



Prepared by:  
Hirschler Fleischer, A Professional Corporation  
P. O. Box 500  
Richmond, VA 23218-0500  
Tax Parcel No. 30-3J, 30-3K,  
30X-1-B, 30X-2-3M,  
30X-3-3M

DECLARATION

OF

CARRIAGE POINTE AT AQUIA, A CONDOMINIUM

Pursuant to the provisions of Chapter 4.2 of Title 55 of the Code of Virginia of 1950, as amended (the "Condominium Act"), VILLAGES OF AQUIA, LLC, a Virginia limited liability company ("Declarant") makes this DECLARATION for the purpose of establishing CARRIAGE POINTE AT AQUIA, A CONDOMINIUM.

RECITALS

Pursuant to that certain Deed to Villages of Aquia, LLC, a Virginia limited liability company from Foreston Woods Associates, L.P., a Virginia limited partnership, dated August 5, 2005, recorded August 12, 2005, in the Clerk's Office, Circuit Court, Stafford County, Virginia (the "Clerk's Office") as instrument #050031460, the Declarant owns, in fee simple, a parcel of land located in the County of Stafford, Virginia, and described in Exhibit A attached hereto (the "Land"). Declarant desires to submit the Land and all of the Common Elements (as defined below) and the Units (as defined below) on the Land to this Declaration for the purpose of creating the Condominium. Declarant desires to create an expandable condominium by which portions of the Additional Land may be submitted to the Declaration from time to time as provided below.

76  
55-  
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915<sup>00</sup>

## ARTICLE I

### CREATION OF CONDOMINIUM

1.1 Submission of Property. Declarant hereby submits the Land, together with all easements, rights and appurtenances thereunto belonging, to the provisions of the Condominium Act and creates with respect thereto an expandable condominium known as Carriage Pointe at Aquia, a Condominium (the "Condominium").

1.2 Defined Terms. Certain terms used in the Condominium Instruments shall have the meaning set forth below. Unless a term is otherwise expressly defined in the Condominium Instruments, it shall have the meaning specified in the Condominium Act.

1.2.1 "Additional Land" means the land, air space rights belonging thereto and improvements thereon located in the County of Stafford, Virginia and described in Exhibit B attached hereto.

1.2.2 "Articles of Incorporation" or "Articles" shall mean the articles of incorporation of the Association. A copy of the Articles is attached hereto as Exhibit E.

1.2.3 "Association" is a Virginia nonstock corporation, formed pursuant to the Articles of Incorporation filed with the Clerk of the State Corporation Commission of the Commonwealth of Virginia, which shall function as the Owners Association for the Condominium.

1.2.4 "Board of Directors" or "Board" is the board of directors of the Association.

1.2.5 "Bylaws" are the Bylaws of the Association. A copy of the Bylaws is attached as Exhibit D hereto.

1.2.6 "Condominium Instruments" refer to this Declaration, the Articles of Incorporation of the Association and the Bylaws.

1.2.7 "Declarant Control Period" is the period described in Section 2.2 of the Bylaws.

1.2.8 "Eligible Mortgagee" is any holder of a Mortgage that has submitted a written request for the Association to notify it of any proposed action requiring the consent of a specified percentage of Eligible Mortgagees.

1.2.9 "Managing Agent" is the management company retained by the Board of Directors from time to time to assist in the management of the Association.

1.2.10 "Mortgage" is any first deed of trust or mortgage encumbering a Unit or part thereof.

1.2.11 "Mortgagee" is the holder of a note secured by a Mortgage who has given written notice to the Association stating its name, address and Unit subject to its Mortgage.

1.2.12 "Owner" is the owner of fee simple title to the respective Unit.

1.2.13 "Percentage Interest" is the individual percentage interest in the Common Elements allocated and appertaining to each Unit. The Percentage Interest appertaining to each Unit is calculated as a fraction. The numerator of the fraction shall be the size of the Unit (as set forth on Exhibit F) and the denominator shall be the total square footage of the Units submitted to the Condominium regime, as such number may be increased from time to time in connection with the expansion of the Condominium.

1.2.14 "Phase" means that portion the Land submitted to this Declaration from time to time, including that portion of the Land initially submitted and each portion of the Additional Land subsequently submitted.

1.2.15 "Plats and Plans" are the plats and plans included in Exhibit C attached hereto.

1.2.16 "Size" of each Unit is the total number of square feet of floor space comprising the Unit, but excluding any balcony, patio or other appurtenant improvement, which size shall be determined by reference to the dimensions shown on the Plats and Plans.

1.2.17 "Unit" is that discrete area designed and intended for individual ownership and use and described in Article II of this Declaration.

## ARTICLE II

### UNITS

2.1 Location. The Condominium is located on Foreston Woods Drive, Stafford, Virginia.

2.2 Building. The location and dimensions of the buildings comprising the Condominium on the Property are depicted on the Plats and Plans.

2.3 Units. The location of the Units are shown on the Plans. Each Unit is given an identifying number as set out on the Plans. The size and Percentage Interest of each Unit is set forth on Exhibit F.

#### 2.4 Unit Boundaries.

2.4.1 Vertical and Horizontal. The upper boundary of each Unit is the interior plane formed by the framing or other structure to which the wall board or other unfinished surface of the ceiling of the Unit is attached. The lower boundary of each Unit is the unfinished surface of the floor of the Unit. The vertical or parametric boundaries are the interior vertical planes of the framing or other structure to which the wall board or other undecorated interior perimeter walls which bound the Unit are attached extended to intersections with each other and with the upper and lower boundaries. The planes formed by such boundaries shall be projected, if necessary, by reason of structural divisions such as interior walls and partitions, to constitute complete enclosures of space and all improvements within that space. Notwithstanding the above, the existing physical boundary of the building or any Common Element constructed or reconstructed in substantial conformity to the Plats and Plans shall be conclusively presumed to be its boundaries, regardless of the shifting, settlement or lateral movement of the building or other improvements on the Land, and regardless of minor variations between the building boundaries, as shown on the Plats and Plans, and the existing physical boundaries of the building or Common Element.

2.4.2 Included Components. Without limiting the foregoing, the following components shall be deemed a part of each Unit:

a. the wall board, plaster board and finished and unfinished material performing a similar function and applied to the upper (horizontal) and vertical boundaries of a Unit.

b. the decorated surfaces, including paint, varnish, wall covering, tile, carpeting, paneling and other finishing material, applied to floors, ceilings and interior and perimeter walls;

c. entrance doors (including glass doors and balcony or patio doors) and windows (including glass, frames, sashes, jambs, and hardware);

d. all fixtures and appliances installed for the exclusive use of that Unit, commencing at the point of disconnection from the structural body of the building and from utility pipes, lines or systems serving the entire building or more than one Unit thereof, including, without limitation, dishwashers, refrigerators, garbage disposal units, stoves and ovens, lighting fixtures, furnaces, hot water heaters, washers and dryers, heat pumps, air conditioning units, including, without limitation, compressors (even if such units and compressors are located outside the boundaries of a Unit), vents (including portions located outside the boundaries of a Unit) and components of the foregoing, if any;

e. any portion of any electrical, plumbing (including, without limitation, faucets), heating, or other utility system (not owned by the utility provider), which serves only that Unit, and is located in that Unit or attached to the exterior of that Unit; and

f. all control knobs, switches, thermostats and electrical outlets and connections affixed to or projecting from the walls, floors and ceilings which service either the Unit or the fixtures located therein.

2.4.3 Excluded Components. A Unit shall not include the following items, whether or not located within the boundaries of that Unit:

a. any supporting element of the building contained within the interior walls; and

b. all plumbing, electric, heating, cooling and other utility or service lines, pipes, sump pumps and accessories thereto, wires, ducts, risers and conduits which serve the Unit and any other Units.

2.4.4 General Provisions. Except as expressly set forth in this Section, this description of the Unit boundaries shall be governed by the provisions of Section 55-79.50 of the Condominium Act.

### ARTICLE III

#### COMMON AND LIMITED COMMON ELEMENTS

3.1 Common Elements. The Common Elements consist of all of the property in the Condominium that is not included within or as part of a Unit.

Recreational facilities, amenities and parking areas included within the property submitted to the Condominium shall be Common Elements owned by the Owners and not owned by the Declarant.

3.2 Limited Common Elements; Assignments. Limited Common Elements shall include the following: (a) the portion of the Land and improvements, if any, designated on the plats and plans as "Limited Common Element" identified as appertaining to each Unit and (b) other portions of the Land, improvements and other items designated by Section 55-79.50(e) of the Condominium Act and not otherwise included in the description of a Unit. Limited Common Elements shall appertain exclusively to the designated Unit or Units to which such Limited Common Element is appurtenant. Limited Common Elements shall be reserved for the exclusive use of the owner of the Unit or Units identified within the area designated as "Limited Common Element." Declarant and the Board of Directors hereby reserve the right to assign or reassign Common Elements as Limited Common Elements, including, but not limited to, the assignment of parking spaces, mailboxes and storage units as Limited Common Elements and the right to assign or reassign Limited Common Elements as Common Elements. If any Common Elements or Limited Common Elements are subsequently so assigned, such assignment shall be made in accordance with the Condominium Act.

3.3 Alterations of Common Elements by Declarant. Declarant reserves the right to modify, alter, remove or improve defective, obsolete or nonfunctional portions of the Common Elements, including, without limitation, any equipment, fixtures and appurtenances, when in Declarant's sole discretion it is necessary or desirable to do so, until the expiration of the applicable warranty period.

3.4 Structural Integrity. Nothing shall be done to any Unit, or in, on or to the Common or Limited Elements, which may impair the structural integrity of any improvement.

3.5 No Partition. Any conveyance, encumbrance, judicial sale or other transfer (voluntary or involuntary) of a Unit's individual interest in the Common Elements will be void unless the Unit to which that interest is allocated is also transferred.

## ARTICLE IV

### PERCENTAGE INTERESTS

Allocation of Undivided Interest in Common Elements. Pursuant to the provisions of Section 55-79.55 of the Condominium Act, an undivided ownership interest, or "Percentage Interest," in the Common Elements is allocated to each Unit in the Condominium based on the Size of the Unit. The Percentage Interest allocated to each Unit is set forth in Exhibit F. Therefore, if the Condominium is expanded to include additional Units, each additional Unit shall be allocated a Percentage Interest in the Common Elements in accordance with the Size of the Unit.

## ARTICLE V

### EASEMENTS

In addition to the easements for encroachments and to facilitate expansion created by Sections 55-79.60 and 55-79.65 respectively of the Condominium Act, the following easements are granted or reserved as the case may be:

5.1 Easement to Facilitate Sales. The Declarant reserves an easement to facilitate sales pursuant to the provisions of Section 55-79.66 of the Condominium Act. All Units are subject to this easement. Declarant reserves the right to use any Units owned or leased by Declarant as models, management offices or sales offices until such time as Declarant conveys title thereto to Owners. Declarant reserves the right to relocate such model, management office or sales office from time to time within the Condominium. Declarant further reserves the right to maintain advertising signs in compliance with applicable governmental regulations. Such signs may be placed in any location within the Condominium and may be relocated or removed, all at the sole discretion of Declarant. Declarant also reserves the right to establish and maintain a construction office from time to time within the Condominium.

5.2 Easement for Ingress and Egress Through Common Elements, Access to Units and Support.

5.2.1 Access. Declarant reserves an easement, and each Owner is granted an easement in common with each other Owner for ingress and egress through all Common Elements, subject to such reasonable rules, regulations and restrictions as may be imposed by the Association. Each Unit is burdened with and subject to an easement for ingress and egress through all Common Elements by persons lawfully using or entitled to the same.

5.2.2 Maintenance. Declarant reserves in favor of Declarant and the Association, and the authorized agents of each, the right of access to any Unit as provided in Section 55-79.79 of the Condominium Act and the Bylaws. In case of emergency, such entry may be immediate, regardless of whether the Owner is present.

5.2.3 Support. Each Unit and Common Element shall have an easement for lateral and subjacent support from every other Unit and Common Element, and such easement shall automatically arise upon the submission of the Additional Land and addition of Units and/or Common Elements to the Condominium as contemplated in Article VII.

5.3 Easements for Operations. Easements to the Association shall exist upon, over and under all of the Condominium for ingress and egress from, and the installation, replacing, repairing and maintaining of, all utilities, including, but not limited to water, sewer, telephone, electricity, security systems, communications, master television antennas and cable television, and the access ways, parking areas and walkways, and for all other purposes necessary for the proper operation of the Condominium. By these easements, it shall be expressly permissible for the Association to grant to the appropriate public authorities and/or private companies and contractors permits, licenses and easements under, over and through the Common Elements to construct and maintain the necessary appurtenances and improvements on, above, across and under the Condominium, provided that such appurtenances and improvements do not unreasonably interfere with the use and enjoyment of the Condominium. Should any public authority or other company furnishing a service request a specific easement, permit, or license, the Board shall have the right to grant such easement, permit, or license without conflicting with the terms hereof. In addition, in the event the Board determines that the grant of easement rights to others is in the best interest of the Association, the Association shall have the right to grant the same, provided that use of the same would not, in the sole judgment of the Board, unreasonably interfere with the use and enjoyment of the Condominium by the Owners.

5.4 Declarant's Right to Grant Easements. The Declarant shall have the right, during the Declarant Control Period, to grant for itself and on behalf of the Association and reserve, and does hereby reserve for itself and its successors and assigns, easements and rights-of-way through, under, over and across the Land for construction purposes and for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone, cable television, and other utilities.

5.5 Easements Not for Public Use; Easements for Services. Nothing contained in this Declaration shall be deemed to grant any easements to the



public or for the public's use. Non-exclusive easements are hereby granted to all police, firemen, ambulance operators, postal services, delivery persons, and trash removal personnel to enter the Common Elements in the performance of their duties, subject to such reasonable rules and regulations as the Board may establish from time to time.

5.6 Easements for Additional Land. Declarant hereby reserves, for the benefit of the Additional Land, easements and rights-of-way, through, under, over and across the Common Elements for the construction, installation, use and maintenance of utilities and drainage facilities, and for vehicular and pedestrian access to and from the Additional Land. Such right shall include, without limitation, the right to connect to utilities now or hereafter located within the Common Elements. In addition, Declarant shall have the right to grant, for itself and on behalf of the Association for the benefit of the Additional Land, any other easements and rights-of-way reasonably necessary for the development and use of the Additional Land as determined in the sole discretion of the Declarant. This provision shall not be modified without a written agreement signed by Declarant and filed in the Clerk's Office.

## ARTICLE VI

### OBLIGATION TO COMPLETE

6.1 Improvements "Not Yet Completed". Declarant shall substantially complete all improvements in a portion of the Additional Land prior to submission of that portion of the Additional Land to this Declaration. Declarant shall complete any improvements to the Common Elements labeled "(Not Yet Completed)" on the Plats and Plans within one hundred eighty (180) days after submission to this Declaration as such period may be extended for unavoidable delays.

6.2 Improvements "Not Yet Begun". Declarant shall have no obligation to begin and complete any improvement labeled "(Not Yet Begun)" on the Plats and Plans.

## ARTICLE VII

### OPTION TO EXPAND

7.1 Reservation. Declarant reserves an option, exercisable until the seventh (7<sup>th</sup>) anniversary of the recordation of this Declaration, to expand the Condominium within the Additional Land from time to time, whether contiguous or non-contiguous, in compliance with Sections 55-79.54(c) and 55-79.63 of the Condominium Act, without the consent of any Owners being

required prior to such anniversary. Such expansion may only be effected by the filing by the Declarant of an amendment to this Declaration. The Additional Land, or any portion thereof, may be added to the Condominium at any time, at different times, in any order, without limitation; provided, however, that the Additional Land shall not exceed the area described on Exhibit B hereto. There are no other limitations on the option to expand. The amendment shall describe the Phase, or portion of the Additional Land submitted to the Condominium, the Units, Common Elements, and Limited Common Elements located thereon and the Percentage Interests and votes allocated to each Unit located in that Phase.

7.2 Assurances. Declarant makes no assurances as to the location of improvements within the Additional Land. At such time as the Condominium is expanded, the maximum number of Units within the Additional Land will not exceed eight (8) Units, for a total of one hundred eighty-eight (188) Units within the entire Condominium when fully expanded. Units constructed within the Additional Land shall be consistent in structure type, construction quality and materials with the other Units. All improvements within a Phase submitted to the Condominium shall be substantially complete prior to annexation. The Percentage Interest allocated to each Unit shall be adjusted at the time a Phase incorporating Units located within the Additional Land is added to the Condominium. The maximum number of Units per acre that may be created on the Additional Land is 15.8 units per acre. All Units created on the Additional Land shall be restricted to residential use. The Declarant reserves the right to designate Limited Common Elements on the Additional Land and the right to designate Common Elements therein which may be subsequently assigned as Limited Common Elements. The Declarant makes no assurances as to type, size or maximum number of such Common Elements or Limited Common Elements. The allocation of Percentage Interests in the Additional Land shall be made as required by Section 55-79.56(b) of the Condominium Act on the basis set forth in Section 1.2.13 of this Declaration.

## ARTICLE VIII

### CONDEMNATION

The provisions of Section 55-79.44 of the Condominium Act shall prevail and govern upon the taking of a Unit or Common Elements or portions thereof in condemnation or by eminent domain.

## ARTICLE IX

### DECLARANT RIGHTS

9.1 Right to Lease or Sell Units. Declarant shall own each Unit not sold to any purchaser or otherwise transferred in fee simple. Declarant retains the right to enter into leases, pursuant to Section 6.9 of the Bylaws, with any third parties for the occupancy of any of the Units owned by Declarant.

9.2 Special Declarant Rights. "Special Declarant Rights" are those rights reserved for the benefit of a declarant as provided for in the Condominium Act and the Condominium Instruments, including without limitation the following rights: (a) to maintain sales offices, management offices, signs advertising the Condominium and models; (b) to appoint or remove any officer of the Association or Board of Directors during the Declarant Control Period pursuant to Section 55-79.74(a) of the Condominium Act; (c) to expand the Condominium; (d) to make technical amendments to this Declaration; and (e) to exercise any power or responsibility otherwise assigned by any Condominium Instrument or by the Condominium Act to the Association, any officer or the Board of Directors. All Special Declarant Rights are reserved by, and are vested in, the Declarant. Special Declarant Rights may be transferred pursuant to Section 55-79.74:3 of the Condominium Act.

## ARTICLE XI

### GENERAL PROVISIONS

11.1 Amendments. This Declaration may be amended upon (i) the consent of owners of Units to which sixty-seven percent (67%) or more of the votes allocated to all of the Units appertain, (ii) compliance with Section 2.8 of the Bylaws, and (iii) the recording of an instrument setting forth such amendment in the Clerk's Office. Notwithstanding the foregoing, (i) amendments made to effect the expansion of the Condominium, (ii) technical amendments which do not materially alter the substantive rights of Owners, (iii) amendments to conform this Declaration to the requirements and guidelines, as modified from time to time, of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, or the United States Veterans Administration, and (iv) amendments to conform this Declaration to the Fair Housing Amendments Act, and/or any similar state or local laws need only have the consent of the Declarant. Each Owner shall be given written notice of any amendment effected only by the Declarant within thirty (30) days after the date such amendment is recorded. No amendment to this Declaration shall diminish or impair the rights of the Declarant without the written consent of the Declarant.

Additionally, no amendment may modify this Section 16.1 or the rights of any person hereunder.

11.2 No Obligations. Nothing contained in the Condominium Instruments shall be deemed to impose upon the Declarant any obligations of any nature to build, construct or provide any buildings or other improvements except to the extent required by the Condominium Act.

11.3 Burdens and Benefits. The Condominium Instruments shall benefit and burden all of the Units whether owned by Declarant or other Owners and whether occupied or not occupied.

11.4 Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, first-class postage prepaid or otherwise as may be permitted by the Condominium Act:

11.4.1 If to a Owner, at the address which the Owner shall designate in writing and file with the Secretary of the Association, or if no such address is designated, at the address of the Unit of such Owner; or

11.4.2 If to the Association, the Board of Directors, or the Managing Agent, at the principal office of the Managing Agent if there be one and if there is none, at the residence of the President of the Unit Owners Association and the members of the Board of Directors or at such other address as shall be designated by the notice in writing to the Owners pursuant to this Section 16.4.

11.5 Invalidity. The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability or effect of the balance of this Declaration.

11.6 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration, or the intent of any provision thereof.

11.7 Gender. The use of the masculine gender in this Declaration shall be deemed to include the feminine and neuter genders, and vice versa and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

WITNESS the following signature as of this \_\_\_ day of \_\_\_\_\_,  
2006.

[SIGNATURE PAGE ATTACHED]

DECLARANT:

VILLAGES OF AQUIA, LLC,  
a Virginia limited liability company

PM 06000000 22  
PM 06000000 23

By: [Signature]  
Name: Jon Lucia  
Title: MANAGER

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF Saupey, to-wit:

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of January, 2006, by Jon Lucia, Manager of Villages of Aquia, LLC, a Virginia limited liability company, on behalf of the company.

My commission expires: May 31, 2007

[Signature]  
Notary Public

EXHIBITS

- A - Submitted Land
- B - Additional Land
- C - Plats and Plans
- D - Bylaws
- E - Articles of Incorporation
- F - Percentage Interest

EXHIBIT A

(SUBMITTED LAND)

PHASE 1

ALL that certain piece or parcel of land located in Stafford County, Virginia, containing approximately 15.096 acres of land as more particularly described on that certain plat dated September 29, 2005, revised December 21, 2005, prepared by Burgess & Niple, entitled "Plat of Carriage Pointe at Aquia, A Condominium Being on Parcels 3J, B and 3K, Villages of Aquia Section One, Remainder of Parcel 3N-1, Villages of Aquia Section Two, Plat Book 32, pages 162-164, Plat Book 30 Page 248, Parcel 3-M, Villages of Aquia Section Three, Plat Book 31, Page 218", a copy of which is attached hereto as part of the plats and plans in Exhibit C and incorporated herein by this reference.



EXHIBIT B

(ADDITIONAL LAND)

ALL that certain piece or parcel of land located in Stafford County, Virginia, containing approximately 0.507 acres of land as more particularly described as "Additional Land" on that certain plat dated September 29, 2005, revised December 21, 2005, prepared Burgess & Niple, entitled "Plat of Carriage Pointe at Aquia, A Condominium Being on Parcels 3J, B and 3K, Villages of Aquia Section One, Remainder of Parcel 3N-1, Villages of Aquia Section Two, Plat Book 32, pages 162-164, Plat Book 30 Page 248, Parcel 3-M, Villages of Aquia Section Three, Plat Book 31, Page 218", a copy of which is attached hereto as part of the plats and plans in Exhibit C and incorporated herein by this reference.

EXHIBIT C

(PLATS AND PLANS)  
PHASE 1

SEE PLATS AND PLANS RECORDED IN  
DEED BOOK \_\_\_\_\_, PAGES \_\_\_\_\_

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EXHIBIT D

(BYLAWS)