

THE LEGENDS

MIDDLETOWN, DELAWARE

ARCHITECTURAL REVIEW STANDARDS

Exhibit A

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ARCHITECTURAL REVIEW STANDARDS

This document, prepared by **THE LEGENDS ARCHITECTURAL REVIEW COMMITTEE** (“**ARC**”), serves as a reference for homebuilders, contractors, lot owners, and home owners. This document contains specific building standards for all structures within The Legends, as empowered by the Declaration of Restrictions. If any discrepancy is found to exist between the Declaration and these Standards, the Declaration shall take precedence.

Every homebuilder, contractor and homeowner should be aware of these Restrictions and Standards and their responsibilities for compliance with them. It is not the responsibility of the **ARC** or **FROG HOLLOW L.L.C.** (hereinafter “**DECLARANT**”) to provide any guarantees or waive any legal requirements for compliance with any local, county or state law, or with the covenants or these Standards.

The **ARC** is not responsible for interpretation or enforcement of the zoning and building laws. Specific zoning and subdivision and building questions should be addressed directly to the Town of Middletown with a copy of said request to **ARC**.

The law requires that a building permit be obtained from the Town of Middletown for construction of any structure. **ARC** approval must be obtained prior to filing for a building permit such that any required design changes may be incorporated into the permit documents.

The design standards set out herein differ from the Declaration of Restrictions in that they establish more specific requirements as determined to be appropriate by **ARC**. Changes to these Standards may be recommended by any resident of The Legends and will be considered by **ARC**. However, it shall be the sole discretion of **ARC** to adopt design standards as authorized by the Declaration of Restrictions by **FROG HOLLOW L.L.C.**, dated November 3, 1997, and intended to be recorded in the Office of the Recorder of Deeds in and for New Castle County (hereinafter the “Restrictions”), and as such are **LEGALLY ENFORCEABLE RESTRICTIONS**.

I. SUBMISSION PROCESS

A. No building or structure (i.e., swimming pool, tennis court or home) or additions shall hereafter be erected, altered, or placed on any Lot unless the plans have been submitted to and approved in writing by the **ARC** and until a copy of all such plans and specifications, finally approved as aforesaid, shall be lodged permanently with the **ARC**, provided that nothing herein contained shall require the aforesaid approval as to matters of interior decoration. Prior to the construction or alteration of a building or

structure or addition, the homebuilder or Lot Owner shall submit to the **ARC** three (3) sets of plans (one to be returned with approval) showing floorplans and all four (4) elevations together with a description of the exterior materials and their color. Plans shall also include all structures attached including decks, porches, and covered walkways. Homebuilders building on multiple lots are required to submit sets of plans for pre-approval of each model to be constructed, including subsequent new models before they are built. For additions, plans and elevations should show both the existing structure and the new proposed construction. Plan reviews by **ARC** are not to be construed as review for habitability or building code compliance. Lot Owners and homeowners must also submit to the **ARC** a site plan showing the locations of buildings or structures or additions on said Lot. Sales prices for each model must be furnished, and updated sales prices shall be filed with the ARC at least quarterly.

B. All information must be shown on detailed plans that are to be submitted to **FROG HOLLOW L.L.C.** and reviewed by the **ARC**. Applicant may be required to submit review fees. Plans, including exterior color samples, should be submitted to:

Howard Fortunato
Frog Hollow L.L.C.
P. O. Box 422
Middletown, DE 19709
(302) 378-4653

C. For consideration by the **ARC**, drawings must be neat, accurate, drawn to scale, and with sufficient detail to adequately explain the entire design. Insufficient explanation of a design including all visible details, is cause for rejection of an application. The **ARC** shall approve or disapprove said plans within thirty (30) days of receipt of a complete application. Each home must be built according to the approved plans, and any changes will require resubmission and reapproval in the manner set forth above before any construction may begin.

II. SITE DEVELOPMENT - SITING OF STRUCTURES

In its initial plan review, the **ARC** looks at the proposed siting of a structure as indicated on a site plan provided by the applicant. This site plan is developed from property survey and site drawing called a plot.

A. The proper location of a structure on a site is dependent on satisfying several criteria. The applicable items below should be addressed by home owners and lot owners on a site plan submittal. Homebuilders are not required to submit plans to **ARC** as each home is built (once individual models are pre-approved), except as noted in paragraph D of this Article.

(1) Verify zoning setback requirements (show distance from property lines).

(2) Verify minimum allowable floor area for houses. The **ARC** may reject a house for visually crowding a site (indicate finished floor area on submittal).

(3) If application is for a detached garage, show distance from the house and any other existing structures on the lot.

(4) Locate structure to avoid low areas and drainage ways on site. Provide positive drainage away from house foundation.

(5) Limit clearing of trees as required by these Standards.

(6) Consider location of any mature trees, and locate structures, driveways, etc. to preserve these, where possible.

(7) Siting of a house should maintain reasonable levels of privacy for neighbors. Houses should not face the side or rear of adjacent houses.

(8) Houses around a cul-de-sac shall face the center of the cul-de-sac.

(9) Fences, air handling units, etc. should not be located or designed to create a visual nuisance for neighbors. Structures should be located away from major sight lines of neighboring houses.

(10) For fences, review fence Standards for restrictions on siting of fences.

(11) An area on the rear of Lots 1-3, 5-8, 10, 12-43, 45-47, 49-55, 57-59, 62-64, 67-87, 91-92, 94-99, 101-119, 124-128, 137-138, 140-149, 154-160, 172-193, 196-225, 254-267, 272-290, 292-297, 299-301, 303-316, 318-325, 329, 331-337, 339, 341-362, 376-399, 412-418, 422-440, 467-469 shall be designated as a golf course/open space buffer. This buffer shall be defined as that area on the Lot within twenty (20) feet of the back lot line (generally to be at the rear of the Lot, but adjoining Lands to Be Retained By Owner). No fences, buildings or structures of any kind shall be placed within this area. No landscaping may be done within this area without the prior approval of the **ARC**. Easements otherwise reserved elsewhere, may be contained within this area. Lot Owners specifically grant to **DECLARANT** the right, but not the obligation, to come onto this portion of the Lots and do such grading, landscaping, maintenance or other activities which, in the sole opinion of **DECLARANT**, is necessary or desirable to develop or maintain the Lands to be Retained By Owner.

B. A plan of the property, accurately drawn to scale, shall be submitted to the ARC prior to the beginning of construction for approval showing the exact location of both the existing and proposed improvements. Said plans shall show the lot boundary lines and distances, specific linear dimensions, and all elements, utility features (water and sewer connections), and driveway location. The said plan shall show all front, rear, and side building restriction lines as set forth in Chapter 4 of the Zoning Code of

Middletown, Delaware, as same may be amended from time to time. Consult the Zoning Code or The Legends Record Plan for specific setback requirements.

C. The finished living area of any dwelling, exclusive of porches, attics, unfinished basements and garages, shall not be less than one thousand eight hundred fifty (1,850) square feet for ranch style homes, two thousand three hundred (2,300) square feet for two-story homes, one thousand five hundred (1,500) square feet for townhomes and one thousand (1,000) square feet for condominiums or apartments. Each home must have at least a one-car garage which shall be attached to the home, condominiums and apartments excluded.

D. Each homebuilder, lot owner or homeowner who intends to construct any dwelling or structure on his Lot shall prepare a grading plan therefore in conformance with all applicable soil and erosion control laws, ordinances, and these Standards. Said plan shall be filed with the ARC prior to the beginning of construction for approval. Owner shall be solely responsible for the implementation of same, and shall implement said plan. Homebuilder shall note on said plan which style of pre-approved model will be constructed.

E. No clearing, grading or construction upon the lot is to begin until the **ARC** issues written approval of all plans which are required to be submitted to the **ARC** by this Declaration.

F. The exterior of any dwelling being constructed on any Lot shall be completed within twelve (12) months from the time of the first excavation or lot grading.

G. The **ARC** shall have the right to refuse to approve any such plans or specifications, or any parts thereof which are not or may not be suitable or desirable in the developer's sole opinion for aesthetic or other reasons, or which are contrary to the interest or welfare of any other lot or home owner. In reviewing such plans and specifications, the **ARC** shall have the right to take into consideration the suitability of the proposed residence or other structure and the materials of which it is to be constructed, to the site upon which it is proposed to be erected, and the harmony of its external materials, color and design with the surroundings and existing structures and the effect of the residence or other structure, as planned, on the adjacent property. The **ARC** reserves the right to adjust the side, rear and front setbacks of the structure or other improvements planned for the lot. The **ARC** shall also reserve the right to establish the orientation of the residence on all lots.

III. ARCHITECTURAL STANDARDS - GENERAL

A. Minimum roof pitch on main roof of colonial and traditional houses shall be 8 in 12. Minimum roof pitch on main roof of the contemporary houses shall be 6 in 12. The **ARC** may require a steeper pitch on any roof for aesthetic reasons. No secondary roof may be less than 3 in 12.

B. Exterior post lamps, low intensity landscape lights, and floodlights mounted on the house are not permitted except at the discretion of the **ARC**.

C. All roofs shall be finished with cedar shingles or shakes, slate, approved imitation slate, architectural grade asphalt/fiberglass shingle or metal (standing seam).

D. Masonry - brick, stone, stucco (earth tones or white stucco) - Every third home must contain a significant portion of masonry on the front elevation. The sides and rear face of home may be vinyl siding. A significant portion of masonry shall be defined as "at least 50% of the front elevation of the house, or as determined by the **ARC**".

E. Shutters must be prefinished.

F. All gutters, downspouts, soffits, fascia board & trim must be vinyl or prefinished aluminum. Trim surrounding the front door, porch posts and railings, and any molded "fypon-type" pieces may be wood or plastic needing paint/maintenance

G. Windows may be vinyl, wood, or vinyl clad wood.

H. All driveways, sidewalks and housewalks must be concrete.

I. Record Plan landscape details on each lot must be installed within thirty (30) days following settlement or May 15th of following year if settlement occurs between November 15th and April 15th.

J. The exterior colors shall be within the group of colors known as earth tones as pre-approved by the **ARC**. Any other colors must be approved by the **ARC**.

IV. ADDITIONS AND ACCESSORY STRUCTURES

A. Decks constructed at or below the first floor level of a house must be constructed of masonry or unfinished treated lumber. Decks or balconies constructed above the first floor level shall be finished in a hue complimentary to the house except for deck flooring which may be unfinished. Railings may be either painted iron or wood. Wood railings may be painted, stained or left natural.

B. Covered decks, open porches, stoops and screened porches shall be constructed of finished materials to match the house, except for deck flooring.

C. All construction in the development shall be of new materials, and the movement of old buildings or parts of old buildings upon any lot situated therein is strictly prohibited. No trailer, mobile home, double wide, manufactured or modular home, or similar type structure, which moves to a building site on wheels attached to a

permanent undercarriage or frame, and no tent, shack, garage, barn, or other type outbuildings shall at any time be used as a residence temporarily or permanently.

D. No accessory structures such as, but not limited to, sheds or storage buildings, shall be permitted on any lot. Detached garages and recreational use structures may be permitted, subject to prior approval of the **ARC**.

V. CONSTRUCTION REQUIREMENTS AND OCCUPANCY

A. All parties constructing improvements within the subdivision shall be required to have construction waste receptacles (commonly referred to as “dumpsters”) placed on any construction site directly adjacent to the location of such construction activities. Dumpsters properly sized for each project shall be installed and serviced during the full construction period by a professional waste service provider. The parties constructing improvements at each site shall continuously and conscientiously dispose of all construction waste materials, debris, and other matter in the said dumpsters. Dumpsters shall be emptied on a regular schedule during the course of construction activities, and the same shall be removed from the site promptly upon completion of construction. No trash piles at construction sites shall be allowed at any time. Likewise, burning of any construction debris, materials and waste shall be prohibited at all times.

B. All construction equipment, storage trailers, and construction materials shall be stored on the lots where the construction is actually taking place. Use of adjoining property or rights of way for such purposes shall be prohibited. The **ARC** upon a showing of impracticability or inconvenience may waive this requirement.

C. All parties constructing improvements within the subdivision shall be required to continuously monitor the construction process. Chutes of concrete supply trucks may be washed out in designated areas of the subdivision. No construction traffic shall be allowed in any areas other than directly upon the property being developed. All parties constructing improvements within the subdivision shall ensure that all mud, dirt, and debris that may be generated during the course of construction at any site does not get tracked out on roadways, in rights of ways, upon, or on property owned by others. Homebuilders, contractors, lot owners or homeowners are responsible for clean-up if streets accumulate mud due to construction. No vehicles shall be operated over, across or on top of open spaces or golf course lands except as expressly authorized in writing by **FROG HOLLOW L.L.C.** or their assigns.

D. All construction sites shall have temporary (portable) toilet facilities installed and serviced during the full construction period by a professional portable service provider. Such toilet facilities shall be placed prior to the commencement of any construction activities at each lot. The portable toilet shall remain at the site until such time as dwelling unit construction is fully completed.

E. Once construction of any improvement has been commenced on any lot, such activity shall proceed without delay until same is completed. The exterior of any

dwelling being constructed on any Lot shall be completed within twelve (12) months from the time of the first excavation or grading.

F. The elevation of a lot will not be changed so as to materially affect the surface elevation or natural drainage of surrounding lots in accordance with the Lines and Grades Plan for The Legends.

G. No wall or fence of any height shall be constructed on any lot until after the height, type, design, and location have been approved in writing by the **ARC**. No boundary wall, boundary line hedge, or shrubbery shall be permitted without written approval of the **ARC**.

VI. LANDSCAPING

A. The land area not occupied by structures, hard-surfacing, vehicular driveways or pedestrian paths shall be kept planted with grass, trees, shrubs or other ground covering or landscaping. The **ARC** may require that landscape plantings be used to screen undesirable views, or to control drainage or erosion. Front yards must be sodded.

The **ARC** does not review normal landscaping decisions, such as adding plants, planting grass, ground cover, or pruning and grubbing of existing plant material. Major landscaping decisions that affect the character of the lot and thus the community, however, must be approved by the **ARC**.

B. General clearing of trees and plants for construction of structures, driveways, walks or lawns must be approved by the **ARC**. General clearing for structures shall be limited to ten feet (10') from the structure.

C. Exercise care to minimize disruption of the soil around mature trees near to the clearing lines to protect roots.

D. Beyond the clearing limits, removal of any healthy trees whose trunks are larger than six inches (6") diameter (measured two feet (2') above ground) must be approved by the **ARC**. Dead and diseased trees may, and should be removed during the clearing process.

E. In general, trees shall be maintained where possible at lot perimeters to provide individual settings for houses.

F. Low ground level growth around trees should be cleared or thinned, preserving specimen plants or trees, or young second growth trees only.

G. Acceptable final ground covers include grass (front yard must be sodded), mulch, maintained natural forest floor (cleared of scrub growth), or maintained ground

cover plants. All yards, including natural areas, should be maintained free of wild scrub growth including weeds, vines, and tree sprouts.

H. No lot owner may alter, fill or disturb any existing wetlands, floodplains, or streamway without the prior approval of local, state and federal authorities.

VII. LANDSCAPE ACCESSORIES

A. Landscape accessories including gazebos, arbors, trellises, benches, fountains, flagpoles, permanent barbecues, decorative objects, etc. must be approved by the **ARC** as to design and location.

B. Fences, walls, play equipment, and accessory structures are regulated under other sections of these Standards.

C. No outside TV or CB aerials or antennas, or satellite dishes, and no overhead electrical, telephone or optical lines, wires, or apparatus of any kind shall be erected or maintained upon any Lot or structures thereon except with the written consent of the **ARC**. The antenna or satellite dish must be completely screened from view.

D. No structural artifact or planting that acts as a barrier exceeding five (5') feet in height, shall be erected, planted, placed or maintained on any Lot, except with the written approval of the **ARC**.

E. No outside decorations, statues, plaques, fountains, etc. shall be placed on a lot or attached to a home or secondary building, except with the approval of the **ARC**. This restriction does not apply to trees, shrubs or reasonable holiday decorations.

F. The **ARC** shall have discretion to regulate the placement, in relation to each other, of any dwelling(s) or other improvements located, or anticipated to be located, upon adjoining lots. In general the main dwelling erected on any lot in the subdivision shall front or face toward the street providing vehicular access to the lot.

G. Each lot owner must construct a garage with a minimum capacity for one (1) automobile and a maximum capacity of three (3) automobiles and shall provide space for parking at least two (2) automobiles off the street without blocking the garage. Garages shall be attached and must conform in appearance to the style of the dwelling which includes having the same exterior and roof colors as the dwelling.

H. Swimming pools must be shown in site plans for approval by the **ARC**. No above-ground pools are permitted. In-ground swimming pools may be constructed and maintained subject to the prior approval of the **ARC**.

I. No fuel tanks or similar storage receptacles may be exposed to view.

J. No noxious weeds, undergrowth or accumulated trash of any kind shall be permitted. The **ARC** reserves the right to have any lot or lots cut or cleaned. The lot owner shall reimburse the **ARC** for any costs incurred in cutting or cleaning the lot.

K. Fences and walls will be reviewed on an individual basis, no existing fence location will be considered a precedent. Each will be reviewed on height, placement, and design. It may be required in some cases to use border plantings at the base to soften the height.

VIII. PAVEMENTS

A. All new houses shall be provided with at least a single driveway and a walkway to the front door. Driveways shall be constructed of concrete which may include exposed aggregate concrete paving.

B. Request for circular driveways must be approved by the **ARC**.

C. Paved patios, courtyards, etc. must be approved by the **ARC**.

IX. FENCES

Subject to the provisions of Article II, A(11) relating to the golf course/open space buffer area, fences may be permitted subject to the following:

A. No fence shall be erected on any Lot closer to the front street line than the rear face of the principal building (excluding the garage) on said Lot except that fences which are dividing lines between two Lots may not extend past the front corner of the house. No fence shall be of a height of more than four (4) feet and all such fences shall be post and rail, wood constructed, with no more than three (3) horizontal rails. In any event, no fence shall be constructed or maintained upon the Lots unless first approved by the **ARC**.

B. Privacy fences are defined as those types of fences which enclose only a small portion of the rear yard of a Lot close to the building itself (such as might enclose a rear patio). Such fences are permitted provided they do not exceed six (6') feet in height and are constructed of wood. Such fences may not enclose an area in excess of four hundred (400') square feet nor shall any section thereof exceed twenty (20') feet in length in single family lots and ten (10') feet in townhome lots. In any event, no privacy fence shall be constructed or maintained upon the Lots unless first approved by the **ARC**.

X. PLAY EQUIPMENT

A. Items of Play equipment are not buildings, fences or landscape elements; consequently, they do not fall under a typical set of architectural control requirements. They are often highly visible, however, and depending on their design and application, they may defeat many of the aesthetic and environmental goals that the community has sought to achieve.

B. The following items are considered play equipment for the purposes of this article:

- (1) Swing sets;
- (2) Sliding boards;
- (3) Jungle gyms - climbing structures;
- (4) Skateboard ramps, structures;
- (5) Forts;
- (6) Tree houses;
- (7) Play houses;
- (8) Basketball backboards;
- (9) Dog houses;
- (10) Trampolines.

C. It is the policy of the **ARC** not to require review and approval of play equipment as defined by this article.

D. However, play equipment which is brought to the attention of the **ARC** by a resident as being a visual nuisance will be observed and may be referred to the **ARC** for review as an unsightly object.

E. The **ARC** may require relocation and/or screening of the object from view.

F. Play Equipment guidelines and rules:

(1) Play Equipment shall be located in rear yards only, except that basketball backboards may be located in the front yard if not permanently affixed.

(2) Play Equipment should be finished in muted colors or in natural materials (treated wood, etc.).

(3) Play Equipment should be located away from easements, property lines adjacent to other houses or streets and away from neighbors direct view where possible.

(4) Home-built Play Equipment should be neat and orderly in appearance and finish.

(5) Homeowners should exercise care and common courtesy in using Play Equipment that creates noise (i.e. basketball backboards, skateboard ramps).

(6) Play Equipment which has fallen into disrepair or has been outgrown by children should be removed from the property.

XII. PLAY EQUIPMENT VS. ACCESSORY STRUCTURES

Forts, Tree houses, Playhouses, Doghouses or other enclosed play buildings with an interior height of six (6') feet or less floor-to-ceiling, and with a total floor area of less than thirty-six (36') square feet shall be considered to be Play Equipment. Buildings exceeding either of these limits shall be considered to be Accessory Structures which are prohibited.

XIII. SCREENING

A. If Play Equipment is referred to the **ARC** as an unsightly-object, the Board may require relocation or screening of the structure.

B. If screening is required, the standard requirement will be to provide densely shaped evergreen shrubs or trees of a height when planted of at least two-thirds (2/3) the height of the structure, and so placed as to provide a continuous screen on the stipulated side.

C. Planting can be in a continuous row or staggered. A variety of shrubs/trees may be used in addition to single species solutions.

D. When plantings are required, it shall be the responsibility of the homeowner to submit to the **ARC** a plan and proposed plant types for review.

E. Each lot owner shall provide receptacles for trash in a screened area not visible from any street.

F. No clothes shall be exposed for airing or drying in front of the rear line of the house or other areas of the yard not screened by landscaping, shrubbery, trellis or other type screens so not to be readily seen from the streets or roadways.

XIV. OTHER PROVISIONS

A. (1) The restrictive covenants and architectural review standards contained herein shall be enforceable at law or in equity by **DECLARANT**, its successors, assigns or any party claiming under **DECLARANT**, including any Lot Owner; **DECLARANT** hereby expressly reserves the right to assign the power to enforce these restrictive covenants to any incorporated or unincorporated association of Lot Owners by appropriate instrument in writing, filed of record in the Office of the Recorder of Deeds aforesaid.

(2) Reasonable attorneys fees and costs shall be paid by the prevailing party in any dispute with respect to enforcement of these restrictions. The standard of reason with respect to attorney fees refers not to the amount of the fee but that the fee is related to the skill and effort of the legal work required. A property owner may be required to pay an extremely large legal fee if that is a consequence of legally enforcing these restrictions.

(3) The **ARC** shall have the right to settle any claim to which it is a party against a lot owner, occupant or other person or legal entity for such amount and on such terms as the **ARC** believes to be in the best interests of the **ARC**.

B. Nothing contained in these Standards, nor in any instrument of writing to which the same may be attached, nor any actions taken pursuant thereto, shall be construed in any manner so as to impose upon the **ARC**, its successors or assigns, any liability whatsoever for or by reason, of the use of any of the streets, roads, entranceways, waters, in or adjacent to the Development, or the enforcement of this reference source. Any and all persons using any such streets, roads, entranceways, waters, shall do so at their own risk and without liability whatsoever on the part of the **ARC**, its successors or assigns, as the case may be. These Standards are subject to change.