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ADA CO. RECORDER  
J. DAVID NAVARRO  
BOISE ID

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

THE LAKE AT CHERRY LANE NO. 3 SUBDIVISION

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FEE 75.00  
RECORDED AT THE REQUEST OF

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THIS DECLARATION is made on the date hereinafter set forth by Louis J. Steiner and Brenda Steiner, husband and wife, hereafter referred to as "Declarant."

WITNESSETH

1938001344

WHEREAS, Declarant is the owner of certain real property in Ada County, State of Idaho, hereinafter referred to as "the properties," more particularly described as follows:

The Lake at Cherry Lane No. 3 Subdivision, according to the official plat thereof, recorded in Book 70 of Plats at Pages 7167 and 7168, as Instrument No. 95062780, recorded on the 31st day of August, 1995, records of Ada County, Idaho; and

WHEREAS, Declarant desires to subject the above described properties to certain protective covenants, conditions, restrictions, reservations, easements, liens, and charges for the benefit of the properties and their present and subsequent Owners as hereinafter specified, and will convey the properties subject thereto;

NOW, THEREFORE, Declarant hereby declares that all of the properties above described shall be held, sold and conveyed upon and subject to the easements, conditions, covenants, restrictions and reservations hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of, and which shall run with the properties and be binding on all parties now or hereafter having any right, title or interest therein or to any part hereof, and shall inure to the benefit of each owner thereof.

#### ARTICLE I: DEFINITIONS

The following terms shall have the following meanings:

Section 1. "ASSOCIATION" shall mean and refer to The Lake at Cherry Lane Homeowners Association, Inc. a non-profit corporation organized under the laws of the State of Idaho, its successors and assigns.

Section 2. "PROPERTIES" shall mean and refer to that certain real property hereinabove described.

Section 3. "COMMON AREA" shall mean all real property and improvements thereon owned by the Association for the common use and enjoyment of the Owners. The Common Areas to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

Lot 1, Block 4; Lot 1, Block 6; and Lot 13, Block 5, The Lake at Cherry Lane No. 3, according to the official plat thereof, recorded in Book 70 of Plats at Pages 7167 and 7168, as Instrument No. 95062780, recorded on the 31st day of August, 1995, records of Ada County, Idaho; and

Section 4. "LOT" or "LOTS" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties, with the exception of the Common Areas.

Section 5. "OWNER" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "DECLARANT" shall mean and refer to Louis and Brenda Steiner, their successors, heirs and assigns, if such successors, heirs or assigns should acquire more than one undeveloped Lot from Declarant for the purpose of development.

Section 7. "DECLARATION" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the properties recorded in the office of the County Recorder of Ada County, State of Idaho.

Section 8. "DWELLING UNIT" shall mean that portion or part of any structure intended to be occupied by one family as a dwelling unit, together with the vehicular parking garage next thereto, and all projections therefrom.

Section 9. "GOLF COURSE" shall mean and refer to the Cherry Lane Village Golf Course, and the real property constituting the same, owned by the city of Meridian and operated as a public golf course by the city of Meridian or its lessee.

Section 10. "IRRIGATION WATER SUPPLY SYSTEM" shall mean all real property and improvements thereon and all pumps, pipes and any other conveyancing apparatus and all easement rights for the installation and maintenance of the system by which irrigation water is delivered to each Lot, for the purpose of providing an irrigation water supply to the Owners.

Section 11. "MORTGAGE" shall mean any mortgage, deed of trust or other security instrument by which a Dwelling Unit or any part thereof is encumbered.

Section 12. "MORTGAGEE" shall mean any person or any successor to the interest of such person named as the mortgagee, trust beneficiary or creditor under any mortgage, as mortgage is defined in Section 11.

Section 13. "FIRST MORTGAGEE" shall mean any Mortgagee, as defined in Section 12, possessing a lien on any Dwelling Unit first and prior to any other Mortgage, as that term is defined in Section 11.

Section 14. "INSTITUTIONAL HOLDER" shall mean a Mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.

## ARTICLE II: PROPERTY RIGHTS

Section 1. Enjoyment of Common Area: Each owner shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject, however, to the following provisions:

- A. The right of the Association to charge reasonable maintenance and other fees for the use and maintenance of any landscaping improvement or facility situated upon the Common Area.
- B. The rights of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities; and, in aid thereof, to place a mortgage or trust deed thereon, which shall be a first and prior lien thereagainst; provided that the Common Area may not be mortgaged or conveyed without the consent of at least 66-2/3% of the Owners (excluding Declarant), and that any conveyance or mortgage of Common Area shall be subject to and subordinate to rights of ingress and egress of an Owner to his/her Lot.
- C. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members; provided, however, that except as to the Association's right to grant easements for utilities and similar or related purposes, no part of the Common Area and facilities may be alienated, released, transferred, hypothecated or otherwise encumbered without the written approval of all First Mortgagees and two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly held for this purpose.

## ARTICLE III: HOMEOWNERS ASSOCIATION

Section 1. Membership: Every Owner of a Lot which is subject to assessment shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the payment of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Such ownership shall be the sole qualification for membership and shall automatically commence upon a person becoming such Owner and shall automatically terminate and lapse when such ownership in said property shall terminate or be transferred. Absolute liability is not imposed on Owners/members for damage to Common Areas or Lots in the subdivision.

Section 2. Voting Rights: The Association shall have two classes of voting membership:

Class A: Class A members shall be all Owners, with the exception of Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Fractional votes shall not be allowed. The vote applicable to any said Lot being sold under contract of purchase shall be exercised by the contract seller, unless the contract expressly provides otherwise.

Class B: Class B member(s) shall be Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

- A. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- B. On December 31, 2005.

Section 3. Assessments:

- A. Creation of Lien and Personal Obligation of Assessments: Each Owner of any Lot, by acceptance of a deed therefor (whether or not it shall be so expressed in such deed), is deemed to covenant and agree to pay to the Association:

1. Regular annual or other regular periodic assessments or charges; and
2. Special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The regular and special assessments, together with interest, costs of collection and reasonable attorney's fees shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs of collection and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The obligation shall remain a lien on the Lot until paid or foreclosed, but shall not be a personal obligation of successors in title, unless expressly assumed.

- B. Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in said property and Common Area, the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including, without being limited thereto, the payment of taxes, domestic water and sewage charges, consulting fees and insurance on all or any part of said properties, improvement and maintenance of the Common Area, and improvements and to pay irrigation water assessments, if any.



- C. Maximum Annual Assessment: Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$100.00.
1. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than ten percent (10%), or the maximum percentage increase allowable by Federal National Mortgage Association (whichever is greater), above the maximum assessment as set forth above.
  2. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above the amount set forth in the preceding paragraph by a vote of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.
  3. The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum; and said assessments shall be payable to the Association in regular monthly or quarterly installments as may be determined by the Board of Directors.
- D. Initiation Assessment: Upon the initial conveyance of each lot, the purchaser thereof shall pay an initiation assessment in the amount of \$100.00.
- E. Special Assessments for Capital Improvements: In addition to the regular assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. Any such special assessment shall be payable over such a period as the Association shall determine.
- F. Notice and Quorum for Any Action Authorized Under Sections 3C and 3E: Written notice of any meeting called for the purpose of taking any action authorized under Section 3C or 3E, above, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

- G. Uniform Rate of Assessment: Both annual and special assessments must be fixed at a uniform rate for non-exempt Lots and may be collected on a monthly basis.
- H. Date of Commencement of Annual Assessments; Due Dates: The annual assessments provided for herein shall commence as to a Lot sold on the first day of the month following the initial conveyance of the said Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.
- I. Effect of Nonpayment of Assessments; Remedies of Association: Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. 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.
- J. Subordination of the Lien to Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.
- K. Exempt Property: The following property, subject to this Declaration, shall be exempt from the assessments created herein:
1. All property expressly dedicated to and accepted by a local public authority;
  2. The Common Area;
  3. All other properties owned by Declarant or the Association;
  4. All Lots owned by Declarant, until title is transferred to another, or until occupancy, whichever occurs first; and

**ARTICLE IV: GOLF COURSE DEVELOPMENT FEE**

Each Lot is subject to a \$650.00 golf course development fee payable to the city of Meridian at the time an application for a building permit for the construction of a residential structure is made to the city of Meridian. The \$650.00 will increase annually to reflect interest and cost increases. The purpose of the fee is to provide funds to be used for the development, construction, and expansion of the second nine holes of the golf course located in and/or adjacent to the Properties. By purchasing a Lot, each Owner agrees to pay the said fee to the city of Meridian as provided for herein.

**ARTICLE V: IRRIGATION WATER SUPPLY SYSTEM**

**Section 1. Irrigation Water Supply:** Each Lot shall have access to an Irrigation Water Supply System to be constructed by Declarant and owned and operated by the Nampa Meridian Irrigation District. All Owners to which the system has been extended shall be required to pay any assessments therefore levied by Nampa Meridian Irrigation District.

**Section 2. Easement for Irrigation Water Supply System:** The Declarant and the Nampa Meridian Irrigation District shall have a permanent easement for the construction, maintenance and repair of the Irrigation Water Supply System and related pumps, pipes, and any other conveyancing apparatus in the public utility easements as depicted on the Plat, together with the right of ingress to and egress from the easement premises over and across the privately owned property of Owners to perform maintenance upon the pump, pipes and other conveyancing apparatus comprising the Irrigation Water Supply System together with all rights necessary for the full and complete use, occupation and enjoyment of the easements hereby reserved, and all rights and privileges incident thereto, including the right from time to time to cut, trim and remove trees, brush, over hanging branches and other obstructions which may injure or interfere with the use, occupation or enjoyment of the reserved easement.

**ARTICLE VI: EASEMENTS**

**Section 1. Future Easements:** The Association shall have the future right to provide for such easements across, upon and under the surface of its Common Area as platted herein as may be reasonably necessary to serve the interests and convenience of the property Owners of this subdivision for public or private ways, public utilities (including cable television), drainage, access, subterranean irrigation lines, cave and balcony overhangs.

**Section 2. Encroachments:** In the event that, by reason of the construction, settlement or shifting of the building, any part of any Dwelling Unit or drainage water from any Lot or Dwelling Unit encroaches or shall hereafter encroach upon any part of the Common Area or any adjacent Lot, easements for the maintenance of such encroachment and for such use of the areas encroached upon are hereby established and shall exist for the benefit of said Dwelling Unit, so long as all or any part of the buildings shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Area or adjacent Dwelling Units be created in favor of any Owner of such encroachment or use if it is detrimental



to or interferes with the reasonable use and enjoyment of the property by other Owners and if it occurred due to the willful conduct of any Owner.

Section 3. Easement for Maintenance: Declarant and the Association shall have a permanent easement to go upon the privately owned property of Owners in this subdivision to perform maintenance upon the Properties and Common Area, including, but not limited to, snow removal, lawn maintenance, utility service and drainage system maintenance, and perimeter fence maintenance, together with all rights of ingress and egress necessary for the full and complete use, occupation and enjoyment of the easements hereby reserved, and all rights and privileges incident thereto, including the right from time to time to cut, trim and remove trees, brush, overhanging branches and other obstructions which may injure or interfere with the use, occupation or enjoyment of the reserved easement and the operation, maintenance and repair of utility service connections and drainage systems.

#### ARTICLE VII: MAINTENANCE RESPONSIBILITY

The Association shall provide maintenance to and be responsible for the Common Areas and improvements thereon, Association-owned street lights and all drainage facilities. In the event the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, guests or invitees, the costs of such maintenance or repairs shall be added to and become part of the assessment to which such Owner's Lot is subject. Each Owner shall be responsible for maintaining and keeping in good order and repair the exterior of his Dwelling Unit and any private decks, fences (if permitted as herein provided), courtyards, landscaping (whether installed by the owner or developer) and lawn contiguous to his Dwelling Unit, except any developer installed perimeter fence constructed around the properties, the maintenance of which shall be performed by the Association. The Association reserves an easement for ingress, egress and maintenance as may be reasonably necessary to perform the maintenance duties of the Association. In the event of damage or destruction of a Dwelling Unit by fire or other casualty, the owner must complete repair and/or replacement of the Dwelling Unit within one hundred-twenty (120) days of the damage or destruction.

#### ARTICLE VIII: PROPERTY USE RESTRICTIONS

The following restrictions shall be applicable to the properties and shall be for the benefit of and limitations upon all present and future Owners of said property, or of any interest therein:

- A. Lot Use: No Lot, with the exception of the Common Area shall be used except for single-family residential purpose. No Lot or the Common Area shall be used for the conduct of any trade, business or professional activity. All Lots and improvements constructed thereon must comply with all applicable governmental rules, ordinances, laws, statutes and regulations. The Owner of each Lot shall complete construction of a Dwelling Unit as permitted herein within one (1) year after the date of the first conveyance of the Lot to an Owner by Declarant.
- B. Animals: No animals, livestock or poultry of any kind shall be raised, bred or kept on any part of said property, except that two dogs, cats or other household pets may



be kept within a Dwelling Unit or within a fenced area as may be approved by the Architectural Control Committee. Any animals outside a Dwelling Unit or fenced area must be on leashes, and the Owner or custodian of the animal shall be responsible for the immediate cleanup of the animal's droppings.

- C. Garbage and Refuse Disposal: No part of said property shall be used or maintained as a dumping ground for rubbish, trash or other waste. No garbage, trash or other waste shall be kept or maintained on any part of said property except in a sanitary container. Any incinerators or other equipment for the storage or disposal of such material must not violate setback restrictions, must be enclosed with an aesthetic screen or fence, as may be approved by the Architectural Control Committee and shall be kept in a clean and sanitary condition.
- D. Nuisance: No noxious or offensive or unsightly conditions shall be permitted upon any part of said property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No exposed antennae or satellite dishes shall be erected on the properties.
- E. Outbuildings: No trailer, truck camper, tent, garage, barn, shack or other outbuilding shall at any time be used as a residence temporarily or permanently on any part of said properties.
- F. Storage of Vehicles and Equipment: Parking of boats, trailers, motorcycles, trucks, truck campers, motorhomes, recreational vehicles, and like equipment, or junk cars or other unsightly vehicles, shall not be allowed on any Lot nor on public ways or Common Area adjacent thereto, except in fully enclosed buildings or as may be adequately screened from the front and golf course views of the said lot (e.g., by fence and/or landscaping), under such circumstances, if any, as may be prescribed in writing by, and in the sole discretion of the Board of Directors of the Association, which discretion may not be challenged for having been exercised unreasonably. All other parking of equipment shall be prohibited, except as approved in writing by the Board of Directors of the Association. Any vehicle awaiting repair or being repaired shall be removed from the subdivision within 48 hours.
- G. Sight Distance at Intersections: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three feet (3') and eight feet (8') above the roadways 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 points 30 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten feet (10') from the intersection of a street property line with the edge of a driveway or alley pavement.
- H. Leasing Restrictions: Any lease (as defined below) between an Owner and his tenant shall provide that the terms of the lease shall be subject in all respects to the

provisions contained in this Declaration, the Association's Articles of Incorporation and its Bylaws, and that any failure by said tenant to comply with the terms of such documents shall be a default under such lease. For the purposes of this Declaration, a "lease" shall mean any agreement for the leasing or rental of a Dwelling Unit (including a month-to-month rental agreement); and all such Leases shall be in writing. Other than the foregoing, there is no restriction on the right of any Owner to lease his Dwelling Unit.

- I. Sewer Restrictions: All bathroom, sink and toilet facilities shall be located inside the Dwelling Unit or other suitable appurtenant building, and shall be connected by underground pipe to wet line sewer connection lines which have been provided to each Lot.
- J. Fences: Fences, including fences around swimming pools, dog runs or other uses, may be permitted under such circumstances, if any, as may be prescribed in writing by, and in the sole discretion of the Architectural Control Committee, which discretion may not be challenged for having been exercised unreasonably.
- K. Parking Rights: Subject to the provisions of paragraph F. above, any automobile or other vehicle used by any Owner shall be parked in the driveway or garage which is a part of his Dwelling Unit.
- L. Mail Boxes: All mail boxes will be of consistent design, material and coloration and shall be located on or adjoining building Lot lines and places designated by Declarant or the Architectural Control Committee.

#### ARTICLE IX: BUILDING RESTRICTIONS

Section 1. Building Restrictions: With the exception of Common Area Lots, no buildings shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single-family dwelling containing a minimum of 1500 square feet of interior living space (if two story, a minimum of 1000 square feet must be on the ground level and 650 square feet on the second level) which may not exceed thirty-two feet (32') in height, and a private garage for two (2) or more motor vehicles containing a minimum of 528 square feet of floor space. Each Dwelling Unit may not be occupied by more than one (1) family. Notwithstanding the foregoing, no Dwelling Unit which exceeds one story in height shall be permitted on any corner lot.

Section 2. Setbacks: No building shall be located on any Lot nearer than 20 feet to the front Lot line; nearer than 20 feet to the rear Lot line; or nearer than five feet per story to a side Lot line. On corner Lots, the side yards shall be a minimum of 20 feet on the side abutting the street. Such building setback shall be in effect with the exception of the following:

- a. All odd-numbered Lots as designated on the plat with the exception of odd-numbered corner Lots, shall have a front setback of at least 25 feet unless specifically waived in writing by the Architectural Control Committee.

b. The common Lot line between any Lot and the Golf Course shall be designated as the rear Lot line for said Lot. No building shall be located on any such Lot nearer than 30 feet to the rear Lot line, unless specifically waived in writing by the Architectural Control Committee.

c. Front, rear and side yard setbacks applicable to Lots 7 through 15, Block 5, The Lake at Cherry Lane No. 3 Subdivision shall be those as are prescribed by the Architectural Control Committee in its sole discretion, which discretion may not be challenged for having been unreasonably exercised.

d. In the event of any conflict between the provisions contained in this Section 2, and the ordinances of the city of Meridian, the most restrictive shall apply.

**Section 3. Construction Requirements:** Each Dwelling Unit may have wood siding (redwood, cedar or spruce which may be stained or painted) or a combination of wood, stone, manufactured or synthetic stone, stucco, masonry or masonite siding. Each Dwelling Unit must have exterior brick, stone, manufactured or synthetic stone or stucco on a portion of the front elevation as may be approved by the Architectural Control Committee. All roofs shall be comprised of wood shake shingles, Architectural 80 shingles or equivalent (as may be approved by the Architectural Control Committee) or tile with a minimum 5/12 pitch. The exterior surfaces of each Dwelling Unit shall have such colors as may be approved by the Architectural Control Committee. All windows shall be of the anodized type or better (no raw aluminum frames). All fireplace chimneys must be of masonry or metal and, if metal, shall be wrapped with the same materials as exist on other areas of the exterior of the Unit to within one foot of the top cap. Each Dwelling Unit must have at least two exterior lights illuminating the garage door openings and one exterior light for the front entryway(s). All driveways must be concrete.

**Section 4. Landscaping:** Within sixty (60) days of the date of occupancy or substantial completion of the Dwelling Unit located thereon (whichever first occurs), each Lot shall be fully landscaped in the front yard (and for corner Lots, the street side yard) with grass (seeded or rolled sod), at least four (4) deciduous trees at least one and one-half (1-1/2) inches in diameter or conifer trees at least six feet in height (two each in the front and street side yards) and twenty (20) 1 gallon and ten (10) 5 gallon shrubs or bushes equally distributed between the front and street side yard all as has been approved by the Architectural Control Committee. In the case of Lots which have a common boundary with the Golf Course, within thirty (30) days of occupancy or completion (whichever first occurs), the rear yard of each such Lot shall be fully landscaped with grass (seeded or rolled sod), at least two deciduous trees at least one and one-half (1-1/2) inches in diameter or conifer trees at least six (6) feet in height and ten (10) 1 gallon and five (5) gallon shrubs or bushes, all as been approved by the Architectural Control Committee. As used herein, the front yard shall include that portion of each Lot to the side of the Dwelling Unit constructed thereon which is between the public right of way and the rear plane of the Dwelling Unit or a fence which extends from the side of the Dwelling Unit to the side lot line. During construction of the Dwelling Unit, there shall be installed in the front yard within ten feet (10') of the front boundary line, a photosensitive pole light designed to switch on automatically at sunset and off at sunrise with a minimum bulb power of 60 watts.



## ARTICLE X: ARCHITECTURAL CONTROL

**Section 1. Architectural Control Committee:** In order to protect the quality and value of the homes built on the properties, and for the continued protection of the Owners thereof, an Architectural Control Committee is hereby established consisting of three or more members to be appointed by the Board of Directors of the Association. The Board of Directors of the Association shall appoint members to the Architectural Control Committee at each annual meeting of the Board.

**Section 2. Approvals Required:** No building, fence, wall, patio cover, window awning or other structure or landscaping improvements of any type shall be commenced, built, constructed, placed, or maintained upon any Lot, Common Area or other property, nor shall any exterior addition, change or alteration of existing improvements be made, until the plans and specifications showing the nature, kind, shape, configuration, height, materials, location and such other detail as the Architectural Control Committee may require, shall have been submitted to and approved in writing by the Architectural Control Committee as to harmony of external design and location in relation to surrounding structures and topography and as to conformity with requirements of this Declaration. In the event the Architectural Control Committee fails to approve, disapprove, or specify the deficiency in such plans, specifications and location within thirty (30) days after submission to the Architectural Control Committee in such form as they may require, it shall be deemed approved.

The Architectural Control Committee shall have the right to refuse to approve any design, plan or color for such improvements, construction or alterations which, in its opinion, are not suitable or desirable for any reason, aesthetic or otherwise. In so passing on such design, the Committee shall have the privilege in the exercise of its discretion to take into consideration the suitability of the proposed structure or alteration, the materials of which it is to be built, and the exterior color scheme in relation to the site upon which it is proposed to be erected. The Architectural Control Committee may also consider whether the design of the proposed structure or alteration is in harmony with the surroundings, the effect of the structure or alteration when viewed from adjacent or neighboring property, and any and all other facts which, in the Architectural Control Committee's opinion, shall affect the desirability of such proposed improvement, structure or alteration. Actual construction shall comply substantially with the plans and specifications approved.

**Section 3. Submissions:** Requests for approval of the Architectural Control Committee shall consist of such documents and other materials as may be reasonably requested by the Architectural Control Committee including, without limitation, the following:

- A. Two complete sets of plans and specifications, one of which shall be returned to the one making the submission; and
- B. Manufacturer's color samples for all exterior colors, including colors for siding, trim, roof coverings and masonry.



**Section 4. Rules and Regulations:** The Architectural Control Committee is hereby authorized to adopt rules and regulations to govern its procedures and the requirements for making submissions and obtaining approval as the Committee deems appropriate and in keeping with the spirit of due process of law. The Architectural Control Committee is further hereby empowered to adopt such rules and regulations as it shall deem appropriate, consistent with the provisions of this Declaration, pertaining to matters of design, materials, colors, and aesthetic interests. Any such rules and regulations may be amended from time to time, in the sole discretion of the Architectural Control Committee. The failure of the Architectural Control Committee to adopt any such rules and regulations shall not form the basis for an attack upon the exercise of Architectural Control Committee's discretion, it being the intent of this Declaration to provide the Architectural Control Committee with as broad discretion as is permissible under the law.

**Section 5. Fees:** The Architectural Control Committee may establish, by its adopted rules, a fee schedule for an architectural review fee to be paid by each owner submitting plans and specifications for approval. No submission for approval will be considered complete until such fee has been paid. Such fee shall not exceed such reasonable amount as may be required to reimburse the Architectural Control Committee for the costs of professional review of submittals and the services of a consultant to administer the matter to its completion, including inspections which may be required.

**Section 6. Waivers:** The approval of any plans, drawings or specifications for any structure, improvement, or alteration, or for any matter requiring the approval of the Architectural Control Committee, shall not be deemed a waiver of any right to withhold approval of any similar plan, drawing, specifications, or matters subsequently submitted for approval.

**Section 7. Liability:** Neither the Architectural Control Committee nor any member thereof shall be liable to the Association, any Owner, or any other party, for any damage suffered or claimed on account of any act, action or lack thereof, or conduct of the Architectural Control Committee or any members thereof, so long as the Architectural Control Committee, or the respective members thereof, acted in good faith on the basis of information they then possessed.

**Section 8. Certification by Secretary:** The records of the Secretary of the Association shall be conclusive evidence as to all matters shown by such records and the issuance of a certificate of completion and compliance by the Secretary or Assistant Secretary of the Association showing that the plans and specifications for the improvement or other matters therein provided for have been approved and that said improvements have been made in accordance therewith, or a certificate as to any matters relating to and within the jurisdiction of the Association by the Secretary thereof, shall be conclusive evidence that shall fully justify and protect any title company certifying, guaranteeing or insuring title to said property, or any portion thereof or any lien thereon and/or any interest therein as to any matters referred to in said certificate, and shall fully protect any purchaser or encumbrancer from any action or suit under this Declaration. After the expiration of one (1) year following the issuance of a building permit therefor by municipal or other governmental authority, any structure, work, improvement or alteration shall, as to any purchaser or encumbrancer in good faith and for value and as to

any title company which shall have insured the title thereof, be deemed to be in compliance with all the provisions hereof unless a notice of noncompliance executed by the Association shall have appeared of record in the office of the County Recorder of Ada County, State of Idaho, or unless legal proceedings shall have been instituted to enforce completion or compliance.

Section 9. Construction and Sales Period Exception: During the course of construction of any permitted structures or improvements and during the initial sales period, the restrictions (including sign restrictions) contained in this Declaration or in any Supplemental Declaration shall be deemed waived to the extent necessary to permit such construction and the sale of all Dwelling Units; provided that, during the course of such construction and sales, nothing shall be done which will result in a violation of these restrictions upon completion of construction and sale. Further, Declarant shall have the right to select and use any individual Dwelling Units owned by it as models for sales purposes.

#### ARTICLE XI: INSURANCE AND BOND

Section 1. Types of Insurance: The Association may obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Idaho. The provisions of this Article shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder in such amounts and in such forms as the Association may deem appropriate from time to time.

The Association may secure and maintain at all times the following insurance and bond coverage:

- A. A multi-peril-type policy covering any Common Area improvements, providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost).
- B. The Association must, if available at a reasonable cost, have a comprehensive policy of public liability insurance covering all of the common areas, commercial spaces and public ways in the properties. Such insurance policy shall contain a severability of interest endorsement which shall preclude the insurer from denying the claim of a Dwelling Unit Owner because of negligent acts of the Association or other Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use. If the properties contain more than one hundred (100) Units, coverage shall be for at least \$1,000,000 per occurrence, for personal injury and/or property damage.
- C. The Association may obtain liability insurance affording coverage for the acts, errors and omissions of its directors and officers, including members of the

Architectural Control Committee and other committees as may be appointed from time to time by the Board of Directors of such association in such amount as may be reasonable in the premises.

D. The following additional provisions shall apply with respect to insurance:

1. Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgages.
2. Each policy of insurance obtained by the Association shall, if possible, provide: A waiver of the insurer's subrogation rights with respect to the Association, its officers, the Owners and their respective servants, agents and guests; that it cannot be canceled, suspended or invalidated due to the conduct of any agent, officer or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.
3. All policies shall be written by a company licensed to write insurance in the state of Idaho and all hazard insurance policies shall be written by a hazard insurance carrier holding financial rating by Best's Insurance Reports of Class VI or better.
4. Notwithstanding anything herein contained to the contrary, insurance coverage must be in such amounts and meet other requirements of the Federal Home Loan Mortgage Corporation.

E. The Association shall purchase workmen's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

F. The Association may obtain bonds and insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the protection of the properties, including any personal property of the Association located thereon, its directors, officers, agents, employees and association funds.

## ARTICLE XII: CONDEMNATION

Section 1. Consequences of Condemnation: If at any time or times, all or any part of the Common Area shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall apply.

Section 2. Proceeds: All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "condemnation award," shall be payable to the Association covering the condemned Common Area.



Section 3. Apportionment: The condemnation award shall be apportioned among the Owners having an interest in the condemned Common Area equally on a per-Lot basis. The Association shall, as soon as practicable, determine the share of the condemnation award to which each Owner is entitled. Such shares shall be paid into separate accounts, one account for each Lot. Each such account shall remain in the name of the appropriate Association and shall be further identified by Lot number and the name of the Owner thereof. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount of such accounts, without contribution from one account to the other, first to Mortgagees and other lienors in the order of priority of their Mortgages and other liens and the balance remaining to each respective Owner.

#### ARTICLE XIII: MORTGAGEE PROTECTION

Notwithstanding anything to the contrary contained in this Declaration or in the Articles or Bylaws of the Association:

- A. The Association shall maintain an adequate reserve fund for the performance of its obligations, including the maintenance, repairs and replacement of those common elements and improvements thereon, and such reserve shall be funded by at least quarterly assessments.
- B. The holders of First Mortgages shall have the right to examine the books and records of any Association and to require annual reports or other appropriate financial data.
- C. Any management agreement for the properties or Common Area, or any other contract providing for services of the developer, sponsor or builder, shall be terminable (i) by the contracting Association for cause upon thirty (30) days' written notice thereof, and (ii) by either party without cause and without payment of a termination fee on ninety (90) days' or less written notice thereof, and the term of any such agreement shall not exceed one (1) year.
- D. Any lien which the Association may have on any Dwelling Unit for the payment of assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any Mortgage on the Unit recorded prior to the date notice of such assessment lien is duly recorded.
- E. Unless all institutional holders of First Mortgages have given their prior written approval, no Association shall:
  1. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area property owned, directly or indirectly, by such Association for the benefit of the Owners. (The granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area property shall not be deemed a transfer within the meaning of this clause.)



2. Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner.
3. By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Dwelling Units, the maintenance of the Common Area property, party walls, or common fences and driveways, or the upkeep of lawns and plantings in the subdivision.
4. Fail to maintain fire and extended coverage on insurable Common Area property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost).
5. Use hazard insurance proceeds for losses to any Common Area property for other than the repair, replacement or reconstruction of such Common Area property.
6. Amend materially this Declaration, the Association's Articles of Incorporation, or its Bylaws.
7. Terminate professional management and assume self-management of the properties.

#### ARTICLE XIV: ANNEXATION

Section 1. Time for Annexation; Land Subject to Annexation: Declarant hereby reserves the right to annex the real property described in Exhibit A attached hereto, or any portion thereof, into the project by recording a Notice of Annexation or Supplemental Declaration particularly describing the real property to be annexed and added to the project created by this Declaration, pursuant to the provisions of this Article XIV.

Upon the recording of a Notice of Annexation containing the provisions set forth in this Section (which Notice may be contained within a Supplemental Declaration affecting such property), except as may be provided for therein, the covenants, conditions and restrictions contained in this Declaration shall apply to the added land in the same manner as if it were originally covered by this Declaration and originally constituted a portion of the project; and thereafter, the rights, privileges, duties and liabilities of the parties to this Declaration with respect to the added land shall be the same as with respect to the original land, and the rights, privileges, duties and liabilities of the Owners, lessees and occupants of Lots and Units within the added land shall be the same as in the case of the original land. Notwithstanding the foregoing, any Supplemental Declaration may provide a special procedure for amendment of any specified provision thereof, e.g., by a specified vote of only the owners of Dwelling Units within the area subject thereto. Any provision of a Supplemental Declaration for which no special amendment procedure is provided shall be subject to amendment in the manner provided in this Declaration.

**Section 2. Procedure for Annexation:** Any of the above described real property may be annexed into the project by the recordation of a Notice of Annexation executed by Declarant and containing the following information:

- A. A reference to this Declaration, which reference shall state the date of recordation hereof and the Recorder's instrument number or the book and page of the official records of Ada County where this Declaration is recorded;
- B. An exact legal description of the added land;
- C. A statement that the provisions of this Declaration shall apply to the added land, except as set forth therein; and
- D. A statement of the use restrictions applicable to the annexed property, which restrictions may be the same or different from those set forth in this Declaration.

#### ARTICLE XV: GENERAL PROVISIONS

**Section 1. Enforcement:** The Association or any Owner or the owner of any recorded mortgage upon any part of said property, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the 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.

**Section 2. Severability:** Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 3. Amendment:** The covenants and restrictions of this Declaration shall run with the land and shall inure to the benefit of and be enforceable by the Association or the legal Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. Except as otherwise provided herein, any of the covenants and restrictions of this Declaration, except the easements herein granted, may be amended by an instrument signed by members entitled to cast not less than sixty-six and two-thirds percent (66-2/3%) of the votes of membership. Any amendment must be recorded.

**Section 4. Assignment by Declarant:** Any or all rights, powers and reservations of Declarant herein contained may be assigned to the Association or to any other corporation or association which is now organized or which may hereafter be organized and which will assume the duties of Declarant hereunder pertaining to the particular rights, powers and reservations assigned, and upon any such corporation or association evidencing its intent in writing to accept such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. All rights of Declarant hereunder

reserved or created shall be held and exercised by Declarant alone, so long as it owns any interest in any portion of said property.

IN WITNESS WHEREOF, Declarant has hereunto set their hand this 12th day of OCTOBER, 1995.

DECLARANT:

*Louis J. Steiner*  
LOUIS J. STEINER

*Brenda Steiner*  
BRENDA STEINER

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

MERCED

} ss.

On 10/12/95 before me, SUZANNE M. PACHECO

personally appeared -----LOUIS J. STEINER-----

----- personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature *Suzanne M. Pacheco*



(This area for official notarial seal)

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS



STATE OF CALIFORNIA  
COUNTY OF Merced

} SS.

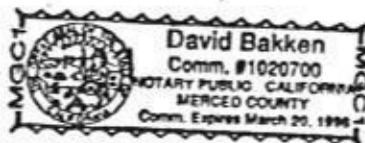
On October 16, 1995, before me, \*David Bakken\*

personally appeared \*Brenda Steiner\*

\*\*\*\*\*, personally known to me  
(~~as proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature



(This area for official notarial seal)

Title of Document Declaration of Covenants, Conditions and Restrictions

Date of Document 10/12/95 No. of Pages 19

Other signatures not acknowledged \_\_\_\_\_





PROJECT: 515062

DATE: September 14, 1995

DESCRIPTION FOR  
THE LAKE AT CHERRY LANE No. 4  
A PORTION OF THE NORTH-HALF  
SECTION 3  
T.3N., R.1W., B.M.  
MERIDIAN, ADA COUNTY, IDAHO

A parcel of land being a portion of the North-Half, Section 3, T.3N., R.1W., B.M., Meridian, Ada County, Idaho and more particularly described as follows:

Beginning at a Brass cap marking the Southeast corner of the Northeast Quarter of Section 3, T.3N., R.1W., B.M., Meridian, Ada County, Idaho;

thence along the Southerly boundary of the said Northeast Quarter of Section 3, North  $88^{\circ}55'29''$  West 2643.29 feet to a Brass cap marking the Southwest corner of the Northeast Quarter;

thence leaving said Southerly boundary, North  $75^{\circ}30'00''$  West 190.00 feet to a 2" iron pipe, said 2" iron pipe also being the REAL POINT OF BEGINNING (Initial Point);

thence North  $40^{\circ}00'00''$  West 40.00 feet to an iron pin;

thence South  $75^{\circ}59'31''$  West 70.00 feet to an iron pin;

thence South  $25^{\circ}00'00''$  West 64.19 feet to an iron pin;

thence North  $89^{\circ}25'06''$  West 354.52 feet to an iron pin;

thence North  $00^{\circ}30'18''$  East 212.27 feet to an iron pin;

thence North  $82^{\circ}30'02''$  East 359.91 feet to an iron pin;

thence North  $00^{\circ}30'18''$  East 1058.58 feet to an iron pin on the Northerly boundary of the Southeast Quarter of the Northwest Quarter of said Section 3;

thence along said Northerly boundary, South  $89^{\circ}18'58''$  East 301.76 feet to an iron pin marking the Northwest corner of the Southwest Quarter of the Northeast Quarter of Section 3, T.3N., R.1W., B.M., Meridian, Ada County, Idaho;

thence leaving said Northerly boundary and along the Northerly boundary of the said Southwest Quarter of the Northeast Quarter of Section 3, South  $89^{\circ}02'00''$  East 550.08 feet to an iron pin marking the Northwest corner of The Lake At Cherry Lane No. 3 Subdivision as filed for record in the office of the Ada County Recorder, Boise, Idaho, in Book 70 of Plats at pages 7167 and 7168;

thence along the Westerly boundary of said subdivision the following courses and distances:

thence South  $00^{\circ}58'00''$  West 160.00 feet to an iron pin marking the Southerly right-of-way of W.

## EXHIBIT A - Page 2 of 5

Moon Lake Street;

thence along said Southerly right-of-way, South  $89^{\circ}02'00''$  East 32.43 feet to an iron pin;

thence leaving said Southerly right-of-way, South  $00^{\circ}58'00''$  West 120.00 feet to an iron pin;

thence North  $89^{\circ}02'00''$  West 19.96 feet to an iron pin;

thence South  $08^{\circ}14'56''$  West 197.64 feet to an iron pin;

thence South  $21^{\circ}41'34''$  West 106.19 feet to an iron pin marking a point on the Northerly right-of-way of N. Sea Cove Way;

thence leaving said Northerly right-of-way, South  $64^{\circ}06'56''$  West 76.45 feet to an iron pin marking a point of the Southerly right-of-way of N. Sea Cove Way;

thence leaving said Southerly right-of-way, South  $03^{\circ}50'00''$  East 140.77 feet to an iron pin marking the Southwest corner of said subdivision. The Lake At Cherry Lane No. 3 Subdivision, also said iron pin marking a point on the Northerly boundary of The Lake At Cherry Lane No. 2 Subdivision as filed for record in the office of the Ada County Recorder, Boise, Idaho, in Book 54 of Plats at pages 4882 and 4883;

thence along the Northerly and Westerly boundary of said subdivision the following courses and distances;

thence South  $86^{\circ}09'17''$  West 170.14 feet (formerly South  $86^{\circ}10'00''$  East) to an iron pin marking the Northwest corner of said subdivision;

thence South  $03^{\circ}59'40''$  East 100.11 feet (formerly South  $03^{\circ}50'00''$  East 100.00 feet) to an iron pin marking the Northerly right-of-way of W. Harbor Point Drive;

thence leaving said Northerly right-of-way, South  $03^{\circ}15'37''$  East 50.00 feet to an iron pin marking the Southerly right-of-way of W. Harbor Point Drive;

thence leaving said Southerly right-of-way, South  $04^{\circ}00'14''$  East 99.94 feet (formerly South  $03^{\circ}50'00''$  East 100.00 feet) to an iron pin marking the Southwest corner of said subdivision;

thence leaving said boundary of The Lake At Cherry Lane No. 2 Subdivision, South  $11^{\circ}51'41''$  West 207.58 feet (Formerly South  $11^{\circ}44'56''$  West 207.40 feet) to an iron pin;

thence South  $68^{\circ}00'00''$  West 265.00 feet to a Brass cap marking the Southwest corner of the Northeast Quarter of Section 3, T.3N., R.1W., B.M., Meridian, Ada County, Idaho;

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EXHIBIT A - Page 3 of 5

thence North 75°30'00" West 190.00 feet to the point of beginning, comprising 23.09 acres, more or less.

SUBJECT TO:

All existing easements and road rights-of-way of record or appearing on the above-described parcel of land.

Prepared by:

Pacific Land Surveyors



JTE/EDM

John T. (Tom) Eddy, P.L.S.

97089533

ADA CO. RECORDER  
J. DAVID NAVARRO  
BOISE ID  
EBERLE, Berlin

'97 OCT 28 PM 3 29

**SUPPLEMENTAL DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AND NOTICE OF ANNEXATION FOR  
THE LAKE AT CHERRY LANE NO. 4 SUBDIVISION**

KNOW ALL MEN BY THESE PRESENTS that Louis J. Steiner and Brenda Steiner, husband and wife, hereinafter referred to as "Declarant," are the owners of that certain real property located in Ada County, Idaho, described as The Lake at Cherry Lane No. 4 Subdivision, according to the official plat thereof, recorded on August 13, 1997, as Instrument No. 97064835 in book 74 of plats, pages 7674 and 7675, records of Ada County, Idaho, except Lot 19, Block 1 and Lot 46, Block 2, thereof (hereinafter the "Real Property").

**WITNESSETH**

WHEREAS, Declarant has heretofore filed that certain Declaration of Covenants, Conditions, and Restrictions of The Lake at Cherry Lane No. 3 Subdivision, which Declaration was recorded on November 2, 1995, as Instrument No. 95080781, records of Ada County, Idaho (hereinafter the "Declaration"); and

NOW, THEREFORE, pursuant to Article XIV of the Declaration, Declarant hereby declares that the Real Property, except Lot 19, Block 1 and Lot 46, Block 2 thereof, shall be held, sold, conveyed and be subject to the Declaration, which Declaration is hereby incorporated by this reference as if fully set forth herein, except that the following paragraphs of the Declaration shall be amended to read as follows and shall pertain solely to the Real Property:

1. Article I, Section 2, "Properties," shall, in addition to the properties described in the Declaration, mean and refer to the Real Property hereinbefore described.
2. Article III, Section 3, paragraphs C, D, and G shall be amended in their entirety to read as follows:
  - C. Maximum Annual Assessment: Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$150.00.
    1. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than ten percent (10%), or the maximum percentage increase allowable by Federal National



Mortgage Association (whichever is greater), above the maximum assessment as set forth above.

2. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above the amount set forth in the preceding paragraph by a vote of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.
  3. The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum; and said assessments shall be payable to the Association in regular monthly or quarterly installments as may be determined by the Board of Directors.
- D. Initiation Assessment: Upon the initial conveyance of each lot, the purchaser thereof shall pay an initiation assessment in the amount of \$200.00.
- G. Uniform Rate of Assessment: Subject to the provisions of Paragraph L below, both annual and special assessments must be fixed at a uniform rate for all non-exempt lots shown on any final plat as recorded in the office of the Recorder of Ada County, Idaho, provided, however, that in the discretion of the Board of Directors, the rate of assessment applicable to Lots depicted on any one such final plat need not be the same rate of assessment applicable to the Lots depicted on any other final plat.
3. A new Article VIII, Paragraph M, shall be added as follows:
- M. Basketball Backboards or Posts: Basketball backboards or posts shall not be installed without prior written approval of the Architectural Control Committee as to materials and location. At a minimum, backboards shall be freestanding, constructed of plexiglass or acrylic materials, and shall be supported by removable metal posts, painted white to blend with the color of the house and anchored in concrete. Backboards must be perpendicular to and adjacent to the driveway or to the side of the house, or shall be located in the back yard, so as not to constitute a nuisance or visual obstruction to adjacent homeowners.
4. Article IX, Sections 2, 3, and 4, shall be amended in their entirety to read as follows:
- Section 2. Setbacks: No improvements may be constructed or maintained on a lot within the minimum building setback lines as provided for by the Meridian City Zoning Ordinance.
- Section 3. Construction Requirements: Each Dwelling Unit may have wood siding (redwood, cedar, or spruce which may be stained or painted) or a combination of wood, stone, manufactured or synthetic stone, stucco, masonry or masonite siding.

Each Dwelling Unit must have exterior brick, stone, manufactured or synthetic stone or stucco on a portion of the front elevation as may be approved by the Architectural Control Committee, however, masonry wainscoting is discouraged. All roofs shall be comprised of Pabco premier 25-year architectural shingles, antique black in color, with Duraridge caps or equivalent (as may be approved by the Architectural Control Committee) with a minimum 5/12 pitch. The exterior surfaces of each Dwelling Unit shall have such colors as may be approved by the Architectural Control Committee. All windows shall be of the anodized type or better (no raw aluminum frames). All fireplace chimneys must be of masonry or metal and, if metal, shall be wrapped with the same materials as exist on other areas of the exterior of the Unit to within one foot of the top cap. Each Dwelling Unit must have at least two exterior lights illuminating the garage door openings and one exterior light for the front entryway(s). All driveways must be concrete.

Section 4. Landscaping: Prior to the date of occupancy or substantial completion of the Dwelling Unit located thereon (whichever first occurs), each Lot shall be fully landscaped in the front yard (and for corner Lots, the street side yard) with grass (seeded or rolled sod), at least four (4) deciduous trees at least one and one-half (1-1/2) inches in diameter or conifer trees at least six feet in height (two each in the front and street side yards) and twenty (20) 1 gallon and ten (10) 5 gallon shrubs or bushes equally distributed between the front and street side yard all as has been approved by the Architectural Control Committee. In the case of Lots which have a common boundary with the Golf Course, within thirty (30) days of occupancy or completion (whichever first occurs), the rear yard of each such Lot shall be fully landscaped with grass (seeded or rolled sod), at least two deciduous trees at least one and one-half (1-1/2) inches in diameter or conifer trees at least six (6) feet in height and ten (10) 1 gallon and five (5) gallon shrubs or bushes, all as been approved by the Architectural Control Committee. As used herein, the front yard shall include that portion of each Lot to the side of the Dwelling Unit constructed thereon which is between the public right of way and the rear plane of the Dwelling Unit or a fence which extends from the side of the Dwelling Unit to the side lot line. During construction of the Dwelling Unit, there shall be installed in the front yard within ten feet (10') of the front boundary line, a photosensitive pole light designed to switch on automatically at sunset and off at sunrise with a minimum bulb power of 60 watts.

5. A new Section 5 shall be added to Article IX, to read as follows:

Section 5. Job Site Maintenance: Job sites are to be kept as clean as possible during construction. All dirt, nails, gravel and other building materials must be removed from the street and sidewalk daily. Work vehicles shall not be parked in front of occupied houses, nor shall they block streets. Power and water must not be used from existing dwellings without the prior permission of the Owner. Dumpsters and portable toilets are the responsibility of the Owner or his contractor and shall be kept orderly at all times and emptied on a timely basis. All contractors and subcontractors shall be prohibited from keeping dogs at the job site. In the event an



ADA CO. RECORDER  
J. DAVIS NAVARRO  
BOISE ID*Charles Berlin Esq*

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS AND NOTICE OF ANNEXATION FOR  
THE LAKE AT CHERRY LANE NO. 5 SUBDIVISION**

'97 NOV 12 PM 3 49  
FEE 1800  
RECORDED AT THE REQUEST OF *Blauer*

KNOW ALL MEN BY THESE PRESENTS that Steiner Development, L.L.C., an Idaho limited liability company (hereinafter referred to as "Declarant") and Valli Builders, L.L.C., Emerald Enterprises, Inc. and D-Jay Construction, Inc. (hereinafter collectively referred as "Owners") are the Owners of that certain real property located in Ada County, Idaho, described as The Lake at Cherry Lane No. 5 Subdivision, according to the official plat thereof, recorded on September 15, 1997, as Instrument No. 97075297 in book 75 of plats, pages 7700 and 7701, records of Ada County, Idaho except Lots 31 and 33, Block 8 and Lots 7 and 8, Block 10 thereof (hereinafter the "Real Property").

**W I T N E S S E T H**

WHEREAS, Louis J. Steiner and Brenda Steiner have heretofore filed that certain Declaration of Covenants, Conditions, and Restrictions of The Lake at Cherry Lane No. 3 Subdivision, which Declaration was recorded on November 2, 1995, as Instrument No. 95080781, records of Ada County, Idaho (hereinafter the "Declaration"); and

WHEREAS, Louis J. Steiner and Brenda Steiner have heretofore filed that certain Supplemental Declaration of Covenants, Conditions, and Restrictions and Notice of Annexation for The Lake at Cherry Lane No. 4 Subdivision, which Supplemental Declaration was recorded on October 28, 1997, as Instrument No. 97089533, records of Ada County, Idaho (hereinafter the "First Supplemental Declaration"); and

WHEREAS, the Declaration and First Supplemental Declaration shall hereinafter be referred to as the "Original Covenants";

NOW, THEREFORE, pursuant to Article XIV of the Declaration, Declarant and Owners hereby declare that the Real Property, except Lots 31 and 33, Block 8, and Lots 7 and 8, Block 10, shall be held, sold, conveyed and be subject to the Original Covenants, which Original Covenants are hereby incorporated by this reference as if fully set forth herein, except that the following paragraphs of the Original Covenants shall be amended to read as follows and shall pertain solely to the Real Property:

1. Article I, Section 2, "Properties," shall, in addition to the properties described in the Declaration, mean and refer to the Real Property hereinbefore described.
2. Article I, Section 3, "Common Area," shall, in addition to the Common Area described in the Declaration, include the following: Lot 1 in Blocks 12 through 24, Lots 1, 32 and



33, Block 8, Lot 9, Block 10, Lot 22, Block 5, and Lot 9, Block 4, inclusive, The Lake at Cherry Lane No. 5 Subdivision, according to the official plat thereof, recorded in Book 75 of plats at pages 7700 and 7701, as Instrument No. 97075297, recorded on the 15th day of September, 1997, records of Ada County, Idaho.

3. A new Article II, Section 1, Paragraph D shall be added as follows:

D. It being the intent of the Declarant that Lot 33, Block 8 is to be used as a storm drain retention facility for the benefit of the Lots in The Lake at Cherry Lane No. 5 Subdivision and for the benefit of any additional Lots created as a result of a resubdivision of any of the said Lots, notwithstanding anything contained in this Article II to the contrary, the Board of Directors of the Association shall have the right to dedicate or transfer, for such consideration as the Board of Directors may determine appropriate, Lot 33, Block 8 to any public agency, authority or utility, or to another association of homeowners to be benefitted thereby, for such purposes and subject to such conditions as may be agreed upon by the Board of Directors, provided, however, that any such dedication or transfer shall reserve to the Association the right to continue to make use of the said Lot 33, Block 8, for storm drain retention purposes.

4. The provisions of Article IV, Golf Course Development Fee, shall be deleted in its entirety.

5. Article IX, Section 1, shall be amended in its entirety to read as follows:

Section 1. Building Restrictions: With the exception of Common Area Lots and Lots 16 through 30, Block 8 and Lots 1 through 8, Block 11, no building shall be erected, altered, placed or permitted to remain on any Lot other than one detached, single family dwelling containing a minimum of 1,500 square feet of interior living space (if two story, a minimum of 1,000 square feet must be on the ground level and 650 square feet on the second level), which may not exceed 32 feet in height, and a private garage for two or more vehicles containing a minimum of 528 square feet of floor space. The minimum square feet of interior living space applicable to dwellings to be constructed on Lots 16 through 30, Block 8, and 1 through 8, Block 11, shall be 1,301 square feet. Each dwelling may not be occupied by more than one family. Notwithstanding the foregoing, no Dwelling Unit which exceeds one story in height shall be permitted on any corner lot.

6. Article XIII, Paragraph E.1 shall be amended in its entirety to read as follows:


1. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common area property owned, directly or indirectly, by such Association for the benefit of the Owners, except as set forth in Article II of this Declaration. (The granting of easements for public utilities or for other

public purposes consistent with the intended use of such common area property shall not be deemed a transfer within the meaning of this clause).

This Supplemental Declaration and Notice of Annexation for The Lake at Cherry Lane No. 5 Subdivision is executed on this 21 day of October, 1997.

DECLARANT:

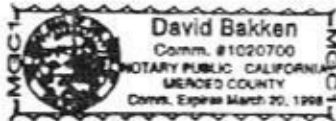
STEINER DEVELOPMENT, L.L.C.

By:   
LOUIS J. STEINER, Managing Member

STATE OF CALIFORNIA )  
County of Merced ) ss.

On this 21 day of October, 1997, before me, the undersigned Notary Public in and for said State, personally appeared Louis J. Steiner, known or ~~identified~~ to me to be the Managing Member of Steiner Development, L.L.C., and acknowledged to me that he executed the same on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public for California  
My Commission Expires: 3/20/98

OWNERS:

EMERALD ENTERPRISES, INC.

By:

LAWRENCE C. LARRAWAY, President

STATE OF IDAHO )

SS.

County of Ada

On this 10th day of November, 1997, before me, the undersigned Notary Public in and for said State, personally appeared Lawrence C. Larraway, known or identified to me to be the President of Emerald Enterprises, Inc. and acknowledged to me that he executed the same on behalf of said Emerald Enterprises, Inc.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal  
the day and year in this certificate first above written.



Donna B. Sleeper  
Notary Public for Idaho  
My Commission Expires 9/9/2000

VALLI BUILDERS, L.L.C.

By: Gary Newman

GARY NEWMAN

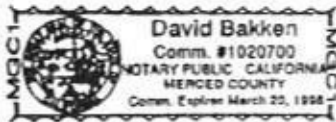
STATE OF CALIFORNIA )

ss.

County of Merced )

On this 31 day of October, 1997, before me, the undersigned Notary Public in and for said State, personally appeared Gary Newman, known ~~as identified~~ to me to be the Managing Member of Valli Builders, L.L.C., and acknowledged to me that he executed the same on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



David Bakken  
Notary Public for California  
My Commission Expires: 3/20/97



D-JAY CONSTRUCTION, INC.

By

*Diane Duffa*  
DIANE DUFFA *DUFFA*

STATE OF IDAHO )

ss.

County of Ada )

On this 24<sup>th</sup> day of OCT., 1997, before me, the undersigned Notary Public in and for said State, personally appeared Diane Duffa<sup>nee</sup>, known or identified to me to be the President of D-Jay Construction, Inc., and acknowledged to me that she executed the same on behalf of said D. Jay Construction, Inc.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



*Robyn Williams*  
Notary Public for Idaho  
My Commission Expires 1-22-98



PROJECT: 527153

DATE: December 1, 1994

REVISED: October 26, 1995

DESCRIPTION FOR  
THE LAKE AT CHERRY LANE NO. 5 & 6  
THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER  
SECTION 3  
T.3N., R.1W., B.M.  
MERIDIAN, ADA COUNTY, IDAHO

A parcel of land being the Southeast Quarter of the Northeast Quarter of Section 3, T.3N., R.1W., B.M., Meridian, Ada County, Idaho and more particularly described as follows:

Beginning at a Brass cap marking the Southeast corner of the Southeast Quarter of the Northeast Quarter of Section 3, T.3N., R.1W., B.M., Meridian, Ada County, Idaho, said Brass cap also being the REAL POINT OF BEGINNING (Initial Point);

thence along the Southerly boundary of the said Southeast Quarter of the Northeast Quarter of Section 3, which is also Northerly boundary of Cherry Lane Village No. 5 Subdivision as filed for record in the office of the Ada County Recorder, Boise, Idaho, in Book 69 of Plats at pages 7033 and 7034, North  $88^{\circ}55'29''$  West 1321.64 feet to a 2" galvanized pipe marking the Southwest corner of the said Southeast Quarter of the Northeast Quarter of Section 3, said 2" galvanized pipe also marking a point on the Easterly boundary of The Lake At Cherry Lane No. 3 Subdivision as filed for record in the office of the Ada County Recorder, Boise, Idaho, in Book 70 of Plats at pages 7167 and 7168;

thence leaving said Southerly and Northerly boundary, and along the Westerly boundary of the said Southeast Quarter of the Northeast Quarter of Section 3, which is also the Easterly boundary of the Lake At Cherry Lane No. 3 Subdivision, North  $00^{\circ}26'04''$  East 1323.40 feet to an iron pin marking the Northwest corner of the said Southeast Quarter of the Northeast Quarter of Section 3;

thence leaving said Westerly and Easterly boundaries, and along the Northerly boundary of the said Southeast Quarter of the Northeast Quarter of Section 3, South  $89^{\circ}02'00''$  East 1321.04 feet to an iron pin marking the Northeast Corner of the said Southeast Quarter of the Northeast Quarter of Section 3, said iron pin also being on the centerline of North Ten Mile Road;

thence leaving said Northerly boundary, and along the Easterly boundary of the said Southeast Quarter of the Northeast Quarter of Section 3, and said centerline, South  $(X)24^{\circ}34''$  West 1325.91 feet to the point of beginning, comprising 40.18 acres, more or less.

1935001267

SUBJECT TO:

All existing easements and road rights-of-way of record or appearing on the above-described parcel of land.

Prepared by:

Pacific Land Surveyors



ITE:EDM

John T. (Tom) Eddy, P.L.S.