

## **SECOND AMENDMENT AND RESTATEMENT OF COMMUNITY DESIGN REVIEW STANDARDS FOR STONEHILL VILLAGE**

Nutter Enterprises, Ltd., an Ohio limited liability company (“Developer”) adopts this Second Amendment and Restatement of the Community Design Review Standards for Stonehill Village (the “Community DRS”) effective as of August 1, 2020.

**1. Background.** Developer adopted the original Community DRS on April 6, 1999. Developer made the First Amendment to the Community DRS effective March 1, 2004. Section 8.04 of the Community DRS permits the Developer to amend the Community DRS unilaterally during the Development Period without any notice to, or consent, approval or signature of, the Association, Board, DRB, Neighborhood Council, Owner, Qualified Mortgagee or any other Person, as those capitalized terms are defined in the Master Declaration of Covenants, Conditions and Restrictions for Stonehill Village. Developer now intends to exercise that right of unilateral amendment for the purposes and to the extent described in this Second Amendment and Restatement.

**2. Purpose of Amendment and Restatement.** Since the adoption of the Community DRS and the First Amendment, the Community has grown substantially, technology has improved, and design considerations have evolved. In light of these changes, and in an effort to modernize, simplify and clarify the Community DRS, Developer now desires to amend and restate the Community DRS.

**3. Restatement.** Developer now amends the Community DRS by completely deleting all provisions of the Community DRS and First Amendment, and amending and restating the Community DRS in its entirety, as set forth in Exhibit A to this Second Amendment.

**4. Ratification.** Except as specifically modified herein, the Community Design Review Standards for Stonehill Village remain in full force and effect. The Developer ratifies and confirms the Community Design Review Standards for Stonehill Village, as amended and restated.

The Developer adopted this Second Amendment and Restatement of Community Design Review Standards for Stonehill Village as of the date written above.

**DEVELOPER:**

**NUTTER ENTERPRISES, LTD.,**  
An Ohio Limited Liability Company

By: \_\_\_\_\_  
Robert W. Nutter, Trustee, Member

By: \_\_\_\_\_  
Mary C. Nutter, Trustee, Member

**RESTATED**  
**COMMUNITY**  
**DESIGN REVIEW STANDARDS**  
**FOR**  
**STONEHILL VILLAGE**

*A Nutter Enterprises, Ltd. Development*

**Located At**

**BEAVERCREEK TOWNSHIP, GREENE COUNTY, OHIO**

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# **Community Design Review Standards For Stonehill Village**

The following Community Design Review Standards are adopted pursuant to Part Four of the Master Declaration of Covenants, Conditions and Restrictions for Stonehill Village.

## **Article One Overview**

### **Section 1.01 Purpose of Design Review Standards**

The purpose of the Design Review Standards (“Community DRS”) is to preserve and protect the aesthetic quality and continuing desirability of the Community. In order to accomplish this objective, the Community DRS establishes standards, requirements, policies and procedures governing all Improvements to Lots in the Community. Further, the Community DRS provides the mechanisms through which the Design Review Board will monitor design and construction activities in the Community to implement and enforce pertinent terms and conditions of the Master Declaration.

### **Section 1.02 Application to Community**

The Community DRS apply to all Lots in all Neighborhoods in the Community. This is a system of regulating all Improvements in the Community in order to enhance the compatibility of the various Neighborhoods within the Community and to promote continuity of the Community as a whole. The Community DRS are general in nature, and provide overall requirements and restrictions that will be uniformly applied to all Improvements. The Schedules attached to the Community DRS are intended to illustrate and inform some of these general concepts. All of the procedures for approval of Builders and Improvements are also provided in the Community DRS.

### **Section 1.03 Neighborhood Design Review Standards**

Each Neighborhood will have a separate set of Neighborhood Design Review Standards that apply only to Lots within the particular Neighborhood. In general, the Neighborhood DRS will contain the specifications that will give each Neighborhood its unique character and appeal. The Neighborhood DRS are supplements to the Community DRS, and provide the specific requirements and restrictions that apply to all Improvements in that Neighborhood. The Neighborhood DRS will refine the standards applicable to each Neighborhood, but will not create any lower standards than apply to the Community as a whole through the Community DRS.

### **Section 1.04 Application to All Owners**

All Owners of Lots in the Community are subject to the Community DRS and the applicable Neighborhood DRS. Therefore, no Owner shall begin or continue any Work on any

Improvements on any Lot in the Community unless and until the Owner has complied with all terms, conditions and requirements in the Declaration, the Community DRS, and the Neighborhood.

### **Section 1.05 Administration**

The DRB is charged with the responsibility of administering the Community and Neighborhood DRS, as provided in the Declaration. The Declaration has granted the DRB the necessary rights, powers and authority to carry out these responsibilities. This Community DRS further describes the authority and obligations of the DRB, and establishes the procedures the DRB will follow in the administration of the Declaration and all of the Design Review Standards. As a committee of the Board of the Association, all action of the DRB will be under the authority, and on behalf, of the Board.

### **Section 1.06 Defined Terms**

Words and phrases in this Community DRS that have specifically defined meanings are indicated with capital first letters. All of the defined terms provided in the Glossary of Defined Terms attached to the Declaration as Exhibit C are incorporated into, and have the same meanings when used in, this Community DRS. Additional defined terms that apply to the Community and Neighborhood DRS are provided in the Glossary of Additional Defined Terms attached to this Community DRS as Schedule 1.

### **Section 1.07 Interpretation**

This Community DRS, and all Neighborhood DRS, must be liberally construed in a manner that will best achieve the purpose, intent, goals and objectives of the Declaration. During the Development Period, the Developer will have the sole, absolute and exclusive power and discretion to resolve any questions concerning the proper interpretation of the Community and Neighborhood DRS. After the Development Period, the Board of the Association will have the exclusive power and discretion concerning these interpretations. All interpretative decisions of the Developer and the Board will be final and binding on all Persons. If there is a conflict between the terms of the Declaration and this Community DRS, the terms of the Declaration will control. If there is a conflict between the terms of this Community DRS and any Neighborhood DRS, the terms of this Community DRS will control.

### **Section 1.08 Applicable Law**

All procedures described in this document are separate and distinct from, and subject to, all Applicable Laws. In addition to the approvals required in the Community DRS, all Owners will be required to obtain from the appropriate Government Entities all necessary zoning permits, building permits and other permits and inspections required by Applicable Law. Further, all Owners and their Builders will be required to comply with all Applicable Laws regarding construction standards, disposal of waste, use of public roadways and other aspects pertaining to the performance of Work in the Community. To the extent that this Community DRS, the Declaration, or any of the other Governing Documents impose greater restrictions, standards or requirements than Applicable Law, the Owner and Builder must comply with those more stringent restrictions, standards and requirements. Compliance with Applicable Law will be at the sole cost and expense of the Owner

## **Article Two**

### **Design Review Board**

#### **Section 2.01 General Authority**

The DRB is a permanent committee of the Board of the Association. The DRB has exclusive jurisdiction over, and all rights, powers and authority relating to, all aspects of the administration and enforcement of the Community and Neighborhood DRS, as well as related provisions of the Declaration. However, all powers and authority of the DRB are subordinate and subject to the rights of the Developer during the Development Period, and to the continuing supervision and control of the Board at all times.

#### **Section 2.02 Delegation of Authority**

The DRB is authorized to retain the services of professionals and other agents to assist the DRB in the performance of its duties when, in the discretion of the DRB such assistance is necessary or beneficial. All services of outside professionals and other agents will be performed at the direction and for the benefit of the DRB.

#### **Section 2.03 Developer's Authority**

During the Development Period, the Developer will have the right to participate in and control all activities, and to exercise all rights, powers and authority, of the DRB relating to the administration of or compliance-with the Community and Neighborhood DRS. This includes, without limitation, full power and authority to: (i) appoint or remove members of the DRB; (ii) review and decide upon any applications for acceptance as a Builder under the Approved Builder Program; (iii) review and decide upon any applications for approval of Plans; (iv) interpret the Community and Neighborhood DRS; (v) receive and/or issue any or all notices required or permitted under the Community and Neighborhood DRS; (vi) attend and participate in all meetings, conferences, hearings and other proceedings of the DRB; (vii) enforce any and all terms and conditions of the Community and Neighborhood DRS; and (viii) pursue any available remedies for violations of the Community and Neighborhood DRS. Any action taken by the Developer in exercise of this authority may be in the name of the Developer alone, or by the Developer for and on behalf of the DRB, as the Developer may determine. Therefore, all rights, powers and authority of the DRB, the Board and the Association under the Community and Neighborhood DRS are subject and subordinate to the rights of the Developer under this Section, and as provided in the Declaration and other Governing Documents.

#### **Section 2.04 Rules and Regulations**

The DRB has the authority to develop and adopt Rules and Regulations relating to the administration of the Community and Neighborhood DRS and applicable provisions of the Declaration. The purpose of the Rules and Regulations will be to further clarify the policies, procedures and standards to be followed in order to more efficiently administer the Community and Neighborhood DRS. However, no Rules and Regulations will impose greater restrictions or requirements than described in the Declaration, the Community DRS or any Neighborhood DRS. The DRB has the authority to amend any or all of the Rules and Regulations in order to reflect changes and improvements the DRB may deem necessary or beneficial in the performance of its

duties. The most current version of the Rules and Regulations of the DRB will be incorporated into, and made a material part of, the Community DRS and all Neighborhood DRS to the same extent as if they were completely rewritten in each of those documents. The DRB will make the Rules and Regulations available to all Owners and Builders upon request.

### **Section 2.05 Establishment of Fees**

The DRB has the authority to charge fees for its services and reimbursement of actual costs it incurs in the performance of its duties under the Community and Neighborhood DRS. These fees may include, without limitation, reasonable charges for: (i) applications for acceptance as an Approved Builder; (ii) applications for approval of Improvements; (iii) applications for variances, appeals or other procedures; (iv) payment of expenses for outside professionals or other agents; (v) copy, fax, long distance telephone and similar expenses; and (vi) other fees, costs and expenses incurred by the DRB. The fee schedule for DRB services shall be listed in the Rules and Regulations of the DRB, and the DRB reserves the right to charge fees beyond those listed in the fee schedule when extraordinary circumstances arise. The DRB is authorized to allow any outside professionals or other agents to charge their fees directly to the Owner or Builder, rather than charging those fees through the Owner or Builder's account with the Association.

### **Section 2.06 Adoption of Standardized Forms**

The DRB has the authority to develop and adopt such forms, checklists and other standardized documents as the DRB may determine to be necessary or beneficial to facilitate a more convenient and uniform administration of the Community and Neighborhood DRS. The DRB will further have the right to require the use and completion of its standardized forms and documents as a precondition to taking any action on any procedure under the Community and Neighborhood DRS. All standardized forms and documents required by the DRB will be made available to all Owners and Builders upon request. Failure of the DRB to adopt or utilize standard forms and documents, or to accept any application without completion of any standard form or document, will not constitute a waiver of any of the procedures or requirements under the Declaration, or the Community or Neighborhood DRS.

### **Section 2.07 Record of Proceedings**

The DRB will maintain paper and/or electronic files containing a written record of its proceedings. The record of proceedings for each Lot in the Community, and the record of proceedings for each application under the Approved Builder Program, will be compiled and maintained separately. All information contained in the record of proceedings for each Lot or builder application will be the exclusive property of the DRB, will remain confidential, and will only be made available for inspection by the Owner of the particular Lot or builder applicant to which the record pertains. Upon written request and payment of a reasonable charge, any Owner or builder applicant will be entitled to obtain a copy of all or any portion of the record of proceedings for that Owner's Lot or that builder's application.

### **Section 2.08 Discretion**

Whenever any provision of the Declaration, or the Community or Neighborhood DRS, requires or permits a judgment, decision or determination by the DRB, even if such discretion is not

specifically stated in the relevant provision, the DRB will have the sole, absolute and exclusive power and discretion to make the judgment, decision or determination without any notice to or consent of any other Person, subject to the rights reserved for the Developer during the Development Period.

## **Article Three**

### **Approved Builder Program**

#### **Section 3.01 Purpose**

The purpose of the Approved Builder Program is to provide a system of selecting those Builders who, in the discretion of the DRB, are qualified to construct Improvements in the Community consistent with the intent and requirements of the Declaration and the Community and Neighborhood DRS. The Approved Builder Program is further intended to enhance the probability that the Builders participating in the Community will have an understanding and appreciation of the standards applicable to Improvements on Lots to facilitate a more uniform administration of the Community and Neighborhood DRS.

#### **Section 3.02 Requirement of Approved Builders**

All proposed builders who desire to serve as a general contractor, or in any similar capacity, in the performance of any Work on any Improvements on any Lot in the Community must be approved by the DRB before beginning the Work. All Improvements must comply with the terms and conditions of the Declaration, and the Community and Neighborhood DRS. All Work on all Improvements must be performed by a Builder approved in the manner provided in the Declaration and this Community DRS.

#### **Section 3.03 Standards for Approval**

Every prospective builder must satisfy all of the minimum requirements described in this Section in order to be considered for approval as a Builder under the Approved Builder Program.

**(a) Credit Report**

The applicant must submit a credit report, together with supporting documentation, indicating a credit rating acceptable to the DRB.

**(b) Bank References**

The applicant must provide the DRB with the name, address, telephone number and contact person of the applicant's primary financial institution.

**(c) Customer References**

The applicant must submit the names, addresses and telephone numbers of at least Five (5) prior customers who will provide positive references to the DRB.

**(d) Construction Activity**

The applicant must provide the DRB with evidence that the applicant has been actively involved in all aspects of the professional construction business for at

least Two (2) continuous years immediately prior to the date of submitting the application.

**(e) Minimum Production**

The applicant must provide the DRB with evidence that the applicant has built a minimum of Four (4) residential or commercial units, similar to what they intend to build in the Community, within the Two (2) year period immediately prior to the date of submitting the application.

**(f) Level of Involvement**

The applicant must provide the DRB with evidence that the applicant has been responsible for all phases of the construction process with respect to the units identified in the preceding paragraph, including without limitation financial management and “on-site” supervisory responsibilities for those units.

**(g) Primary Business**

The applicant must provide the DRB with evidence that at least One (1) of the principals of the applicant derives a majority of his or her income from the building of residential or commercial units, and/or related real estate or land development activities acceptable to the DRB.

**(h) Registered Builder**

The applicant must provide the DRB with evidence that the applicant is a member in good standing of the Registered Builder Program of the Home Builders Association of Dayton and the Miami Valley.

**(i) Good Standing**

If the applicant is a corporation, general or limited partnership, limited liability company or other form of legal entity, the applicant must provide the DRB with evidence that the applicant is then in good standing under the laws of the State of Ohio, and that it is authorized to conduct business in this State.

**(j) Other Requirements**

The DRB is authorized to require any applicant to submit such additional information that the DRB may deem to be necessary or beneficial in determining whether to approve the applicant as a Builder under the Approved Builder Program for the Community.

**Section 3.04 Changes in Information**

Every approved Builder will have a continuing obligation to promptly notify the DRB in writing if any of the information submitted as part of the Builder's original application materially changes.

**Section 3.05 Application for Approval**

Every prospective builder who desires to be approved as a Builder under the Approved Builder Program must submit an application to the DRB, together with an application fee, if any. The application will be on a form adopted and provided by the DRB, and must contain all of the

information required in this Article, as well as any additional information the DRB may require under its Rules and Regulations. The application must be signed by a principal owner or officer of the applicant, and must describe the capacity in which that person has signed the application. Upon receipt of an application, the DRB will also be authorized to request the applicant to submit such additional information as the DRB may determine to be necessary or beneficial in making its decision on the application. The DRB will not have any obligation to accept any application that is incomplete. Until the DRB marks an application as accepted for filing, the DRB will not be required to take any further action on the application. The submission of an application under this Section will be deemed to be an authorization for DRB to contact any or all references, to obtain any information the DRB may desire, and to further investigate any of the information submitted with the application. In order to better facilitate this authorization, the DRB will have the authority to require the applicant to sign a separate written authorization form provided by the DRB.

### **Section 3.06 Personal Conference**

Before acting on any application under the Approved Builder Program, the DRB may, but will not be required to, require a personal conference with one or more of the principals of the builder applicant. If the DRB requires a conference, the DRB will not have any obligation to act on the builder's application until the conference has been held.

### **Section 3.07 Decision of DRB**

The DRB will render its decision on an application under this Article within Fifteen (15) days after the date on which the DRB accepts the application as complete. This time period may be extended a reasonable time by the DRB if necessary to permit the scheduling and completion of any personal conference, or to obtain additional information requested by the DRB. Failure of the DRB to act within the time required in this Section will be deemed to be a disapproval of the application, unless the DRB notifies the applicant in writing that a decision on the application is being tabled for an additional period of time. The DRB will have the sole and absolute discretion to decide on the approval or disapproval of any application, subject only to the rights reserved to the Developer under the Declaration and this Community DRS. Upon reaching its decision on an application, the DRB will notify the applicant in writing that its application has either been approved, approved with conditions, or disapproved.

### **Section 3.08 Effect of Approval**

If the DRB approves the prospective builder's application, the Builder will be deemed to be qualified to perform Work on Improvements on Lots in the Community for as long as the Builder remains in good standing under the Approved Builder Program. As a condition of approval, the DRB may require the Builder to enter into an Approved Builder Agreement in the form and on such terms and conditions as the DRB may require.

### **Section 3.09 Effect of Conditional Approval**

If the DRB conditionally approves the prospective builder's application, the Builder will be deemed to be qualified to perform Work on Improvements on Lots in the Community for as long as the Builder remains in good standing under the Approved Builder Program. However, the Builder's qualification as an approved Builder will be subject to the conditions imposed by the

DRB. These conditions may include, without limitation, approval to build: (i) only on one or more designated Lots; (ii) only in designated Neighborhoods; (iii) only for a specified period of time; (iv) only specified types of Improvements; and/or (v) only upon satisfaction of other conditions required by the DRB. The DRB may also require the Builder to enter into an Approved Builder Agreement in the form and on such terms and conditions as the DRB may require.

### **Section 3.10 Effect of Disapproval**

If the DRB disapproves a prospective builder's application for any reason, the prospective builder will not be permitted to perform any Work on any Improvements on any Lots in the Community. However, upon the expiration of Six (6) months following the denial of the application, the prospective builder may submit a new application for consideration into the Approved Builder Program.

### **Section 3.11 Termination of Approved Builder Status**

The DRB will have the right to revoke any Builder's approved Builder status at any time if, in its sole and absolute discretion, the DRB determines that the Builder no longer satisfies the requirements of the then current version of the Approved Builder Program. Any such revocation will not, however, preclude the Builder from completing Improvements already properly approved and commenced on any Lot, subject to available remedies provided in the Declaration for failure to comply with any of the Governing Documents. No Builder will have any right of expectancy to continue as an approved Builder for any period of time, or on any terms or conditions.

### **Section 3.12 Builder's Responsibilities**

All approved Builders will be responsible for the actions of all of the Builder's own employees and laborers, all of the Builder's subcontractors, material suppliers, agents, and their respective employees, laborers and agents, and all other Persons in the Community at the request of, for the benefit of, or under the direction and control of the Builder. In that regard, the Builder will be liable for all violations, losses and damages caused by any Person for whom the Builder is responsible under this Section, notwithstanding the fact that such Person may also be individually liable under the Declaration, this Community DRS, any of the other Governing Documents or Applicable Law.

### **Section 3.13 Owner's Responsibilities**

Every Owner will be responsible and liable for all violations, losses and damages caused by the Owner's Builder, or any Person for whom that Builder is responsible under the preceding Section, notwithstanding the fact that such Builder or other Person may also be individually liable under the Declaration, this Community DRS, any of the other Governing Documents or Applicable Law.

## **Article Four**

### **Plan Review Procedures**

#### **Section 4.01 General**

The purpose of the plan review procedures described in this Article is to assure that all proposed Improvements comply with the requirements of the Declaration, and the Community and Neighborhood DRS.

#### **Section 4.02 Required Process**

No Owner may commence, or permit any other Person to commence, any Work on any Improvements on any Lot in the Community unless and until the DRB has approved the Plans for those Improvements in the manner provided in this Article. This requirement applies to all Improvements of every nature or description, including without limitation all Primary Structures, all Accessory Structures and all Landscaping. All Improvements must comply with the terms and conditions of the Declaration, and the Community and Neighborhood DRS.

#### **Section 4.03 Participants**

The Owner of a Lot is required to personally participate in the plan review process described in this Article. In addition, the Owner is encouraged, but not required, to have the Owner's Builder, architect, engineer and/or other design professionals participate in the plan review process. All applications and other documents relating to the plan review process which require a signature must be signed by the Owner personally. No Builder, architect, engineer, design professional or any other Person will have any express or implied authority to act or sign any documents on behalf of any Owner, unless the Owner first provides the DRB with a written designation of agent in the form, and on such terms and conditions, as the-DRB may require.

#### **Section 4.04 Application**

Every Owner who desires to construct Improvements on his or her Lot must submit an application for approval of the Improvements to the DRB, together with applicable application fees, as detailed in the Rules and Regulations of the DRB. At least One (1) of the Owners of the Lot must sign the application. The application will be on a form adopted and provided by the DRB in its Rules and Regulations, and must contain all of the information required in the Declaration and this Article, as well as any additional information the DRB may require under its Rules and Regulations. Upon receipt of an application, the DRB will also be authorized to request the Owner to submit such additional information as the DRB may determine to be necessary or beneficial in making its decision on the application. The DRB will not have any obligation to accept any application that is incomplete. Until the DRB marks an application as complete and accepted for filing, the DRB will not be required to take any further action on the application.

#### **Section 4.05 Plan Contents**

In addition to other information required in the application and in the Rules and Regulations of the DRB, every application for approval of Improvements must contain a complete set of Plans

for the Improvements. The application form provided by the DRB will include written instructions indicating the information required to be included on the Plans and the required scale of the Plans.

#### **Section 4.06 Selected Architectural Styles**

The DRB may, but will not be required to, prepare and compile an assortment of architectural styles for Primary Structures that will be permitted in a particular Neighborhood. These architectural styles will be identified in the Neighborhood DRS for that Neighborhood. If the Neighborhood DRS provides for specific architectural styles, the DRB will have the authority to require all Owners in that Neighborhood to choose one of the permitted architectural styles for inclusion in the Plans for the Primary Structure on the Owner's Lot. In those instances, the DRB will not have any obligation to consider or to accept an application to approve any other type of architectural styles for a Primary Structure on any Lot in that Neighborhood. However, the DRB will have the authority to permit deviations from the permitted architectural styles if, in the sole discretion of the DRB, the deviations will not materially affect the overall character and design theme intended for that Neighborhood. The DRB will make all applicable selected architectural styles available for inspection to any Owners, any purchaser under contract to buy a Lot in the Community, any prospective purchaser, or their respective Builder or architect, during the Association's normal business hours. Further, any Owner, or any purchaser under contract to buy a Lot in the Community, may obtain a copy of any selected architectural styles applicable to the Neighborhood in which their Lot is located upon written request to the Design Review Board and payment of any applicable charge for the copy. All copies of selected architectural styles will be subject to the rights of the holder of any copyright for the design.

#### **Section 4.07 Decision**

The DRB will render its final decision on an application under this Article within Fifteen (15) days after the date on which the DRB accepts the application as complete (or, if the application process consists of multiple phases, until the DRB accepts the application as complete for each phase). This time period may be extended a reasonable time by the DRB if necessary to permit the scheduling and completion of any application conference, or to obtain additional information requested by the DRB. Failure of the DRB to act within the time required in this Section will be deemed to be a disapproval of the application, unless the DRB notifies the applicant in writing that a decision on the application is being tabled for an additional period of time. The DRB will have the sole and absolute discretion to decide on the approval or disapproval of any application, subject only to the rights reserved to the Developer under the Declaration and this Community DRS. Upon reaching its decision on an application, the DRB will notify the Owner in writing that its application has either been approved, approved subject to further conditions or requirements, disapproved, or disapproved pending approval of additional information or requirements.

#### **Section 4.08 Effect of Decision**

The final decision of the DRB concerning an application under this Article will have the following effect:

**(a) Approval**

If the DRB approves an application under this Article, the Owner will be entitled to immediately commence Work on the Improvements, and complete the Improvements as approved.

**(b) Conditional Approval**

If the DRB grants conditional approval of an application under this Article, the Owner will be entitled to commence Work on the Improvements only after satisfaction of all of the conditions stated in the DRB's written notice to the Owner.

**(c) Disapproval**

If the DRB disapproves an application under this Article, the Owner will be prohibited from commencing or completing any Work on the Improvements. The Owner may then file a new application for approval under this Article at any time with the necessary information or changes to address the reasons for the prior disapproval.

**(d) Conditional Disapproval**

If the DRB disapproves an application under this Article pending approval of additional information or requirements, the application will be deemed to be tabled pending receipt and approval of the additional information or requirements. If the DRB does not receive and approve the additional information, or if the additional requirements are not satisfied, within Thirty (30) days from the date of the DRB's written notice of conditional disapproval, the application will automatically be deemed to be disapproved. The Owner will be prohibited from commencing or completing any Work on the Improvements until the DRB either approves or conditionally approves the application. If the application is ultimately disapproved, the Owner may then file a new application for approval under this Article at any time with the necessary information or changes to address the reasons for the prior disapproval.

**Section 4.09 Discretionary Bond Requirements**

The DRB will have the authority, but not an obligation, to require as a condition of approval of an application under this Article that the Owner post a bond with the Association to assure that all or certain portions of the Improvements will be completed as approved. The type, amount and all other terms and conditions of the bond will be as determined by the DRB. If not specifically required in the DRB's written decision on an application, all bond requirements for the approved Improvements will be deemed to be waived. The requirement or waiver of a bond on one or more Lots, or with respect to one or more types of Improvements will not be deemed to be a precedent for requiring bonds on any other Lot or with respect to any similar or different types of Improvements.

## **Section 4.10 Request for Reconsideration**

Any Owner whose application under this Article has been conditionally approved, disapproved, or conditionally disapproved may within Ten (10) days after receipt of the DRB's notice of decision file with the DRB a written request for reconsideration of the DRB's decision. The request for reconsideration must contain a clear and concise statement of the reasons the Owner believes its original application should have been approved, or that one or more of the conditions should not have been imposed. The request for reconsideration may also contain additional information relevant to supporting the Owner's position. In addition to the requirements provided in this Section, the DRB may adopt Rules and Regulations pertaining to more specific procedures and requirements for requests for reconsideration of decisions of the DRB. If a request for reconsideration is timely filed, the DRB will reconsider its decision and render a final decision on the request for reconsideration within Thirty (30) days from the date on which the request for reconsideration was filed. The DRB may, but will not be required to, hold an additional conference with the Owner to discuss the information provided in the request for reconsideration. If the DRB is willing to change its original decision, the DRB may render a new decision by written notice to the Owner. Failure of the DRB to change its original decision within the Thirty (30) day period will automatically be deemed to be a denial of the request for reconsideration, in which case the original decision of the DRB will stand. A formal request for reconsideration under this Section will be a precondition to the rights of any Owner to appeal the decision to the Board, as provided in this Article.

## **Section 4.11 Variances**

Any Owner who desires to construct or install any Improvements which do not comply with the strict, literal requirements of the Declaration, or the Community or Neighborhood DRS, may apply to the DRB for a Variance in the manner provided in this Section. In addition to the requirements provided in this Section, the DRB may adopt Rules and Regulations pertaining to more specific procedures and requirements for consideration and decisions on applications for Variances.

### **(a) Types of Permitted Variances**

An Owner may only request an Area Variance or Design Variance. Use Variances will not be permitted, and may not be approved by the DRB, the Board, or the Developer, under any circumstances.

### **(b) Timing of Application**

An Owner may apply for a Variance: (i) before filing an application for approval of Improvements; (ii) concurrently with an application for approval of Improvements; or (iii) after the DRB has disapproved the Owner's application for approval of Improvements.

### **(c) Application for Variance**

Any Owner desiring a Variance must submit an application for the Variance to the DRB, together with an application fee, if any. At least One (1) of the Owners of the Lot must sign the application. The application must contain all of the information required in the Declaration and this Article, as well as any additional

information the DRB may require under its Rules and Regulations. Upon receipt of an application, the DRB will also be authorized to request the Owner to submit such additional information as the DRB may determine to be necessary or beneficial in making its decision on the application. The DRB will not have any obligation to accept any application for a Variance that is incomplete. Until the DRB marks an application as complete and accepted for filing, the DRB will not be required to take any further action on the application.

**(d) Discretionary Conference**

As soon as practical after acceptance of an application for a Variance under this Section, the DRB may require the Owner to meet with the DRB to discuss any aspect of the application. The Owner and the Owner's Builder, architect, engineer and/or any other professionals assisting with the development or implementation of the Plans for the Improvements for which the Variance is requested will all be required to attend this conference. The DRB may waive this conference if, in the discretion of the DRB, the application for the Variance is acceptable and will be approved as filed.

**(e) Standard for Approval**

The DRB may approve or conditionally approve a Variance only if the DRB finds by a preponderance of the evidence presented that: (i) a strict, literal interpretation of the requirements of the Declaration, or the Community or Neighborhood DRS, would create an undue hardship on the Owner; and (ii) the hardship is a result of circumstances not directly or indirectly caused, created or permitted by the Owner; and (iii) the hardship is not merely financial in nature.

**(f) Decision**

The DRB will render its final decision on an application for a Variance under this Section within Thirty (30) days after the date on which the DRB accepts the application as complete. This time period may be extended a reasonable time by the DRB if necessary to permit the scheduling and completion of any application conference, or to obtain additional information requested by the DRB. Failure of the DRB to act within the time required in this Section will be deemed to be a disapproval of the application, unless the DRB notifies the applicant in writing that a decision on the application is being tabled for an additional period of time. The DRB will have the sole and absolute discretion to decide on the approval or disapproval of any application for a Variance, subject only to the rights reserved to the Developer under the Declaration and this Community DRS. Upon reaching its decision on an application for a Variance, the DRB will notify the Owner in writing that the Variance has either been approved, approved subject to further conditions or requirements, disapproved, or disapproved pending approval of additional information or requirements. The effect of such decision will be the same as provided in this Article for other decisions of the DRB.

**(g) Reconsideration and Appeal**

If the DRB denies an application for a Variance under this Section, the Owner may file a request for reconsideration and an appeal to the Board in the same manner as provided in this Article for other decisions of the DRB.

**(h) Coordination with Applicable Law**

All Variances will be subject to concurrent zoning requirements under Applicable Law. Approval of a zoning variance by a Government Entity will not constitute approval of, or automatically entitle the Owner to, a similar Variance under this Article. Likewise, approval of a variance under this Declaration by the DRB will not constitute approval of, or automatically entitle the Owner to, a similar variance by a Government Entity. No Owner will be entitled to any form of Variance, or to commence any Work on any Improvements requiring a Variance without first obtaining the written approval of the DRB in the manner provided in this Section.

**Section 4.12 Appeal to Board**

Any Owner whose application for approval of Improvements or application for a Variance has been disapproved, or approved or disapproved with conditions that are not acceptable to the Owner, and who has not been successful in a request for reconsideration proceeding through the DRB, may appeal the adverse decision to the Board of the Association in the manner provided in this Section. In addition to the requirements provided in this Section, the Board may adopt Rules and Regulations pertaining to more specific procedures and requirements for appeals of decisions of the DRB.

**(a) Time for Appeal**

Any Owner who desires to appeal a decision of the DRB must commence the appeal within Ten (10) days after the date on which the Owner receives the written notice of decision from the DRB concerning the Owner's request for reconsideration. If the appeal is not properly commenced within the required time, the Owner will be deemed to have waived the right of appeal, and the decision of the DRB shall be final and binding on all Persons for all purposes.

**(b) Filing of Appeal**

An appeal of a decision of the DRB will be deemed to be commenced effective as of the date the Board receives from the Owner a written notice of appeal which complies with the requirements of this paragraph. The notice of appeal must be signed by at least One (1) of the Owners, and must contain a clear and concise statement of the reasons the Owner believes its original application should have been approved, or that one or more of the conditions should not have been imposed. The notice of appeal may also contain additional information relevant to supporting the Owner's position.

**(c) Hearing Before Board**

The Owner may request in the notice of appeal that a formal hearing be held before the Board for the purpose of further discussing the issues relevant to the

appeal. If not requested in the notice of appeal, the Board may, but will not be required to, require such a hearing. If not requested by the Owner and not required by the DRB, a formal hearing before the Board will be deemed to have been waived by the Owner and the Board, and the decision of the Board will be based upon the evidence in the Owner's notice of appeal and in the record of the DRB. If a hearing is held, the Owner will be required to attend, and may also have his or her Builder, architect, engineer and/or any other professionals assisting with the development or implementation of the Plans present to participate in the hearing.

**(d) Standard for Review**

In making its decision on any appeal, the Board will only be entitled to overturn the decision of the DRB if the Board finds, by clear and convincing evidence, that the decision of the DRB was: (i) contrary to the specific requirements, or the clear purpose and intent, of the Declaration, the Community or Neighborhood DRS, or any of the other Governing Documents; and (ii) clearly an abuse of the DRB's discretion.

**(e) Decision of Board**

The Board will render its decision on an appeal under this Section within Thirty (30) days after its receipt of the notice of appeal. This time period may be extended a reasonable time by the Board if necessary to permit the scheduling and completion of any hearing, or to obtain additional information requested by the Board. Failure of the Board to act within the time required in this Section will be deemed to be an affirmation of the decision of the DRB, unless the Board notifies the Owner in writing that a decision on the appeal is being tabled for an additional period of time. The Board will have the sole and absolute discretion to affirm or overturn any decision of the DRB on appeal, subject only to the rights reserved to the Developer under the Declaration and this Community DRS. Upon reaching its decision on an appeal, the Board will notify the Owner in writing that the decision of the DRB has either been affirmed or overturned. In the alternative, the Board, the DRB and the Owner may reach a compromise, mutually agreeable to all parties, in order to settle all issues involved in the appeal.

**(f) Effect of Decision**

The decision of the Board on any appeal of a decision of the DRB will be final and binding on the Owner and the DRB for all purposes relating to the specific application in question.

**(g) Limitation of Actions**

No Owner will be entitled to institute or maintain any legal or equitable action regarding any decision of the DRB or Board on an application under this Article unless and until the Owner has exhausted all of the procedures for reconsideration and appeal to the Board in the manner and within the time period required under this Article.

### **Section 4.13 Other Permits**

Approval or conditional approval of any application under this Article by the DRB is separate and distinct from all other zoning permits, building permits and other permits and inspections that may be required by Government Entities, and will not represent, guarantee or imply that the Owner's Plans will comply with the Applicable Law of those Government Entities. Conversely, issuance of any zoning permits, building permits or other permits or inspections by any Government Entity will not be deemed to require the DRB to approve any application or Plans under this Article. Further, no approval or conditional approval of any application or Plans will be construed as representing, guaranteeing or implying that: (i) an Owner's Plans will, if followed, result in properly designed Improvements; or (ii) any Improvement built in accordance with such Plans will be built in a good and workmanlike manner; or (iii) the Improvements, even if built according to the Plans, will be structurally sound, habitable, or fit for any general or intended use or purpose.

## **Article Five Community Design Standards**

### **Section 5.01 General**

The standards provided in this Article are overall requirements that will apply to all Lots and Owners in the Community. Owners and Builders should always refer also to the current Rules and Regulations of the DRB for more detailed information regarding specific requirements for the different types of Improvements. The Community DRS may in some instances be more restrictive than Applicable Law and, therefore, compliance with Applicable Law will not necessarily equate to compliance with the Community or Neighborhood DRS. However, no standards provided in the Declaration, or the Community or Neighborhood DRS, may ever be interpreted as permitting less restrictive conditions than may be required under Applicable Law.

### **Section 5.02 Neighborhood Design Review Standards**

The design standards provided in this Article are in addition to all other standards and requirements provided in the Neighborhood DRS for the Neighborhood in which the Lot is located. All Improvements must comply with all conditions and requirements of both the Community DRS and the applicable Neighborhood DRS.

### **Section 5.03 No Improvements in Right-of-Way**

No Owner or Builder may construct or install any Improvement in any portion of the Right-of-Way, unless permitted by the DRB as part of the approval of the Plans, or unless required under the Neighborhood DRS or Applicable Law. The Developer may install certain Landscape Features in portions of the Right-of-Way that are approved as part of the subdivision process. In the alternative, the DRB may under Neighborhood DRS or Rules and Regulations require the Owners of Lots in any Neighborhood to provide and/or install all or a portion of the Landscape Features in the Right-of-Way. Further, the DRB may require the Owners of Lots in any Neighborhood to provide and/or install certain required Accessory Structures, some of which may be required to be placed in the Right-of-Way.

## **Section 5.04 Building Envelope**

Upon recording each Plat, the Developer will establish the Front Yard, Side Yards and Rear Yard Building Setback Lines, and will identify the Building Envelope, for each Lot. All Buildings must be placed and constructed within the Building Envelope, unless otherwise approved by the DRB as part of the Plan approval. The DRB will have the authority to regulate or prohibit the placement of other forms of Improvements outside of the Building Envelope. The DRB will also have the authority to adopt Rules and Regulations creating standard exceptions for the placement of certain types of Landscape Features outside of the Building Envelope. Unless permitted under those Rules and Regulations or approved in advance by the DRB as part of the Plan approval, no other Improvements may be located outside of the Building Envelope.

## **Section 5.05 View Restrictions**

No Person may construct, install or permit to remain any Landscape Feature or other Improvement on any Lot in a Location or at such height that causes an unreasonable obstruction to the view from any other Lot, or causes a safety hazard as a result of impairment of necessary sight distance along any street or intersection, or from any Lot to a street. However, the Developer does not make any representation, warranty or guarantee whatsoever concerning the view from any Lot, or how that view may be affected by subsequent Improvements constructed on any other Lot, Common Area or street. Landscape Features and other Improvements that are constructed and installed on a Lot according to the Plans approved by the DRB will be conclusively deemed to not be in violation of this Section. However, all Owners will be responsible for periodic trimming, pruning and thinning of all hedges, shrubs, trees and other vegetation located on their Lot so as to remain in compliance with this Section at all times. Therefore, the DRB will have the authority to regulate the Building Height, location, and size of any Improvement on a Lot, including without limitation any Landscape Features.

## **Section 5.06 Required Accessory Structures**

The Neighborhood DRS may identify certain uniform Accessory Structures that every Owner in the Neighborhood is required to construct or install on their Lot. By way of illustration, and not limitation, the required Accessory Structures may include uniform mailboxes, Front Yard light poles, and/or address identification markers. The type, size, style and location of these required Accessory Structures will be specified in the Neighborhood DRS. The required Accessory Structures may be the same or different for each Neighborhood. All Owners must construct and install all required Accessory Structures applicable to their Neighborhood as a condition of approval of the Plans for the Lot.

## **Section 5.07 Other Accessory Structures**

Except for the required Accessory Structures discussed in the preceding Section, all Accessory Structures must be harmonious with the architecture of the Primary Structure on the Lot, and must be located in the Rear Yard of the Lot, unless otherwise approved by the DRB as part of the Plan approval. The DRB has the authority to regulate the type, size, style, location, and all other aspects of any and all Accessory Structures.

## **Section 5.08 Required Landscape Features**

Installation of Landscape Features in the Front Yard and Rear Yard of every Lot, as well as in the Side Yard(s) of Lots that share borders with streets or Common Areas, is required. Plans for such Landscape Features are subject to the prior approval of the DRB. The Neighborhood DRS may identify certain Landscape Features that every Owner in the Neighborhood is required to construct or install on their Lot. The type, species, size, style and location of these required Landscape Features will be specified in the Neighborhood DRS. The required Landscape Features may be the same or different for each Neighborhood. All Owners must construct or install all required Landscape Features applicable to their Neighborhood as a condition of approval of the Plans for the Lot.

## **Section 5.09 Other Landscape Features**

Except for the required Landscape Features discussed in the preceding Section, all Landscape Features must be harmonious with the overall design of the Lot, and must comply with the Neighborhood DRS. The DRB has the authority to regulate the type, species, size, style, location, and all other aspects of any and all Landscape Features.

## **Section 5.10 Required Electronic Architecture**

The Neighborhood DRS may identify certain types of Electronic Architecture that every Owner in the Neighborhood is required to construct or install as part of the Improvements to their Lot. The specifications for this required Electronic Architecture will be specified in the Neighborhood DRS. The required Electronic Architecture may be the same or different for each Neighborhood. All Owners must construct or install all required Electronic Architecture applicable to their Neighborhood as a condition of approval of the Plans for the Lot.

## **Section 5.11 Sidewalks**

All Owners are obligated, at their own expense, to install and maintain a common sidewalk across the entire width of the Front Yard of their Lot, as well as across the Side Yard of their Lot that borders a street, whether or not the sidewalk is to be located in the Right-of-Way. The location, size, design and construction specifications for the common sidewalks will either be specified on the Plat, described in a Supplemental Declaration or Neighborhood DRS, or determined and approved by the DRB as part of the Plan approval. All other sidewalks on the Lot must comply with the applicable Neighborhood DRS, and be approved by the DRB as part of the Plan approval.

## **Section 5.12 Screening**

The DRB has complete authority to require that certain Accessory Structures, garden plots, trash containers, and other equipment, materials and supplies on any Lot must be screened from view from neighboring Lots, Common Area, and streets. Owners and Builders should always refer to the current Rules and Regulations of the DRB for more detailed information concerning screening requirements. The DRB may also regulate screening matters on a case-by-case basis as part of approval of the Plans for a Lot, in the DRB's sole and absolute discretion. No screening required or approved by the DRB may subsequently be removed, modified, expanded or diminished in any way without prior approval of the DRB.

### **Section 5.13 Encroachments**

No Person may intentionally, knowingly or negligently cause or permit any Improvement on a Lot to encroach upon any other Lot, Common Area or publicly dedicated area within the Community. To the extent that any such encroachment occurs, the Owner of the Lot on which the encroaching Improvement originated will be responsible for all costs and expenses associated with the correction or extinguishment of such encroachment.

### **Section 5.14 Condominium Documents**

If the Owner of any Lot in the Community intends to develop that Lot under a condominium form of ownership, or to convert then existing Improvements on that Lot to a condominium form of ownership, all legal documents relating to the creation of such condominium must first be submitted to and approved by the DRB before execution, filing or recording. All of the condominium documents will be deemed to be subordinate to the Declaration, the Community and Neighborhood DRS, and all of the other Governing Documents of the Community. The DRB will have the authority to require that the condominium documents contain express language confirming this subordination as a condition of approval of the documents. No condominium documents will be permitted or deemed to be binding upon the Developer, the Association or any Neighborhood Society under any circumstances. Further, no condominium documents may expand, diminish or otherwise alter the right and obligations of any Owner in the Community, as provided in the Declaration and the other Governing Documents.

### **Section 5.15 Other Association Documents**

If one or more Owners of any Lot(s) in the Community desire to form any type of association that directly or indirectly relates to the ownership, use or enjoyment of any Lot or Common Area, or any other aspect of Community, all legal documents relating to the creation of such association must first be submitted to and approved by the DRB before execution, filing or recording. All of the association documents will be deemed to be subordinate to the Declaration, the Community and Neighborhood DRS, and all of the other Governing Documents of the Community. The DRB will have the authority to require that the association documents contain express language confirming this subordination as a condition of approval of the documents. No association documents will be permitted or deemed to be binding upon the Developer, the Association or any Neighborhood Society under any circumstances. Further, no condominium documents may expand, diminish or otherwise alter the right and obligations of any Owner.

### **Section 5.16 Other Requirements**

Nothing in this Article is intended, or will be construed, to limit any other requirements in the Declaration or any of the other Governing Documents concerning any prohibited, permitted or potentially permissible Improvements on any Lot in the Community, or the authority of the DRB to regulate, approve or disapprove any such Improvements.

## **Article Six**

### **Construction Requirements**

#### **Section 6.01 General**

The requirements described in this Article are intended to apply to all construction activities throughout the Community. The Neighborhood DRS may impose additional requirements, or further clarify some of the provisions in this Article. The DRB may adopt reasonable construction Rules and Regulations concerning these construction requirements, including without limitation, the coordination, safety and appearance of the Lot during construction activities. All requirements in the Declaration, the Community and Neighborhood DRS, and all Rules and Regulations of the DRB relating to the performance of Work on any Lot in the Community, will be binding upon all Owners and Builders. Further, the Owners and their Builders will be jointly responsible for compliance with all such requirements by all subcontractors, laborers, material suppliers, and all other Persons under their control or within the Community at their request or for their benefit.

#### **Section 6.02 No Material Deviation from Approved Plans**

All Work on any Improvements on any Lot must be conducted and completed in a good and workmanlike manner and in strict conformance with the Declaration, the Community and Neighborhood DRS, applicable Rules and Regulations, the Plans approved by the DRB, all other Governing Documents and Applicable Law. No material deviation from the approved Plans will be permitted without the prior written approval of the DRB concerning the proposed deviation. In addition, once an Improvement is completed in accordance with Plans approved by the DRB, that Improvement may not be materially altered or modified without the prior written approval of the DRB.

#### **Section 6.03 Care of Public Streets and Utilities**

All Owners and Builders must conduct their Work in such a manner as to preserve and protect public streets and Public Utilities. Under no circumstances will any Work be conducted in such a manner as to cause an unreasonable disruption of Public Utility services to the Owners of other Lots. All Owners and Builders must on a daily basis clean the streets and sidewalks of any mud and other debris resulting from activities on their Lot. Additionally, all Owners and Builders must immediately repair any damages to public streets and Public Utilities caused by their Work to the satisfaction of, and according to the direction of, the DRB and/or applicable Government Entities.

#### **Section 6.04 Care of Common Areas**

All Owners and Builders must conduct their Work in such a manner as to preserve and protect the Common Areas. Under no circumstances may any Work be conducted in such a manner as to cause a disruption of the use and enjoyment of the Common Areas by the Members of the Community. Additionally, all Owners and Builders must immediately repair any damages to Common Areas caused by their Work to the satisfaction of, and according to the direction of, the DRB and/or applicable Government Entities.

### **Section 6.05 No Use of Common Areas**

No Owner or Builder may at any time use any portion of the Common Area for storage of materials or equipment, parking, concrete wash-out, disposal of scrap materials or debris, or for any other purpose related to performance of the Work. No Owner or Builder, or any other Person under their control or within the Community at their request or for their benefit, may at any time drive construction equipment or other vehicles on the Common Area paths. No Builder, or any other Person under its control or within the Community at its request or for its or an Owner's benefit, will be entitled to use any portion of the Common Areas by virtue of their presence and business activities on a portion of the Property.

### **Section 6.06 No Use of Other Lots or Property**

No Owner or Builder may at any time use any other Lot or other portion of the Property, or any portion of the streets or public Right-of-Way, for storage of materials or equipment, parking, concrete wash-out, disposal of scrap materials or debris, or for any other purpose related to performance of the Work. No Owner or Builder may cause or permit any damage to or destruction of any other Lot, Improvement, or any other portion of the Property, nor to any portion of the Improvements constructed by the Developer in connection with the development of the Community.

### **Section 6.07 No Interference with Other Lots or Owners**

All Owners and Builders must coordinate all Work with any other construction activities on adjacent Lots so as not to materially interfere with other ongoing construction activities. Further, all Owners and Builders must use their best efforts to assure that the performance of any Work on the Lot does not materially disrupt or interfere with the peaceful occupancy, activities or traffic in, on or affecting the surrounding Lots and Neighborhoods in the Community. If required by the DRB, during performance of Work on a Lot the Owner and/or the Builder must, at their sole cost and expense, erect and maintain sight and sound barriers, temporary landscaping or other forms of screening in order to minimize or eliminate any inconveniences to other Lots, Common Areas or Owners in the Community.

### **Section 6.08 Commencement of Work**

No Owner or Builder may purchase or own a Lot in the Community as a speculative investment as unimproved real estate, but may purchase and own a Lot for the purpose of a speculative investment for constructing permitted Improvements on the Lot for subsequent resale as improved real estate. In order to assure compliance with this requirement, substantial and significant Work on the Primary Structure and all other Improvements approved by the DRB as part of an Owner's original Plans for a Lot must be commenced within the earlier of: (i) Three (3) months after approval of the Plans by the DRB; or (ii) Six (6) months after the date of closing on the purchase of the Lot. Substantial and significant Work on all additional Improvements, or modifications or additions to existing Improvements, approved by the DRB as part of any subsequent Plans for a Lot must be commenced within Three (3) months after approval of those Plans by the DRB.

## **Section 6.09 Completion of Work**

In order to assure that all permitted Improvements are not left incomplete for an unreasonable period of time, all Work on the Primary Structure and all other Improvements approved by the DRB as part of an Owner's original Plans for a Lot must be completed within One (1) year after the initial commencement of the Work, or such other period as may be specified by the DRB in the approval of the Plans. All Work on all additional Improvements, or modifications or additions to existing Improvements, approved by the DRB as part of any subsequent Plans for a Lot must be completed within Six (6) months after the initial commencement of the Work, or such other period as may be specified by the DRB in the approval of those Plans. The DRB may grant reasonable extensions upon written request by the Owner as a result of delay due to causes beyond the reasonable control of the Owner and/or Builder.

## **Section 6.10 Maintenance of Lot Prior to Construction**

At all times prior to commencement of Work, all Owners must maintain their Lots in a neat and attractive manner, free of any and all debris and properly mowed, to the satisfaction of the DRB.

## **Section 6.11 Maintenance of Lot During Construction**

All Owners and Builders must at all times during the course of performing any Work on Improvements on any Lot keep the Lot in a clean and sanitary condition, free from all debris and rubbish, and otherwise in a neat and attractive appearance, to the satisfaction of the DRB.

## **Section 6.12 Waste Disposal**

A trash dumpster or roll-off container of suitable capacity for removal of all construction debris must be placed on the Lot on or before the day that framing of any Improvement is commenced. All trash, debris or other waste generated from Work on the Lot must be promptly placed in the trash dumpster or roll-off container, and sufficiently secured to prevent blowing, overflow or other dispersal of the contents of the dumpster or container. All trash dumpsters and roll-off containers must be placed and maintained in the Rear Yard of the Lot at all times.

## **Section 6.13 Concrete Clean-Out**

All cleaning of excess materials and residue from concrete trucks must take place within the Property Lines of the Lot in which the concrete was delivered. All Owners and Builders must provide a suitable place in the Rear Yard of the Lot for purposes of facilitating such concrete clean-out, and must secure such area to assure that the liquids and materials will not flow onto any other Lot, Common Area, street or other public Right-of-Way. All solids generated from concrete clean-out must be removed from the Lot and properly disposed of, and not buried on any portion of the Lot.

## **Section 6.14 No Open Burning**

No Owner or Builder will be permitted, or allow other Persons, to burn any brush, construction debris or any other combustible materials on any Lot at any time. The DRB may, but will not be required to, grant temporary permission to conduct open burning on a Lot during the course of construction upon written request from the Owner or Builder.

### **Section 6.15 Restroom Facilities**

All Owners and Builders must provide and properly maintain temporary, portable restroom facilities on the Lot for use by all Persons participating in the performance of the Work on that Lot. These facilities must be placed in the Rear Yard of the Lot in a location acceptable to the DRB. These facilities must remain on the Lot until such time as other restroom facilities become operational in the Primary Structure on the Lot, at which time the temporary, portable facilities must be promptly removed. Upon written request by one or more Owners or Builders, the DRB may permit sharing of such facilities among multiple adjacent Lots then under construction.

### **Section 6.16 Temporary Structures**

Except with respect to required temporary restroom facilities as provided in the preceding Section, no Owner or Builder will be permitted to place, install or maintain any construction offices, trailers, storage facilities or any other form of temporary structure which is not part of the approved Plans on any Lot without the prior written permission of the DRB. If permitted, all temporary structures or equipment must be located in the Rear Yard of the Lot.

### **Section 6.17 Restricted Hours of Construction Activity**

No Work on any Improvements on any Lot will be permitted to commence before 7:00 a.m., or to continue beyond 9:00 p.m., on any day. This includes, without limitation, delivery of any materials or supplies, delivery, removal or operation of any tools or equipment, removal or emptying of any trash dumpsters or containers, and emptying of any portable restroom facilities. However, this restriction will not apply to any Work performed inside of an enclosed Building from which the sound generated from such Work cannot be heard on any adjacent Lot, Common Area or street.

### **Section 6.18 Noise Control**

All Owners and Builders must take all reasonable steps to minimize the noise created during performance of Work on any Lot so as not to unreasonably interfere with the quiet and peaceful enjoyment of other Persons on other Lots or Common Areas in the Community. In addition to the time restrictions provided in the preceding Section, the DRB has the authority to adopt Rules and Regulations governing acceptable noise levels from construction activities.

### **Section 6.19 Dust Control**

At all times during the course of performing any Work on a Lot, the Owner and Builder must take all action necessary to minimize and abate the creation and dissemination of dust from the Lot, including without limitation, the use of periodic sprinkling of barren areas to control dust generation. The DRB has the authority to adopt Rules and Regulations governing dust control. In addition, the DRB may approve alternative methods of dust control as part of the approval of the Plans.

### **Section 6.20 Erosion Control**

At all times during the course of performing any Work on a Lot, the Owner and Builder must take all action necessary to minimize and abate all erosion and sedimentation run-off from the

Lot, including without limitation, lining the front curb of the Lot with staked bales of straw, installing sedimentation fences and applying jute matting to any slopes susceptible to run-off or erosion. The DRB has the authority to adopt Rules and Regulations governing erosion and sedimentation abatement. In addition, the DRB may approve alternative methods of erosion and sedimentation abatement as part of the approval of the Plans.

### **Section 6.21 Drainage Facilities**

No Owner or Builder, or any other Person under their control or within the Community at their request or for their benefit, may alter, modify, eliminate, damage or destroy any Drainage Facilities. Any proposal to alter, modify or eliminate any portion of a Drainage Facility must be submitted in writing to the DRB, and approved in writing in advance by the DRB.

### **Section 6.22 Grading**

All grading of a Lot must be performed and completed in strict compliance with the grading plan approved by the DRB as part of the approval of the Plans. No Owner or Builder may permit any alteration or modification of the approved grading plan for the Lot without the prior written approval of the DRB. No Owner or Builder will take, or permit to be taken, any action that increases, decreases or alters the rate, direction or volume of surface water run-off from the Lot onto adjacent Lots, Common Areas, streets or public Rights-of-Way.

### **Section 6.23 Excavation**

All excavations on a Lot must be performed and completed in strict compliance with the excavation plans approved by the DRB, and must be limited to only that amount of excavation necessary to properly perform the Work on the Improvements approved by the DRB. No Owner or Builder will perform, or permit to be performed, any excavation that poses a substantial risk of diminishing the lateral support on any adjacent Lot, Common Area, street or public Right-of-Way. All open excavations and swimming pools must be fenced during and after completion of the Work according to Applicable Law. All spoils generated from excavation on a Lot must be removed from the Lot, except to the extent that the grading plan approved by the DRB contemplates integration of all or part of the excavation spoils into the final grade of the Lot.

### **Section 6.24 Import of Fill**

No Owner or Builder will bring, or permit to be brought, onto a Lot any fill material, except to the extent that the grading plan approved by the DRB contemplates importing any fill materials as part of the final grade of the Lot.

### **Section 6.25 Tree Preservation**

No trees, brush or other vegetation may be cut, damaged, destroyed or removed from any Lot prior to final approval of the Plans by the DRB. Upon written request of the Owner, the DRB may permit partial cutting or clearing on a Lot prior to approval of the Plans to the extent necessary to adequately view the Lot for preparation of the Plans. After approval of the Plans, cutting, clearing and removal of trees, brush and other vegetation on the Lot must be performed in strict compliance with the landscape plans approved as part of the Plans approved by the DRB. Further the Owner and the Builder will take all other action necessary or required by the

DRB to assure adequate protection of remaining trees, brush and vegetation, including without limitation marking, fencing or screening those areas to be preserved. The Owner and Builder will be responsible for the replacement of any tree, brush or other vegetation that is required to be preserved under the Plans, but which is damaged or destroyed during the course of or after construction. Such replacement must be with the same or similar species and size of tree, brush or vegetation, unless otherwise permitted by the DRB.

### **Section 6.26 Sodding and Seeding**

Prior to completion of Work on the Improvements approved as part of the original Plans, and before inspection by the DRB as provided below, the Owner and Builder must sod all portions of the Front Yard of the Lot with the type of grass approved in the landscape plans. The Owner and Builder may either sod or seed the Rear Yard, which must be completed at the same time. Any seeding must be performed in a manner approved by the DRB. The DRB may, upon written request of the Owner, grant an extension of time in which to sod and/or seed the Yard if weather conditions are not then suitable for performing such Work.

### **Section 6.27 Installation of Landscape Features**

Prior to completion of Work on the Improvements approved as part of the original Plans, and before inspection by the DRB as provided below, the Owner and Builder must complete the installation of all Landscape Features approved by the DRB as part of the Plans. The DRB may, upon written request of the Owner, grant an extension of time in which to complete the installation of all or part of the Landscape Features if weather conditions are not then suitable for performing such Work.

### **Section 6.28 Post-Construction Cleanup**

Upon completion of Work on any Improvements, and prior to inspection by the DRB as provided in the next Section, the Owner and Builder will remove all construction materials, supplies, tools, equipment and other property not intended to be a permanent part of the Improvements as approved by the DRB. The entire Lot must be restored to a neat, clean and finished appearance.

### **Section 6.29 Certificate of Completion**

Upon completion of any Improvements, the Owner and/or the Builder will notify the DRB of such completion. As soon as possible after receipt of such notice, the DRB will cause the Improvements to be inspected by a representative of the DRB to verify that the Improvements have been completed in accordance with the approved Plans. If the DRB representative determines that the Improvements have been completed in accordance with the approved Plans, the DRB will issue a certificate of completion. Any such certificate of completion may be a conditional certificate of completion, indicating substantial compliance with the approved Plans, but specifying that certain items still need to be completed. If such items are temporarily unable to be completed due to inclement weather or other reasons beyond the reasonable control of the Owner and/or Builder, the DRB may issue a conditional certificate of completion upon reasonable assurance that the uncompleted items will be completed promptly when circumstances permit. No Owner or other Occupant will be permitted to occupy or use any Improvement until the DRB has issued a final or conditional certificate of completion for that Improvement.

## **Article Seven**

### **Enforcement of Remedies**

#### **Section 7.01 Continuing Jurisdiction of DRB**

The DRB will have continuing jurisdiction over all matters relating to the design, placement, construction, maintenance, repair and replacement of all Improvements on all Lots in the Community. Approval of the Plans for any Improvements will not prohibit the DRB from monitoring the Improvements in the future to assure continued compliance with the Declaration, the Community and Neighborhood DRS, Rules and Regulations and all other Governing Documents for the Community.

#### **Section 7.02 Enforcement Powers and Remedies**

The DRB will have full power and authority to enforce this Community DRS in the manner provided in the Declaration. The DRB has the right to pursue all remedies provided in the Rules and Regulations, Declaration and the other Governing Documents if any violation of this Community DRS occurs. In addition to the requirements provided in Declaration and Governing Documents, the DRB may adopt additional Rules and Regulations pertaining to more specific procedures for enforcement and a schedule of available remedies.

#### **Section 7.03 Alternative Remedies**

The DRB will have the authority and discretion, but not an obligation, to attempt to resolve disputes or violations of this Community DRS or any Neighborhood DRS in any manner that is less intrusive than the remedies permitted under the Declaration or the other Governing Documents. The purpose of this provision is to encourage the development and implementation of alternative methods of gaining voluntary compliance with the requirements of the Community and Neighborhood DRS without the need to seek more formal remedies under the Declaration or through court proceedings.

#### **Section 7.04 Right of Entry**

In addition to the rights reserved by the Developer under the Master Declaration, the DRB (and/or its authorized agent) will have the right to enter upon any Lot at all reasonable times for the purpose of inspecting and ascertaining whether such Lot or the Work on any Improvement is in compliance with the approved Plans and/or the provisions of this Part of the Declaration, without the DRB (or its authorized agent) being deemed to have committed a trespass or wrongful act solely by reason of such action or actions.

#### **Section 7.05 No Waiver**

The failure of the DRB to enforce or pursue remedies for any violation of the Community or Neighborhood DRS, or to refer the matter to the Developer or the Board for enforcement and pursuit of remedies, will not constitute a waiver, estoppel, or laches as to the right to enforce or seek any remedies pertaining to the original violation, or pertaining to any coexisting or subsequent violations of the same or a different nature, at a later date. Further, the failure of the DRB, to insist upon strict and exact compliance with any provision of the Community or

Neighborhood DRS at any particular time, or by any particular Person or Persons, will not constitute a waiver, estoppel or laches as to the right to later seek enforcement or remedies pertaining to the original violation, or any concurrent or subsequent violation, by any existing or subsequent Owner. No custom or practice at variance with the terms of the Community or Neighborhood DRS will constitute a waiver of the right to later demand strict and exact compliance with terms and conditions of this Declaration or any of the Governing Documents.

## **Article Eight**

### **General Terms and Conditions**

#### **Section 8.01 Binding Effect**

All terms, covenants, conditions, restrictions, reservations, obligations, rights, benefits and privileges in this Community DRS are binding upon all Persons who now own or in the future acquire any rights, title or interest in any Lot, Common Area or other portion of the Property, and their respective heirs, beneficiaries, administrators, executors, guardians, conservators, custodians, attorneys-in-fact, legal representatives, successors and assigns.

#### **Section 8.02 Constructive Notice and Acceptance**

Every Person who now or in the future owns or acquires any rights, title or interest in any Lot, Common Area or other portion of the Property will be conclusively deemed to have notice of this Community DRS, as well as all associated Rules and Regulations, by virtue of references to this instrument in the Master Declaration for Stonehill Village recorded in the office of the Greene County Recorder. By acceptance of a deed, mortgage or other instrument conveying any right, title or interest in any Lot, Common Area or other portion of the Property, the Person holding such interest will also be deemed to have consented and agreed to every term, covenant, condition, restriction, reservation, obligation, right, benefit and privilege in this Community DRS and associated Rules and Regulations as being reasonable, necessary and fully enforceable, whether or not the instrument by which the Person acquired the interest specifically referred to the Declaration or this Community DRS.

#### **Section 8.03 Incorporation of Schedules**

All attached Schedules are incorporated by reference into, and made a material part of, this Community DRS.

#### **Section 8.04 Amendment**

During the Development Period, only the Developer may amend this Community DRS. Any amendment by the Developer will not require any notice to, or consent, approval or signature of, the Association, Board, DRB, any Neighborhood Society or Council, any Owner, Qualified Mortgagee, or any other Person. After the Development Period, only the Board of the Association may amend this Community DRS by the affirmative majority vote of the Board members.

**Section 8.05 Prior Non-Conforming Improvements**

If as a result of any amendment to this Community DRS, an Improvement that existed or that the DRB had approved prior to the effective date of the amendment would no longer be deemed to comply with this Community DRS, that prior non-conforming Improvement will be permitted to remain, and will not be deemed to be in violation of the Community DRS, as amended. However, all prior non-conforming Improvements must be brought into full compliance with this Community DRS as then in effect if that Improvement is materially damaged, destroyed, removed, repaired or replaced.

**Section 8.06 Partial Invalidity**

If a court of proper jurisdiction determines that any provision of this Community DRS, or its application to any Person, is to any extent void or invalid, then the remainder of this Community DRS will not be affected, and each remaining provision will be valid and enforced to the fullest extent permitted by Applicable Law.

**Section 8.07 Governing Law**

This Community DRS will be governed by and construed and enforced in accordance with the laws of the State of Ohio, and other Applicable Laws of any appropriate Government Entity.

These Community Design Standards have been adopted by the Developer and approved by the Board of Trustees of Stonehill Village Community Association, Inc., effective as of the 1st day of August, 2020.

**DEVELOPER:**  
**NUTTER ENTERPRISES, LTD.,**  
An Ohio Limited Liability Company

By: \_\_\_\_\_  
Robert W. Nutter, Authorized Member

**APPROVED BY BOARD OF TRUSTEES:**

\_\_\_\_\_  
Fred Whitt, Trustee

\_\_\_\_\_  
Matthew Davidson, Trustee

\_\_\_\_\_  
Damon Smith, Trustee

\_\_\_\_\_  
Gayle Burtsfield, Trustee

# Schedule 1

## GLOSSARY OF ADDITIONAL DEFINED TERMS OF COMMUNITY DESIGN REVIEW STANDARDS

### FOR STONEHILL VILLAGE

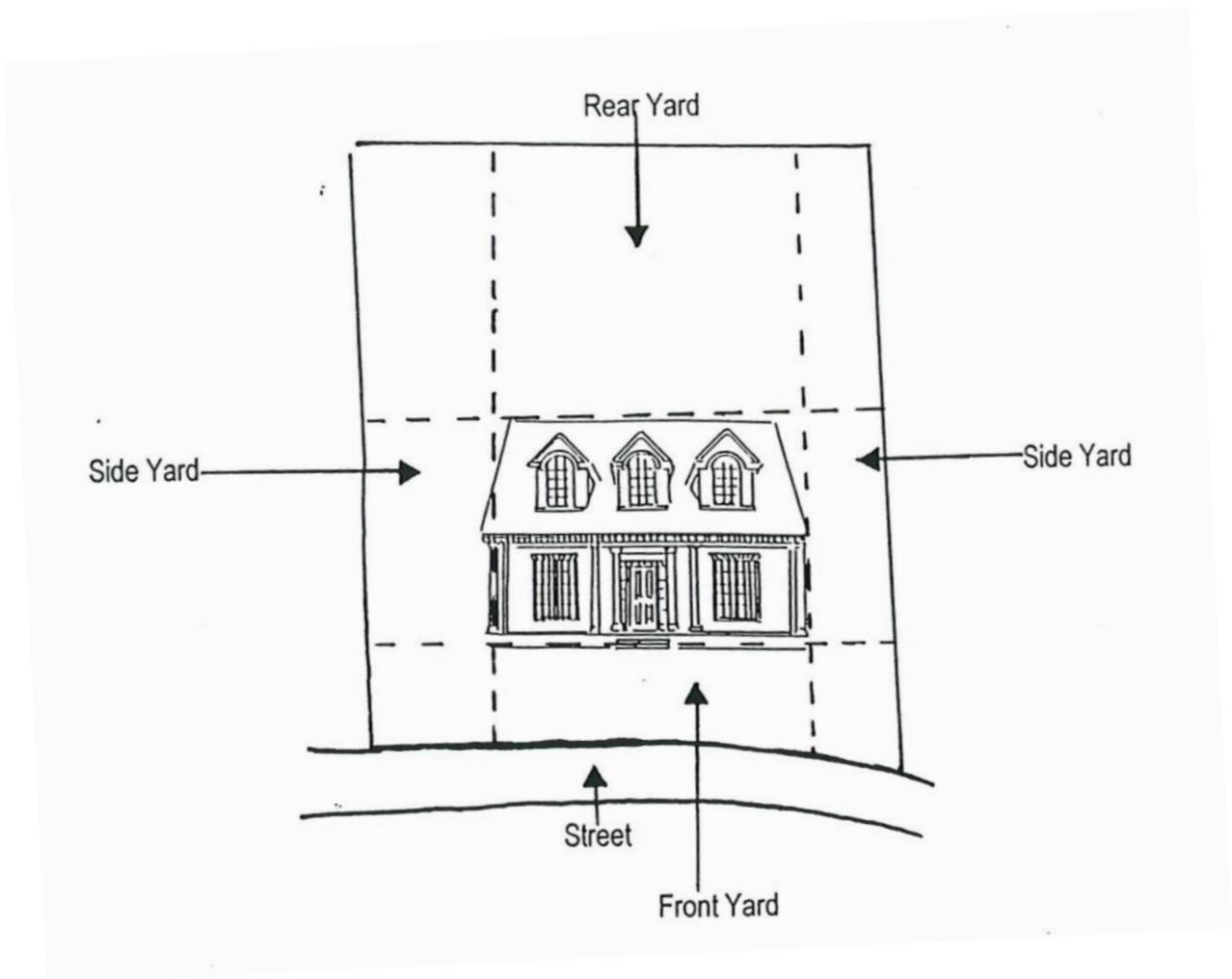
1. **“Building”** means a temporary or permanent type of Improvement with any type of roof supported by columns or walls, and includes without limitation Primary Structures, any Accessory Structures of that type of construction, and all features permanently attached to those structures.
2. **“Building Envelope”** means that portion of a Lot that encompasses the area inside of the Building Setback Line of the Front Yard, Rear Yard and Side Yards, within which all Buildings on the Lot must be located. A Building Envelope is illustrated on Schedule 3 of the Community DRS.
3. **“Building Height”** means the vertical measurement of an imaginary straight line from the established grade at the top of the foundation in the middle of the front of a Building to the highest point of the Building.
4. **“Building Setback Line”** means a line parallel to, and a specified distance from, a Property Line that designates the closest distance to which a Building may be located from the Property Line. The Developer or the DRB will have the authority to establish any Building Setback Line at a greater, but not shorter, distance from a Property Line than required under Applicable Law.
5. **“Corner Lot”** means a Lot at the junction of and abutting on Two (2) intersecting streets, where the angle of intersection is not more than One Hundred Thirty-Five degrees (135°). A Corner Lot is illustrated on Schedule 2 of the Community DRS.
6. **“Electronic Architecture”** means those types of pre-wiring and related components for current and future communications and data technology required to be shown on the Plans for, and incorporated into, a Residence. The specific requirements of Electronic Architecture will be described in Neighborhood DRS and/or Rules and Regulations of the DRS.
7. **“Front Yard”** means that portion of a Lot between the Right-Of-Way of the abutting street and the Front Yard Setback line. The Front Yard will be designated on the Building Envelope for each Corner Lot. A Front Yard for a Corner Lot and an Interior Lot is illustrated on Schedule 2 of the Community DRS.
8. **“Front Yard Setback”** means the Building Setback Line parallel to, and a specified distance from, the Right-of-Way line of the abutting street.
9. **“Interior Lot”** means any Lot that is not a Corner Lot. An Interior Lot is illustrated on Schedule 2 of the Community DRS.
10. **“Landscape Plans”** means the design prints and written specifications, prepared by a registered landscape architect or licensed nurseryman acceptable to the DRB, showing all existing trees and other vegetation on a Lot prior to construction, all proposed clearing and removal of trees and vegetation, and the size, species and location of all Landscape Features proposed to be incorporated into the Lot.

11. **“Lot Depth”** means the total distance between the Right-of-Way in the Front Yard to the rear Property Line of the Lot.
12. **“Lot Width”** means the total distance between the Property Line on one side of the Lot to the Property Line on the other side of the Lot.
13. **“Property Line”** means the boundary line between two adjacent Lots, or between a Lot and a Common Area, or the Right-of-Way line, as shown on a Plat.
14. **“Rear Yard”** means that portion of a Lot between the Property Line farthest from the abutting street and the Rear Yard Setback line. With respect to a Corner Lot, the Rear Yard will be deemed to be on that side of the Lot directly opposite of the Front Yard. A Rear Yard for a Corner Lot and an Interior Lot is illustrated on Schedule 2 of the Community DRS.
15. **“Rear Yard Setback”** means the Building Setback Line parallel to, and a specified distance from, the rear Property Line of the Lot.
16. **“Right-of-Way”** means that portion of the Property that is taken or dedicated for use as a public way, as shown on a Plat or described in another recorded instrument. The Right-of-Way normally includes, without limitation, the improved portion of a street, curbs, gutters, publicly dedicated Drainage Facilities and Public Utilities, lawn or landscaped strips, sidewalks, and all other Improvements within the Right-of-Way area.
17. **“Screening”** means any form of barrier, approved by the DRB, which obstructs or obscures the view of an Improvement from other Lots, Common Areas or streets. Screening may include, without limitation, fencing, walls, hedge rows or other forms of Landscape Features.
18. **“Side Yard”** means that portion of a Lot between a side Property Line and the With respect to a Corner Lot, a Side Yard will be deemed to be on the side of the Lot at either end of the Primary Structure. A Side Yard for a Corner Lot and an Interior Lot is illustrated on Schedule 2 of the Community DRS.
19. **“Side Yard Setback”** means the Building Setback Line parallel to, and a specified distance from, a side Property Line of the Lot.
20. **“Variance”** means a deviation from the literal, strict requirements of the Community or Neighborhood Design Review Standards, which has been approved by the DRB in the manner provided in the Community DRS. purposes of the Community and Neighborhood DRS, there are Three (3) types of Variances, as described below.
  - a. **“Use Variance”** means a deviation from the permitted use of a Lot in the Community.
  - b. **“Area Variance”** means a deviation from the literal requirements governing the size, location or placement of Improvements on a Lot.
  - c. **“Design Variance”** means a deviation from the literal requirements governing the design, style or contents of Improvements on a Lot.
21. **“Yard”** means that portion of a Lot that is not occupied by any Building or structure.

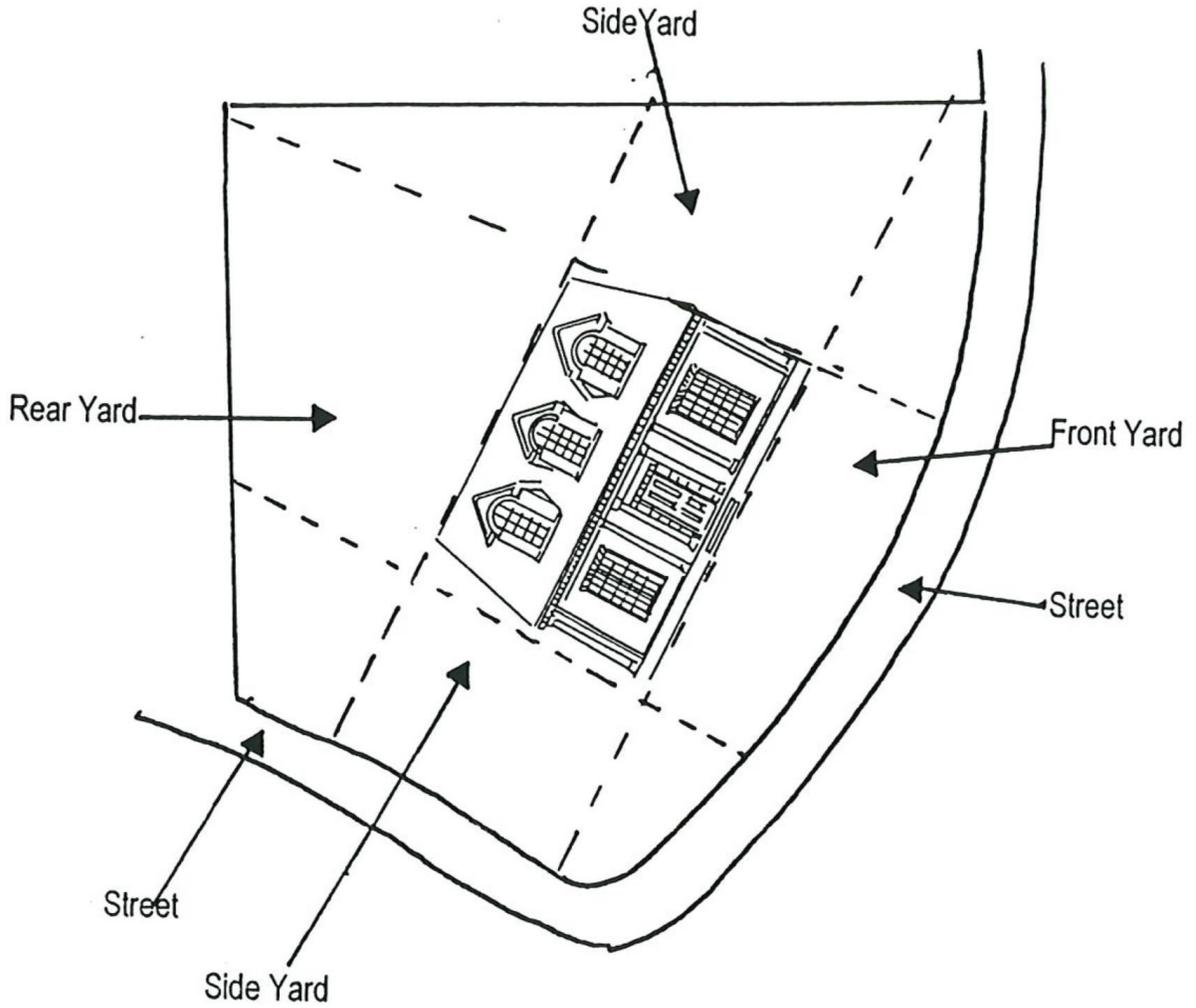
## Schedule 2

### ILLUSTRATION OF LOT CONFIGURATION TERMINOLOGY FOR STONEHILL VILLAGE

#### INTERIOR LOT CONFIGURATION



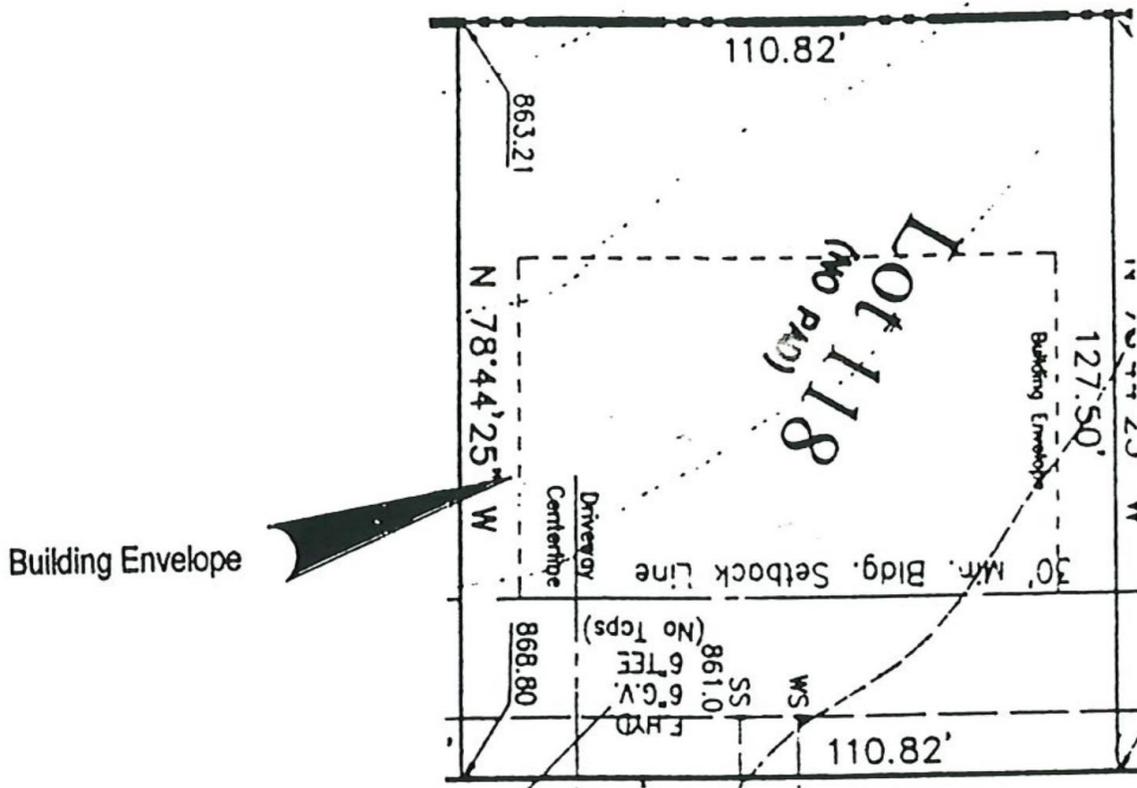
**CORNER LOT CONFIGURATION**



*Note:* For each corner Lot, Developer will designate which street frontage constitutes the Front Yard. Please check with Developer to verify the designations before proceeding with Plan design.

# Schedule 3

## ILLUSTRATION OF BUILDING ENVELOPE DETERMINATION FOR STONEHILL VILLAGE BUILDING ENVELOPE DETERMINATION



*Note:* The boundaries of the Building Envelope do not necessarily correspond to the front, rear and side yard setbacks on each Lot for zoning purposes. The Building Envelope for purposes of the Community DRS may in some cases be more restrictive than zoning requirements. You are cautioned to verify the Building Envelope for each particular Lot with the Developer before proceeding with Plan design.