V. PLANNED UNIT DEVELOPMENT RESTRICTIONS

WHEREAS, MAGNOLIA GARDENS at Battle Creek was submitted as a Planned Unit Development (Designated as PUD No. 94 Battle Creek) as provided in the revised ordinances of the City of Broken Arrow, Oklahoma (Broken Arrow Zoning Code), as the same existed on July 10, 1989, which PUD No. 94 was approved by the City of Broken Arrow Planning Commission on September 28, 1995, and by the City Council of the City of Broken Arrow, Oklahoma on November 16, 1995, and

WHEREAS, the Planned Unit Development provisions of the City of Broken Arrow Zoning Code require the establishment of covenants of record, inuring to and enforceable by the City of Broken Arrow, Oklahoma, sufficient to assure the implementation and continued compliance with the approved planned unit development; and

WHEREAS, the Declarant desires to establish restrictions for the purpose of providing for an orderly development and to insure adequate restrictions for the mutual benefit of the Declarant, its successors and assigns, and the City of Broken Arrow, Oklahoma;

THEREFORE, the Declarant does hereby impose the following restrictions and covenants which shall be covenants running with the land and shall be binding upon the Declarant, its successors and assigns, and shall be enforceable as hereinafter set forth.

5.1 Use of Land

(A) The development of Magnolia Gardens at Battle Creek shall be subject to the planned unit development provisions of the City of Broken Arrow Zoning Code, as the same existed on July 10, 1989, or as subsequently amended.

(B) All lots shall be known and described as residential lots and shall be limited to use for detached single-family residences and customary accessory uses.

(C) The number of dwellings within the subdivision shall not exceed one hundred one (101).

(D) RESERVE AREAS:

Reserve "A" and Overland Drainage Easement - For the common use and benefit of the City of Broken Arrow, the "Overland Drainage Easement and Reserve "A" shown on the accompanying plat is established for the purpose of permitting the flow, conveyance and discharge of storm water runoff from various lots within the subdivision and for properties outside the subdivision. No fence, building or other obstructions may be placed or maintained in the "Overland Drainage Easement and Reserve Area "A" nor shall there be any alteration of grades or contours in such area unless approved by the City of Broken Arrow. The ownership and maintenance of this area, which consist mainly of keeping the area free of obstruction, debris and mowing, shall be by the Property Owners Association.

Reserve "B" - For the Benefit of the Broken Arrow Public Golf Authority, an Oklahoma Public Trust ("BAPGA") the owner herein dedicates to "BAPGA" those areas designated on the accompanying plat of said Addition as "Reserve Area "B" for the purpose of permitting the unobstructed travel of golf carts, golfers, mowers, and other equipment machinery and personnel associated with the playing of golf and the maintenance, repair, etc. associated with the adjacent golf course. No fencing or other obstructions can be constructed to interfere with those users. The maintenance of this area is the responsibility of the "BAPGA" and/or Battle Creek Golf Course. Reserve Area "B" shall continue for as long as "BAPGA" owns and operates a public golf course facility on the adjacent land. The Owner reserves the right to place, maintain, and replace underground facilities within the Reserve Area to service adjacent lots.

Reserve Areas "C, D, E, F & G" - The Reserve Areas designated above are hereby designated by the Owner as perpetual easements for the benefit of the Magnolia Gardens at Battle Creek Property Owners Association for the purpose of providing a landscaped green area, ponds and streams, sidewalks, proper visual screening of the Addition from surrounding areas and for the construction and maintenance of any screening fence or wall and other landscaping and recreational facilities.

For the common use and benefit of the City of Broken Arrow, the "Overland Drainage Easement in Reserve "C" shown on the accompanying plat is established for the purpose of permitting the flow, conveyance and discharge of storm water runoff from various lots within the subdivision. No fence, building or other obstructions may be placed or maintained in the "Overland Drainage Easement and Reserve Area "C" nor shall there be any alteration of grades or contours in such areas unless approved by the City of Broken Arrow. The ownership and maintenance of these areas shall be by the Property Owners Association.

5.2 Fronting and Access Limitation: Any dwelling erected on any of the Lots herein shall front or present a good frontage on the streets, and for this purpose as applied to inside Lots, it shall mean that the dwelling shall front on the street adjoining, and on any corner lot the dwelling shall front towards the greatest building setback line and shall present a good frontage on both streets adjoining.

5.3 Building Height: The maximum height of the front of the structure shall be thirty-five feet (35').

5.4 Minimum Lot Size: No Lot shall be lot-split or resubdivided into any Lot having an area of less than 5000 square feet; provided, however, that a Lot may be divided into a parcel having less than 5000 if such parcel be held in common ownership with an adjoining parcel and the resulting area of the two parcels is not less than 5000 square feet, with the City of Broken Arrow Planning Commission approval.

ARTICLE VI. PRIVATE BUILDING AND USE RESTRICTIONS

WHEREAS, the Declarant desires to establish restrictions for the purpose of providing for an orderly development and to insure adequate restrictions for the mutual benefit of the Declarant, its successors and assigns.

THEREFORE, the Declarant does hereby impose the following restrictions and covenants which shall be covenants running with the land, and shall be binding upon the Declarant, its successors and assigns: