

**Tulsa Metropolitan Area
Planning Commission**



Case Magnolia Ridge III Staff Report

Hearing Date: November 6, 2024

Prepared by: Jay Hoyt
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Owner and Applicant Information

Applicant: Braden Kellogg

Property Owner: K & S Development

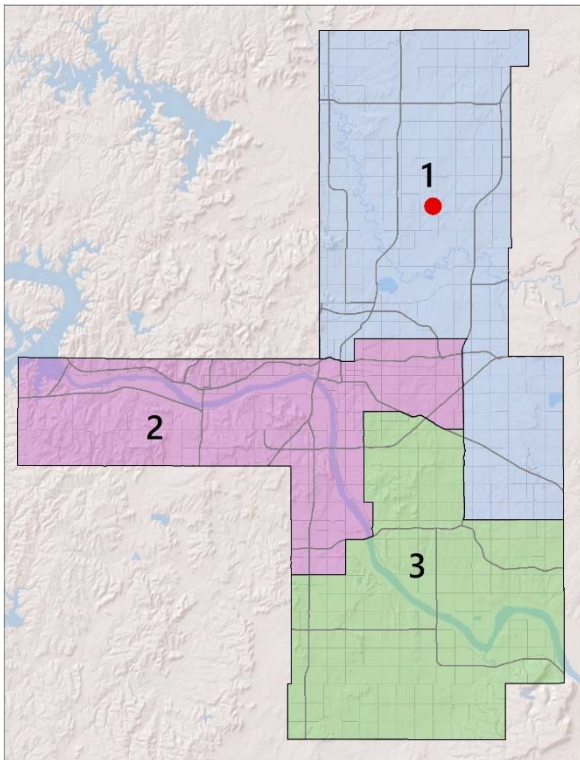
Property Location

North and West of the intersection of East 86th Street
North and North Memorial Drive

Tract Size: ±40.12 acres

Location within Tulsa County

(shown with County Commission districts)



Elected Representatives

County Commission: District 1, Stan Sallee

Staff Recommendation

Staff recommends **approval**.

Request Summary

Amendment to Deed of Dedication.

Amending previously filed deed of dedication to revise the covenants of the subdivision.

Zoning

Residential Single-Family (RS)

Exhibits

Amendment to Deed of Dedication

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
MAGNOLIA RIDGE PHASE III**

THIS DECLARATION, made this _____ day of September, 2024, by K&S DEVELOPMENTS, INC., an Oklahoma corporation hereinafter referred to as “Declarant”.

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in Tulsa County, Oklahoma, which is more particularly described as follows, to-wit:

ALL OF MAGNOLIA RIDGE PHASE III, AN ADDITION TO TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF.

hereinafter referred to as “MAGNOLIA RIDGE PHASE III”; and

WHEREAS, Declarant is presently improving and developing residential lots, together with a “Common Area”, as hereinafter defined, within MAGNOLIA RIDGE PHASE III; and

WHEREAS, Declarant may construct or provide on the “Common Area” a pool, private park area, drainage facilities and landscaped areas for the use and enjoyment of the owners of the lots and dwelling units within MAGNOLIA RIDGE PHASE III; and

WHEREAS, Declarant will convey the lots within MAGNOLIA RIDGE PHASE III subject to certain covenants, conditions, restrictions, reservations, easements, liens, and charges as hereinafter set forth; and

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, mortgaged, sold and conveyed subject to the following covenants, conditions, restrictions, reservations, easements, liens, and charges, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of MAGNOLIA RIDGE PHASE III. These covenants, conditions, restrictions, reservations, easements, liens, and charges shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described property or any part thereof, and shall inure to the benefit of each owner thereof or any part thereof, their heirs, successors and assigns.

**ARTICLE I
DEFINITIONS**

1. “Association” shall mean and refer to Magnolia Ridge Homeowners Association, Inc., an Oklahoma non-profit corporation, its successors and assigns.
2. “MAGNOLIA RIDGE PHASE III” shall mean and refer to that certain real property hereinbefore described.

3. “Common Area” shall mean that portion, including easements, of MAGNOLIA RIDGE PHASE III owned or maintained by the Association for the common use and enjoyment of the Owners, together with all improvements which may at any time hereafter be situated thereon including (without limitation) detention ponds, drainage facilities/dams and related improvements, which Common Area is specifically described as follows:

Reserve Areas as shown on the plat of MAGNOLIA RIDGE
PHASE III, Plat No. 7151

as well as the park area, swimming pool located within MAGNOLIA RIDGE PHASE III for the common use and benefit of all lot owners within any subdivision phase of the Magnolia Ridge Residential development.

4. “Lot” shall mean and refer to a platted lot, block or parcel of land shown upon the recorded plat of MAGNOLIA RIDGE PHASE III with the exception of the Common Area.
5. “Member” shall mean and refer to every person or entity who holds membership in the Association.
6. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot situated within MAGNOLIA RIDGE PHASE III, including contract sellers, but excluding others having such interest merely as security for the performance of an obligation.
7. “Declarant” shall mean and refer to K&S DEVELOPMENTS, INC., an Oklahoma corporation, its successors and assigns.
8. “Secretary” shall mean and refer to the Secretary of the Association.
9. “Board of Directors” shall mean and refer to the Board of Directors of the Association.
10. “Articles” shall mean and refer to the Articles of Incorporation (including any amendments or changes thereto) pursuant to which the Association, as hereinabove defined, is or has been formed.
11. “Bylaws” shall mean and refer to the existing Bylaws of the Association, including any amendments or changes thereto.

ARTICLE II
POWERS OF ASSOCIATION AND MEMBERSHIP

1. **CREATION OF THE ASSOCIATION**: Declarant shall create the Association no later than when 85% of the Lots in the Subdivision have received building permits, and shall be turned over to its Members as provided in Article III.

2. **POWERS OF THE ASSOCIATION:** The Association, in addition to all other rights, powers and duties provided herein and as contained in its Articles of Incorporation, shall have all powers, rights and privileges which a not-for-profit corporation organized under the Laws of the State of Oklahoma by law may now or hereafter have to carry out its corporate purposes.
3. **MEMBERSHIP:** Any Owner of a Lot in MAGNOLIA RIDGE PHASE III, an Addition to Tulsa County, State of Oklahoma, shall automatically become a Member of the Association. The membership of the Association shall be limited to the record Owner, whether one or more persons or entities, of a fee simple title to a Lot situated within MAGNOLIA RIDGE PHASE III and in any additional property as may be annexed to or merged into the jurisdiction of the Association or allowed to join according to procedures set forth in the Articles or Bylaws. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation, other than contract sellers. Membership shall be appurtenant to and may not be separated from ownership of any Lot situated within MAGNOLIA RIDGE PHASE III. Ownership of a Lot shall be the sole qualification for membership with respect to those property owners in MAGNOLIA RIDGE PHASE III.

ARTICLE III **VOTING RIGHTS**

1. **VOTING CLASSES.** The Association shall have two classes of voting membership:

Class A: Class A Members shall be all those persons or entities entitled to membership as defined in Article II with the exception of Declarant. After the Turnover Date described below, Class A Members who own a Lot shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Article II; provided, however, when two or more persons or entities hold such interest or interests in any Lot, although all of such persons or entities shall be Members of the Association, the vote for such Lot shall be exercised as they, among themselves, may determine, but in no event shall more than one (1) vote per Lot be cast with respect to any one Lot.

Class B: The Class B Members shall be the Declarant and its assignee builder of the residential structure thereon who does not occupy such structure as his principal residence. The Class B Members shall be entitled to five hundred (500) votes each; provided, that the Class B membership of a particular Class B Member shall cease and be converted to Class A membership on the earlier to occur of:

- (a) the date all Lots in each subdivision of Magnolia Ridge Residential Development (as opposed to just those Lots in the Subdivision) so platted have been sold by such Class B Member; or
- (b) December 31, 2040; or

- (c) such date as Declarant (in its sole discretion) executes and records with the County Clerk of Tulsa County, Oklahoma, a notice that Declarant has elected to convert the Class B membership to Class A membership.

- 2. **DECLARANT CONTROL OF ASSOCIATION.** The Declarant, or its designee, shall be in sole and complete legal control of the Association from the inception thereof until such time as the Declarant relinquishes control thereof as set forth herein. The date on which Declarant's rights under this Section 2 shall terminate shall be referred to as the "Turnover Date". The first and all subsequent Boards prior to the Turnover Date shall consist of those persons designated by Declarant. Declarant's rights under this section to designate the members of the Board shall terminate on the first to occur of (a) such time as Declarant no longer holds or controls title to any part of the Property or other lands that have come under the control of the Association as provided for herein, (b) the giving of written notice by Declarant, to the Association's Board, of the Declarant's election to terminate such rights, or (c) December 31, 2040. From and after the Turnover Date, the Board shall be constituted and elected as provided in the Association Bylaws. Prior to the Turnover date all of the voting rights of the Owners shall be vested exclusively in Declarant. The Owners, prior to the Turnover Date, shall have no voting rights. Despite having no voting rights at that point in time, such Owners' Lots shall nevertheless be subject to assessment. The Declarant, upon request, shall supply such Owners with an annual accounting of the manner in which collected assessments have been spent.

ARTICLE IV **PROPERTY RIGHTS**

- 1. **MEMBERS' EASEMENTS OF ENJOYMENT:** Every Member shall have the nonexclusive right and pedestrian access easement to use and enjoy the Common Area and all improvements constructed thereon. Such right and easement shall be appurtenant to and shall pass with the title to every Lot within MAGNOLIA RIDGE PHASE III, subject, however, to the following provisions:
 - (a) The right of the Association to limit the number of guests of Members as well as the volume of noise and any other nuisance which interferes with the peaceful enjoyment of MAGNOLIA RIDGE PHASE III;
 - (b) Subject to the provisions of Article V hereof, the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and improvements constructed thereon and in aid thereof to mortgage said property, but only upon the prior written consent of the Declarant. In the event such property is so mortgaged, the rights of the Members of the Association hereunder to use and enjoy such Common Area shall be subject and subordinate to the rights of the mortgagee therein.
 - (c) Upon the conversion of all Class B Membership into Class A Membership, the right of the Association to dedicate or transfer all or any part of the

Common Area to any governmental body, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. Such dedication and transfer shall be effective only upon the recording of an instrument signed by Members entitled to cast one-half (1/2) of the votes of the Class A membership in which such Members evidence their agreement to such dedication and transfer, or upon the affirmative, majority vote of the Board of Directors but only after said Board receives written consent from the Declarant;

- (d) The right of the Association to suspend the voting rights and suspend or terminate the right to use and easement of the Common Area of a Member:
 - (i) with respect to voting rights, for any period during which any assessment against his Lot remains unpaid; provided, however, the Association shall give written notice to the deficient Member, or
 - (ii) with respect to use and easement of the Common Area, for any period during which any assessment against his or her Lot remains unpaid or for any infraction of the published rules and regulations of the Association relating to such use.
- (e) The right of the Association to prescribe rules and regulations for the use, enjoyment and maintenance of the Common Area.

- 2. **DELEGATION OF USE OF COMMON AREA:** Any Member may delegate, in accordance with the Bylaws of the Association, his right to use, but not ownership of his easement right to, the Common Area and facilities and improvements situated thereon, to his or her family members and guests, and to tenants who reside in MAGNOLIA RIDGE PHASE III.
- 3. **TITLE TO THE COMMON AREA:** The Declarant herein reserves the right and easement to enter upon the Common Area and construct, repair and maintain improvements therein. Maintenance of the Common Area shall be borne by the Association; provided, however, in the event the Association fails or refuses to maintain the Common Area, the Declarant shall have the right, but not the obligation, to maintain the Common Area in a reasonable manner and the Association shall reimburse the Declarant for such expenses upon demand. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the Association, subject only to any easements and restrictions of record, either prior to or upon the conversion, in the Declarant's sole discretion, of its Class B membership to Class A membership pursuant to the provisions of Article III. Conveyance of the Common Area to the Association shall not be refused by the Association.
- 4. **DAMAGE TO COMMON AREA:** If, due to the act or omission of any Owner, his family, tenants, contract purchasers, guests, licensees or other invitees, the Common Area is damaged (normal wear and tear excepted) and maintenance, repair or replacement shall

be required thereby, then such Owner shall pay for the full cost of such maintenance, repair and replacement as shall be determined by the Association.

ARTICLE V
COVENANT FOR MAINTENANCE ASSESSMENTS

2. **CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS:** As more fully provided for in the Declaration, each Member shall be obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made; provided, however, no assessment (special or annual) shall be assessed against or attach to any Lot owned by Declarant or any builder of the residential structure thereon who does not occupy such structure as his principal residence within MAGNOLIA RIDGE PHASE III. All other Owners of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association their share of:

- (a) annual assessments or charges provided for herein, and
- (b) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided.

If permitted to become delinquent, an annual or special assessment, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a lien upon the Lot against which each such assessment is made whether a lien is actually filed of record or not. Each such assessment, together with such interest, costs and reasonable attorneys' fees incurred in collection thereof, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment became due.

3. **PURPOSE OF ASSESSMENTS:** The assessments levied by the Association shall be used for the purpose of promoting the recreation, health, and welfare of the residents within Magnolia Ridge Residential Development and promoting the habitability of residential structures and enhancing property values in any subdivision within Magnolia Ridge Residential Development including, but not limited to the improvement and maintenance of the Common Area and improvements thereon, including (without limitation) ad valorem taxes, drainageways and easements, driveways, parking areas, fences and walls, and landscaped areas.

4. **ANNUAL ASSESSMENTS:** The annual assessment on any Lot owned by any Owner of a Lot in MAGNOLIA RIDGE PHASE III (excluding the Declarant and any builder of the residential structure thereon who does not occupy such structures as its principal residence), commencement of which is provided for in Article V, Section 5, for the first year shall in an amount determined by the Board of Directors to be necessary to adequately maintain and support all Common Areas and shall be due and payable as the Board of Directors shall direct in the annual notice of assessment. The annual assessment on Lots owned by Owners (other than the Declarant and any builder of the residential structure which will not be used by such builder as his primary residence) may be increased by the affirmative vote of the Board of Directors of the Association upon thirty (30) days written notice to such Owners prior to the effective date of such increase.

Provided, that any increase in the annual assessment assessed against Lots within MAGNOLIA RIDGE PHASE III greater than 25% from the previous years' annual assessment amount shall require the affirmative vote of a majority of those Owners of Lots in MAGNOLIA RIDGE PHASE III who are in attendance (either in person or by proxy) at a special meeting of the Members, duly called and noticed.

Annual and special assessments shall be established at a uniform rate applying such factors as the Board of Directors shall determine appropriate, such as the operating costs of the Association, maintenance of the Common Areas, cost of living increases, enhancement of property values and other equitable factors. Annual assessments paid by the Owners of Lots in MAGNOLIA RIDGE PHASE III shall be used exclusively for the maintenance and repair of the Common Areas, and for such operating costs of the Association which are related to the operation of the Common Areas and the general operations of the Association.

4. **SPECIAL ASSESSMENT:** In addition to the assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the costs of any construction or reconstruction, repair or replacement of a capital improvement upon the Common Area or entryways, including the necessary fixtures and personal property related thereto and payment for any expenses deemed necessary and appropriate by the Board of Directors; provided that special assessments against Lots in Magnolia Ridge Residential Development shall require the affirmative vote of the Class B Members and one-half (1/2) of the Owners of such Lots who are Class A Members of the Association who are in attendance (in person or by proxy) at a special meeting of the Members of the Association, duly called and noticed; provided, however, the Declarant and any builder of the residential structure thereon who does not occupy such structures as its principal residence who own Lots within Magnolia Ridge Residential Development shall not be subject to any Special Assessment.
5. **DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES:** The annual assessment provided for herein shall commence on date of conveyance of title to that Lot to the Owner of such Lot. Thereafter, the form and means of written notice of the annual assessment shall be established by the Board of Directors. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether annual and/or special assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of those certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.
6. **EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION:** Any assessment which are not paid on or before the due date, as prescribed by the Board of Directors of the Association in writing, shall be delinquent and shall constitute a lien on the Lot against which said assessment is made. If the assessment is not paid on or before the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum. The Association may take action against the Owner delinquent in the payment of assessments owed to the Association. Such action may include, but is not limited to, demand letters; collection

letters from an attorney; actions to enforce a lien filed against the Owner's property; and other actions designated to obtain payment for financial obligation owed by an Owner. In taking these actions, whether one or more, the Association shall be entitled to collect the costs it has incurred in pursuing efforts to obtain payment from a delinquent Owner including, but not limited to, reasonable attorney's fees, whether related to the sending of collection letters, filing of collection lawsuit, or otherwise, court costs, interest and such other expenses as the Association reasonably incurs in pursuing its efforts to collect delinquent assessments from an Owner. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. Notwithstanding any provision herein to the contrary, this paragraph 6 shall not apply to the Declarant.

7. **SUBORDINATION OF THE LIEN TO MORTGAGES.** The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage now or hereafter placed upon any Lot subject to assessment; provided, however, that such subordination shall apply only to the assessments or installments thereof which have become due and payable prior to the sale of such Lot pursuant to a foreclosure of such mortgage or transfer or conveyance in lieu of such foreclosure. Such sale pursuant to such foreclosure or such transfer or conveyance in lieu of such foreclosure shall not relieve such Lot from liability for any assessments or installments thereof thereafter becoming due or from the lien of any such subsequent assessments or installments.
8. **EXEMPT PROPERTY:** The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties or interests therein dedicated to and acceptable by a local governmental body or public authority or conveyed to a public utility; provided, however, in the event of the dedication of an easement to a local governmental body, public authority, or public utility, the underlying servient estate shall not be exempt from assessment; and (b) the Common Area.

ARTICLE VI **USES OF LAND**

1. **LOT USE:** All residential Lots of MAGNOLIA RIDGE PHASE III shall be used for single-family residential purposes subject to the terms, conditions, and provisions permitted by right or special exception in RS-3 Zoning Districts. No residential Lot shall be used for any business, commercial or manufacturing purpose, and no business or building of any kind whatsoever shall be erected or maintained thereon, except single-family residences. Provided, an Owner may utilize a "home office" for business purposes as long as business visitors, guests, and customers do not visit the Owner's Lot, and commercial vehicles do not regularly deliver supplies or materials and such business activities are conducted in a manner which does not interfere with the peaceful use and enjoyment of surrounding Owners. Provided, however, the Declarant may permit a model home or similar sales office to be implemented and maintained (including a temporary parking lot) by a builder for a fixed time period, at the Declarant's sole discretion. No Lot may be subdivided to accommodate two or more separate owners or dwellings. No structure shall be placed, altered, erected or permitted to remain on any Lot, which exceeds two (2) stories in height. No dwelling not meeting a specific building code identified by

the Declarant may be moved onto a Lot. No structure of a temporary character may be used as a residence. No mobile home shall be moved into or be present in MAGNOLIA RIDGE PHASE III, except that the Declarant or its designee(s) may use a mobile home as a temporary sales office.

2. **RESERVE AREA**: “Reserve Area”, as reflected on the recorded plat of MAGNOLIA RIDGE PHASE III, shall be used as Common Area only. The Common Area has been granted by Declarant as a perpetual easement for the purposes of pedestrian access, open area, roadways, park area and related amenities, and for permitting the flow, conveyance, and discharge of storm water runoff from the Lots within MAGNOLIA RIDGE PHASE III and subdivisions within Magnolia Ridge Residential Development. Drainage facilities constructed in said Common Area shall be in accordance with standards prescribed by the County of Tulsa and plans and specifications approved by the City Engineer of the County of Tulsa. Said drainageway area and facilities shall be maintained by the Association in accordance with standards prescribed by the County of Tulsa. In the event the Association should fail to adequately and properly maintain said drainageway area and facilities, the County of Tulsa may enter upon said area, perform said maintenance, and the cost of performing said maintenance shall be assessed in the same manner as special assessments against all Members of the Association. All lot owners within each phase of Magnolia Ridge Residential Development shall have access to the park area, playground equipment, and swimming pool within any common area of each phase of the Magnolia Ridge Residential Development. Access by any lot owner within any phase of the Magnolia Ridge Residential Development to a particular common area of the Magnolia Ridge Residential Development shall be subject not only to membership in the Association, but also to payment of the assessments (including special assessments) described in Article V hereof.
3. **NUISANCE**: No noxious or offensive activity of any kind shall be carried on upon any Lot or the Common Area, nor shall anything be done thereon which may be or may become a nuisance or annoyance to the neighborhood. No exterior speaker, horn, whistle, bell, or other sound device, except security and fire devices used exclusively for security and fire purposes, shall be located, used or placed on a Lot. Activities expressly prohibited on Lots are those which may be offensive by reason of odor, fumes, dust, smoke, noise, vibration, or pollution, or which are hazardous by reason of excessive danger, fire, or explosion.
4. **ANIMALS**: No animals, livestock, or poultry of any kind shall be kept on any Lot except for a total of three (3) household, domestic pets and the suckling young of said animals; provided, however, that no more than two (2) adult dogs shall be maintained on any Lot. Excessive barking by any dog shall, in the sole opinion of the Declarant or the majority of the Board of Directors of the Association, be deemed a nuisance and immediately subject the dog to impound and the Owner thereof to a fine levied by the Association in an amount determined by the Association in accordance with its established rules and regulations (not to exceed \$100.00 per day), and/or to such other actions as the Association may determine appropriate. The amount of such fine, if not paid by its due date, shall become a lien upon the Owner’s Lot and subject to enforcement and foreclosure as set forth in Article V hereof. Animals shall not be kept, bred or maintained for any commercial purposes. Whenever in

the opinion of the Declarant or Board of Directors or authorized committee of the Association, an animal is deemed offensive to surrounding property Owners and/or a nuisance to the public, the Owner of such animal shall remedy such excessive noise or nuisance within forty-eight (48) hours from the date notice (oral or written) is delivered to such Owner by the Declarant or the Association. All animals must be fenced in or kept on a leash. Animal shelters, subject to the rules and regulations of the Association, shall be screened from view from any street unless built in conformity to the requirement for outbuildings herein. No exotic animals shall be permitted on any Lot or the Common Areas; provided, however, domestic pets shall be permitted within the Common Areas subject to the rules and regulations of the Association. Unleashed animals shall not be permitted to roam on the Common Area, any park areas or reserve areas, and at the option of the Declarant or the Association, steps may be taken to control any animals not under the immediate control of their owners, including the right to impound such animals and to charge fees for their return.

5. **MAINTENANCE:** All Lots and improvements thereon, including but not limited to, the residential structure, out building, if any, fences, if any, landscaping and other improvements shall be kept at all times in a neat, attractive, healthful and sanitary condition. All Lots shall be kept free from rubbish, litter and noxious weeds. All structures, landscaping and improvements placed upon any Lot shall be maintained in good condition and repair at all times. Each Lot shall be subject to an easement in favor of Declarant and/or its designees for access to make reasonable grading and repair work, as well as to allow for the free flow of storm water across portions of such Lot; such entry shall be made only at reasonable times and with as little inconvenience as possible to the Owner of the Lot being entered, and with advance notice to such Owner. Such easement shall not permit entry into any residence or garage, and any damage caused to the Lot or adjoining property entered by virtue of use of such easement shall be repaired at the sole expense of the Owner whose property was the object of the repair work. All yard equipment shall be screened from view of neighboring lots, streets, or other property. Maintenance of residential structures and Lots shall also comply with rules and regulations published by the Association, including, but not limited to architectural control requirements; provided, however, the Declarant reserves control over all architectural requirements relating to the construction of all improvements until such time as the Lot or Common Area containing such structure is transferred to an Owner occupant or the Association, respectively. Upon such transfer to an Owner occupant or the Association, as the case may be, no building, residence, fence, wall or other structural or landscaping improvement shall be commenced, erected or maintained upon any of the Lots within MAGNOLIA RIDGE PHASE III, nor shall any exterior addition to or change or alteration therein, or change in the exterior appearance thereof, or major change in landscaping be made, until such matter is approved in writing by the Association's Board of Directors.
6. **WIND GENERATORS; SOLAR COLLECTORS:** No wind generators or solar collectors shall be installed on the Common Area or any other reserve. Further, no wind generators or solar collectors shall be installed on any Lot or residence thereon without the prior written approval of the Declarant or the Association in advance of its installation.
7. **CLOTHES LINES:** The drying of clothes on any Lot in public view is prohibited.

8. **STORAGE**: No outside storage or keeping of building materials, tractors, mowers, equipment, implements or salvage on any Lot shall be permitted; provided, however, building materials may be stored on a Lot for a period of thirty (30) days prior to the start of construction and construction shall be completed within nine (9) months after the pouring of the footing.
9. **WASTE**: No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other wastes. All waste shall be kept in sanitary containers and all equipment for storage or disposal of such material and all Lots shall be kept in a clean, neat and orderly manner which shall be kept on such Lot and stored from public view, until such day as may be designated for collection of such containers or material. All Lots and all easements thereon shall be kept clean, neat and mowed to the street by the Owner of said Lot. All residential waste containers must be removed from the curbside and screened from roadway view within twelve (12) hours after refuse collection vehicles empty the containers.
11. **COMPLIANCE WITH LAWS**: Each Owner shall comply with all laws, statutes, ordinances, rules and regulations of Federal, state or municipal governments or authorities, including the municipal codes of the County of Tulsa, and requirements applicable to use, zoning, occupancy of the Lot and premises and maintenance of improvement thereon.

ARTICLE VII
ARCHITECTURE, SIZE, MATERIALS,
PLANS AND SPECIFICATIONS

1. **PLANS AND SPECIFICATIONS**: A complete set of plans and construction specifications including materials for any structure proposed to be erected must first be submitted to the Declarant and written approval thereof obtained from the Declarant or its agent prior to the commencement of any construction upon each and all of the Lots in MAGNOLIA RIDGE PHASE III. In addition, unless waived by the Declarant in writing, based on hardship, economic considerations or other reasons which will not interfere with the harmony of design or diminish property values in the neighborhood, the following standards shall apply to all dwellings in MAGNOLIA RIDGE PHASE III:
 - (a). **Dwelling Size**. All dwellings shall have a minimum living space of at least 1,050 square feet. Square footage shall be computed for living space, exclusive of porches, patios, and garages.
 - (b). **Masonry**. All dwellings shall have at least twenty-five percent (25%) of the exterior walls (up to the first-floor plate line) thereof comprised of brick, stone or masonry siding; provided, however, that the area of all windows, covered porches and doors located in the exterior walls shall be excluded in the determination of the area of said exterior walls. In particular cases, the Declarant reserves the right to permit Dryvit brand or similar exterior construction material in lieu of brick or stone.

(c). Garages. All dwellings shall have attached garages suitable for accommodating a minimum of two (2) standard size automobiles. All garages shall be accessed by an overhead garage door. Carports shall not be permitted.

(d). Patio Roof. All patio roofs shall be an integral part of the residence such that they are contained within the roofline and shall be constructed with the same design, shingle color and materials as the residence.

(e). Driveways. All driveways into a Lot from any street shall be constructed of concrete and shall not be less than sixteen (16) feet in width.

(f). Mailboxes. All mailboxes shall be of a uniform structure and color and shall be constructed in accordance with a written plan/diagram and specifications to be approved by Declarant prior to construction.

(g). Roof Pitch; Materials. Roof pitch shall be a minimum of 6/12 and roof materials shall be Heritage II or comparable composition shingles of equal or better quality, and shall be of such color scheme approved by the Declarant prior to installation.

(h). Sodding; Landscaping. The front, back and side yards of each lot shall be fully sodded upon the completion of the construction of any residence. Each lot shall have a reasonable landscape package in the front yard upon completion of the construction of any residence.

(i). Heating and Air Conditioning Requirements. All residences in MAGNOLIA RIDGE PHASE III shall be constructed with central heat and air systems. No portable, window or wall-type heating or air conditioning units shall be permitted.

2. **NO WARRANTY AS TO PLANS**: Notwithstanding anything herein to the contrary, the Declarant shall not be liable for any approval, disapproval or failure to approve any plans or specifications hereunder, and its approval of building plans shall not constitute a warranty of or responsibility for building methods, materials, procedures, structural design, grading, drainage, restrictive covenant compliance or code compliance. The approval, disapproval or failure to approve of any building plans shall not be deemed a waiver of any restrictions, unless the Declarant is herein authorized to grant the waiver and the Declarant did, in fact, grant the waiver. It is the responsibility of each Lot Owner, and not the Declarant, to insure that such Owner's grantor and/or builder has caused the subject Lot, and all improvements thereto, to be in full compliance with all relevant codes, covenants and restrictions imposed upon MAGNOLIA RIDGE PHASE III.

3 **SET-BACK LINES AND LOT DIMENSIONS**: No buildings, outbuildings, structures, or parts thereof shall be constructed or maintained on lots nearer to the property lines than the set-back lines provided herein or shown on the accompanying plat. Unless otherwise provided by easement or set-back lines shown on the accompanying plat, the minimum building set-back lines for dwellings or other outbuilding structures shall be:

Front Yard:	25 feet
Side Yards Abutting Street:	5 feet
Side Yards Not Abutting Street:	5 feet
Back yard:	20 feet

The frontage and minimum depth of a Lot shall be as shown on the recorded Plat for MAGNOLIA RIDGE PHASE III. No building, whether principal or accessory, shall encroach upon any easement. A Lot shall comply with the bulk and area requirements of the RS-3 Residential Single-Family District as set forth within the Owasso Zoning Ordinance.

4. **FENCES**: No front yard fence shall be erected on any Lot closer to any street than the front of the main structure without the prior written approval of the Declarant. Except as described below, all fences shall be six (6) feet in height and made of wood privacy fencing. No fences shall be constructed upon walkways or access easements, which would impair or hinder the intended use thereof. A fence must be erected and well-maintained between each house from the side of the house extending to each respective owner's lot line. Said fence should be installed so as to prevent a view into the back yard of a lot from the street fronting the lot. No fences shall be constructed on overland drainage areas or upon walkway or access easements which would impair or hinder the intended use thereof. Furthermore, wood privacy fences shall, if necessary, be trimmed at the bottom of the fence so as to permit storm water to run under the fence to an area with a lower grade of elevation. Interior Fencing or Walls shall not extend beyond that point nearest the street at each end corner of the residence on the Lot. On corner lots, side yard fences shall be installed and well-maintained, so as to prevent a view into the back yard from the street running along the side of the structure. Side yard fences can be no closer to the street than five (5) feet from the property line for that side yard.

(a) The Declarant reserves the right and easement, in its sole discretion, to construct fence of its choosing along the property lines of the Subdivision, which fence shall be maintained by the Association.

(b) In the event a side or rear fence is constructed adjacent to a Reserve Area, the Owners of such Lots shall construct a woodrail with attached black coated chainlink fence along such side and/or rear yard(s) which abuts a Reserve.

(c) The Declarant, in its sole discretion, reserves the right and easement (but in no event shall be obligated) to construct a fence of its choosing within any Reserve shown on the Plat which shall be maintained by the Homeowner's Association.

(d) All other fences shall be a wood privacy except the Declarant may, in its sole discretion, approve in writing the use of an alternative fencing material on a case-by-case basis. No barbed wire, meshed or other metal fencing is allowed in any area of the Subdivision. No fence over six feet (6') tall is permitted unless approved by the Declarant in writing. Fences located on exterior sides of corner Lots facing a street shall not extend beyond seven and one-half (7.5') feet from the exterior sidelines and shall be wood privacy fencing.

(e) All fencing shall be approved by the Declarant in writing prior to its construction; provided, however, upon the transfer of a Lot to an Owner occupant, the construction, repair or replacement of any fence and the materials used therefor upon such Lot shall be approved by the Association in writing prior to such construction, repair or replacement. All fences within MAGNOLIA RIDGE PHASE III shall be neatly maintained by the Owner thereof. The Declarant reserves the right, but shall not be obligated, to enter upon such Lots in order to maintain, repair or stain such fencing in a manner which the Declarant, in its sole discretion, believes to be reasonable and appropriate, and the cost thereof shall be charged back to the Lot Owner as a lien and shall be governed by Article V hereof.

5. **OUTBUILDINGS**: No portable storage or other out-buildings are allowed within the Subdivision.
6. **ANTENNAE**: No television, radio, or other antennae or reception devices, other than an eighteen (18) inch or smaller television satellite dish, shall be constructed or maintained on any Lot without the written approval of the Declarant. Satellite dishes permitted herein shall be installed and maintained on the backside of the residential structure and shall not be visible from streets in front of said structure.
7. **NOISE POLLUTION**: Each builder of residences on the Lots will cause adequate noise pollution control measures to be incorporated into the design and construction of the single-family residences as may be required by the County of Tulsa, or any other governmental (state or federal) body or agency.
8. **NO ABOVE GROUND POOLS**: No Above Ground Pools (temporary or permanent) shall be allowed on any Lot within MAGNOLIA RIDGE PHASE III. For purposes of this prohibition, "Above Ground Pools" shall include any pool which extends above the surface of the ground.

ARTICLE VIII **PARKING, STORAGE AND EASEMENTS**

1. **VEHICLES, BOATS, RVs**: No vehicle, motorcycle, motor bike, camper, trailer or boat, whether or not operable, (collectively referred to as "Vehicles") shall be kept, parked, stood or stored on any residential lot for more than forty-eight (48) hours during any seventy-two (72) hour period, except in a garage or otherwise completely screened from view of neighboring lots, streets or other property by privacy fencing not to exceed 6 feet in height. Vehicles shall not be kept, parked or stood on the yard. Residents' Vehicles (or Vehicles under their dominion and control) shall not be parked or stood in any street, nor in any other manner which impairs or impedes sidewalk use. It is intended that lot owners keep their respective garages free from clutter and debris so that garages may be consistently used for the parking and/or storage of Vehicles.
2. **EASEMENTS**: The Declarant reserves for itself, for the Association and for the Owner of each Lot the right to locate, construct, erect and maintain, or cause to be located,

constructed, erected and maintained, in and on the areas indicated on the plat as easements, sewer and other pipelines, conduits, poles and wires, and any other method of conducting or performing any quasi-public utility or function above or beneath the surface of the ground with the right of access at any time to the same for the purpose of repair and maintenance. The Owner of any Lot abutting the Common Area and who must, in order to avail himself of utilities, enter and/or cross the Common Area, shall have an easement to do so provided that said Owner shall use the most direct, feasible route in entering upon and crossing said Common Area and shall restore the surface of the Common Area so entered and/or crossed to its original condition at the expense of the said Owner and hold Declarant and Association harmless from any damage caused by such activity, provided, where necessary, for an adjacent Property Owner to enter property to maintain a fence, party wall or other improvement constructed on the boundary of the Owner's Lot, the procedures set forth in Article VI, paragraph 5 above shall apply.

3. **DRAINAGE**. Each Lot shall receive and drain in an unobstructed manner the storm and surface waters from lots and drainage areas of higher elevation and from public streets and easements. No Lot Owner shall construct or permit be constructed any fencing or other obstructions which would impair the drainage of storm and surface waters over and across their lot. The Declarant expressly reserves the right to enter upon each Lot for the purpose of resolving or curing drainage issues related to adjacent or nearby Lots.

ARTICLE IX **RE-ARRANGING, RE-SUBDIVIDING OR RE-PLATTING**

No re-arranging, re-subdividing or re-platting of MAGNOLIA RIDGE PHASE III may be done without the prior written consent of the Declarant until such time as it has sold all the Lots, after which consent of the Association shall be required for such action.

ARTICLE X **SIGNS AND BILLBOARDS**

No signs or billboards are allowed on a Lot without the prior written approval of the Declarant; provided that one sign of not more than five (5) square feet advertising the sale or rent of said Lot, or signs of the same size limitation used for the purpose of campaigning for a result in any political election, shall be permitted. Notwithstanding the foregoing, the Declarant, or its designees, may display such signage as the Declarant, in its sole discretion, deems necessary for the promotion, sales and/or rental of property owned by the Declarant or its designees.

ARTICLE XI **DECLARANT'S RESERVED RIGHTS**

1. **GENERAL**: In addition to any rights or powers reserved to Declarant or granted to Declarant under the provisions of the MAGNOLIA RIDGE PHASE III Deed of Dedication or this Declaration, Declarant shall have the rights and powers set forth in this Article. Anything in this Declaration to the contrary notwithstanding, the provisions set forth in this Article shall govern. If not sooner terminated as provided in this Article, the

Declarant's Authority as set forth herein shall terminate and be of no further force and effect from and after such time as Declarant is no longer vested with or controls title to all Lots and/or other property within MAGNOLIA RIDGE PHASE III, after which the provisions of this Article and the rights and powers of the Declarant shall vest in the Association; provided, however, nothing shall prohibit the Declarant from transferring any of Declarant's rights and/or authority to the Association prior to Declarant being divested of title to all Lots and other property with MAGNOLIA RIDGE PHASE III, all as Declarant and the Association shall mutually agree by express written agreement.

2. **PROMOTION OF MAGNOLIA RIDGE PHASE III:** In connection with the promotion, sale or rental of any improvements upon any property in MAGNOLIA RIDGE PHASE III: (a) Declarant shall have the right and power, within its sole discretion and for as long as Declarant owns any Lot, to construct such temporary or permanent improvements, or to do such acts or other things in, on or to such property as Declarant may determine to be necessary including, without limitation, the right to construct and maintain model homes, sales or leasing offices, parking areas, advertising signs, lighting and banners, or other promotional facilities at such locations and in such forms as Declarant may deem advisable; and (b) Declarant and its respective guests, agents, prospective purchasers and tenants, shall have the right of ingress, egress and parking in and through, and the right to use and enjoy the Common and reserve areas at any time without fee or charge.
3. **CONSTRUCTION ON PROPERTY WITHIN THE ADDITION:** Declarant is hereby granted the right and power to make such improvements to any property within MAGNOLIA RIDGE PHASE III as Declarant deems to be necessary or appropriate. The Declarant may permit builders and other contractors access to and upon the Common Area as Declarant may wish and subject to such limitation and condition as Declarant may require. Declarant and its respective agents and contractors shall have the right of ingress, egress and parking on the Common Area and the right to store construction equipment and materials on the Common Area without the payment of any fee or charge whatsoever.
4. **OTHER RIGHTS:** Declarant shall have the right and power to execute all documents and do all other acts and things affecting MAGNOLIA RIDGE PHASE III which Declarant determines are necessary or desirable in connection with the rights of Declarant under this Declaration, including, but not limited to, the right to designate another entity of the Declarant's choice including, without limitation, the Association, to assume or exercise the rights herein reserved to the Declarant.

ARTICLE XII **MISCELLANEOUS**

1. **ENFORCEMENT:** The Declarant, Association, or any Owner, whether acting jointly or severally, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration; provided, however, the Declarant and the Association shall not be obligated to enforce any condition, covenant, restriction,

reservation, lien or charge through legal proceedings or otherwise. Failure by the Declarant, Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. **REMEDIES**: If any person shall violate or attempt to violate any of the covenants, conditions or restrictions herein, the Declarant, Association and any Owner shall have standing to prosecute any proceedings at law or in equity against the person violating the same to prevent the violation or to recover damages for such violation. In any action brought to enforce any provision hereof against any Owner or third party, the prevailing party shall be entitled to an award of reasonable attorneys' fees, expenses and costs.
3. **VARIANCE**: The Declarant, in its sole and reasonable discretion, shall have the right to grant approvals required by these covenants, conditions and restrictions, and to waive or vary these covenants, conditions and restrictions based upon conditions peculiar to an Owner's particular Lot or circumstances. Until such time as the Declarant has sold all of its Lots in MAGNOLIA RIDGE PHASE III, the Association shall have the right to grant such approval, waiver or variance upon the prior written consent of the Declarant. Provided, however, any variance granted by the Declarant or the Association shall be in the interest of the Owner requesting such variance, consistent and in harmony with the construction and architectural guidelines and restrictions within MAGNOLIA RIDGE PHASE III, shall not interfere with the peaceful use and enjoyment of their property by adjoining Lot Owners, and shall not decrease the property values in the neighborhood. Notwithstanding anything herein to the contrary, the Declarant shall have no liability for variances which do not conform to the standards set forth herein, in law or in equity.
4. **CORRECTION ASSESSMENT**: In the event that the Owner of any Lot shall violate any covenant herein, the Board of Directors of the Association or the Declarant shall have the right, upon five (5) days advance notice to the Owner of the Lot where the covenant violation(s) exists, and provided such violation is not corrected within the time period provided for in the notice, to enter upon said Lot and to remedy the violation(s). The cost for curing the violation(s) shall thereupon be assessed against the Lot and shall be a lien on such Lot, which may be enforced and foreclosed as contained in Article V herein.
5. **FLOOD CONTROL AND EASEMENTS**: The flood control and drainage easements which may be granted by Declarant in MAGNOLIA RIDGE PHASE III are for drainage purposes. It shall be the responsibility of the Owners of the Lots on which such easements are located to maintain such easement for drainage purposes until such time as the governing body exercising jurisdiction elects to assume responsibility for maintenance and improvement of drainage, provided, further, that no obstruction(e.g., no barbecue pits, swimming pools, etc.) trash or other debris shall be placed on or within said easements, nor shall any fill, change of grade, creation of channel, or other work be carried on without permission of the County of Tulsa, Department of Engineering. No grading, scraping, excavation or other re-arranging or puncturing of the surface of any Lot shall be commenced which will or may tend to interfere with, encroach upon or alter, disturb or damage any surface or subsurface utility line, pipe, wire or easement, or which will or may tend to disturb the minimum or maximum sub-surface depth requirement of any utility line,

pipe, wire or easement. No obstruction shall be placed on any Lot which would direct storm water onto another Owner's Lot or onto any Common Area.

6. **NO WAIVER**: The failure of the Declarant, Association, Owner or any grantor, or any successor in title, to enforce any given restriction or covenant, or condition at any time, shall not be deemed to be a waiver or relinquishment of any right or remedy, nor a modification of these restrictions and protective covenants.
7. **SEVERABILITY**: Invalidation of any one of these covenants, restrictions or conditions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.
8. **DISCLAIMER OF WARRANTY**: Except as expressly provided in writing, Declarant makes no warranty, express or implied, regarding MAGNOLIA RIDGE PHASE III, including (without limitation) any Common Area or improvement therein, the sufficiency of utilities, the stormwater management design, the workmanship, design or materials used in every improvement, including without limitation any express or implied warranty of merchantability, habitability, liability, fitness or suitability for any particular purpose or use or any warranty of quality.
9. **BINDING EFFECT; AMENDMENT**: The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall be binding upon all parties and all persons claiming under them, and shall inure to the benefit of and be enforceable by the Declarant, Association and the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of ten (10) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended, in whole or in part, modified, added to or changed at any time during the first ten (10) year period by an instrument signed by the Owners of not less than sixty percent (60%) of the Lots, and thereafter at any time by an instrument signed by the Owners of not less than fifty-one percent (51%) of the Lots. Any amendment must be properly recorded. Notwithstanding the foregoing or anything else herein to the contrary, the Declarant reserves the right to grant variances therefrom in particular cases and further provided that they may be amended as follows:
 - (a). **SPECIAL AMENDMENT**. This Declaration may be amended unilaterally by Declarant at any time (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (ii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, to enable such lender or purchaser to make or purchase mortgage loans on the property subject to this Declaration; (iii) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the property subject to this Declaration; (iv) to correct errors and make clarifications or additions in this Declaration; or (v) to modify or add to the provisions of this Declaration to adequately cover situations and circumstances which Declarant believes, in its

reasonable judgment, have not been adequately covered and would not have a material and adverse effect on the marketability of Lots. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to any such amendment on behalf of each Owner. Each deed, mortgage, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and consent to the reservation of, the power to Declarant to make, execute and record such amendments. The right and power of the Declarant to make such amendments hereunder shall terminate at such time as Declarant has sold all of its Lots in Magnolia Ridge Residential Development.

(b). **GENERAL AMENDMENTS**: Upon the conversion of all Class B membership into Class A membership, (i) the provisions of this paragraph 9 may be amended only by an instrument executed by all of the Owners; and (ii) any provision relating to the rights of Declarant may be amended only with the written consent of Declarant. No amendment shall be effective until properly recorded. "Owners" shall not be deemed to include mortgagees or other persons holding liens on any lot and such mortgagees and other lienholders shall not be required to join in any amendment to this Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein has hereunto set its hand and seal this _____ day of September, 2024.

K&S DEVELOPMENTS, INC.
an Oklahoma corporation

By: _____
Pete Kourtis, President

STATE OF OKLAHOMA)
) ss.
COUNTY OF TULSA)

Before me, the undersigned, Notary Public, in and for said County and State, on this _____ day of September, 2024, personally appeared Pete Kourtis, to me known to be the identical person who executed the foregoing Declaration of Covenants, Conditions and Restrictions as President of K&S DEVELOPMENTS, INC., an Oklahoma corporation, and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of said Company, for the uses and purposes therein set forth.

WITNESS my hand and seal the day and year above written.

Notary Public

My Commission Expires:

Commission No.: _____