

April 29, 2004

MEMORANDUM

TO: Mary Beth O'Quinn, Planner
Development Review Division
Michael Ma, Supervisor
Development Review Division

VIA: Ronald C. Welke, Supervisor
Transportation Planning

FROM: Shahriar Etemadi, Coordinator
Transportation Planning

SUBJECT: Site Plan # 8-04024 Bethesda View, Bethesda

DKH Ar

This memorandum is Transportation Planning staff's Adequate Public Facilities (APF) review of the subject site plan application.

RECOMMENDATION

Transportation Planning staff recommends the following conditions to support approval of the referenced plan:

1. Limit the development to 92 housing units and 44,146 square feet of new retail space for a total of 125,383 square feet of retail use.
2. Provide 50 feet of right-of-way and an additional 10 feet of easement (sidewalk and amenities) for a total of 60 feet from the centerline of Wisconsin Avenue to the face of the building for the length of parcel 923 and part of lot 1, block 2.

3. Provide 50 feet of right-of-way and an additional 10 feet of easement (sidewalk and amenities) for a total of 60 feet from the centerline of Bradley Boulevard to the face of the building for the length of part of lot 1, block 2.
4. Reconstruct the intersection of Bradley Boulevard with the public alley way on the north side of the project and Strathmore Street as shown on the plan submitted on April 22, 2004. The Bradley Boulevard median at this location will be redesigned to prevent traffic from turning left onto Bradley Boulevard from the alley way. This design is subject to approval by the Maryland State Highway Administration (MSHA) and the Montgomery County Department of Public Works and Transportation (DPWT).

DISCUSSION

Local Area Transportation Review (LATR)

A traffic study was submitted with the Project Plan in December 2003. Staff determined at the time that it passed the LATR test. All affected intersections in the area will operate within the congestion standard of 1,650 Critical Lane Volume (CLV) for the Bethesda-Chevy Chase policy area and the 1,800 CLV standard for the Bethesda Central Business District.

The site's generated trips were added to the existing and background (trips from approved but unbuilt developments) traffic and assigned to eight intersections in the vicinity of the site. A CLV analysis for total future traffic indicates that all intersections operate within an acceptable congestion standard as described above. The following table shows the result of the CLV analysis for the intersections within the study area.

Intersections	Existing		Background		Total Future	
	AM	PM	AM	PM	AM	PM
Goldsboro Road and Bradley Boulevard	1,163	1,146	1,169	1,166	1,174	1,172
Arlington Road and Bradley Boulevard	926	1,107	946	1,171	976	1,191
Wisconsin Avenue and Old Georgetown Road	1,196	1,198	1,210	1,239	1,216	1,266
Wisconsin Avenue and Montgomery Avenue	1,191	1,191	1,208	1,219	1,212	1,235
Wisconsin Avenue and Leland Street	820	880	864	954	869	971
Wisconsin Avenue and Bradley Boulevard	1,510	1,548	1,537	1,590	1,434*	1,607*
Wisconsin Avenue and Dorset Street	996	806	1,024	836	1,028	847
Connecticut Avenue and Bradley Boulevard	1,362	1,348	1,370	1,363	1,374	1,377

* Intersection of Wisconsin Avenue and Bradley Boulevard is planned for improvements. That improvement involves changing of the split phasing on the Wisconsin Avenue approaches. It is currently a split phase operation but would change to concurrent movements for the north and south approaches on Wisconsin Avenue. The left-turn lane on northbound Wisconsin Avenue will be lengthened to store all left-turn movements within the designated lane.

Vehicular and Pedestrian Access and Circulation

The proposed development will provide safe and adequate vehicular and pedestrian access and circulation. Two separate driveways on Bradley Boulevard will provide future access to the site. One driveway provides access to the retail parking and the second driveway will provide access to underground parking for the residential units. MSHA has requested a larger turning radius at the alleyway entrance as well as providing for a greater spacing between the two curb cuts on Bradley Boulevard to ease the movement of traffic in and out of the site. The applicant submitted a drawing that accomplishes that. However, it requires a reduction in the width of Strathmore Street at Bradley Boulevard, which is subject to approval from DPWT. Staff recommends this modification, as it will tend to discourage non-local traffic from using Strathmore Street.

It was also requested by MSHA that the median on Bradley Boulevard at this location be extended west to prevent traffic exiting the alleyway from turning left onto eastbound Bradley Boulevard. At the same time it should allow for eastbound traffic on Bradley Boulevard to turn left into the alleyway. The intersection of Bradley Boulevard and Strathmore Street will remain a full movement intersection. These changes were made within the right of way and were acceptable to both DPWT and MSHA. It is believed that the change to Strathmore Street at Bradley Boulevard is compatible with the narrowing of the intersection of Strathmore Street and Leland Street to reduce the potential for non-local traffic. The residents have been notified of these proposed changes. We will discuss citizens' comments at the Planning Board meeting.

There will be a three-space passenger drop-off area in front of the residential building along Bradley Boulevard. This passenger drop off area will enhance the safety of traffic along Bradley Boulevard near the Wisconsin Avenue intersection. Adequate sidewalks surrounding the site will provide safe access for pedestrians. Intersection improvements at Wisconsin Avenue and Bradley Boulevard will enhance safety and efficiency of traffic and pedestrian movements at this location.

Policy Area Review/Staging Ceiling Analysis

The site is located within the Bethesda Central Business District policy area, which has a remaining capacity of 706 jobs and 33 housing units as of March 31, 2004. The number of jobs and housing units for this application is already accounted for in this calculation.

SE:gw
Attachment

mimo to o'quinn re bethesda view

PUBLIC ALLEY

8-STORY B W/ BASEN

STRATHMORE STREET
(R/W WIDTH VARIES)

PROPOSED PLANTERS
AND STORMWATER
MANAGEMENT AREA

UNDERGROUND GARAGE
ACCESS RAMP

UNDERGROUND
IRRIGATION
CISTERN

20' PUBLIC ALLEY

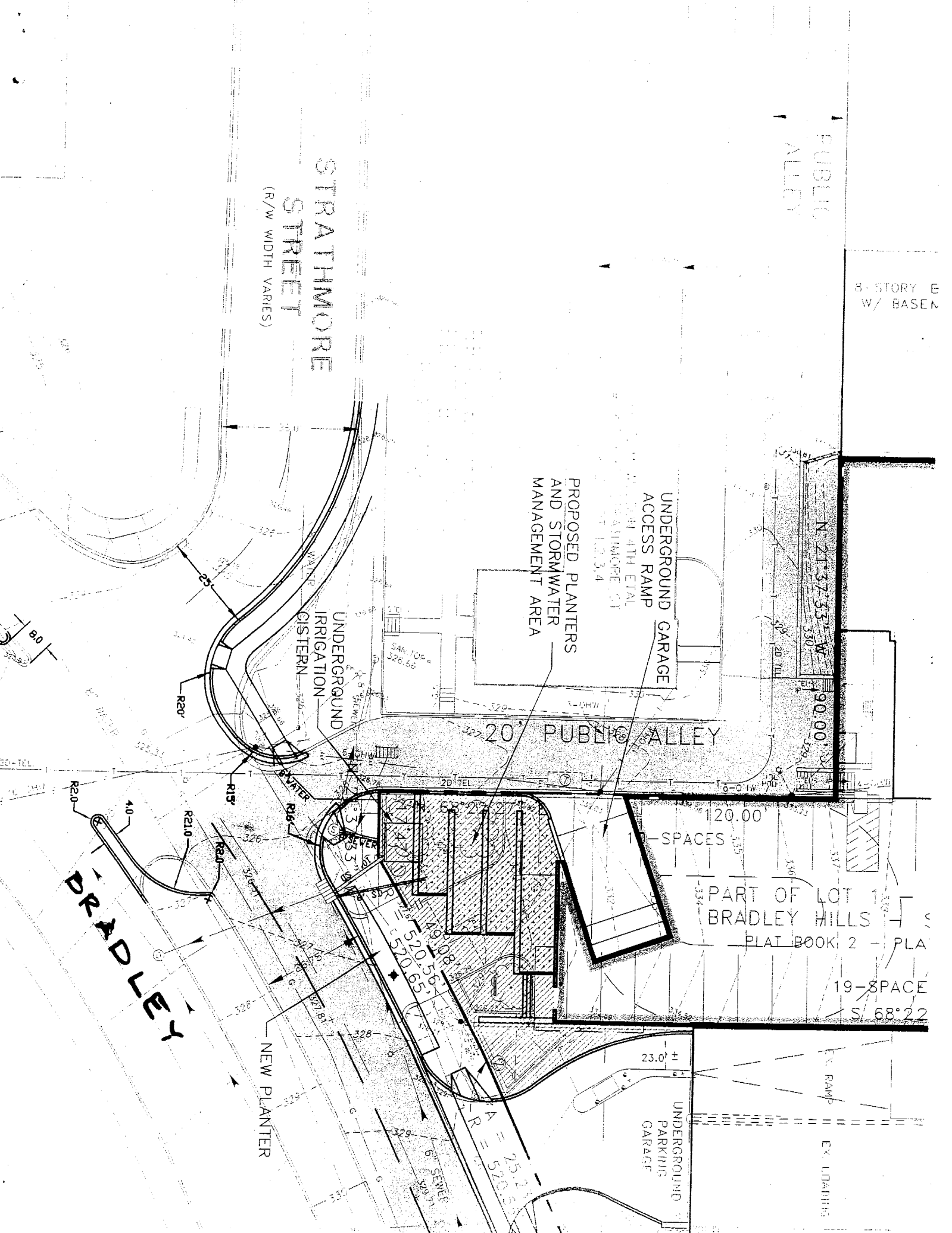
PART OF LOT 1
BRADLEY HILLS
PLAT BOOK 2 - PLA

19-SPACE
S 68° 22'

UNDERGROUND
PARKING
GARAGE

EX LOADING

BRADLEY



April 29, 2004

MEMORANDUM

TO: Marybeth O'Quinn, Development Review Division

FROM: Marilyn Clemens, Urban Designer, Community Based Planning

SUBJECT: Bethesda View Site Plan #8-04024

Recommendation: Approval

Community Based Planning staff recommends approval of the proposed mixed use project containing 92 residential units over first floor retail. The project falls within the "Wisconsin South Corridor District" of the Plan and abides by the objectives, recommendations and urban design guidelines of the 1994 Sector Plan (pages 123-127).

1994 Bethesda Central Business District Sector Plan

The project is located near the southern end of the Bethesda Central District (CBD) in the CBD-1 zone. The Sector Plan recommends the optional method of development for those mixed-use projects containing a residential component and recommends retail for the ground floor. The Sector Plan Objectives for the area are:

1. Support a diverse specialty - and community-serving retail environmental, including adequate short -term parking facilities. **The Bethesda View plan will provide additional retail along Wisconsin Avenue and short-term parking within the garage.**
2. Provide additional housing to encourage uses that are compatible with nearby residential areas.
The proposed plan provides 92 residential condominiums and adds to the diversity of the residential mix in the area.

The Sector Plan urban design guidelines call for new buildings to be set back 20 from the street curb (along Wisconsin Avenue) to accommodate the higher level of pedestrian activity that occurs along the corridor. Streetscape is to be provided in accordance with the recommendations of the Bethesda Streetscape Plan. **The Bethesda Streetscape and undergrounding of utilities will be provided by the applicant. In addition, the project will modify the existing Wisconsin Avenue**

frontage of the retail structure at the corner of Bradley Boulevard and Wisconsin Avenue to improve pedestrian access into the CBD. The total width of sidewalk will not be 20 feet, because of the footprint of the existing building, but adequate pedestrian passage and the streetscape elements will be provided. Additional streetscape will be provided along Bradley Boulevard, and a public open space and landscaped area will replace a concrete parking area at the Bradley entrance.

The 1994 Sector Plan called for dedication of up to 60 feet of right-of-way off the centerline of Wisconsin Avenue. The additional right-of-way was intended for streetscape, not for road widening. Because the existing building on the corner of Bradley Boulevard and Wisconsin Avenue did not dedicate right-of-way and its' basement level projects under the sidewalk, staff has agreed to accept an easement instead of right- of- way dedication for Bethesda View which connects to the existing building.

The Sector Plans's urban design guidelines also call for the building heights to be limited to 75 feet to step down in height from the Metro Core and to ensure compatibility with nearby residential areas. **The proposed Bethesda View Plan measures 79 feet 4 inches in height.** Staff considers the minor departure from the 75-foot limit to be consistent with the guidelines in the Sector Plan. The commercial building directly to the north measures approximately 80 feet in height, and the proposed residential building will not significantly block sunlight to the existing multi-family residential building to the west.

Public Art

The development team met with the Park and Planning Commission's Public Art Review Panel last fall and accepted the recommendation to incorporate public art into the Wisconsin façade of the new building rather than providing an art feature in the green space of the Bradley Boulevard frontage. An artist who works in glass, James Carpenter, has subsequently been hired to work with Shalom Baranes Associates. The Art Review Panel reviewed and unanimously approved Carpenter's proposal.

The architecture, the new streetscape and the public art proposed in this project will greatly enhance the southern gateway to the Bethesda Central Business District.

MC/G:/Clemens/bethesdaviewfinal.doc

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April 29, 2004

STACY P. SILBER
301/664-7621
stacy.silber@hklaw.com

Via Facsimile (301/495-4595)

Ms. Mary Beth O'Quinn
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Bethesda View

Dear Ms. O'Quinn

I am attaching the executed Alternative Compliance Measures Agreement for Bethesda View. The Agreement is based on the overall project plan approval allowing between 75-120 dwelling units on the property. Pursuant to the Agreement, Bethesda View is required to provide notice to the Department of Housing and Community Affairs ("DHCA") of the total number of units that are permitted by the Department of Permitting Services. Through the subject site plan, Bethesda View is asking permission to construct up to 92 units. Based on a 92 unit project, Bethesda View will pay into the Housing Initiative Fund \$770,000.00 as a contribution for 12 Moderately Priced Dwelling Units and a surplus fee.

Please contact me should you have any questions.

Sincerely,

Holland & Knight LLP


Stacy Potkin Silber

Enclosure

1898352_v1

**ALTERNATIVE COMPLIANCE MEASURES AGREEMENT TO BUILD
MODERATELY PRICED DWELLING UNITS FOR A PERMIT
OF 35 OR MORE DWELLINGS**

THIS AGREEMENT is made this 18th day of March, 2004, by and between 6828 Wisconsin Avenue, LLC, a Maryland limited liability company and Julian Josephs, LLC, a Maryland limited liability company (hereinafter the "Developer"), and MONTGOMERY COUNTY, MARYLAND (hereinafter the "County").

R E C I T A L S:

WHEREAS, Developer is the owner of property located in Bethesda, Maryland more particularly known as Lot 3, Block 2, as shown on the Plat entitled Bradley Hills recorded among the land records of Montgomery County, Maryland at Plat Book 60, Plat No. 4990; and Parcel 923 as shown on the Plat entitled Sack's Subdivision, recorded among the land records of Montgomery County, Maryland at Plat Book 50, Plat No. 3884; and part of Lot 1, Block 2, as shown on the Plat entitled Bradley Hills recorded among the land records of Montgomery County, Maryland at Plat Book 2, Plat No. 152; and

WHEREAS, Developer plans to construct a mixed use, high rise building containing between 75-120 units and associated amenities on the Property (the "Project"); and to be eligible to receive benefits of the optional density provision afforded by the Zoning Ordinance for Montgomery County, Maryland, Chapter 59, as amended; and

WHEREAS, by Opinion dated January 14, 2004 (the "Opinion"), the Montgomery County Planning Board approved Project Plan No. 9-04001 (the "Project Plan"); and

WHEREAS, based upon Chapter 25A of the Montgomery County Code, 1994 as amended, (the "Code") and pursuant to the Opinion, Developer is to provide up to 12.5% of the total units between ten (10) to fifteen (15) moderately priced dwelling units ("MPDUs") for the Project depending on the ultimate unit count; and

WHEREAS, the provisions of Chapter 25A of the Montgomery County Code, 1994, as amended, require that a percentage of the total number of dwelling units in a residential development project be MPDUs; and

WHEREAS, §25-A-5(e)(1) of the Code provides that in exceptional cases, instead of building the required number of MPDU's, a developer may offer to contribute to the Housing Initiative Fund an amount that will produce

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FACSIMILE

TO:

Ms. Mary Beth O'Quinn

301/495-1306

NAME

COMPANY/FIRM

FAX NUMBER

CITY

STATE

(TELEPHONE NUMBER)

FROM:

Stacy P. Silber

301/664-7619

9

NAME

TELEPHONE

TOTAL PAGES (Including Cover Sheet)

FOR THE RECORD:

DATE: April 29, 2004

URGENCY: SUPER RUSH

RUSH

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FAXED BY:

FILE #: 84244

CLIENT NAME: 00001

CONFIRMED: YES NO

NAME:

TIME:

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MESSAGE:

significantly more MPDUs or do a combination of alternatives that will result in building significantly more MDPUs; and

WHEREAS, the Director of the Department of Housing and Community Affairs (the "Director") has found that the Project will provide an indivisible package of resident services and facilities to all households that would cost the occupants of the MPDU's so much that it is likely that the MPDU's would be effectively unaffordable by eligible households; and

WHEREAS, as an Alternative Compliance Measure ("ACM") consistent with §25-A-5(e)(1) of the Code, Developer has agreed to make a payment-in-lieu of providing the ten (10) to fifteen (15) MPDUs on-site and contribute, to the Housing Initiative Fund, the amount of \$55,000 per MPDU plus \$110,000; and

WHEREAS, Condition 8 of the Opinion provides that the Developer will provide the required MPDU's (12.5% of the total dwelling units) in accordance with the letter from Montgomery County Department of Housing and Community Affairs (DHCA) to Chairman Berlage dated December 2, 2003; and

WHEREAS, the Director has found that the ACM offered by Developer will ultimately achieve significantly more MPDUs which low and moderate income households can more easily afford; and

WHEREAS, the Director has found that the public benefits received by Developer's proposed ACM outweigh the benefit of constructing all of the required MPDUs in the Project; and

WHEREAS, the County is willing to issue building permits for the construction of dwelling units under the terms stated in this Agreement and pursuant to the provisions of Chapter 25A of the Montgomery County Code, 1994, as amended.

NOW, THEREFORE, in consideration of the mutual promises, conditions and obligations provided for herein the parties agree as follows:

1. The foregoing recitals are incorporated by reference as if fully set forth herein.
2. Developer represents and warrants that it cannot feasibly build the ten (10) to fifteen (15) required MPDUs at this or any other site.
3. Developer will pay into the Housing Initiative Fund \$55,000 per MPDU unit based on a 75-120 unit project (the "Payment") plus \$110,000 (the "Surplus Fee") as a payment-in-lieu of providing ten (10) to fifteen (15) MPDUs on site. Within sixty (60) days after the issuance of a building permit for the Project, the Developer shall send notice to the Director of Housing and Community Affairs indicating the total number of Project dwelling units

permitted by the Department of Permitting Services ("DPS"), and the corresponding number of MPDU units that will be funded by the Developer. The Payment shall be for no less than ten (10) or more than fifteen (15) units. The Payment shall be made in four equal quarterly installments, the first payment being the Surplus Fee, which must be paid prior to receiving the first occupancy permit for an apartment unit in the Project.

4. The County will issue building permits as requested by the Developer for the Project. Developer acknowledges County's authority to suspend or revoke any or all building or occupancy permits issued to Developer for the Project and/or to suspend or deny the issuance of all subsequent permit requests by Developer for the Project and/or invoke any other of the enforcement measures authorized by §25A-10 of the Code, and Executive Regulations adopted pursuant thereto, for failure to comply with this Agreement.

5. Any notices sent pursuant to this Agreement must be delivered in writing to:

Montgomery County at:
Director
Department of Housing and Community Affairs
100 Maryland Avenue, 4th Floor
Rockville, Maryland 20850

Developer at:
Greg Fernebok
6931 Arlington Road
Suite 500
Bethesda, Maryland 20814

And

Julian Josephs
6931 Arlington Road
Suite 500
Bethesda, Maryland 20814

With a copy to:

Stacy Plotkin Silber
Holland & Knight, LLP
3 Bethesda Metro Center
Suite 800
Bethesda, Maryland 20814

6. This Agreement is binding upon the agents, successors, heirs and assigns of the Developer.

7. The terms of this Agreement will survive the execution and delivery of any deeds or leases, and shall not merge therein.

8. No member, officer or employee of the County, and no other public official of the County will either exercise any function or responsibility with respect to the subject matter of this Agreement during his or her tenure, or for one year thereafter have any interest, direct or indirect, in the subject matter of this Agreement. This section will not be construed to prohibit any such person from owning an MPDU as a personal residence in accordance with the provisions of Chapter 25A and applicable Executive Regulations.

9. Applicant agrees to abide by and comply with all applicable laws and regulations regarding the subject matter of this Agreement, whether or not such laws or regulations are herein specifically enumerated or referred to, and Applicant agrees to sign such documents as may be required to effectuate the intent and purpose of this Agreement.

10 This Agreement may only be modified in a writing signed by the parties hereto, their heirs, successors or assigns.

[SIGNATURES FOLLOW ON THE NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Easement as of the date and year above first written.

WITNESS:

DEVELOPER:
6828 Wisconsin Avenue, LLC

By: [Signature]

Name: GREGORY FERUSOR

Title: MANAGING MEMBER

And

Julian Josephs, LLC

By: [Signature]

Name: Julian Josephs

Title: MANAGING MEMBER

MONTGOMERY COUNTY, MARYLAND

[Signature]

By: [Signature]

Elizabeth B. Davison, Director
Department of Housing and Community Affairs

Staff Review by [Signature] on 3/15, 2004.

State of Maryland

*

*

to wit:

**APPROVED AS TO FORM AND LEGALITY
OFFICE OF COUNTY ATTORNEY**

BY [Signature]

COUNTY OF MONTGOMERY

*

DATE 3/17/04

I HEREBY CERTIFY that on this 07th day of March, 2004, before me, the undersigned Notary Public, personally appeared Julian Josephs, known to me (or satisfactorily proven to be the Managing Member of Julian Josephs, LLC which is a Maryland limited liability company, and by virtue vested in him as aforesaid, acknowledged the same to be his act and deed for the purposes therein contained.

STATE OF MARYLAND

*

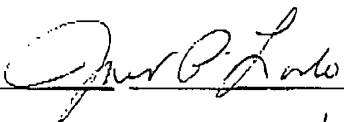
* to wit:

COUNTY OF MONTGOMERY

*

I HEREBY CERTIFY that on this 18th day of March, 2004, before me, the undersigned officer, personally appeared Elizabeth B. Davison, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument as Director, Department of Housing and Community Affairs of Montgomery County, Maryland, and acknowledged that she, as such Director, executed the foregoing and annexed instrument for the purposes therein contained by signing the name of Montgomery County, Maryland.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.



Notary Public

My Commission Expires: 8/1/05

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