

**DECLARATION OF COVENANTS AND RESTRICTIONS
APPLICABLE TO LOTS IN TIBURON, UNIT 3, AN
ADDITION TO LAKE COUNTY, INDIANA**

This Declaration made this 6th day of August, 2003 by Peoples Bank SB as Trustee of Trust No 1 0256, hereinafter referred to as "Owner" or "Developer".

RECITALS, INTENT AND PURPOSES

WHEREAS, the Owner holds title to certain real estate in Lake County, Indiana, which is more particularly described as "Final Plat Unit 3 Tiburon Subdivision" attached hereto and incorporated herein by reference; and

WHEREAS, the Owner as Developer has caused a plat of subdivision to be approved by Lake County, Indiana and the same has been recorded in the Office of the Recorder on the 6th day of August 2003 as Document No. *****

NOW, THEREFORE, the Owner and Developer hereby declare that all of the property described on "Final Plat Unit 3 Tiburon Subdivision" except Outlot E shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the property. These easements, restrictions, covenants and conditions shall run with the real estate described in Exhibit "Final Plat Unit 3 Tiburon Subdivision" as part of a general plan of development and shall be binding on all parties having or acquired any right, title or interest in the property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

ARCHITECTURAL CONTROL

No building, improvement, or other structure shall be commenced, erected or maintained on the property and no exterior addition, change or alteration shall be made until the plans, specifications, plot plan, and exterior elevations have been submitted to and approved in writing by the developer (Naples Development, LLC), or its duly authorized agents or assigns. The submission so made shall also include the square footage of the proposed improvement.

The Owner and Developer, his employees, agents and representatives shall not be liable for any damage, loss or prejudice suffered or claimed by any owner or contractor who submits such plans on account of (a) any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions; (b) any structural or other defects in any work done according to such plans and specifications; (c) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (d) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, and; (e) the development of any property within Tiburon Additions to Lake County, Indiana. Any person submitting plans to the Owner and Developer shall hold the Owner and Developer harmless from all damage, loss or prejudice suffered or claimed by any third party, including attorneys' fees incurred.

ARTICLE II

USE RESTRICTIONS

A. CONVEYANCE. Each lot shall be conveyed as a separately designated and legally described freehold interest subject to the terms, conditions and provisions hereof.

B. USE. All lots in this subdivision shall be used for single-family residential purposes only.

C. MINIMUM FLOOR AREA STANDARD LOTS (All lots except 141-143). The computation of square footage shall exclude porches, breezeways, garages and basements. All garages shall be attached to the principal residence structure and shall be sized for a minimum of two cars.

- 1.) All one-story residential structures shall have a full basement or crawl space with cement floor and a minimum first floor area of 1,400 square feet. No slabs allowed.
- 2.) All bi-level residential structures shall have a minimum upper level floor area of 1,300 square feet and a finishable lower level of 800 square feet for a minimum total of 2100 square feet.
- 3.) All tri-level and quad-level residential structures shall have a minimum upper level and main floor square footage area of 1,350 square feet, and a finishable lower level of 650 square feet for a minimum total of 2,000 square feet.
- 4.) All two-story residential structures shall have a minimum total floor area of 1,900 square feet.

D. MINIMUM FLOOR AREA EXECUTIVE LOTS (Lots 141-143). The computation of square footage shall exclude porches, breezeways, garages and basements. All garages shall be attached to the principal residence structure and shall be sized for a minimum of two cars. Lots 141-143 may have an additional garage but roof material, brick restrictions, siding must be the same as the residence. The total square footage of the attached and detached garage combined must not exceed 1014 square feet.

- 1.) All one-story residential structures shall have a full basement or crawl space with cement floor and a minimum first floor area of 1,500 square feet. No slabs allowed.
- 2.) All two-story residential structures shall have a minimum total floor area of 2,000 square feet.
- 3.) No Bi's, Tri's, or Quad Level Homes Permitted

E. ROOF PITCHES. Roof pitches are to be a minimum of 5/12.

F. EXTERIOR. No residential dwelling shall have less than forty (40) percent of stone or face brick on the front exterior thereof. Architectural committee shall have authority to require additional

brick on front of bi-level, tri-level and quad-level homes. In cases where architecture would be impaired, the architectural control committee may grant an approval of the plan and a variance to this restriction.

G. TEMPORARY STRUCTURES. No structure of a temporary character, such as a trailer, basement, tent, shack, garage, barn, or other building shall be used on the property at any time as a residence, either temporarily or permanently.

H. STORAGE SHEDS. No accessory storage shed or other additional structure shall be placed, erected or altered on any lot until the complete construction plans, site plan and specifications are approved pursuant to the section entitled, "ARCHITECTURAL CONTROL." Notwithstanding anything contained herein to the contrary, no more than one (1) additional structure shall be permitted on each lot. The total square footage of said additional structure shall not exceed one hundred twenty (120) square feet and the materials and color used on the exterior of said structure shall be the same as the materials and color used on the exterior of the residence located on said lot.

I. TYPE OF CONSTRUCTION. No building previously constructed elsewhere shall be moved upon any lot within this subdivision.

J. APPEARANCE. All plumbing stacks and roof vents or ventilators shall be located in the rear of the house roof. Lots 141 & 142 require side load garages for the residence and optional second garage.

K. DRIVEWAYS. All driveways are to be of rigid poured concrete, curbed asphalt or paver brick. Asphalt drives must be seal coated every 24 months maximum.

L. STORAGE. No recreational vehicle (motor home, trailer, boat, camper, etc.) shall be permitted to be parked on any lot or anywhere in the subdivision for more than 48 hours unless in a garage.

M. COACH LIGHTS AND MAILBOXES. A standard coach light approved by the developer shall be installed prior to occupancy of the home at the lot purchaser or homeowner's expense. It must be wired for permanent use with a dusk to dawn sensor. A fluorescent bulb shall be used. Bulbs must be changed within 7 days if defective, or Homeowners Association may replace at homeowners expense. A standard mailbox approved by the developer shall be installed at the lot purchaser or homeowners' expense.

N. FENCES. Fences no greater than (5') five feet in height may be constructed around side and rear yards of any lot in the subdivision. A (6') six foot height may be allowed if the same is required by ordinance or statute around a swimming pool after the pool has been installed. In any and all events, wood and chain link fences are prohibited from use anywhere in the subdivision. All fences shall be of PVC material and of a design approved by the architectural committee. Architectural approval is required on a site plan with specifications prior to the installation of the fence.

O. SIDEWALKS. Any residence or dwelling house erected on any lot shall provide a five (5') foot public sidewalk of poured concrete along all street frontage and within the public right-of way. Concrete sidewalks must be installed at time of construction prior to occupancy. Waiver may be granted December 1-April 1 due to inclement weather

P. EXCAVATION. All foundation excavation shall be performed by an excavating contractor approved by the developer, provided however, that backfilling, rough or finish grading, cutting of driveways or sidewalks, or similar work may be performed by any contractor of the owners choosing.

Q. GRADING & EXCESS MATERIAL.

- 1.) Grading of lots shall be in compliance with the Lake County requirements and the master-grading plan prepared for this development plus grading shall be performed so as not to damage the adjacent lot or lots.
- 2.) All excess material that is to be removed from any lot by reason of construction purposes shall not be removed from this subdivision. All such materials shall be used for fill purposes on any lot or lots within Tiburon whose existing grades are lower than the adjacent top of street curb as determined by declarant. At the prior written direction of the architectural review committee, said surplus material shall be removed and so deposited at the expense of the party charged with removing said material. Lot owners who are depositing excess material are responsible to level out material.
- 3.) No building debris or concrete (including washouts) is to be placed on any lot other than the lot they are working on at present time. All infrastructure are the responsibility of the builder/lot owner until Lake County accepted the subdivision. Owners, whether legal or reserve, are to maintain their lot(s) from debris, mowing and erosion.

R. EROSION CONTROL. The front, side and rear yards of each lot shall be seeded or sodded in grass within nine (9) months after the Certificate of Occupancy is issued, furthermore all owners of record shall be responsible for Erosion Control maintenance of their lot from date of contract sale.

S. TREES. Homeowners shall be required to plant two (2) trees at least thirty (30) feet apart within ninety (90) days of occupancy in parkway between the curb and sidewalk. On corner lots, four (4) trees must be planted, two (2) on each frontage. Trees must be at least 1 1/2" caliper and a species not on the "List of Prohibited Trees for Street Planting" Appendix G Lake County Subdivision Ordinance. Developer shall have the right to plant and charge homeowner tree cost and labor for non-compliance with lien rights for non-payment within thirty (30) days.

T. SOILS. All soils are guaranteed suitable for normal building loads to a depth for a full eight (8) foot basement under the main structure and to the normal depth for garage footings. In the event unsuitable soil is found, it shall be the Owners option to refund all earnest money or repair soils to be suitable for building. In any event, all building is to cease until a mutual decision has been reached between the parties,

U. REMONSTRATION. Purchaser and subsequent owners waive rights to remonstrate against future annexation by the Town of St John as a condition of developers' ability to tie into their sewer system.

ARTICLE III

OWNERS ASSOCIATION

A. OUTLOTS. As shown on all the recorded Plats of this Subdivision, Out lots B,D& E &/or Detention Areas and Property Owners Association Park shall be platted and set aside for the specific purpose of entrance monument, pipeline easement and storm water management and park use.

B. PROPERTY OWNERS ASSOCIATION. A Property Owners Association shall be created and incorporated for the express purpose of ownership of the Outlets and Park, and to ensure the high standards of maintenance and operation of the property in the Subdivision set aside for entrance monument, pipeline easement and storm water management. Every record owner of a fee simple interest in the lots in the Subdivision shall become and be a member of the Not-for-Profit Corporation, and each such member shall be entitled to one (1) vote for each lot owned by him on each matter submitted to a vote of members, provided, that where title to a lot is in more than one (1) name, such co-owners acting jointly shall be entitled to but one (1) vote. Each adjacent full lot on the Plat of the Subdivision shall be deemed to be a separate lot entitling the Owner thereof to one (1) vote for each such adjacent lot owned. Upon transfer of title from the developer, owner shall be responsible for annual assessments as determined by the Bylaws and Rules and Regulations established by the Not For Profit Tiburon Property Owners Association.

C. USE OF OUTLOTS. The Owners of lots adjacent to the Outlets shall be permitted to use the area of the Outlets delineated on the Plat, which are adjacent to their individual lot or lots on the Plat for any use not inconsistent with the Drainage and Retention designed for the Subdivision. No structure of any type or kind shall be erected, placed or altered nor shall any of the Natural areas be changed or disturbed on any Outlets in any manner by any party or lot owner.

ARTICLE IV

AMENDMENTS OR CHANGES

Amendments or changes in the restrictions and declarations set forth herein shall be proposed and adopted as follows:

A. NOTICE. Notice of the subject matter of the proposed amendment in reasonable detailed form shall be included in a notice of a meeting to be held and shall be given to all owners of lots within the subdivision.

B. RESOLUTION. A resolution adopting a proposed amendment following such meeting must be adopted by not less than seventy-five percent (75%) of the total number of lot owners within the subdivision. Lot owners not present at a meeting considering such amendment may vote by proxy.

C. RECORDING. Owners may execute a power of attorney designating an attorney-in-fact to execute documents indicating the adoption of amendments. Such amendments shall be reduced to writing and executed in such manner either by said attorneys-in-fact or by the respective lot owners in such form as to be recordable in the Office of the Recorder of Lake County, Indiana.

ARTICLE V

EXISTANCE AND TERMINATION

The covenants and restrictions herein set forth shall continue in perpetuity and shall be terminated, if at all, by the agreement of the lot owners and their respective mortgages, which agreement shall be evidenced by an instrument or instruments executed in the manner required for the recording of instruments. The termination shall become effective when such agreements have been recorded in the Office of the Recorder of Lake County, Indiana.

ARTICLE VI

GENERAL PROVISIONS

A. SEVERABHJTY. Invalidation of any one (1) of these covenants or restrictions by judgement or Court Order shall in no manner affect or invalidate any of the other provisions, which other provisions shall remain in full force and effect.

B. ENFORCEMENT. The Owner or Developer, his heirs, successors and assigns, or any owner of a lot or any mortgagee of property within the subdivision, shall have the right to enforce any provision of this Declaration by any proceeding of law or equity. Any owner found to be in violation by a Court of competent jurisdiction of any provisions of this Declaration shall also be liable for reasonable attorney fees incurred in prosecuting such action and in enforcing the terms and conditions hereof. The failure to enforce any provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter. Homeowners Association shall have the right to adopt and enforce violations through fines and shall have lien rights to enforce payment.

Restrictions do not provide for forfeiture or reversion thereof.

In witness whereof, Peoples Bank SB, as trustee, Trust No 10256, dated October 26,1998, has caused this instrument to be signed this 6th day of August, 2003.

Signature page attached....

Appendix G - List of Prohibited Trees for Street Planting

Scientific Name	Common Name (for reference only)
<i>Acer negundo</i>	Boxelder
<i>Acer saccharinum</i>	Silver Maple
<i>Aesculus species</i>	Chesnut and Buckeye
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Betula pendula and papyrifera</i>	European Birch- and Paper Birch
<i>Carya species</i>	Hickory
<i>Catalpa species</i>	Catalpa
<i>Cercis canadensis</i>	Eastern Redbud
<i>Crataegus species (with thorns)</i>	Hawthorn
<i>Elaeagnus angustifolia</i>	Russian Olive
<i>Fagus species</i>	Beech
<i>Ginkgo biloba (female only)</i>	Ginkgo.
<i>Gleditsia triacanthos (with thorns)</i>	Honeylocust (varieties with thorns)
<i>Juglans species</i>	Walnut
<i>Maclura pomifera</i>	Osage-orange
<i>Morus species</i>	Mulberry
<i>Platanus occidentalis</i>	American Sycamore
<i>Populus species</i>	Poplar, Cottonwood, Aspen
<i>Prunus species</i>	Cherry, Plum, Peach
<i>Quercus palustris</i>	Pin Oak
<i>Robinia species</i>	Black Locust
<i>Salix species</i>	Willow
<i>Sorbus species</i>	Mountain Ash
<i>Ulmus species</i>	Elm
<i>Coniferous species</i>	Pines, Spruce, Fir

In addition to the list of prohibited trees above, include any tree with a USDA hardiness Zone six (6) or greater.