Dear Owner(s):

Earlier this year, the Board began the process of evaluating whether and how to amend the Association's Declaration. The Board started by tasking the Association's attorney with conducting a comprehensive review of the Declaration to identify three different categories of recommended changes.

1. Any technical changes required due to changes in the law or statutory references;
2. Any drafting changes related to language or terminology; and
3. Any substantive changes based on best or recommended practice.

Counsel provided us with his recommendations earlier this year and worked with the Board over the past several months refining his recommendations. As the culmination of this effort, we have approved for submission to the membership for vote and approval amendments to the Declaration. Given the number of amendments proposed to update and bring the Declaration into compliance with current law, the Board of Directors is proposing to amend and restate the Declaration in whole.

A detailed summary of the proposed amendments is included in this letter for your review.

The types of changes fall into 3 categories:

1. Clean-up: We are updating the language because it is antiquated or does not follow current practices. The amendments in this category do not substantively change the Declaration.

2. Current law: We are updating the language to be consistent with current law. The Property Owners' Association Act was recodified in 2021 to renumber each section of the Act. While the application of the new section numbers were enforceable upon adoption, the Board decided to pursue these amendments to ensure that the cross-references in the Declaration are consistent with the existing code sections to avoid any confusion by a person who reviews the Declaration and cannot find the section cross-referenced in the Declaration.

3. Legal Update: We are updating the language to adopt best practices for the operations of the Association.

Proposed Amendments to the Declaration of Covenants, Conditions, and Restrictions for Dulles Farms

The Association's Declaration was recorded in the land records for Loudoun County on March 19, 2009, and currently governs the Association.

Article 1, Section 1.1 - Definitions

Type of Change: Current Law; Clean-up

Description: The amendment will delete references to the Declarant, Declarant Control Period and Development Period. It also updates the citations to the Virginia Property Owners' Association Act. Additionally, the amendment provides clarification and ensures consistency amongst the various cross-references throughout the definitions.

Article 1, Section 1.2 (e) – No Merger; Savings Clause

Type of Change: Clean-up

Description: The amendment will remove the reference to the Declarant.

Article 1, Section 1.2 (f) – Ambiguities Resolved by Declarant

Type of Change: Clean-up

Description: The amendment will delete this section as it no longer applies.

Article 1, Section 1.2 (g) – Use of New Technology

Type of Change: Legal Update

Description: The amendment will expressly identify the use of electronic mail, online voting systems, and online payment platforms as acceptable means of accomplishing such communications and official Association tasks.

Article 1, Section 1.3(b) – Membership

Type of Change: Clean-up

Description: The amendment will better identify who is considered a member of the Association. As currently drafted, this one paragraph identifies the Declarant, owners of lots, and owners represented by Sub-associations. This paragraph will be segmented into a subsection per membership type with references to the Declarant deleted.

Article 1, Section 1.3(c) – Classes of Owners; Voting Rights

Type of Change: Clean-up

Description: The amendment will 1) remove mention of the Declarant, 2) reflect the current membership structure, and 3) better identify the membership types. Generally, this section will be reformatted so that it is easier to read.

Article 2 – Common Area

Type of Change: Clean-up

Description: The amendment will eliminate the language regarding the Common Area that has already been conveyed to the Association and over which the Declarant no longer has control. The references to the Declarant will also be deleted.

Article 2, Section 2.3 – Regulation of Common Area

Type of Change: Clean-up; Legal Update

Description: The amendment will clarify that the Board has the authority to regulate individuals' conduct on the Common Area.

Article 3 – Easement

Type of Change: Clean-up

Description: The amendment will remove the sections that pertain to the easements that the Declarant reserved to facilitate its development of the property and to facilitate sales.

Article 3, Section 3.8(b) – Limitations

Type of Change: Clean-up; Legal Update

Description: The amendment will clarify that the Board has the authority to regulate individuals' conduct on the Common Area and the right to use the easement is subject to this right.

Article 3, Section 3.10 – Land Submitted by Owners Other than the Declarant

Type of Change: Clean-up

Description: The amendment will eliminate the references to the Declarant.

Article 3, Section 3.14 – Limited Appointment of Attorney-in-Fact

Type of Change: Clean-up

Description: The amendment will eliminate reference to the Declarant as attorney-in-fact.

Article 4 – Development of the Property

Type of Change: Clean-up

Description: The amendment will remove all rights related to the Declarant and references to the Declarant generally.

Article 4, Section 4.2 and 4.3 – Expansion

Type of Change: Clean-up

Description: The amendment will remove all rights related to the Declarant and references to the Declarant generally.

Article 4, Section 4.4 – Withdrawable Land

Type of Change: Clean-up

Description: The amendment will remove reference to subsection 4.4 (a), which pertains to the Declarant's right to withdraw any portion of the Property.

Article 5 – Special Declarant Rights; Transfer

Type of Change: Clean-up

Description: The amendment will remove this Article in its entirety as it pertains to the Declarant's special rights during the development of the property and the Declarant's ability to transfer those rights.

Article 6, Section 6.1 (b) – Preparation and Approval of Budget

Type of Change: Clean-up

Description: The amendment will make the section easier to read and understand. The amendment will first address the Board's responsibility to provide a budget at least 30 days before the beginning of each fiscal year. The requirements for the budget will be delineated so that it is easier to identify all of the requirements. This section will conclude with the Board's obligation to adopt the budget at least 5 days before the beginning of each fiscal year.

Article 6, Section 6.1 (d) – Initial Budget

Type of Change: Clean-up

Description: The amendment will remove this section because the period related to when the first Board was in charge has already passed.

Article 6, Section 6.1 (e) – Effect of Failure to Prepare or Adopt Budget

Type of Change: Clean-up

Description: The amendment will remove references to the Association's first fiscal year and to the Declarant.

Article 6, Section 6.2 (b) – Limited Common Expense Assessment

Type of Change: Clean-up

Description: The amendment will amend this section to delineate the subcategories to make it easier to read.

Article 6, Section 6.2 (d) – Individual Assessments

Type of Change: Clean-up

Description: The amendment will clarify that the charges referenced in Subsection (iv) are pursuant to Article 7, Section 7.8 (Services to Owners and Subassociations).

Article 6, Section 6.2 (e) – Amenities Fee

Type of Change: Clean-up

Description: The amendment will remove this section because the amenities fee no longer applies.

Article 6, Section 6.2 (f) – Initial Assessment

Type of Change: Clean-up; Legal Update

Description: The amendment will require the collection of an assessment contribution from any purchaser at settlement. As currently drafted, this section only applies to initial purchasers.

Article 6, Sections 6.2 (g - k) – Telecommunication Service Assessments; Optional Expenses; Reserves

Type of Change: Clean-up

Description: The amendment removes references to the Declarant and the Declarant Control Period.

Article 6, Section 6.3 – Assessment against Lots Owned by the Declarant, Landowners and Builders; Exemptions

Type of Change: Clean-up

Description: The amendment will delete this section as it pertains to one-time assessments paid to the Declarant.

Article 6, Section 6.4 (a) – Owner Liability

Type of Change: Clean-up

Description: The amendment will revise this section so that it is easier to read.

Article 6, Section 6.6 – Statement of Common Expenses

Type of Change: Clean-up

Description: The amendment will correct the reference to the Association Disclosure Packet, which is attached to the Bylaws as Exhibit B.

Article 6, Section 6.8 – Collections

Type of Change: Legal Update

Description: The amendment will add a new section, which provides that the Association can, but is not required to, send notices of delinquency, and that any such notices are deemed received when mailed by first-class mail, hand delivered, or sent by electronic means, provided sufficient proof of the electronic delivery is retained. Further, the amendment will provide that the Association has the right to dictate how it will accept delinquent payments (e.g., by mail if the owner's access to their accounts with the managing agent's online platform is suspended). This section will also state that the sending of a notice of acceleration or delinquency is not a condition precedent and the Association can file a lawsuit to collect the outstanding balance at any time.

Article 7, Section 7.1 (a) – General

Type of Change: Clean-up; Legal Update

Description: The amendment will make this section easier to read. Further, this section will be amended to state that if the Board determines that certain upkeep is necessitated by the act of an Owner or their family member or tenant, then they can be held responsible for the upkeep costs.

Article 7, Section 7.1 (b) – Storm Water Management

Type of Change: Clean-up

Description: The amendment will identify the Association's responsibilities versus that of owners in subsections. The amendment will also be amended to remove references to the Declarant.

Article 7, Section 7.6 – Restriction on Further Subdivision

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant and the Development Period.

Article 8, Section 8.1 – Permitted Uses

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant.

Article 8, Section 8.2 (a) – No Unsafe Activities or Waste

Type of Change: Clean-up

Description: The amendment will clarify that no waste shall be left, deposited onto, or stored on the Common Area.

Article 8, Section 8.2 (b) – Compliance with Laws

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant.

Article 8, Section 8.2 (d) – Noise

Type of Change: Legal Update

Description: The amendment will include language pertaining to noise that constitutes a nuisance and impacts the other owners' use and enjoyment of their property.

Article 8, Section 8.2 (g-m) – Mining, Signs and Flags, Trash, Landscaping; Utility Lines, Trees, Antennas, Fences.

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant and the Development Period.

Article 8, Section 8.2 (k) – Trees

Type of Change: Legal Update

Description: The amendment will remove the language making the Association responsible for replacing trees planted by the Declarant on lots, and instead, making it the owner's responsibility to replace any trees that may die on their lot.

Article 8, Section 8.2 (n) – Vehicles

Type of Change: Clean-up

Description: The amendment will reformat this section so that it is easier to read and distinguish between the various restrictions pertaining to vehicles.

Article 8, Section 8.2 (p) – Temporary Structures; Accessory Improvements

Type of Change: Clean-up; Legal Update

Description: The amendment will specify that no temporary or permanent structures may be erected without approval. It will also remove references to the Declarant and include language that would require approval before changes to the lot can be made. Right now, this section only regulates buildings, walls, fences and other improvements and structures but not the lot (land) itself. In addition, the specific items that constitute "decorative items" will be delineated to ensure that such restrictions are expressly identified in the recorded declaration.

Article 8, Section 8.2 (t) – Operation of Recreational Vehicles

Type of Change: Legal Update

Description: The amendment will add electric bikes and scooters.

Article 8, Section 8.2 (bb) – Construction Activities

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant.

Article 8, Section 8.3 (c) – Subassociations

Type of Change: Legal Update

Description: The amendment will clarify that Rules and Regulations that are inconsistent with the Association's documents are void even if not disapproved by the Board within 60 days.

Article 8, Section 8.4 – Exclusion for the Declarant and Builders

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant.

Article 8, Section 8.5 – Leasing of Lots

Type of Change: Current Law; Legal Update

Description: The amendment will state that the Association can collect the following information, as permitted by Virginia Code § 55.1-1806: (i) the names and contact information of and vehicle information for the tenants and authorized occupants under such lease and (ii) the name and contact information of any authorized agent of the lot owner. The association may also require the lot owner to provide the association with the tenant's acknowledgment of and consent to any rules and regulations of the association.

Article 8, Section 8.6 (a-b) – Resubdivision; Rezoning and Proffer Amendments

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant and the Development Period.

Article 9, Section 9.1 (a - b) – Purpose and Powers

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant and the Development Period.

Article 9, Section 9.1 (c) – Owner Submissions

Type of Change: Clean-up

Description: The amendment will delineate the items that an owner must submit to the Covenants Committee versus the Covenants Committee's authority. The Covenants Committee's authority will be its own sub-section.

Article 9, Section 9.1 (d) – Power to Impose Charges

Type of Change: Current Law; Legal Update

Description: The amendment will cite to Virginia Code § 55.1-1819, which authorizes the Association to impose violation charges for owners' violations of the Declaration and the rules and regulations.

Article 9, Section 9.1 (e) – Interpretations, Proposed Changes

Type of Change: Legal Update

Description: The amendment will clarify that the proposed guidelines that are inconsistent with the Association's documents are void even if they are not disapproved by the Board within 60 days.

Article 9, Section 9.1 (f - g) – Actions by Covenants Committee; Authority

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant and the Development Period.

Article 9, Section 9.1 (g) – Authority

Type of Change: Clean-up

Description: The amendment will remove references to the Initial Construction Committee and Commercial Review Committee.

Article 9, Section 9.1 (h) – Time for Response; Variances or Exceptions

Type of Change: Legal Update

Description: The amendment will clarify that alteration requests that are inconsistent with the Association's documents are not considered approved even if the request is not reviewed by the Board within 60 days.

Article 9, Section 9.1 (k) – Conduct of Business

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant and Development Plan.

Article 9, Section 9.2 – Appointment of Members to Covenants Committees

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant and Development Plan as well as the Initial Committees. It will also specify who may be appointed to serve on a committee.

Article 9, Section 9.2 (a) – Initial Construction Committee

Type of Change: Clean-up

Description: The amendment will remove this section as there is no longer need for an Initial Construction Committee.

Article 9, Section 9.2 (c) – Commercial Review Committee

Type of Change: Clean-up; Legal Update

Description: The amendment will remove references to the Declarant and the Development Period. Additionally, the amendment will include a term for the members of the committee.

Article 9, Section 9.3 – Architectural Review During the Development Period

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant and the Development Period. The amendment will also delete Section 9.3 (a) as the initial construction period has ended.

Article 9, Section 9.4 – Compensation of the Covenants Committee

Type of Change: Clean-up; Legal Update

Description: The amendment will remove references to the Declarant and specify that no one who serves on a committee may receive payment for doing so.

Article 9, Section 9.5 (a)(1) – Approval Required

Type of Change: Clean-up; Legal Update

Description: The amendment will remove references to the Declarant and the Development Period. The formatting will also be amended to make it easier to read and identify the requirements for owners versus sub-associations. Additionally, similar to the suggested amendment for Article 8, Section 8.2 (p), the language in this section will be amended to make clear that additions, alterations, and improvements to the lot (land) itself, and not just buildings or structures, need approval from the appropriate Covenants Committee.

Article 9, Section 9.5 (a)(3) – Approval required

Type of Change: Clean-up

Description: The amendment will remove reference to the Declarant and Development Period.

Article 9, Section 9.5 (e) – Improvements during Development Period

Type of Change: Clean-up

Description: The amendment will remove this section.

Article 10, Section 10.1 (a, b) – General Provisions

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant.

Article 10, Section 10.2 (d) – Notice to Mortgagees

Type of Change: Legal Update
Description: The amendment will clarify that the Association is only required to send notice to the mortgagees that have notified the Association that they would like to receive notices pursuant to Article 13, Section 13.2.

Article 10, Section 10.4 (a) – Fidelity

Type of Change: Legal Update

Description: The amendment will cite to Virginia Code § 55.1-1827, which sets forth the statutory requirements for the Association's fidelity bond or employee dishonesty insurance policy.

Article 10, Section 10.5 (a) – Insurance on Lots

Type of Change: Legal Update

Description: The amendment will require owners to obtain insurance for their individual lots.

Article 12, Section 12.1 – Compliance; Relief; Vicarious Liability

Type of Change: Legal Update

Description: The amendment will clarify that a violation may occur despite the owner's (or their family member or tenant's) negligence or carelessness. In other words, it will be made clear that the standard to determine whether a violation has occurred is not a negligence standard.

Article 12, Section 12.1 (b) – Costs and Attorney's Fees

Type of Change: Legal Update

Description: The amendment will grant the Association the authority to recover its attorney's fees and costs in any lawsuit that it might file against an owner or sub-association. The amendment will also provide the Association with the authority to recover all costs, even those related to collections.

Article 12, Section 12.1 (d) – Interest

Type of Change: Legal Update

Description: The amendment will provide that interest will be imposed on any assessments in default at the rate determined by the Board of Directors.

Article 12, Section 12.1 (e) – Abating and Enjoining Violations

Type of Change: Legal Update

Description: The amendment will state that the Association has the authority to enter the Property, including improvements. The amendment will also specify that while notice must be provided before the Association can enter a property, the owner is not required to respond to the notice or to provide access after receiving the notice. Further, this section will be amended to clarify that notice does not need to be provided to tow a vehicle.

Article 12, Section 12.1 (f) – Legal Proceedings

Type of Change: Legal Update

Description: The amendment will include language that there is a conclusive presumption that any violation or breach or attempted violation or breach of any of the Association's covenants or restrictions cannot be adequately remedied by action at law or exclusively by recovery of damages.

Article 12, Section 12.1 (g) – Suspension of Rights; Other Remedies

Type of Change: Legal Update

Description: The amendment will cite to Virginia Code § 55.1-1819, which authorizes the Association to suspend privileges for owners' violations of the Declaration and the rules and regulations. The formatting will also be amended so that it is easier to read.

Article 12, Section 12.1 (h) – Charges

Type of Change: Legal Update

Description: The amendment will cite to Virginia Code § 55.1-1819, which authorizes the Association to assess violation charges for owners' violations of the Declaration and the rules and regulations. It will also be amended to state that the violation charges become a lien on the owner's property and that the Association can collect the sums owed the same as the assessments in Article 6.

Article 12, Section 12.2 – Due Process

Type of Change: Legal Update

Description: The amendment will simplify the due process procedure and only include what is required by Virginia Code § 55.1-1819.

Article 12, Section 12.3 (a) – Lien

Type of Change: Current Law

Description: The amendment will update the statutory citations.

Article 12, Section 12.3 (b) – Acceleration

Type of Change: Legal Update

Description: The amendment will allow the acceleration of the assessments after one missed payment and without the requirement that the Association first send a notice to the delinquent owner.

Article 12, Section 12.3 (c) – Enforcement

Type of Change: Current Law; Clean-up

Description: The amendment will remove references to the Declarant and the Development Period. It will also update the statutory citations.

Article 13, Section 13.2 – Notices to Mortgagees

Type of Change: Clean-up

Description: The amendment will reformat this section so that it is easier to read.

Article 15, Section 15.1 – Amendment by the Declarant

Type of Change: Clean-up

Description: The amendment will remove this section as it is no longer applicable.

Article 15, Section 15.2 (a-b) – Owner Approval and Certification

Type of Change: Current Law; Clean-up

Description: The amendment will remove references to the Declarant and the Development Period. It will also update the statutory citations.

Article 15, Sections 15.3 – 15.4 – Prerequisites to Amendment; Extraordinary Actions and Material Amendments

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant and the Development Period.

Article 15, Section 15.5 – Corrective Amendments

Type of Change: Clean-up

Description: The amendment will remove this section as it is no longer applicable.

Article 16, Sections 16.1-12 – Telecommunications Services

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant and the Development Period.

Article 17 – Termination

Type of Change: Clean-up

Description: The amendment will remove references to the Declarant.

Approval Process

For these amendments to pass, at least 67 percent of the Owners voting in person, by proxy or electronically must vote in favor of the amendments. Details on how to cast your votes electronically are provided in the cover letter with this mailing.

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