



**CITY OF HARRISONBURG  
COMMUNITY  
DEVELOPMENT**

**Preliminary Subdivision  
Plat Application**

[www.harrisonburgva.gov/subdividing-property](http://www.harrisonburgva.gov/subdividing-property)

<b>PROPERTY INFORMATION</b>			
Title of Subdivision:	<u>Tuscan Village</u>		
1820 Country Club Rd	<u>72-B-4</u>		
Property Address(es)	Tax Map Parcel(s)/ID(s)		
<u>3.04</u>	<u>3</u>	<u>R-3C, R-5</u>	
Total Acreage	Number of Lots Proposed	Zoning Classifications	
<b>PROPERTY OWNER INFORMATION</b>			
<u>Daniel R. &amp; Naomi R. Shenk</u>			
Property Owner Name		Telephone	
<u>351 Monticello Ave.</u>			
Street Address		E-Mail	
<u>Harrisonburg</u>	<u>VA</u>	<u>22801</u>	
City	State	Zip	
<b>OWNER'S REPRESENTATIVE INFORMATION (if applicable)</b>			
<u>Colman Engineering</u>			
Owner's Representative		Telephone	
<u>1223 South High Street</u>			
Street Address		E-Mail	
<u>Harrisonburg</u>	<u>VA</u>	<u>22801</u>	
City	State	Zip	
<b>SURVEYOR INFORMATION</b>			
<u>Lotts &amp; Associates</u>			
Name		Telephone	
<u>21 Cambridge Dr</u>			
Street Address		E-Mail	
<u>Stuarts Draft</u>	<u>VA</u>	<u>24477</u>	
City	State	Zip	

VARIANCES

No variances requested. (Continue to next section.)

Variance requested. **If a variance is requested, please provide the following information:**

I (we) hereby apply for a variance from:

The Harrisonburg Subdivision Ordinance section(s): 10-2-41(a), 10-2-42(c), 10-2-43, 10-2-66

The Harrisonburg Design and Construction Standards Manual section(s): 3.3.3.1, Appendix F

which requires:

See attached Letter

The attached letter shall describe why the applicant believes a variance should be granted based on the following “unnecessary hardship” which is peculiar to the property in question. (See Section 10-2-2 of the Subdivision Ordinance.)

CERTIFICATION

The City of Harrisonburg’s preliminary plat and subdivision requirements are in the code of the City of Harrisonburg, Subdivision Ordinance Sections 10-2-1 through 10-2-86. Please read these requirements carefully.

*I have read the ordinance requirements. I certify that the information supplied on this application and on the attachments provided (plats and other information) is accurate and true to the best of my knowledge. In addition, I hereby grant permission to the agents and employees of the City of Harrisonburg to enter the above property for the purposes of processing and reviewing this application. I also understand that, when required, public notice signs will be posted by the City on any property.*

Daniel R Shenk

Naomi R Shenk

02/06/2024

PROPERTY OWNER

DATE

REQUIRED ATTACHMENTS

- Letter explaining proposed use & reasons for seeking Preliminary Subdivision Plat Approval.
- Plat of properties meeting requirement of Subdivision Ordinance Section 10-2-23 – see checklist.
- Traffic Impact Analysis (TIA) Determination Form OR Traffic Impact Analysis (TIA) Acceptance Letter signed by Public Works Department. Applicant is responsible for coordinating with Public Works prior to submitting this application. For more information, visit [www.harrisonburgva.gov/traffic-impact-analysis](http://www.harrisonburgva.gov/traffic-impact-analysis).

TO BE COMPLETED BY PLANNING & ZONING DIVISION

\_\_\_\_\_  
Date Form Received

\_\_\_\_\_  
Form Received By

Total Fees Due: \$ \_\_\_\_\_  
Application Fee:  
w/o Variance Request \$175.00 plus \$20.00 per lot  
with Variance Request \$200.00 plus \$20.00 per lot



**CITY OF HARRISONBURG**  
**COMMUNITY**  
**DEVELOPMENT**

**Preliminary Subdivision**  
**Plat Application**

[www.harrisonburgva.gov/subdividing-property](http://www.harrisonburgva.gov/subdividing-property)

**PROPERTY INFORMATION**

Title of Subdivision: Tuscan Village

650 Keezletown Rd  
 Property Address(es)

72-B-6  
 Tax Map Parcel(s)/ID(s)

5.48  
 Total Acreage

25  
 Number of Lots Proposed

R-5, R-8  
 Zoning Classifications

**PROPERTY OWNER INFORMATION**

Harrisonburg Cohousing LLC

540-560-5061

Property Owner Name

Telephone

1315 Harmony Dr

ervinrstutzman@gmail.com

Street Address

E-Mail

Harrisonburg VA 22802  
 City State Zip

**OWNER'S REPRESENTATIVE INFORMATION (if applicable)**

Colman Engineering

540-246-3712

Owner's Representative

Telephone

1223 South High Street

gil@colmanengineering.com

Street Address

E-Mail

Harrisonburg VA 22801  
 City State Zip

**SURVEYOR INFORMATION**

Lotts & Associates

540-337-0012

Name

Telephone

21 Cambridge Dr

brandon@lottssurveying.com

Street Address

E-Mail

Stuarts Draft VA 24477  
 City State Zip

**VARIANCES**

No variances requested. (Continue to next section.)

Variance requested. **If a variance is requested, please provide the following information:**

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2/6/2024 | 7:42 AM PST

Erwin Stutzman  
PROPERTY OWNER

DATE

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**TO BE COMPLETED BY PLANNING & ZONING DIVISION**

Date Form Received \_\_\_\_\_

Form Received By \_\_\_\_\_

Total Fees Due: \$ \_\_\_\_\_

Application Fee:

w/o Variance Request \$175.00 plus \$20.00 per lot

with Variance Request \$200.00 plus \$20.00 per lot



**PROPERTY INFORMATION**

Title of Subdivision: Tuscan Village

730 Keezletown Rd 72-B-7  
 Property Address(es) Tax Map Parcel(s)/ID(s)

4.13 31 R-5, R-8  
 Total Acreage Number of Lots Proposed Zoning Classifications

**PROPERTY OWNER INFORMATION**

Brenda G Castello & Ted A Morris 540-241-4908

Property Owner Name Telephone

114 Twin Hills Ln Fred.castello@gmail.com

Street Address E-Mail

Fishersville VA 22939

City State Zip

**OWNER'S REPRESENTATIVE INFORMATION (if applicable)**

Colman Engineering 540-246-3712

Owner's Representative Telephone

1223 South High Street gil@colmanengineering.com

Street Address E-Mail

Harrisonburg VA 22801

City State Zip

**SURVEYOR INFORMATION**

Lotts & Associates 540-337-0012

Name Telephone

21 Cambridge Dr brandon@lottssurveying.com

Street Address E-Mail

Stuarts Draft VA 24477

City State Zip

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Signature by Crinda Castillo

[Handwritten Signature]

2/6/2024

PROPERTY OWNER

DATE

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TO BE COMPLETED BY PLANNING & ZONING DIVISION

Date Form Received

Form Received By

Total Fees Due: \$ \_\_\_\_\_  
Application Fee:  
w/o Variance Request \$175.00 plus \$20.00 per lot  
with Variance Request \$200.00 plus \$20.00 per lot

March 5, 2024

Ms. Thanh H. Dang  
Deputy Director of Community Development  
Department of Planning & Community Development  
409 South Main Street  
Harrisonburg, VA 22801

**RE: Tuscan Village Preliminary Plat Letter**

Dear Ms. Dang:

**Proposed Use:**

I am writing on behalf of Scripture Communities, who plan to develop the properties at the addresses of 650 Keezletown Road (TM# 72-B-6), 730 Keezletown Road (TM# 72-B-7), and a portion of 1820 Country Club Road (TM# 72-B-4). Improvements include 57 townhouses, 9 apartment buildings, 1 duplex, and 1 single family home, associated drives, parking, sidewalks, public streets, and playgrounds. The property was rezoned from R-3C, R-7, and R-1 to R-5C & R-8C with approval by Harrisonburg City Council on January 9, 2024.

**Request for Variances:**

- A. Variance Request from 10-2-43, which requires a 10-foot-wide public general utility easement along front lot lines and any lot adjacent to public right-of-way, and requires at least a 10-foot-wide public general utility easement, centered on the side or rear lot lines,

As the preliminary plat drawings illustrate, adequate public general utility easements are provided to serve each newly created parcel. The variance is requested so that additional easements that would restrict use or would conflict with other easements (i.e. public water, public sanitary sewer, and BMP maintenance areas) are not required along the frontage and side or rear lot lines for each newly created parcel.

- B. Variance Request from 10-2-42(c), which requires all parcels to front a public street,

As the proposed development is internally oriented and has private streets / drives, the proposed lots will front these internal drives.

- C. Variance Request from 10-2-41(a), 10-2-61(a), and 10-2-66, which requires all utility, street and alley improvements shall be provided in each new subdivision lying wholly or partly within the corporate limits of the city in accordance with the standards and specifications of the city. 10-2-61-(a) states that the subdivider is required to make all

such improvements to streets, including grading, subgrade, surface, and curbs and gutters, in accord with the requirements of the city's DCSM.

As the preliminary plat drawings illustrate, the shared use path near Country Club Road leaves the proposed Right-of-way to avoid disturbance of a large mature tree. This tree is proffered to be protected in the proffers per the Rezoning Request. We request that the proposed shared use path or sidewalk be allowed to be located outside of the public right of way, provided that it is located within a public access easement.

DCSM Appendix F Local Street requires 15-foot-wide lanes and 10 foot-wide graded out area for easements.

We request a variance to provide 10-foot-wide lanes on the Public Streets as coordinated with Harrisonburg Public Works Department. Adequate parking will be provided in the development, so parking on the Public Streets will not be necessary. Also, the right-of-way width will be 49.5 feet for Public Street 1 and 40 feet for Public Street 2 rather than 50 feet. The site has a stream running through the center of the property which limits the available space for public street corridors. We request that the 2:1 cut or fill slope may be started at the edge of right-of-way so that impacts to the stream are limited to the stream crossings and the designated wetlands can remain untouched as much as possible. As noted above, adequate general utility easements will be provided for each newly created parcel.

DCSM 3.3.3.1 requires that sidewalk be provided on both sides of new streets.

We request a variance to only provide a shared use path on one side of the proposed street on the property of 1820 Country Club Rd, TM# 72-B-4. As discussed with city staff, the sidewalk along the north side of the road will not likely be utilized and there is a shared use path on the south of the proposed street for pedestrians and bicyclists to use. Additionally, a raised crosswalk will be provided where the sidewalk begins on the north side of the street as illustrated in the Preliminary Plat Drawings.

Granting these variances will allow the property to be developed as presented on the rezoning request, making the project feasible and providing for housing consistent with the mixed use and medium density designations as per the City's Comprehensive Plan.

Sincerely,

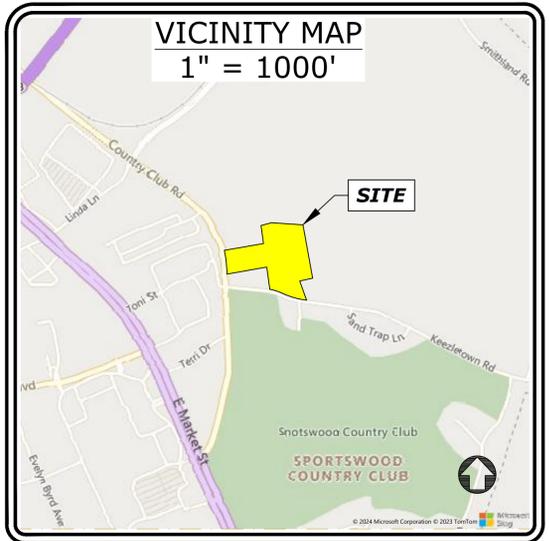
Joshua Yoder, PE  
Colman Engineering  
Harrisonburg, VA



**LEGEND**

- EXISTING BUILDING
- PROPOSED BUILDING
- EXISTING PROPERTY LINE
- PROPERTY LINE
- PROPERTY SETBACK LINE
- EXISTING EASEMENT LINE
- EASEMENT LINE
- EXISTING CURB
- PROPOSED CURB
- EXISTING ROAD
- CENTERLINE OF ROAD
- EXISTING GUY WIRE
- EXISTING GAS LINE
- EXISTING MISC
- EXISTING UNDERGROUND ELEC
- UNDERGROUND ELEC
- EXISTING OVERHEAD UTILITY
- EXISTING COMM UTILITY
- EXISTING FIBER OPTIC UTILITY
- EXISTING CONCRETE PAVEMENT
- CONCRETE PAVEMENT
- EXISTING ASPHALT PAVEMENT
- ASPHALT PAVEMENT
- PROPOSED GRAVEL OR RIPRAP
- EXISTING SIDEWALK
- PROPOSED SIDEWALK
- EXISTING VEGETATION
- EROSION AND SEDIMENT CONTROL MEASURE
- DISTURBED AREA
- EXISTING FENCE
- FENCE
- EXISTING PARKING MARKING
- PARKING AREA
- PARKING MARKING
- PARKING LANDSCAPE ISLAND
- EXISTING SIGN
- SIGN
- EXISTING SANITARY SEWER LINE
- SANITARY SEWER PIPE
- SANITARY SEWER STRUCTURE
- EXISTING STORM PIPE
- STORM PIPE
- STORM STRUCTURE
- TC FLOW PATH
- EXISTING WATER LINE
- WATER LINE
- EXISTING WALL
- WALL
- WATER METER
- WATER VALVE
- FIRE HYDRANT
- EXISTING WATER METER
- EXISTING WATER VALVE
- EXISTING FIRE HYDRANT
- EXISTING SANITARY SEWER MANHOLE
- SANITARY SEWER MANHOLE
- EXISTING STORM MANHOLE
- STORM MANHOLE OR STRUCTURE
- EXISTING UTILITY POLE
- UTILITY POLE
- BIKE RACK (PARKING)
- PROPOSED LARGE DECIDUOUS TREE
- PROPOSED SMALL DECIDUOUS TREE
- PROPOSED DECIDUOUS OR EVERGREEN SHRUB
- PROPOSED EVERGREEN TREE
- ELECTRIC TRANSFORMER
- ELECTRIC JUNCTION
- ELECTRIC METER
- ELECTRIC PEDESTAL

**VICINITY MAP**  
1" = 1000'



**LEGEND**

- (9) 6 - ONE BEDROOM APARTMENT BUILDING
- (57) TOWNHOUSE UNIT
- (2) DUPLEX UNIT
- (1) EXISTING SINGLE FAMILY HOME

**PROPERTY INFORMATION**

- Location: 1820 COUNTRY CLUB RD, HARRISONBURG, VA 22802
- Tax Map: 72-B-4
- Zone: R-3-C, R-5
- Lot Area: 3.04 Ac
- 650 KEEZLETOWN RD, HARRISONBURG, VA 22802
- Tax Map: 72-B-6
- Zone: R-5, R-8
- Lot Area: 5.48 Acres
- 730 KEEZLETOWN RD, HARRISONBURG, VA 22802
- Tax Map: 72-B-7
- Zone: R-5, R-8
- Lot Area: 4.13 Acres

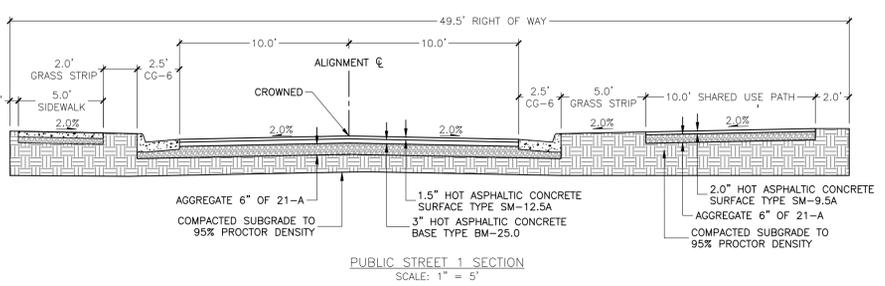
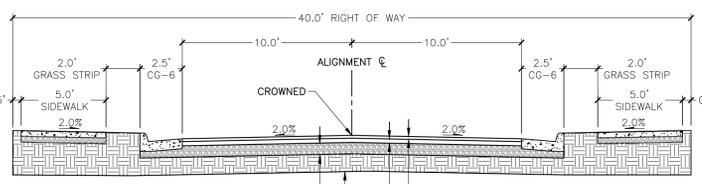
- Total acreage: 12.65
- Total units in Preliminary plan: 114
- 57 Townhomes dwelling units
- 54 Apartment dwelling units
- 2 Duplex dwelling units
- 1 Single Family Home units

- Total Density: Average: 9.01 DU/Acre

- Appoved Zoning: Zone: R-3-C
- Area: 1.02 Acres
- Density: N/A
- USE: Mixed Use

- Zone: R-5
- Area: 4.73 Acres
- Density: 11.42 DU/Acre
- USE: Multi-Family Residential

- Zone: R-8
- Area: 6.89 Acres
- Density: 8.56 DU/Acre
- USE: Single-Family Residential, Duplexes, & Townhomes



PARKING TABLE FOR MULTI-FAMILY USE			
USE	1 BEDROOM UNITS	RATE AS PER REZONING DOCS	SPACES REQUIRED
MULTI-FAMILY	54	1 SPACE/DU WITH 1 BEDROOM; 1.5 SPACES/DU WITH 1.5 WITH 2 OR MORE BEDROOMS	54
		SPACES PROVIDED	81
		ADA SPACES PROVIDED	4

**NOTE:** TOWNHOUSES, DUPLEXES & SINGLE FAMILY HOMES WILL HAVE PARKING REQUIREMENTS MET BY GARAGES AND DRIVEWAYS.



**PRELIMINARY PLAT - PRELIMINARY SITE LAYOUT**  
TUSCAN VILLAGE  
1820 COUNTRY CLUB RD  
HARRISONBURG, VA 22802

PROJECT #: CE202344  
DATE: 3/5/2024  
SCALE: 1" = 50'

**LEGEND**

- EXISTING BUILDING
- PROPOSED BUILDING
- EXISTING PROPERTY LINE
- PROPERTY LINE
- PROPERTY SETBACK LINE
- EXISTING EASEMENT LINE
- EASEMENT LINE

Parcel Area Table

Lot #	Area (sf)
1	44244
2	34637
3	43153
4	31841
5	26531
6	24525
7	7008
8	10279
9	29365
10	4726
11	1820
12	1820
13	2800
14	2800
15	1825
16	4555
17	3839
18	1875
19	1872
20	2952
21	6205
22	2630
23	2559
24	2544
25	6846
26	6365
27	2817
28	2821
29	2792
30	2730
31	6687
32	5553
33	2687

Parcel Area Table

Lot #	Area (sf)
34	5292
35	4441
36	2080
37	4561
38	5580
39	2080
40	2080
41	2080
42	6015
43	4939
44	2080
45	2080
46	2080
47	5860
48	6361
49	2848
50	3141
51	6394
52	6678
53	2119
54	2119
55	5677
56	4561
57	2080
58	4723
59	6066
60	3225
61	3166
62	4852
63	4478
64	2685
65	2500
66	4864



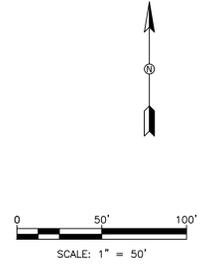
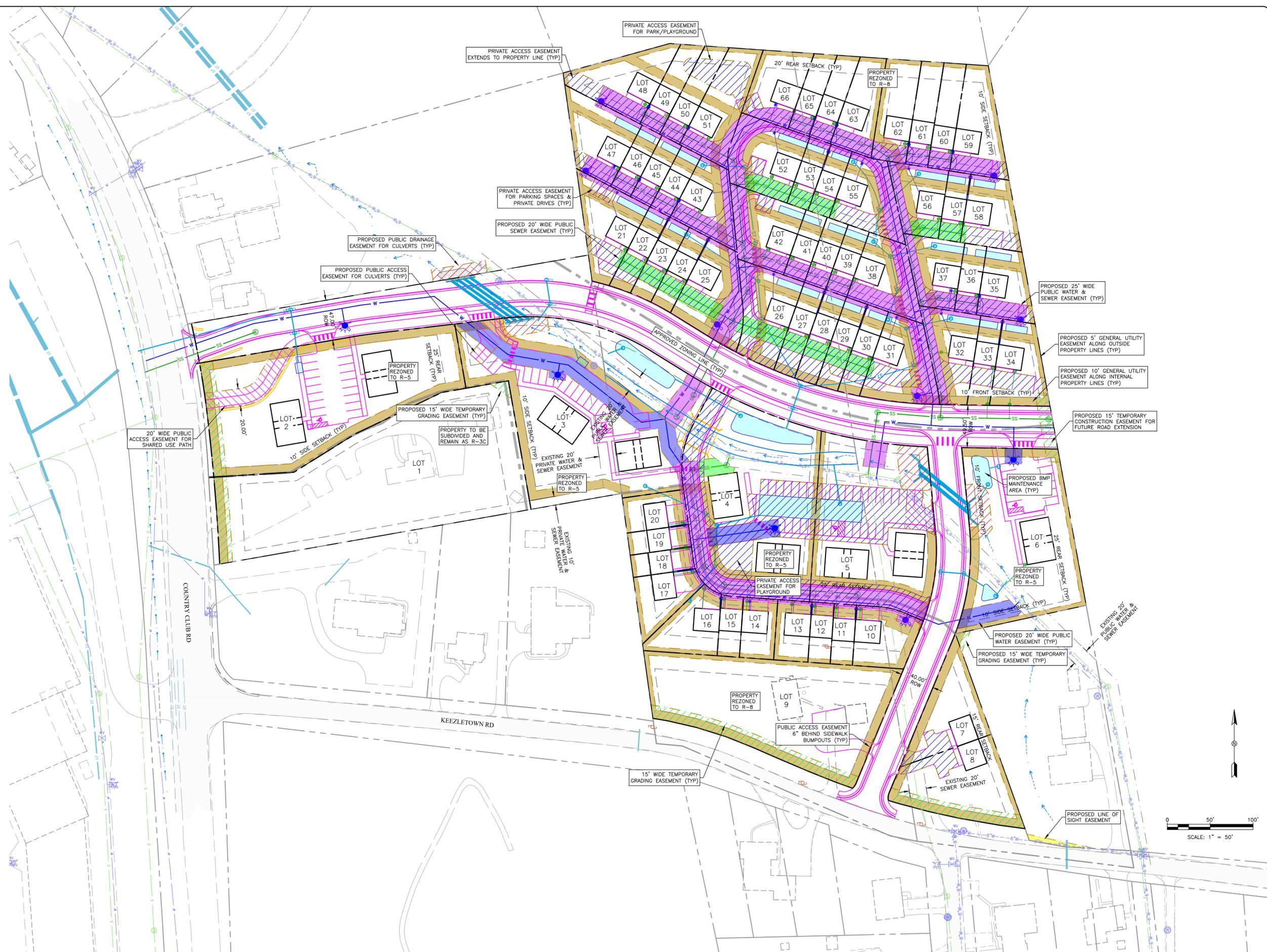
PRELIMINARY PLAT - PROPERTY LINES  
 TUSCAN VILLAGE  
 1820 COUNTRY CLUB RD  
 HARRISONBURG, VA 22802

PROJECT #: CE202344  
 DATE: 3/5/2024  
 SCALE: 1" = 50'

**LEGEND**

- PROPOSED PUBLIC ACCESS EASEMENT
- PROPOSED PUBLIC DRAINAGE EASEMENT
- PROPOSED PRIVATE ACCESS EASEMENT
- PROPOSED TEMPORARY GRADING EASEMENT
- PROPOSED PUBLIC WATER & SANITARY EASEMENT
- PROPOSED PUBLIC SANITARY SEWER EASEMENT
- PROPOSED PUBLIC WATER EASEMENT
- PROPOSED PUBLIC GENERAL UTILITY EASEMENT
- PROPOSED BMP MAINTENANCE AREA
- PROPOSED LINE OF SIGHT EASEMENT

**NOTE:**  
All townhouse units will be serviced by a meter pack and private easements for electrical services shall be reserved under building units through conduit to be installed under building slabs.



Tax Map Number: \_\_\_\_\_

**DECLARATION OF PROTECTIVE COVENANTS  
TUSCAN VILLAS, LLC**

**THIS DECLARATION** is made this \_\_\_\_ day of \_\_\_\_\_, 2024, by **TUSCAN VILLAS, LLC**, a Virginia limited liability company ("Declarant"), as grantor \_\_\_\_\_ and \_\_\_\_\_, Trustees (index as grantor) (either of whom may act) and \_\_\_\_\_, a banking corporation, ("Beneficiary"), also index as grantor.

**P R E A M B L E:**

A. Declarant is the owner of \_\_\_\_\_, more or less, situate in \_\_\_\_\_, Virginia, which has been subdivided and dedicated as \_\_\_\_\_ by an Owner's Consent and Dedication which is recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia (the "Clerk's Office"), prior to this Declaration (the "Owner's Consent and Plat").

B. Declarant conveyed a parcel of land containing \_\_\_\_\_ to \_\_\_\_\_ and \_\_\_\_\_, Trustees, by deed of trust dated \_\_\_\_\_, which is recorded in the Clerk's Office in Deed Book \_\_\_\_\_, page \_\_\_\_\_, securing a loan from \_\_\_\_\_.

**NOW THEREFORE**, Declarant declares that all of the Property shall be held, transferred, sold, conveyed and occupied subject to the following limitations, restrictions and uses which shall run with the real estate and shall be binding on and inure to the benefit of all present and future Owners thereof. This declaration, however, shall not apply to any other "phases" or "sections" of **Tuscan Villas, LLC**, or any other land owned by Declarant, except for such land as may be added under § 8.5.

**ARTICLE 1**  
**Definitions**

§1.1 "**Association**" shall mean and refer to Tuscan Villas Property Owners Association, and its successors and assigns.

§1.2 "**Common Areas**" shall mean and refer to all portions of the Property and all interest therein, including easements and improvements therein, owned or leased by the Association for the use and enjoyment of the Owners.

§1.3 "**Declarant**" shall mean Tuscan Villas and its successors and assigns, but shall not include the purchaser of any Lot.

§1.4 "**Lot**" shall mean and refer to the individually numbered plots of land shown upon the recorded subdivision plat of the Property.

§1.5 "**Owner**" shall mean or refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, whether acquired by purchase, gift, foreclosure or otherwise, but excluding those persons or entities having such interest merely as a security for the performance of an obligation. The address of an Owner (or Owners in case a Lot is owned by more than one person) for the purpose of notices required herein shall be the address as indicated on the tax records for the current year maintained by Rockingham County, Virginia, unless an Owner notifies the Association of a different address.

§1.6 "**Property**" shall mean and refer to i) the property containing \_\_\_\_\_ acres, more or less, shown and described on the Owner's Consent and Plat, and being all of the real estate dedicated to **Tuscan Villas**, and ii) subsequent sections added to this Declaration pursuant to §8.5 hereof.

**ARTICLE 2**  
**Association**

§2.1 Every Owner shall be a member of the Association. The membership shall be appurtenant with and may not be separated from ownership of any Lot.

§2.2 The Association shall have two (2) classes of members:

Class A. Class A members shall include all Owners except the Declarant. Class A members shall be entitled to one (1) vote for each Lot owned. When a Lot is owned by more than one person or entity, the one (1) vote for such Lot may be cast by any Owner thereof unless an objection or protest by another co-owner is made prior to the completion of a vote. Upon such objection or protest, the one (1) vote shall be cast according to the majority vote (based on each Owner's percentage ownership interest) of the Owners of such Lot, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Lot it owns.

§2.3 The Association may be an unincorporated association or a non-stock corporation organized under the laws of the Commonwealth of Virginia. The Association is charged with the duties and vested with the powers prescribed by law and set forth in its organizational documents, as such may be amended from time to time, provided no such organizational documents shall be amended for any reason or otherwise changed or interpreted so as to be inconsistent with this declaration.

§2.4 The Association shall be governed by a board of directors consisting of at least three (3) members elected by plurality vote of the members.

§2.5 By way of example, and without limiting the generality thereof, the Association shall have the power and obligation to perform the following duties:

(a) *Real and Personal Property.* To acquire, own, hold, improve, maintain, manage, lease, pledge, convey, transfer, mortgage, create a lien on or dedicate real or personal property for the benefit of the Association; and

(b) *Rule Making.* To establish rules and regulations for the use of the Common Areas; and

(c) *Assessments.* To fix, levy and collect assessments as provided in Article 4; and

(d) *Easements.* To grant and convey easements over and across the Common Areas as may become necessary.

**ARTICLE 3**  
**Architectural Control**

§ 3.1 Except for the original dwellings constructed by Declarant, no building, fence, or other improvements shall be erected or placed on any Lot and no exterior addition, change or alteration to any improvements on any Lot shall be made until the plans and specifications showing the nature, color, kind, shape, height and materials and a plat showing the location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by an Architectural Control Committee ("ACC"). The ACC shall be composed of three members. The three members shall be appointed by the Declarant until the date on which the last Lot in the Property is sold by the Declarant.

After such time, the Association shall appoint the three members. The members appointed shall hold office until removed by the entity then entitled to appoint members or their successors are elected.

§ 3.2 The ACC shall have full and complete discretion to approve or disapprove proposed buildings, fences, and other improvements and alterations on the Lots except for original dwellings constructed by Declarant, and in the exercise of its discretion, the committee shall not be bound to approve any proposed buildings and improvements solely because they comply with the other restrictions and covenants or are equal in cost or value to buildings and improvements on other Lots. In the event the ACC fails to approve or disapprove the plans and specifications within thirty (30) days after submission, the plans and specifications shall be deemed to be approved, but the failure of the ACC to act shall not be construed to waive any violation of these covenants.

§ 3.3 The ACC may base its approval or rejection of plans or specifications upon any grounds, including purely aesthetic considerations, which in the sole discretion of the committee shall seem sufficient. Representatives of the ACC shall have the right to inspect the building during construction to ensure that it complies with the approved plans and specifications. Where discrepancies exist, the ACC may require corrective work, or, where warranted in its opinion, it may issue a notice to cease construction until compliance is assured to its satisfaction. Failure to

heed such a notice from the ACC shall operate as a default under this covenant and shall give the ACC, in addition to any rights under general law, all of the rights and powers set out in this declaration.

§ 3.4 The exterior of any dwelling or building constructed on any Lot shall be completed within nine (9) months after the commencement of construction.

§ 3.5 Except as later provided in this paragraph, the ACC shall have the power to approve any proposed buildings or improvements on any of the Lots even though the buildings or improvements do not meet the requirements of this instrument, if, in the discretion of the committee, such deviations are not harmful to the value of the adjoining property. The ACC shall be under no duty to exercise this power, however. The ACC shall have no power to permit a deviation from § 6.1 of this instrument.

§ 3.6 The plans and specifications of any improvements shall be deemed approved under § 3.1 if the ACC has not notified the Owner of a violation of this Article within six (6) months after issuance of an occupancy permit or final inspection in case of improvements to an existing structure.

#### **ARTICLE 4** **Covenant for Maintenance Assessment**

§4.1 Each Owner (except for the Declarant as provided in § 4.2 below) by acceptance of any Lot, whether or not it shall be so expressed in any document conveying title to the Lot, shall be deemed to covenant and agree to pay to the Association:

- a. Regular assessments or charges;
- b. Special assessments for capital improvements;

which may be fixed, established and collected from time to time. Each type of assessment shall be a uniform rate. The regular and special assessments, together with such interest thereon as determined by the Association and costs of collection thereof, including attorney's fees, shall be a charge on each Lot and shall be a continuing lien upon each Lot until payment. Each such assessment, together with such interest thereon and costs of collection thereof, also shall be the personal obligation of the Owner (jointly and severally in the case of multiple Owners) of each

Lot at the time when the assessment fell due and shall not pass as a personal obligation to his successors in title unless expressly assumed by such successor.

§4.2 No assessment shall be due or payable for any Lot owned by the Declarant which is held for sale. This exemption shall not apply to any Lot which has been initially sold by Declarant and subsequently reacquired.

§4.3 The regular and special assessments levied by the Association shall be used exclusively for a) the purpose of promoting the permitted uses of the Property in a safe and orderly manner; b) the improvement, management, care and maintenance of services and facilities related to the use and enjoyment of the Common Areas; c) the improvement, management, care and maintenance of stormwater facilities; and d) exterior maintenance of any building or Lot as provided in § 4.6 and § 7.3.

§4.4 Until the first day of the fiscal year following commencement of assessments, the maximum regular assessment shall be \$75 per month. The levy of a regular assessment less than the maximum in any month shall not affect the Association's right to levy a regular assessment equal to the maximum assessment in subsequent months.

Change in Maximum. From and after the first day of the fiscal year immediately following the commencement of assessments, the Association may increase the maximum assessment each year, without Member approval, by a factor of not more than ten percent (10%) of the maximum regular assessment for the previous fiscal year.

From and after the first day of the fiscal year immediately following the commencement of assessments, the maximum regular assessment may be increased above the amount which can be set by the Association with the affirmative vote of at least sixty-seven percent (67%) of the members who are present and voting, in person or by proxy, at a meeting at which a quorum of members is present.

§4.5 In the event that any maintenance or repair is caused by the willful or negligent act of any Lot Owner or the employees, agents, guests or invitees of any Lot Owner, the cost of such maintenance and repair shall be paid for by such Lot Owner. Every Owner shall maintain his or her Lot and the buildings thereon in a neat and structurally sound condition. The exterior

of all buildings shall be routinely painted. If any building is totally or partially damaged by fire, wind or other hazard, the Owner shall within a period of nine months after the damage a) repair the damage or b) tear the building down and remove the debris from the Lot.

§4.6 If any Owner fails to make any required repairs or maintenance after notice from the Association, the Association may make such repairs on behalf of the Owner, and the cost thereof shall be deemed a special assessment as to such Lot. Each Owner authorizes the Association and its agents to enter the Lot at reasonable hours to perform any required repair or maintenance on behalf of the Owner.

§4.7 The assessments may be collected for any time period the Association desires, including but not limited to monthly, quarter-annually or annually.

§4.8 The Association shall furnish to any Owner, upon request, a certificate in writing signed by an officer of the Association, setting forth whether the assessment for his Lot has been paid, and if not, the amount of the unpaid assessment. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

§4.9 The provisions of the Property Owner's Association Act (§55.1-1800, *et seq.* of the Code of Virginia, 1950) shall apply to the extent not inconsistent herewith.

§4.10 The regular assessments shall commence when the first Lot is sold by the Declarant. The first assessment on any Lot shall be collected at the time of conveyance of the Lot and shall be prorated based on the number of days remaining in the month or fiscal year as appropriate.

## **ARTICLE 5** **Common Areas**

§5.1 The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the management and control for the benefit of the Owners of the Common Areas conveyed to it.

### §5.2 Easement of Enjoyment.

Subject to the provisions herein, every Owner shall have a right and nonexclusive easement of enjoyment in and to the Common Areas, which shall be appurtenant to and shall pass with the title to every Lot, and every member shall have a right of enjoyment to the Common Areas.

A member's spouse, parents and children who reside with such member shall have the same easement of enjoyment hereunder as a member.

§5.3 Extent of Members' Easement. The members' easement of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to establish reasonable admission and other fees for the use of the Common Areas.

(b) The right of the Association to suspend the right of a member to use the Common Areas other than private streets for any period during which any assessment against his Lot remains unpaid for more than thirty (30) days after notice until such default has been remedied; the right of the Association to suspend the right of a member to use the Common Areas for a period not to exceed sixty (60) days for any other infraction.

(c) The right of the Association to mortgage any or all of the Common Areas with the prior assent of at least sixty-seven percent (67%) of the Class A members.

(d) The right of the Association to convey, or transfer, all or any part of the Common Areas, other than the private streets subject to the prior assent of at least sixty-seven percent (67%) of the Class A members.

(e) The right of the Association to license portions of the Common Areas to members on a uniform, preferential basis;

(f) The right of the Association to regulate the use of the Common Areas for the benefit of members;

(g) The right of the Association to establish rules and regulations for the use of the Common Areas, including use of any recreational facilities by members and nonmembers.

(h) No Owner or member shall obstruct any common driveway, parking area or sidewalks, and no act shall be done which would affect the free and continuous use and enjoyment thereof by the other Owners.

§5.4 Delegation of Use. Any member may delegate to the members of his family and to his guests his right of enjoyment to the Common Areas and facilities subject to such general regulations as may be established from time to time by the Association.

§5.5 Title to Common Areas. The Declarant hereby covenants that areas designated as open space, or Common Areas which the Declarant conveys to the Association as Common Areas shall be free and clear of all liens and financial encumbrances at the time of conveyance. In the event a lien or encumbrance shall attach to all or a portion of the Common Areas, one or more of the lien holders and/or mortgagees shall have the right to discharge said lien or encumbrance after reasonable notice to the Association and to seek reimbursement for amounts paid to discharge the lien or encumbrance.

**ARTICLE 6**  
**General Use Restrictions**

§6.1 No Lot shall be used except for residential purposes. *Do you want daycares?*

§6.2 No dwelling exceeding three stories in height above ground including the garage level and only a private garage for not more than two vehicles and such other outbuildings as may be approved by the ACC shall be erected on any Lot.

§6.3 The minimum above ground square footage (excluding porches, decks and garages) shall be 1,600 finished square feet. Carports are not permitted on any Lot.

§6.4 All roofing material must have an expected life of at least 25 years.

§6.5 Outside storage units shall be permitted at the discretion of the ACC. Size, exterior finishes and location shall further be at the discretion of the ACC.

§6.6 No dwelling shall be permitted on any Lot with any type of exterior finish except brick, stone, faux stucco, wood siding, Mastic Barkwood, Brentwood or equivalent vinyl siding, a sample of which shall be submitted to the ACC for approval prior to construction, provided, however, that aluminum soffits, guttering, and fascia boards are permitted. Chimneys and exposed foundations shall be constructed or veneered with brick, stone or faux stucco.

§6.7 The location of antennae or satellite receiving devices on any Lot shall be approved by the ACC.

§6.8 There shall be no fencing or hedges in the front of any of the townhouse units, and all fencing to the rear of the townhouse units shall be attached to the individual unit. Except as otherwise approved by the ACC, all fences shall be constructed of durable materials as

approved by the ACC and shall not be higher than four feet. Fence support posts may be up to four feet and ten inches in height. Privacy screening shall not exceed six feet in height and ten feet in length and must abut the building. Privacy screening support posts may be up to six feet and ten inches in height. Such fence or privacy screening shall contain a gate at the rear to enable access. No fence or privacy screening shall be constructed until the ACC has approved the same.

§6.9 Swimming pools (which shall not include hot tubs, jacuzzis and portable pools) are prohibited.

§6.10 Each Lot shall have an all-weather surface driveway within three months after issuance of the certificate of occupancy for the dwelling erected on such Lot.

§6.11 No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than five square feet advertising the property for sale or rent, or signs used by the builder to advertise the property during construction. Nevertheless, one sign not exceeding one-half square foot displaying the name of the Owner or occupant of the property shall be permitted on any Lot. This covenant shall not prohibit the erection of an appropriate sign at the entrance(s) to the development, which sign shall comply with all Rockingham County ordinances and regulations.

§6.12 No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided they are not kept, bred, or maintained for any commercial purpose. In any event, there is a limit of two dogs per Lot and two (2) cats per Lot.

§6.13 Whenever animals are permitted outside a building or other enclosed area approved by the ACC for the maintenance and confinement of animals, they must be secured by a leash or lead. All permitted animals must be confined to an approved area by the ACC in the rear of the Lot. No animals are allowed to be kept on a chain/run nor are such animals allowed to be kept outside on a permanent basis. All animals must be basically inside house pets and maintained as such.

§6.14 All Lots shall be kept at all times in a sanitary, healthful, attractive and safe condition, and the Owner and occupants of all Lots shall keep all weeds, grass, and dead trees thereon cut. Notwithstanding the foregoing, however, the Association shall mow all grassy areas on any lot, which are not behind an owner's fencing. All dwellings, decks, fences, etc. must be well maintained in an attractive condition.

§6.15 Trash, garbage, or other waste shall be kept in sanitary enclosed containers. All containers shall be appropriately screened from view and kept out of public view, except during days for trash collection.

§6.16 No motor vehicle shall be kept on any lot or parking area unless it bears a valid state license plate and current inspection sticker with a limitation of two (2) vehicles per household unless otherwise approved by the Association.

§6.17 No individual sewage disposal system shall be constructed, maintained, or used on any Lot.

§6.18 No trailer, basement, tent, shack, barn, or other outbuilding erected on any Lot shall be used at any time as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted.

§6.19 No trailer, bus, camper, motor home, truck larger than three-quarter ton, commercial equipment, commercial vehicle (including, but not limited to, any tractor trailer, or combination of tractor and trailer), or disabled or unlicensed vehicle, or any portion thereof may be parked or stored within **Tuscan Villas** except for commercial equipment and vehicles temporarily located therein for the purpose of performing necessary construction or repairs. No stripped down or junk vehicles (licensed or unlicensed) or any sizable parts thereof shall be permitted to be parked on any street or Lot.

§6.20 No more than two unrelated personas may occupy any dwelling on any Lot. Unrelated persons shall mean persons who do not have a familial relationship. As used herein, "familial relationship" shall mean i) persons related by either blood, marriage or adoption or ii) persons deemed to have a familial status as defined in the Fair Housing Act. Under no circumstances shall more than three persons per bedroom occupy any dwelling on any Lot without prior written approval of the Association.

§6.21 No noxious or offensive use or activity shall be carried on upon any Lot, nor shall any practice be engaged in by the Owners of the Lots, their tenants, agents, guests, or assigns, that shall become an annoyance or nuisance to the neighborhood including, but not limited to, excessive dog barking and loud music.

§6.22 No improvement which has been partially or totally destroyed by fire or other casualty shall remain in such condition for more than three months from the date of such destruction.

§6.23 The drying of clothes in public view is prohibited.

§6.24 No skateboard or rollerblade ramps or structures of any kind shall be constructed, placed, or used on any Lot, street or parking area.

§6.25 No exterior watch light shall be erected on any Lot without the prior approval by the ACC. For the purposes of this section, a watch light is an exterior light of a type typically mounted on a telephone pole, utility pole, or street light pole, or any other light which the ACC determines casts an unacceptable level of light on neighboring Lots.

§6.26 No dirt bikes, ATVs, three or four wheelers or other non-licensed vehicles shall be operated on any Lot, Common Areas, street or driveway.

§6.27 No incinerator or other device for the burning of trash shall be permitted on any Lot, Common Areas, street or driveway within **Tuscan Villas**.

§6.28 No propane, oil or other storage tank or cylinder shall be permitted on any Lot, Common Areas, street or driveway within **Tuscan Villas** unless i) it is buried or enclosed within the residential dwelling or ii) it is a propane tank used for an outdoor grill and such tank does not exceed 20 lbs ("Grill Propane Tanks). No more than two Grill Propane Tanks, which are not enclosed within the residential dwelling or buried, shall be permitted on any Lot, Common Areas, street or driveway.

§6.29 No Lot or any portion of any Lot shall be used as an access way or right-of-way for ingress or egress to any Lot, piece or parcel of land in the Property, or any other Lot, piece or parcel of land, without the prior written consent of the ACC. No lawn ornaments, wood structures or similar items shall be constructed, placed or used in any front yards and must be approved by the ACC for use in the back yards.

§6.30 All children's toys, lawn maintenance equipment, motor bikes, mopeds, scooters, barbecue grills, trash receptacles, rubbish and other unsightly objects and equipment shall be stored inside or in the rear yard overnight. Storage of such items in the front or side yards is

expressly prohibited. "Children's toys" includes without limitation bicycles, tricycles, wagons, sandboxes, baby carriages, sliding boards, basketball goals, sleds and snow related toys, and sports related equipment.

## **ARTICLE 7** **Townhome Lots**

In addition to the other covenants, conditions and restrictions provided in the other Articles herein, each Lot on which a dwelling is erected which has a common wall with a dwelling on the adjacent Lot (herein called "townhome Lot") shall be held, sold and conveyed subject to the following:

### **Easements**

§7.1 Easements are reserved and created across and under each townhome Lot (except as to that portion covered by buildings) for the installation, maintenance and repair of normal utilities and drainage facilities.

§7.2 Each townhome Lot shall be subject to an easement for encroachments (and repairs thereto) created by normal overhangs of structures. In the event that a dwelling on one or more townhome Lots should be partially or totally destroyed, and then rebuilt, the Owner of the townhome Lot affected agrees that minor encroachments on parts of the adjacent dwelling due to construction shall be permitted and that a valid easement for such encroachment and the maintenance thereof shall exist. Every portion of a building contributing to the support of an abutting building shall be burdened with an easement of support for the benefit of such abutting building.

§7.3 The Association shall provide i) cutting and maintenance of grass for all Common Areas, ii) normal shrubbery maintenance and general landscaping for all Common Areas, iii) cutting and maintenance of grass for accessible and unfenced areas of the Lots, iv) snow removal (after a reasonable accumulation as determined by the Association) from the private streets and roads within the subdivision, v) electricity for all street lights. To effect orderly and economic collection of trash, the Association will be responsible for trash removal. Each Owner of a townhome Lot shall be deemed to have granted to the Association and its agents an easement of

access to such townhome Lot for such purposes. Except as otherwise provided herein, each Owner shall maintain, repair and replace all portions of his Lot, including but not limited to, lawn maintenance and grass cutting of any inaccessible or fenced areas, snow removal from individual driveways and sidewalks, and shrubbery maintenance.

### **Party Walls**

§7.4 Each wall which is built as a part of the original construction of the improvements upon townhome Lots, and placed on the dividing line between the townhome Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

§7.5 The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

§7.6 If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

§7.7 Notwithstanding any other provision of this Article, any Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

§7.8 The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to each Owner's successors in title.

§7.9 In the event of any dispute arising concerning a party wall, or the provisions of this Article, each party shall choose one arbitrator, and such arbitrator shall choose one additional arbitrator, and the decision of the majority of all the arbitrators shall be final and binding upon all parties.

**ARTICLE 8**  
**Miscellaneous Provisions**

§8.1 No Lot shall be re-subdivided into smaller Lots, nor shall any portion of any Lot be sold or conveyed by the Owner thereof without the prior approval of the ACC.

§8.2 All drainage, access and utility easements shown on the subdivision plat are hereby reserved to Declarant. A release by Declarant to any Lot Owner of any easement so reserved shall operate as a complete release to such Lot and no other party shall be entitled to assert any claim or right to the use of such easement. Declarant may convey to the Association title to the property included in such drainage, access and utility easements.

§8.3 The Declarant reserves the right to amend this Declaration at any time within two (2) years after recordation of this Declaration without the consent of any other Owner. Otherwise, these restrictions, conditions, covenants, and limitations shall continue in force until October 1, 2030, at which time they will expire. Nevertheless, upon the expiration of this term and any subsequent term, they shall be automatically renewed for ten (10) year periods unless terminated or amended by the Owners (with each Lot having one (1) vote) of at least 75% of the Lots.

§8.4 Any water drainage or detention system traversing or abutting any Lot shall be maintained by the Owner of the Lot.

§8.5 The Declarant shall have the absolute and unqualified right (but shall not be obligated) to bring within the terms of this declaration additional property, so long as the property is adjacent to the property shown on the subdivision plat or on later plats brought within the declaration. Such additions shall be made by recording a supplemental declaration in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, indicating the additional property which shall be subject to this declaration. Property added to this declaration shall be treated for all purposes as if it had been shown on the original subdivision plat, but the added property may be subject to other restrictions in addition to this declaration.

§8.6 The Declarant may appoint a successor Declarant by an instrument recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia. The sale of Lots to a successor Declarant shall not be deemed a sale for purposes of § 3.1 (a).

§8.7 The Declarant, the ACC and the Association shall not be liable to any Owner or other person on account of any claim, liability, damage, or expense suffered or incurred by or threatened against an Owner or other person arising out of or in any way related to the subject matter of any reviews, acceptances, inspections, permissions, consents, or required approvals which must be obtained from the Declarant, the ACC or the Association, whether given, granted, or withheld.

§8.8 If any part of any provision of this Declaration shall be invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of such provisions or the remaining provisions of this declaration.

§8.9 The Trustee and Beneficiary join herein to evidence their consents to this Declaration and to the Owners Consent and Dedication described in paragraph A of the Preamble.

## **ARTICLE 9**

### **Validity and Enforcement**

§9.1 The failure on the part of the Declarant or any Owner to enforce any restrictions contained in this instrument shall not be deemed a waiver of the right to do so thereafter for the same breach or one occurring prior or subsequent thereto.

§9.2 Enforcement of this instrument shall be by proceedings instituted by any Owner at law or in equity against any persons or other entities violating or attempting to violate any covenant, either to restrain violation or to recover damages therefor. In any such proceeding, an Owner found to have breached any covenant contained in this instrument shall be responsible for the cost of the enforcement proceeding, including the prevailing party's attorney's fees.

**WITNESS** the following signatures.

**Tuscan Villas, LLC**, a Virginia limited liability company

By: \_\_\_\_\_  
Jared S. Scripture, Manager

**COMMONWEALTH OF VIRGINIA**

**CITY/COUNTY OF \_\_\_\_\_, to-wit:**

The foregoing instrument was acknowledged before me in the aforesaid jurisdiction this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Jared S. Scripture, Manager of Tuscan Villas, LLC, a Virginia limited liability company, on behalf of the company.

My commission expires: \_\_\_\_\_

Notary Registration No.: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

*[ADDITIONAL SIGNATURE PAGE FOLLOWS]*

\_\_\_\_\_  
Trustee (SEAL)

**COMMONWEALTH OF VIRGINIA**

**CITY/COUNTY OF \_\_\_\_\_, to-wit:**

The foregoing instrument was acknowledged before me in the aforesaid jurisdiction this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, Trustee.

My commission expires: \_\_\_\_\_

Notary Registration No.: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
By: \_\_\_\_\_  
its: \_\_\_\_\_

**COMMONWEALTH OF VIRGINIA**

**CITY/COUNTY OF \_\_\_\_\_, to-wit:**

The foregoing instrument was acknowledged before me in the aforesaid jurisdiction this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_ its \_\_\_\_\_ of \_\_\_\_\_.

My commission expires: \_\_\_\_\_

Notary Registration No.: \_\_\_\_\_

\_\_\_\_\_  
Notary Public