

City Tax Map No: 041-C-41

Consideration/Actual Value: None

Title insurer: N/A

Grantee Address:
3055 Harpine Hwy
Rockingham, VA 22802

Prepared by:
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**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
[SUTER STREET DEVELOPMENT SUBDIVISION]**

THIS DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration"), made and entered this _____ day of _____, 2021, by PDY, LLC, a Virginia limited liability company ("Declarant"), GRANTOR and GRANTEE,

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of all that certain tract or parcel of land containing 2.0346 acres, more or less, together with all rights, privileges, appurtenances, easements and rights of way thereunto belonging or in anywise appertaining, situate at the current terminus of Suter Street in the northern portion of the City of Harrisonburg, Virginia, identified as "Residual" on the Subdivision Plat of the KNUPP ADDITION - SECTION 1, SUTER STREET EXTENDED, dated July 6, 1994, and July 19, 1994, and recorded together with an Owners' Consent and Dedication in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, in Deed Book 1307, Page 343, by deed from Keith J. Knupp and Linda J. Knupp, husband and wife, dated August 10, 2020, recorded in the Clerk's Office in Deed Book 5299, Page 692 (the "Property"); it being the same property acquired by Keith J. Knupp and Linda J. Knupp, husband and wife, by deed dated November 13, 1989, from Charlotte S. Wampler, *et al.*, recorded in the Clerk's Office in Deed Book 988, Page 263; and

WHEREAS, Declarant desires to subject the Property to the following covenants and restrictions for the benefit and complement of all of the Property and the future owners of the Property and every part thereof;

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, conditions, reservations, liens, and charges herein set forth, and any valid amendments hereto, which are hereby imposed to enhance and protect the value and desirability of the Property. These covenants, restrictions, easements, conditions, reservations, liens, and charges and all other provisions herein set forth shall run with the land and be binding upon

any and all parties who have, or shall acquire, any right, title, or interest in all or any part of the Property, and shall inure to the benefit of each Owner thereof.

Article One Definitions

Section 1.1. “Declaration.” The term “Declaration” as used herein shall mean the covenants, restrictions, easements, conditions, reservations, liens, and charges and all other provisions herein set forth in this document, as the same may be amended from time to time.

Section 1.2. “Declarant.” The term “Declarant” as used herein shall mean or refer to PDY, LLC, a Virginia limited liability company, and any successor to it as Declarant. Any document appointing a successor Declarant, as provided herein, shall be executed by the Declarant and recorded in the Clerk’s Office of the Circuit Court of the County of Rockingham, Virginia.

Section 1.3. “Architectural Review Board.” The term “Architectural Review Board” as used herein shall mean or refer to the board established in Article Seven below for the purpose of regulating the external design, appearance, and use of the Lots and improvements thereon.

Section 1.4. “Lot.” The term “Lot” as used herein shall mean or refer to any plot of land designated as a numbered lot shown upon the Plat with the exception of the Common Areas and any other specifically designated areas.

Section 1.5. “Owner.” The term “Owner” as used herein shall mean or refer to the record owner, whether one or more persons or entities, owning fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.6. “Association.” The term “Association” as used herein shall mean or refer to Suter Street Home Owners’ Association, Inc., a Virginia non-stock corporation, its successors and assigns.

Section 1.7. “Common Areas.” The term “Common Areas” as used herein shall mean or refer to those portions of the Property designated as “_____” on the Plat, owned and administered for the common use and enjoyment of the Owners and residents of the Subdivision.

Section 1.8. “Member.” The term “Member” as used herein shall mean or refer to every person or entity who holds membership in the Association.

Section 1.9. “Board of Directors.” The term “Board of Directors” as used herein shall mean or refer to the then duly constituted Board of Directors of the Association.

Section 1.10. “Subdivision.” The term “Subdivision” as used herein shall mean or refer to [Suter Street Development Subdivision], a subdivision in the City of Harrisonburg, Virginia.

Section 1.11. "Plat." The term "Plat" as used herein shall mean or refer to the plat referenced in Exhibit A, which is attached hereto and incorporated herein by reference, and recorded among the land records of Rockingham County, Virginia, in Map Book _____ at Page _____.

Article Two Common Areas

Section 2.1. Legal Title: The Declarant may retain legal title to the Common Areas until it has conveyed the entirety of its real property ownership in the Subdivision, or until such earlier time as Declarant in its discretion deems appropriate, at which time the Declarant shall convey the Common Areas to the Association, which shall accept said property.

Section 2.2. Easement of Enjoyment: Subject to the provisions hereof, each Owner, the immediate family of each Owner, and the tenants of each Owner shall have a right and easement of use and enjoyment of the Common Areas and any facilities situated thereon and all common sidewalks whether within a Lot or Common Area. Such right and easement shall be appurtenant to and shall pass with title to each Lot. Such rights shall be subject to the following:

(a) The right of the Association to suspend the right of a Member to use any portion of its facilities for any period in accordance with its Articles of Incorporation and Bylaws as in effect from time to time.

(b) The right of the Association to mortgage any or all of the improvements and facilities constructed on the Common Areas for the purposes of improvements or repair to the Association land or facilities.

(c) The right of the Association to dedicate, transfer, or otherwise affect all or any part of the Common Areas by granting rights to any government body, public or quasi-public agency, authority or utility for such purposes and subject to such conditions as may be desired by the Association.

(d) The right of the Association to sell, lease, exchange, encumber or otherwise dispose of any portion of the Common Areas.

(e) The right of the Association to allow non-residents of the Subdivision to use Common Areas in accordance with the Articles of Incorporation or Bylaws of the Association as in effect from time to time.

(f) The right of the Association to take such action as is reasonably necessary for the preservation of any Common Area.

(g) The right of the Association to do such other things and take such other actions with respect to any Common Areas as is necessary or convenient for the promotion of the common good or general welfare of the Subdivision, including the right to cause utilities to be extended to and maintained on the Common Areas.

(h) The rights of the Declarant as otherwise set forth herein.

(i) No Owner shall place any obstruction of any kind on or store anything in the Common Areas without the prior written consent of the Association.

(j) The rights of the Association in this Section 2.2 may be limited by the requirement that certain actions regarding the Common Areas must be approved as set forth in the Bylaws of the Association.

Article Three Easements

Section 3.1. Declarant reserves for itself, its successors and assigns, for purposes incident to its development of the Property, the following easements and/or rights-of-way:

(a) For the use and maintenance of drainage courses of all kinds designated on the Plat, including a bioretention basin and pre-existing creek bed.

(b) For the construction, installation, operation, and maintenance of any electrical, telephone, internet, cable television, and data and communication services transmission cables and facilities required for each Lot.

Section 3.2. Declarant has dedicated, or will dedicate, to the City of Harrisonburg, Virginia, or to the appropriate utility company (or companies) or to both rights-of-way and easement areas for the installation and maintenance of public utilities over strips of land _____ () feet in width along side property lines of each Lot or as otherwise located on the Plat.

Section 3.3. Declarant reserves for itself, its successors or assigns an exclusive easement for the installation and maintenance of water and sewer lines and facilities and of electrical, telephone, internet, and television transmission cables within the rights-of-way and easement areas reserved and defined in Section 3.2 above.

Section 3.4. On each Lot, the rights-of-way and easement areas reserved by Declarant or dedicated to public utilities purposes shall be maintained continuously by the owner, but no structures, plantings, or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with the installation or maintenance of utilities. Improvements within such areas shall also be maintained by the respective Lot owner except for those for which a public authority or utility company is responsible.

Section 3.5. The Lots in the Subdivision shall be burdened by such additional easements as may be shown on the recorded Plat.

Article Four The Association

Section 4.1. Creation of the Association: Suter Street Home Owners' Association, Inc. is a nonstock, nonprofit membership corporation which has been or will be duly organized under the laws of the Commonwealth of Virginia for the purpose of interpreting, applying, administering, and enforcing the covenants, restrictions, conditions, liens and charges contained in this Declaration.

Section 4.2. Membership: Every Owner shall be a Member of the Association.

Section 4.3. Voting Rights: The Association shall have two classes of voting membership:

Class A Members: The Class A members shall be all those Owners as defined in Section 1.5 with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they own the interest required for membership by Section 1.5. When more than one person or entity holds such interest in any Lot, all such persons or entities shall be Members. The vote of such Lot shall be exercised as they among themselves determine, but in no event, shall more than one vote be cast with respect to any Lot.

Class B Member: The Class B member shall be the Declarant. The Class B member shall be entitled to three votes for each Lot in which it holds the interest required for membership under Section 1.5 provided that the Class B membership shall cease and be converted to Class A membership at such time that more than seventy-five percent (75%) of the Lots have been sold by the Declarant to individual purchasers.

Section 4.4. Quorum: At any duly called meeting of the Association, the presence of members or of proxies entitled to cast 60% of all votes shall constitute a quorum.

Section 4.5. Majority: At any duly called meeting of the Association having a quorum, the majority of such quorum shall decide any questions or matter that may come before the meeting, unless the Bylaws of the Association require a greater percentage vote in favor of any specific action.

Article Five Functions of the Association

Section 5.1. Ownership and Maintenance of Properties: The Association shall be authorized to own, lease, and/or maintain Common Areas and equipment, furnishings, and improvements devoted to, but not limited to, the following uses:

- (a) Landscaped entrances, entrance easements, entrance signs, and street signs throughout the Property;
- (b) Trail easements;
- (c) Indoor and outdoor recreational and community facilities throughout the Property;

- (d) Such facilities as may be located on the Property;
- (e) Providing any of the services the Association is authorized to offer;
- (f) Other purposes set out in deeds by which Common Areas are conveyed to the Association.

Section 5.2. Minimum List of Functions and Services: The following list shall establish and define the minimum level of functions and services which the Association must furnish to its Members. So long as the Declarant is engaged in the development of the Property and the sale of the Lots, the Association shall not reduce the level of functions and services it furnishes to its Members below such minimum level without the Declarant's prior written consent. The minimum list of functions and services the Association is to provide is as follows:

- (a) Provide or procure the administrative services necessary to carry out the Association's obligations and business under the terms of this Declaration, the Articles of Incorporation and the By-Laws, including, but not limited to, legal, accounting, financial and communications services.
- (b) Administer and enforce the covenants and restrictions established in this Declaration and Supplementary Declarations, including, but not limited to the following:
 - (i) Setting, levying, and collecting assessments and notifying the Members of such assessments;
 - (ii) Preparing accurate indices of Members;
 - (iii) Operating an Architectural Review Board when the responsibilities of such Board as described herein are delegated to the Association by Declarant;
 - (iv) Maintaining and operating all Common Areas;
 - (v) Holding annual meetings and special meetings as required, including elections for Board of Directors as required and giving proper notice of such meetings;
 - (vi) Preparing annual statements and annual budgets and making financial books of the Association available for inspection by the Members at reasonable times.
- (c) Maintain, repair, and replace all Common Areas and all easements not publicly owned.
- (d) After construction of any improvements on Common Areas, to maintain and operate such improvements, including the establishment of rules, regulations, and appropriate charges as it deems fit and proper.

(e) Within the Common Areas provide, maintain, and replace as necessary the following: Association or Declarant installed signs, entrance fencing, walkways, lighting, and landscaping and trees, if any, at the entrance to the Subdivision as deemed appropriate by the Board of Directors.

(f) Maintain, mow, trim, repair, and replace grass, landscaping, shrubs, trees, fencing, plantings, sprinkler systems, and other improvements.

(g) Maintain and annually review insurance coverages including the following: general liability insurance in a minimum amount of at least _____ Dollars (\$_____) per occurrence and _____ Dollars (\$_____) aggregate to cover the Association, Declarant, and the Owners as a group and hazard insurance coverage on all Common Areas and improvements on the Common Areas, including personal property owned by the Association, in an amount equal to the full replacement value of such improvements and personal property owned by the Association. All insurance policies purchased by the Association shall be for the benefit of the Association, the Declarant, the Owners and their mortgagees as their interests may appear.

(h) Provide appropriate directors and officers legal liability insurance and indemnify persons pursuant to the provisions of the Articles of Incorporation and By-Laws.

(i) When the Declarant assigns to the Association any of the rights reserved to it in this Declaration and/or any other covenants and restrictions of record or any requirements and obligations imposed upon it by the City of Harrisonburg or any other governmental agency, including the enforcement thereof, the Association shall accept and assume responsibility, for such rights, requirements and obligations, and any obligations which are incident thereto.

(j) Establish and maintain reasonable reserves to accomplish all of the above.

(k) Comply with the provisions of the Virginia Property Owners' Association Act as the same may be amended from time to time.

Section 5.3. Authorized Services: In addition to the minimum list of functions and services set forth above, the Association shall be authorized, but not required, to provide the following services:

(a) Such services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this Declaration, which may include providing parking areas, lighting, fire protection, insect and pest control, and/or recreational programs.

(b) Administrative services including, but not limited to, legal, accounting, financial, and communications services (including, but not limited to, community newsletters and newspapers) to inform Members of activities, notice of meetings, referendums, and other issues and events of community interest.

Article Six
Maintenance Assessments

Section 6.1. Creation of the Lien and Personal Obligation for Assessments: The Declarant for each Lot owned, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (a) annual assessments, and (b) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as determined by the Association as hereinafter provided. The annual and special assessments, together with interest, costs of collection, and reasonable attorney's fees, shall be a charge upon the land and shall be a continuing lien upon the Lot against which each such assessment is made in the manner as hereinafter provided. Each such assessment, together with such interests, costs and reasonable attorney's fees shall also be the personal obligation of the person or entity who was the Owner of such Lot at the time when the assessment falls due. Such personal obligation shall not pass to successors in title unless assumed by them.

Section 6.2. Purpose of Assessments: Any assessment levied by the Association shall be used for the purpose of promoting the enjoyment, health, safety and welfare of the residents in the Property and in particular for the repair, upkeep, improvement, enhancement and replacement of the Common Areas in the Subdivision, to include lawn maintenance of the Common Areas as well as necessary aeration, fertilization and mowing thereof.

Section 6.3. Exterior Maintenance:

(a) Owner Maintenance: It shall be the obligation of each Owner to perform all exterior maintenance affecting any improvements on any Lot, which shall include, but not be limited to, painting, repairing, and replacing the roof, gutter, downspout, windows and exterior surfaces on all improvements and driveways and properly maintaining all landscaping located on the Owner's Lot(s).

(b) Association Maintenance: It shall be the obligation of the Association to maintain the Common Areas. However, in any case where the need for maintenance and repair is caused by the willful or negligent act of an Owner, his family, guests or invitees, the cost of such maintenance or repair shall be borne by such Owner, and shall be added to and become a part of the assessment to which such Lot is subject, and shall be in addition to the annual and special assessments provided in Section 6.1. above.

(c) Insurance: All Owners shall keep their respective Lots and all improvements thereon insured to full insurable value. In the event that an Owner has a right or claim under an insurance policy for the recovery or payment of a part or all of the cost of repair or replacement of any item to be maintained by the Association hereunder, then such Owner shall pursue such right or claim to its fullest extent and shall promptly pay to the Association all proceeds of insurance attributable to such repair or replacement.

Section 6.4. Basis of Annual Assessments: After an initial annual assessment is established, the annual assessment may be increased per year by up to five percent (5%) of the prior year's annual assessment effective January 1 of each year, without a vote of the membership, by the Board of Directors of the Association, which Board of Directors may fix such annual increase after due consideration of current maintenance costs and needs of the Association. Any increase requested by the Board of Directors in the annual assessment in excess of five percent (5%) over the prior fiscal year's annual assessment must be approved by a majority vote at a meeting of the Association duly called for this purpose at which a quorum must be present.

Section 6.5. Special Assessments for Capital Improvements: In addition to the annual assessment authorized above, the Association may levy in any assessment year, a special assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Common Areas in the Subdivision provided that, any such special assessment shall be approved by at least two-thirds of those voting at the meeting of the Association duly called for this purpose at which a quorum is present.

Section 6.6. Notice for Any Action Authorized Under Sections 6.4 and 6.5 of the Declaration: Written notice of any meeting called for the purpose of taking any action authorized under Sections 6.4 and 6.5 shall be sent to all Members not less than 14 days nor more than 30 days in advance of the meeting.

Section 6.7. Uniform Rate of Assessment: Both annual and special assessments must be fixed at a uniform rate for all improved Lots as a class and all unimproved Lots as a class, and may be collected on a quarterly basis or such other basis as the Association deems appropriate.

Section 6.8. Date of Commencement of Annual Assessment Due Dates: The initial annual assessment provided for herein shall be set by the Declarant, or the Declarant may allow it to be set by the Association. After the initial assessment is set, the Board of Directors shall fix the amount of the annual assessment against each Lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. Unless otherwise established by the Board of Directors, the annual assessment shall be due in four (4) equal installments on the first days of January, April, July, and October of each year, unless other due dates are established by the Board of Directors, and the annual assessment shall be prorated where sale is made between the annual assessment dates. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 6.9. Effect of Non-Payment of Assessments; Remedies of the Association: Any assessments or installments thereof which are not paid when due shall be delinquent. Receipt by the Association of payment of an assessment or installment thereon more than 15 days after the due date results in the Lot Owner incurring a one-time late fee of 5% of the principal

amount due. If the assessment or installment thereon is not paid within 30 days after the due date, the assessment shall bear interest from the date of delinquency at the current legal rate, and the Association may bring an action at law against the Owner personally obligated for the same or may perfect the lien against the subject Lot, pursuant to Va. Code § 55.1-1833 or other applicable law. Interest, costs, and reasonable attorney's fees of any such action shall also be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Areas or abandonment of the Lot.

Section 6.10. Subordination of the Lien Pursuant to Va. Code § 55.1-1833: The lien of the assessments provided for herein shall be subordinate to (i) real estate tax liens on the Lot, (ii) liens and encumbrances recorded prior to the recordation of the Declaration, and (iii) sums unpaid on and owing under any mortgage or deed of trust recorded prior to the perfection of said lien; provided, however, that mechanics' and materialmen's liens shall not be affected by this Article.

If any portion of any Lot is acquired in lieu of foreclosure or is sold under foreclosure of any mortgage or under judicial sale, tax foreclosure, or forfeiture, any purchaser at such sale, his heirs, successors, and assigns, shall hold any and all properties so purchased or acquired subject to all covenants and restrictions of this Declaration and the subordinated liens which may be created.

The lien for assessments provided for herein may be foreclosed as otherwise provided by applicable law. A statement from the Association showing the balance due on any assessment shall be prima facie proof of the current assessment balance and delinquency, if any, due on a particular Lot.

Section 6.11. Records and Receipts: The Association shall keep and maintain accurate records in chronological order of receipt of assessment payments and specifying and itemizing the expenses incurred. Such records shall be available for examination by Owners and members of the Association at convenient hours during the work week upon reasonable notice. The person or entity keeping such records may be paid such reasonable compensation by the Association as may be determined by the Board of Directors of the Association.

Article Seven Architectural Review

Section 7.1. Architectural Review Board: Until the date that the Declarant or its successors as developer no longer owns any Lot, the Architectural Review Board (the "ARB") shall consist of one or more persons or entities named by the Declarant. On such date that the Declarant or its successors as developer no longer owns any Lot, the number and selection of the members comprising the ARB shall be set and made by the Board of Directors of the Association.

Section 7.2. Purpose: The ARB shall regulate the location and the external design, appearance and use of the improvements on the Lots in such manner as to preserve and

enhance values, to maintain a harmonious relationship among structures and the natural vegetation and topography, and to conserve natural amenities.

Section 7.3. Conditions: No improvements, alterations, repairs, change in colors, excavations, changes in grade, major landscaping or other work which in any way alters the appearance of any Lot or the improvements located thereon from a natural or improved state existing on the date such property was first conveyed in fee by the Declarant or the building of said improvements, as the case may be, to an Owner shall be made or done until the plans, specifications, working drawings, and proposals for the same showing the kind, nature, shape, type, materials, and location thereof shall have been submitted to and approved in writing by the ARB pursuant to Section 7.4. No building, fence, wall, residence or other structure shall be commenced or altered without the prior written approval of the ARB.

Section 7.4. The Architectural Review Process: No Owner initiative can result in the changing of the exterior appearance of a Lot unless the ARB has approved that change.

Owners wishing to affect such initiatives must fill out an application, and submit it to the ARB, along with such additional documents as the ARB shall reasonably request. No work can begin until the ARB has approved the application. All applications to the ARB must be submitted by the Lot Owner and not a tenant.

The following categories represent a sampling of the types of initiatives, which can be undertaken only after the ARB approval has been obtained: additions; basketball backboards (fixed); dog houses and/or dog runs; landscape projects; patios; retaining walls; spas and/or hot tubs; tree removal (trees with a trunk in excess of 6 inches in diameter); awnings; decks and/or front or side entrance porches; fencing; painting and/or exterior color changes; play equipment (fixed); storage sheds; TV antennas and/or satellite dishes; and removal of existing structures. The list set forth above represents initiatives most commonly encountered, but does not necessarily represent all initiatives which require ARB approval. It is the responsibility of the Owner to consult with the ARB to determine whether a planned initiative is subject to the ARB review process.

Section 7.5. Presumption: In the event that the appropriate enforcement action has not been commenced within ninety (90) days after completion of any unapproved improvements or alterations, it shall be conclusively presumed that such construction, alterations, or improvements are approved by the ARB.

Article Eight Use Restrictions

Section 8.1. Restriction on Further Subdivision: No Lot shall be further subdivided or separated into smaller lots by an Owner without the written consent of the Declarant, and no portion less than all of any such Lot shall be conveyed or transferred by an Owner other than the Declarant; provided, however, that this shall not prohibit deeds of correction, deeds to resolve boundary line disputes and similar corrective instruments, and provided further that the Declarant reserves the right to re-subdivide portions of the Property subject to approval by the

appropriate government authorities of the City of Harrisonburg, Virginia. No Lot shall be used as a roadway for access to any property lying outside of the boundaries of the Property.

Section 8.2. Structures: No building of any kind shall be erected or maintained on any Lot except one private dwelling, each dwelling for occupation by a single family, and building accessory thereto, e.g., detached garage, barn, dog house, green house, and tool shed. For the purposes of this Declaration, the term "single family" shall mean and be defined as follows: (a) an individual; or (b) two or more persons related by blood, marriage, adoption, or guardianship living together as a single housekeeping unit; or (c) no more than four (4) persons not related by blood, marriage, adoption or guardianship living together as a single housekeeping unit.

Section 8.3. No Temporary Structures: No structures of a temporary character, including tents or trailers, shall be used on any Lot at any time as a residence.

Section 8.4. Signs: Business signs are not permitted anywhere except for temporary contractor signs at a residence while work is being done. Approved "For Sale/For Rent" signs are limited to one per residence. Yard sale signs should be attached to stakes and not nailed to trees or road signs. No signs are permitted at the entrance(s) to the Subdivision or the Common Areas except for special real estate promotional events or as approved by the Declarant. All signs for events should be removed immediately after the event. Political signs totaling less than five (5) square feet may be placed on a Lot by the Owner of the Lot for a period of no more than seventy (70) days prior to the election and must be removed within three (3) days of the election; political signs are limited to one per residence.

Section 8.5. No Offensive Activities: No activities upon any Lot are permitted that constitute, or by their inherent nature are expected to become, a nuisance, a hazardous or offensive use, or a threat to the security or safety of another Owner or a household member of another Owner.

Section 8.6. Laundry: No clothing, laundry, or wash shall be aired or dried on any portion of a Lot exposed to view from any road in the Subdivision, except as generally approved by the Association.

Section 8.7. Permitted Animals: No animals, livestock, or poultry of any kind (except as expressly permitted by City of Harrisonburg ordinance and regulation) shall be raised, bred, or kept on any Lot, except that dogs, cats, or other common household pets may be kept on individuals Lots. Animals must be on a leash and under control when outside of Owner's Lot. All animals' deposits must be picked up. Dogs that frequently bark dogs must be brought inside. Invisible fencing for dogs must be kept a minimum of two (2) feet from adjacent Lots.

Section 8.8. Prohibited Vehicles: No large trucks, motor homes, trailers, campers, boats, commercial trucks, or unlicensed/non-operable vehicles of any kind may be parked or stored on any Lot without the consent of the ARB, unless housed in a garage or other permitted structure out of view.

Section 8.9. Garbage Containers: Garbage containers shall not be placed on the street prior to 8 p.m. on the day before garbage pick-up nor left on the street after 8 p.m. on the date of garbage pick-up.

Section 8.10. Mailboxes: No mailbox or newspaper box shall be erected or maintained nor shall the exterior appearance of any mailbox or newspaper box be altered on or adjacent to any Lot unless the proposed mailbox or newspaper box is of a design pre-approved by the Declarant or until the proposed mailbox or newspaper box design, color, and location have been approved in writing signed by the ARB.

Section 8.11. Swimming Pools: Pool styles and locations must be approved by the ARB.

Section 8.12. Toys: All toys, bicycles, etc. should be removed from the street, driveway, and front yard of each Lot after use each day.

Section 8.13. Flags: All flags must be attached to the house or to a flagpole. Flags may not exceed 3 feet by 5 feet in size, and any flagpoles may not exceed 15 feet in length.

Section 8.14. Conditions: No improvements, alterations, repairs, changes in colors, excavation, changes in grade, major landscaping or other work which in any way alters the exteriors of any Lot or the improvements located thereon from a natural or improved state existing on the date such property was first conveyed in fee by the Declarant or the builder of said improvements, as the case may be, to an Owner shall be made or done which substantially alters the character of the Property without prior approval of the ARB.

The exterior colors of the two or three Lot homes constituting a duplex or townhome building shall either be the same or as otherwise approved by the Declarant or ARB.

Section 8.15. Exterior Appearance: Every Owner shall be responsible for maintaining a neat exterior appearance of the Owner's Lot and improvements thereon, including, but not limited to, reasonable maintenance of the dwelling and other improvements, lawn, trees, and shrubbery. In compliance herewith, each Owner shall maintain and mow the grass on the Owner's Lot so that it does not exceed six (6) inches in length. Each Owner shall maintain all decks, porches, and patios in a neat and orderly fashion and shall not use them for permanent storage.

Section 8.16. Trees: No living tree with a diameter greater than six inches upon any Lot or Common Area may be cut down or removed after the conveyance of the Lot from the Declarant without the prior express written permission of the ARB. A landscape plan shall be submitted with the plans and specifications for cutting, such plan to show existing trees and shrubs and to clearly indicate those to be removed. Regardless of size, trees planted by Declarant or the Association in any buffer area, Common Area, or landscape easement may not be cut down or removed without Declarant's or the Association's prior written permission. Permission shall not be required to remove any dead tree or any tree consumed by disease on any Lot or Common Area. Replacement of any vegetation, including any tree, that dies after conveyance or occupancy of an improved lot, is the sole responsibility of the Owner.

Section 8.17. Antennas, Satellite Dishes: Except as otherwise required by law to be permitted, no exterior or roof antenna or satellite dish or similar device shall be attached to or installed on any Lot or on the exterior portion of any structure on any Lot, except by written approval of the ARB, which approval shall be conditioned on reasonable limits, such as that of size, height, and location, so as to minimize the visual clutter that the attachment or installation creates for other Owners.

Section 8.18. Party Walls, Shared Maintenance, and Appearance:

(a) *Common Appearance*. Each pair of attached residences shall have a common party wall for the residences along the common boundary line between the Lots on which each attached pair of residences are built. It is anticipated that the pair of dwellings that are to be built on two adjacent Lots which share a party wall will appear, as viewed from the street on which they front, to be only one dwelling, and the party wall shall not extend above the roof line or be visible from the outside of such dwellings, and both of such dwellings shall share the same roofline. Except as otherwise required by an applicable municipal ordinance or zoning regulation, the exteriors of all such dwellings shall appear to be a single dwelling with the one with which it shares a common wall. This shall include, among other things, roofs, the color and siding on the house, the shutters and other exterior window treatments, the front yards, and any structures, shrubbery, or landscaping of the front yards. The Declarant hereby releases any easement along the side of each lot along which a party wall is built.

(b) *Party Walls*:

(i) *General Rules of Law to Apply*: The general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto, except to the extent that such general rules of law have been modified in this Declaration.

(ii) *Sharing of Repair and Maintenance*: The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall.

(iii) *Destruction by Fire or Other Casualty*: Subject to the other provisions of this Declaration, 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 Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(iv) *Obligation to Repair*: In the event that any dwelling which shares a party wall is damaged or destroyed by fire, windstorm, or other casualty, the owner of such damaged or destroyed dwelling shall be responsible for and bear the cost of rebuilding, reconstruction or restoration to the same conditions and appearance as existed prior to the damage or destruction. Such rebuilding or repair shall be commenced within sixty

(60) days of such damages and shall be completed within twelve (12) months of the date of such damage. Such reconstruction and/or repairs shall conform in all respects to the dwelling with which it shares a party wall so that the two dwellings shall appear as one dwelling as viewed from the street.

(v) *Waterproofing*: Notwithstanding any other provisions of this Declaration, an 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.

(vi) *Right to Contribution Runs with Land*: The right of any Owner to contribution from any other Owner under this Declaration shall be appurtenant to the land and shall pass to such Owner's successors in title.

(c) *Exterior Maintenance*: The roofs and gutters and the two adjacent dwellings shall be the same and when they need re-roofing, both adjacent dwellings shall be re-roofed at the same time by the same roofer and using the same shingles (or other roofing material) for both dwellings. The cost of the re-roofing and/or gutters shall be borne by the owners of each dwelling in direct proportion to the square footage of the roof over each dwelling and in direct proportion to the amount of gutters used on each dwelling. In the event the owners of the two adjacent dwellings cannot agree on whether or not the roofs and/or gutters shall be repaired or reroofed, either party may request the opinion of the ARB, and the decision of the ARB shall be final and binding on both parties.

(d) *Exterior Painting, Siding, Shutters, etc.*: Except as otherwise required by an applicable municipal ordinance or zoning regulation, the exterior of the two dwellings sharing a party wall shall at all times be maintained so as to give the appearance, as viewed from the street, of being a single residence. When any exterior painting of, or replacement of, siding or shutters is to be done, it shall be done on both dwellings at the same time, using the same materials on both dwellings. The cost shall be borne by the owners of each dwelling in direct proportion to the cost of labor and materials used on each dwelling. In the event the owners of two adjacent dwellings cannot agree on whether or not the exterior is in need of such exterior work, either party may request the opinion of the ARB and the decision of the ARB shall be final and binding on both parties.

(e) *Front Yard, Landscaping, etc.*: The fronts of each of the two dwelling units sharing a party wall shall have yards, landscaping, and other lawn treatment to give the appearance of there being one yard in front of a single dwelling. Any changes in the landscaping or shrubbery or treatment of the combined front yard of the two adjacent dwellings have to be submitted to the ARB for its approval.

Article Nine General Provisions

Section 9.1. Enforcement: Enforcement of the provisions of this Declaration shall be by proceedings at law or in equity against any person or persons violating or attempting to violate

the covenant, either to restrain violation or recover damages. Such action may be brought by the Declarant, the Association, or the Owner of any Lot.

Section 9.2. Severability: Invalidation of any one or more of the provisions of this Declaration by judgment, court order, or otherwise, shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.3. Amendments: This Declaration may be amended, modified, or rescinded in whole or in part by a recorded instrument bearing the signature of the Declarant at any time prior to conveyance by the Declarant of any Lot to any party other than the Declarant. Thereafter this Declaration may be amended, modified, or rescinded in whole or in part by a recorded instrument bearing the signature of the Declarant, if then an Owner, and the Owners of two-thirds of the Lots. An amendment or termination of this Declaration shall be promptly recorded by the Association in the Clerk's Office of the Rockingham County Circuit Court.

Section 9.4. Duration: The covenants and restrictions of this Declaration shall run with and bind the Property and each of the Lots for a term of twenty (20) years from the date hereof, and thereafter shall be automatically renewed for successive periods of ten (10) years, unless modified, amended, or rescinded as provided in Section 9.3 of this Declaration.

Section 9.5. Survival of Liability. The termination of membership in the Association shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with the Association during the period of such membership, or impair any rights or remedies which the Association may have against such former Owner arising out of, or in any way connected with, such membership and the covenants and obligations incident thereto.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed this _____ day of _____, 2021.

PDY, LLC
a Virginia limited liability company

By: _____ (SEAL)
PHILIP D. YUTZY, Manager

COMMONWEALTH OF VIRGINIA,
CITY OF HARRISONBURG, to wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by PHILIP D. YUTZY, Manager of PDY, LLC, a Virginia limited liability company, Grantor and Grantee.

Commission expiration:
Notary Registration No:
(Affix visible Seal)

Notary Public

DRAFT

**EXHIBIT A
PLAT PERTAINING TO THE REAL ESTATE FOR THE
[SUTER STREET DEVELOPMENT SUBDIVISION]**

DRAFT