

APPENDIX D-1

EXCERPTS FROM DECLARATION: ARCHITECTURAL REVIEW THE VILLAGE AT HILTON

2.3. DEVELOPMENT AND ARCHITECTURAL REVIEW

2.3.1. Development Plan and Development Guidelines

Unless otherwise expressly permitted in writing by the Declarant, the Board of Directors, or the Architectural Review Board (ARB), Development and use of any portion of the Property shall be in accordance with a written Development Plan prepared by the Developer at its sole expense. The Development Plan shall be subject to the approval of the Declarant or the ARB (as defined herein). The Development Plan shall be consistent with (a) the terms and density restrictions in the contract between the Developer (or its predecessor in interest) and the Declarant, as applicable, and (b) those Development Guidelines for The Village at Hilton Phase I that are issued by the Declarant from time-to-time (the "Development Guidelines"). The Development Plan shall include, without limitation, the number, size, location, and general characteristics of the lots, buildings, roads, utilities, paths and sidewalks, signage, street lighting, entrances and related landscaping, and other improvements to occur in the Parcel. No clearing, grading or excavation; removal or severe pruning of a tree having a trunk diameter greater than twelve (12) inches at five (5) feet above surrounding grade; or construction of, or other structure on a Lot shall commence, and no modification thereto shall occur (such commencement or modification being cumulatively referred to as part of "Development"), until the Development Plan has been approved by the Declarant or the ARB. If approved by the Declarant or ARB, the submission of the elements of the Development Plan may occur in various stages as more details evolve. The review shall be in accordance with review procedures issued by the ARB from time to time. The ARB may delegate in writing some or all of its authority for Development review to any Person(s), including any subordinate Architectural Review Board (see next section).

2.3.2. Architectural Review of Specific Structures

Normally, design and construction details for a specific structure and related infrastructure on a specific platted lot (e. g. a residence, garage, fence or wall, pool, fountain, terrace, patio, deck, road, walkway, antennae, lighting, landscaping, etc.) shall be governed by the Development Guidelines and any architectural review standards that apply to the Parcel or subdivision in which the structure or infrastructure is located. The structure or infrastructure shall be approved by the applicable architectural review entity for that Parcel or subdivision (an "Architectural Review Board"). If the Architectural Review Board fails to enforce the applicable architectural review standards properly, in the sole opinion of the Declarant or the Board of Directors, the Declarant or the Board of Directors may assume, in whole or in part, the authority of the Architectural Review Board. An Architectural Review Board may not impose a less restrictive standard than has been approved in the Development Plan unless expressly approved by the Declarant. Different Parcels may have residences and structures of different types, cost, quality, complexity, motifs, architectural concepts and density, and there shall be no requirement that the procedures and policies for review of all

Development within the Property be identical, or that the architectural and/or landscape design standards for all Parcels be identical.

2.3.3. Architectural Review Board; Composition and Authority

As long as the Declarant has a Controlling Interest in the Property, the number of Persons composing the ARB shall be determined by the Declarant or its designee. Thereafter, the number of Persons composing the ARB shall be determined by the Board of Directors of the Association. A member of the ARB need not be an Owner. The ARB may also select and compensate such non-voting advisors or consultants as it may determine are useful in evaluating a submission for Development. The ARB may, in its sole discretion, modify or waive established procedures and policies in order to deal with hardships determined to exist, or new or unique issues, or for other purposes determined by the ARB to be in the best interests of the Property.

2.3.4. Enforcement

The Declarant, the Association, or the ARB shall have authority to monitor Development and to halt or require modification of Development not executed in accordance with approved plans, established procedures, policies or standards of this Declaration.

2.3.5. Obtaining Copy of Development Guidelines, Policies and Procedures

A copy of the current Development Guidelines and/or any current review procedures or policies that apply to a particular Parcel or portion of the Property shall be provided to any Owner by the Association upon written request to the ARB, in care of the Association, as set forth in the notice provisions of this Declaration. The Association may charge a reasonable fee to cover the delivery, administrative and reproduction costs for so providing.

2.3.6. Fees for Review of Development Activity

The Board of Directors may establish a schedule of fees for review or inspection of Development in order to cover the reasonable costs to the ARB or the Association regarding administrative and operating expenses, materials storage, consultation, site inspections; legal expenses, etc.

2.3.7. Deposits for Proper Performance of Development

The Board of Directors may establish a schedule of deposits to be paid by an Owner prior to commencing Development. The purposes of such deposits include, without limitation, to provide adequate funds to insure compliance with approved plans and conditions for Development, including required landscaping; to enforce applicable rules and regulations; to place trash containers at the site or to remove trash from the site; to enforce parking rules; etc. Upon completion of the Development, any unused deposits shall be refunded to the depositing Owner or its designee.

2.3.8. No Liability for Development Activity Review

Neither the ARB, the Declarant, the Board of Directors, nor any Person who is a member of such entity, shall be responsible or liable for any defects in any plans or specifications approved by the ARB, or any entity to which the ARB has delegated responsibility, or for any structural defects in any work done according to such plans and specifications. Further, such Persons shall not be liable for damages to any Person submitting plans or specifications for approval under this Section, or to any Person affected by such plans, specifications, approval or disapproval as a result of mistake of judgment, negligence or non-feasance arising out of, or in connection with, the approval or disapproval or failure to approve or disapprove any such plans or specifications.