

Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3F
North Cleveland Park - Forest Hills - Tenleytown

3F01 - Carl R. Kessler, Treasurer
3F02 - Karen L. Perry
3F03 - Robert V. Maudlin
3F04 - Frank Winstead
3F05 - Mital Gandhi
3F06 - Catherine J. Wiss, Chair
3F07 - Daniel Klibanoff, Vice Chair



4401- A Connecticut Avenue, N.W.
No. 244
Washington, D.C. 20008-2322
web site: www.anc3f.org
e-mail: ANC3F@juno.com
Phone: 202.363.6120
Fax: 202.686.7237

July 20, 2006

D. C. Zoning Commission
441 Fourth Street, NW, 2nd Floor
Washington, DC 20008

Dear Chair Mitten and Members of the Zoning Commission:

By a vote of 6-0-0, with a quorum present (a quorum being 4), at a special public meeting on July 20, 2006, ANC 3F agreed to submit the following into the record in Zoning Commission Case # 05-26, for a map amendment and consolidated approval of a planned unit development by Clark Construction at 2950 Tilden Street, NW.

ANC 3F has serious safety concerns after just receiving the memorandum from Tony Sneed, captain, to Fire Marshall, Richard Fleming, entered into the record with no direct or cross-examination, at the hearing on June 22, 2006. In addition to citing traffic congestion, Captain Sneed indicated, "this building would be surrounded by three other buildings further limiting access." This is a neighborhood with no alley system. Because of the underground parking lot extending from property line to property line, fire trucks will have no access to the rear of these buildings. Captain Sneed cited the International Fire Code, 2000 Edition, "The code official is authorized to require more than one fire apparatus access road based upon the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access." Captain Sneed indicated an agreement between Clark and 3883 Connecticut Avenue for an additional fire lane to the rear of 3883 and for the use of the existing fire lane might help eliminate the problem.

What Captain Sneed did not know at the time of the writing of this memorandum, and what ANC 3F did not know at the June 22nd hearing, was that in order to get 3883 Connecticut Avenue to drop its opposition, Clark signed away all rights to use the existing fire lane. ANC 3F has also now been informed that a 20-foot wide fire lane is not sufficient. Based on the attached drawing received from the Cleveland Park fire station, the space necessary in order for the aerial ladder trucks to set-up correctly would not be available due to the need to extend the stabilizer jacks on each side of the truck. The total distance necessary for the truck, arms, and stabilizer jacks is 33 feet.

ANC 3 F would like to place into the record the June 26, 2006, letter from David Rose, President of the Unit Owners Association at 3883 Connecticut Avenue, N.W., to residents upset by the Board's withdrawal of opposition to Clark's proposed planned unit development, which states:

- (a) Clark agreed to vacate its easement over our driveway lane in exchange for official withdrawal of our opposition to Clark's variance application.
- (b) Clark agreed to vacate its right to the fire lane.

ZONING COMMISSION
District of Columbia

CASE NO. 05-26
EXHIBIT NO. 152

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OFFICE OF ZONING
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- (c) The Office of Planning has ensured that many of our concerns have been met. Clark created at 56-foot buffer and, in fact, may be required by the Office of Planning to expand the depth of the courtyard even further.
- (d) Based on our discussions with Clark, if Clark's variance application is denied, Clark will develop the property by-right and build town homes on the lot.

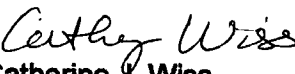
The veracity and the ability of an applicant to fulfill promises and comply with conditions are important factors to our ANC. Clark has used easement agreements in order to get needed concessions. As such, ANC 3F would also like to place in the record the following:

1. The Cooperation and Development Agreement and the Easement Agreement (July 1999) entered into between parties representing 3901 Connecticut Avenue and "Tilden Gardens," the Applicant's limited liability Corporation set up at that time to develop Lots 800 and 804 in Square 2234. In obtaining the cooperation of 3901 Connecticut to support development of its planned improvements on these lots, the Applicant represented that it intended to build a 9-story apartment building on Lot 804 and 8 row houses (four duplexes) on Lot, 800, the subject property (See Exhibit H). A conceptual development plan showing these improvements was made part of the agreement and an architectural rendering was placed on the Clark web site. This agreement was intended to be binding on the parties, their heirs, successors, and assigns.

Without these agreements Clark could not have built 3883 Connecticut Avenue as 3901 Connecticut Avenue property was used for driveway construction, sheeting and shoring, and the underpinning of 3883 Connecticut Avenue. Now, based on the testimony of Ms. Thomm, that *"On the contrary, Clark Realty Capital does not develop market rate townhomes,"* (June 22, 2006, transcript, pg. 24, line 22), Clark had no intention of living up to the easement agreement or conceptual development plan that accompanied and was filed with the Recorder of Deeds.

2. The easement/covenant agreement with 3883 Connecticut Avenue discussing the fire lane and construction of a driveway connecting the 3883 property with the Tilden lot. It also discusses in paragraph 2, page 4, that "Tilden Owner intends to develop the Tilden Land for use as single family, multi-family or semi-detached residential housing," – the same semi-detached housing Clark now says it does not develop.

Sincerely,


Catherine J. Wiss
Chair

Attachments: Drawing of fire truck and stabilizer bars
Memorandum from Tony Sneed, Fire and Emergency Medical Services
Department (Clark exhibit, submitted June 22, 2006)
Memorandum to Unit Owners of 3883 Connecticut Avenue
Cooperation and Development Agreement with 3901 Connecticut
Easement Agreement with 3901 Connecticut Avenue filed with Recorder of Deeds
Tilden Property Easement Agreement (3883 Connecticut Avenue)

CC: Phil Feola, Shaw Pittman
Cornish F. Hitchcock, Esquire

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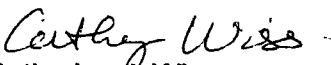
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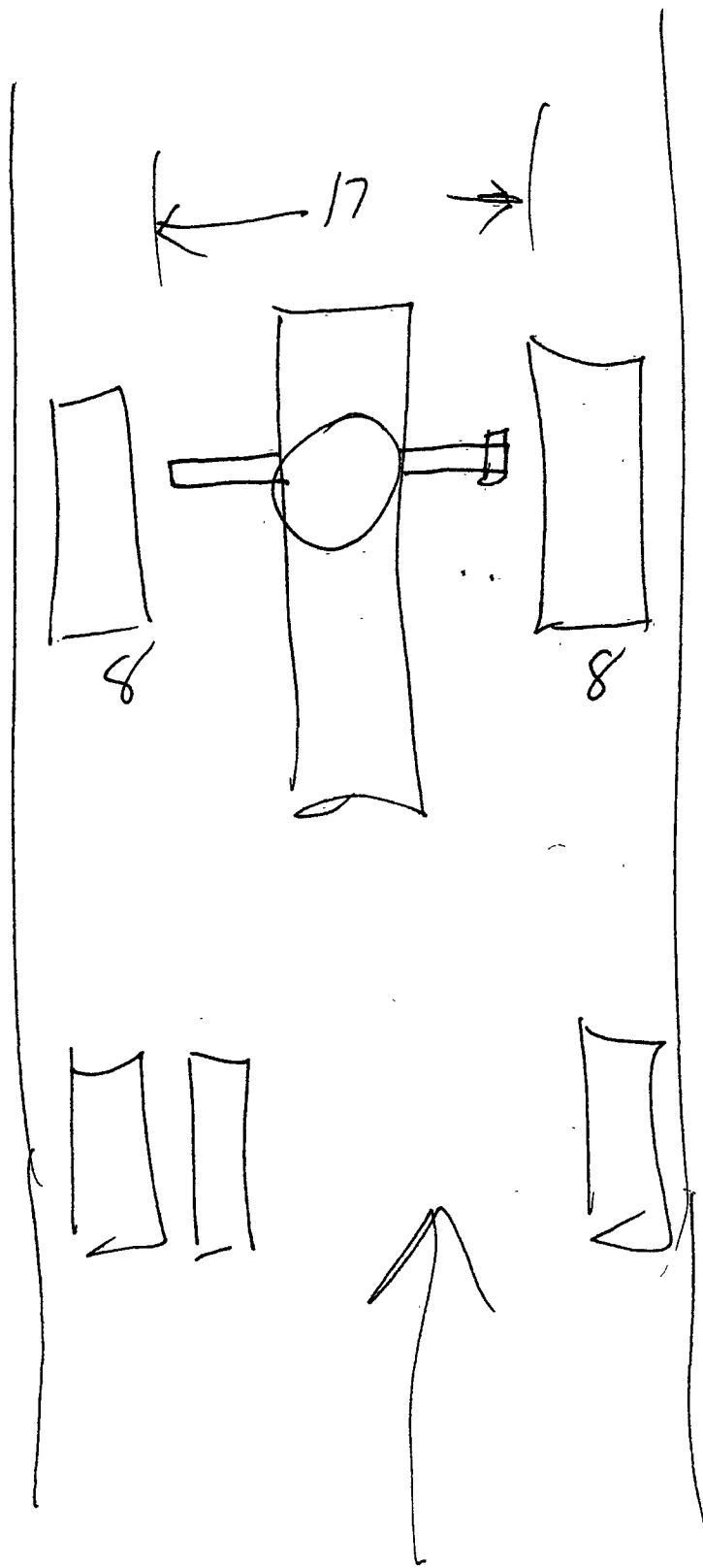
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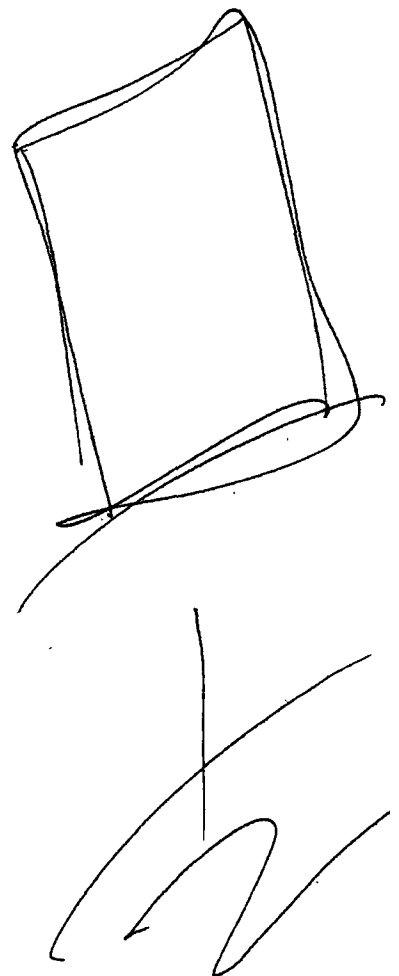

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT
WASHINGTON, D. C. 20001



MEMORANDUM

TO: Richard D. Fleming
Fire Marshal
FROM: Tony Sneed
RANK: Captain **CO/PLT:** FPD
DATE: June 2, 2006
SUBJECT: Lot 800 of Square 2234 - 2950 Tilden Street NW

On June 2, 2006 I made an onsite visit to the property known as Lot 800, Square 2234. It is proposed that the site be developed as 2950 Tilden Street NW. The development would be located at Connecticut Ave and Tilden Streets NW, fronting Tilden Street NW. The building is slated to have 49 residential units with underground parking. There is no problem with fire department access to the front of the building off of Tilden Street. I feel that fire department access to the rear is not readily accessible. Per the International Fire Code, 2000 Edition, Section 508.2.2 Additional Access: "The code official is authorized to require more than one fire apparatus access road based upon the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access."

This area of Connecticut Ave and Tilden Street is very congested especially during morning and evening rush hours, which may impair access to the building. Additionally, this building would be surrounded by 3 other buildings further limiting access.

I recommend that additional access to the rear of 3883 Connecticut Ave. If an agreement can be made to allow this fire lane to be used as access to the rear of 2950 Tilden Street, it may help eliminate the problem.

UNIT OWNERS ASSOCIATION OF 3883 CONNECTICUT AVENUE CONDOMINIUM

TO: All Unit Owners
FROM: David Rose, President, Unit Owners Association at 3883 Connecticut Avenue Condominium
RE: Zoning Commission Hearing regarding 2950 Tilden Street Development (Clark Realty)
DATE: June 26, 2006

MEMORANDUM

Dear Unit Owners,

As some of you may know, the Association officially withdrew its opposition to Clark's application for a variance for its 2950 Tilden Street development at the Zoning Commission hearing on June 22, 2006. The Board of Directors understands that some unit owners are upset that the Association chose to withdraw its opposition to Clark's development that many of you have been fighting so hard to oppose. We thought it important to advise you all as to the reason for our decision, which we hope you will see was made after careful consideration and with the best interests of the association at heart.

After much consideration, the Board of Directors believes it in the best interest of the Association as a whole to enter into negotiations with Clark regarding their variance application. The reason we reached this conclusion is that under its current zoning, Clark has a right under two pre-existing easement agreements to develop the 2950 Tilden Street Parcel in a manner that uses the Association's driveway as the primary access for vehicle and pedestrian traffic to the Tilden Street Parcel. They have this unlimited right without having to pay for maintenance and repair of our driveway and, basically, without regards to our needs with respect to our driveway. Therefore, these easement rights place 3883 Connecticut Avenue in a unique situation that other neighboring residents do not share.

Based on this, the Board of Directors deemed it to be in the best interest of all unit owners of our condominium to ensure in perpetuity that no future owners at 2950 Tilden Street could utilize our driveway. In order to achieve this, Clark agreed to vacate its easement over our driveway in exchange for our official withdrawal of our opposition to Clark's variance application should Clark's application be granted.

The decision to enter into an agreement with Clark to vacate its easement rights in exchange for a withdrawal of our opposition to Clark's variance application was based on a number of considerations:

1. The District of Columbia Office of Planning has been able to ensure that many of our concerns have been met by Clark. Clark has agreed to reduce the size of the development from 9 stories to 6 stories, and possibly even to 5 stories, per the recommendation of the
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Memorandum To: All Unit Owners

June 26, 2006

Page 2

Office of Planning. Clark has created a courtyard to create a 56-foot buffer between the unit owners facing the development and the 2950 Tilden Street southern exterior, and, in fact, may be required by the Office of Planning to expand the depth of the courtyard even further.

2. The District of Columbia Department of Transportation found no significant traffic impact caused by Clark's current design.
3. Based on our discussions with Clark, if Clark's variance application is denied, Clark will develop the property by-right and build townhomes on the lot. Clark has ensured us that it will utilize our driveway in its townhome development, which is a right granted to it by the easements discussed above. This would allow the townhome owners complete and unlimited access over our driveway in perpetuity. After much deliberation, the Board agreed that the idea of having non-unit owners using our driveway at any time for pedestrian and vehicular access without having to pay for the driveway's upkeep in maintenance is more detrimental the Association as a whole than if Clark's current design is approved.
4. Clark's current design does not involve the use of our driveway at all. Thus, in essence, one could argue that the approval of Clark's variance application by the Zoning Commission is better for the Association as a whole than if the variance application is denied and Clark develops the property by right.
5. Clark's vacation of its easement over our driveway protects us in the future should the 2950 Tilden Street property ever be modified or bought by another developer. So long as that easement over our driveway exists, any property owner of 2950 Tilden Street can utilize it.

We understand that many of you, especially those whose units face 2950 Tilden Street, have fought very hard to oppose Clark's plans and are maddened by the Association's withdrawal of its opposition to the development. We hope that you understand that the Board of Directors gave this decision the utmost consideration, taking into account the likelihood of success of our opposition, and the Association's primary interest in protecting our driveway and fire lane. After much deliberation, which has included consultation with legal counsel, we believe it to be in the best interest of the entire Association to enter into an agreement with Clark to vacate its rights to our driveway and fire lane in exchange for the withdrawal of our opposition to its development at 2950 Tilden Street.

Of course, as unit owners, you have the individual right to continue to oppose Clark's development plans. Thank you for taking the time to read this memorandum. Please feel free to contact me if you would like to discuss this matter individually.

COOPERATION AND DEVELOPMENT AGREEMENT

THIS COOPERATION AND DEVELOPMENT AGREEMENT ("Agreement") is made as of July 21st, 1999, by and among **WK INVESTORS L.L.C.**, a District of Columbia Limited Liability Company ("WK"), **3901 CONNECTICUT AVE. RESIDENTS ASSOCIATION**, a District of Columbia non-profit corporation (the "Association"), **3901 CONNECTICUT, L.L.C.**, a District of Columbia limited liability company (the "Venture"), and **TILDEN GARDENS LLC**, a District of Columbia limited liability company ("Tilden").

RECITALS:

A. The Association entered into a contract to purchase the 3901 Property which contract the Association assigned to the Venture;

B. WK and the Association formed the Venture to acquire the 3901 Property, and the Venture has now purchased the 3901 Property.

C. Tilden is the owner of the Adjoining Property and intends to construct certain improvements including a nine story apartment building and eight duplex residences (the "Improvements") thereon.

D. The parties hereto desire to cooperate with each other in connection with the development and construction of their respective properties and to provide certain easements and licenses for access and parking to benefit each of the 3901 Property and the Adjoining Property.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants set forth in this Agreement, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

I. INTERPRETATION

1.1 **Definitions.** When used in this Agreement, the following capitalized terms shall have the meanings indicated:

3901 Improvements: The existing improvements located on the 3901 Property as of the date hereof.

3901 Parties: WK, the Association and the Venture.

3901 Property: Lot 2, Square 2234, Washington D.C. which is more particularly described on Exhibit A hereto.

Adjoining Property: Lots 800 and 804, Square 2234, Washington, D.C. which are more particularly described on Exhibit B hereto.

Development Agreement: The Development Agreement dated as of May 26, 1998 and recorded as document 980004261 in the Land Records of the Office of the Recorder of Deeds of the District of Columbia.

Improvements: The improvements to be constructed on the Adjoining Property.

1.2 **Captions.** Captions in this Agreement are for convenience of reference only and shall not be used to interpret this Agreement.

1.3 **Gender; Number; Including.** The use of any gender in this Agreement shall refer to all genders, and the use of the singular shall refer to the plural, as the context may require. The term "including" and variants thereof shall mean "including without limitation."

1.4 **Not Construed Against Drafter.** All of the parties hereto and their respective legal counsel, have fully participated in the preparation and negotiation of this Agreement, and accordingly waive any rule of construction that this Agreement be construed against its drafter.

1.5 **Severability.** If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be severable and the remainder of this Agreement shall continue in full force and effect.

RECORDER OF DEEDS

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1.6 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument.

1.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the District of Columbia, without reference to conflicts of law principles.

1.8 Modifications. This Agreement shall not be modified, altered, amended, or otherwise changed unless such modification, alteration, amendment or other change is in writing and signed by all of the parties hereto. No purported waiver of any of the provisions of this Agreement shall be valid or effective unless the same is in writing and signed by the party against whom it is sought to be enforced.

II. EASEMENTS

2.1 Grant of Easements. Immediately after execution of this Agreement the applicable parties shall execute, acknowledge and record the Easement Agreement attached hereto as Exhibit E.

2.2 Parking Licenses. Subject to the terms of this Agreement, Tilden hereby grants to the 3901 Parties, the following temporary parking rights:

2.2.1 Interim License. A month to month, non-exclusive license ("Interim License") for the residents of the 3901 Improvements to park (and only to park) on that portion of the Adjoining Property identified on Exhibit E hereto, which Interim License shall be effective upon execution of this Agreement. Tilden, in its sole discretion, may terminate the Interim License by written notice to the 3901 Parties, such termination to be effective thirty (30) days after receipt of such notice by the 3901 Parties, provided Tilden shall have no right to terminate unless the Temporary Parking License set forth in Section 2.2.2 below is in effect. Upon such termination, the 3901 Parties shall cause all personal property to be removed from the portion of the Adjoining Property used for such parking.

2.2.2 Temporary Parking License. A temporary, non-exclusive license ("Temporary Parking License"), to be effective from the execution of this Agreement and until Tilden gives the parking spaces provided for in Section 3.4 hereto, for the residents of the 3901 Improvements to use for parking approximately twenty (20) temporary gravel parking spaces (the "Gravel Parking Spaces") which shall be located generally either (a) jointly on the 3901 Property and the Adjoining Property along the southern boundary of the 3901 Property (the "Boundary Spaces"), or (b) solely on the Adjoining Property (the "800 Spaces"), as such areas are identified on Exhibit G. The exact location of the Gravel Parking Spaces shall be determined by Tilden and, to the extent that such spaces are partly on the 3901 Property, by the Venture, provided Tilden shall have the right to change the location of the parking available pursuant to the Temporary Parking License from time to time on fifteen (15) days notice to the Venture, provided Tilden shall also post notice of such change at the Gravel Parking Spaces then being used. The 800 Spaces shall be accessible by vehicle from the existing parking lot at the rear of the 3901 Improvements, as depicted on Exhibit G. The Venture will permit Tilden to grade and clear that portion of the 3901 Property to allow vehicular access to the "800 Spaces". If any one or more of the existing parking spaces on the 3901 Property are eliminated by the construction of the access lane, such number of spaces will be added to the "800 Spaces". The Boundary Spaces shall be accessible by vehicle from the Proposed Driveway (hereinafter defined). If Tilden elects to use the Boundary Spaces for the Temporary Parking License, then the 3901 Parties shall be granted a temporary, non-exclusive easement for ingress, egress and access to and over that portion of the Proposed Driveway located on the Adjoining Property, and the easements granted to Tilden with respect to the use of that portion of the 3901 Property along the southern boundary of the 3901 Property shall be expressly subject to the rights granted herein with respect to the Boundary Spaces. Solely for the purpose of constructing the 800 Spaces, Tilden shall be permitted to exercise its access easements under the Development Agreement.

2.2.3 Insurance and Permits. Notwithstanding anything to the contrary herein, (i) if enforced as a condition of use by the District of Columbia, prior to use of the parking available pursuant to the Interim License and/or the Temporary Parking License, the Venture shall obtain, at its sole cost, all necessary or appropriate permits or licenses, if any, provided Tilden shall cooperate with the Venture as reasonably requested to obtain any such permits or licenses; and (ii) during all periods in which such the Interim License and/or the Temporary Parking License are in effect, the Venture shall carry and maintain such insurance, in such amounts that are, usual and customary for comparable surface parking lot use which policies shall name Tilden as an additional insured. The

Venture shall be responsible for managing the allocation of the available parking and maintaining and cleaning, including, without limitation, snow removal from those portions of the Adjoining Property available for parking spaces pursuant to this Section 2.2.

2.2.4 Condition of Spaces Tilden shall ensure that there is reasonable access to the 800 Spaces or the Boundary Spaces (collectively the "Spaces") and shall ensure that the condition of the Spaces will reasonably permit the parking of vehicles, provided Tilden shall have no obligation to pave the Spaces, except as otherwise expressly provided herein.

III. ADDITIONAL PROVISIONS/MISCELLANEOUS

3.1 Cooperation. Tilden has provided the 3901 Parties with a conceptual development plan for the Improvements (the "Plan"), a copy of which is attached as Exhibit H. The 3901 Parties shall cooperate with Tilden as provided herein in its development of the Improvements and shall, upon the request of Tilden, support any approval or permit which Tilden may seek from any governmental or quasi-governmental authority or agency in connection with the development of the Improvements provided that such approvals are not inconsistent with the Plan including, without limitation, Tilden's application for approval of a curb cut on Connecticut Avenue to permit construction of a driveway by Tilden on the portion of the Adjoining Property identified on Exhibit C hereto (the "Proposed Driveway"). In addition, the 3901 Parties shall not oppose Tilden's application for curb cuts and median breaks on Tilden Street as indicated on Exhibit I hereto.

3.2 Oil Tank. Tilden shall, at its expense, remove the oil storage tank (the "Tank") which services the improvements on the 3901 Property. The Venture shall cooperate with Tilden to facilitate removal of the Tank, including permitting Tilden and its contractors access to the Property for the purpose of removing the Tank and replacing it with a new double walled 2,000 gallon oil storage tank (the "New Tank") to be located in the boiler room in the 3901 Improvements. The removal of the Tank and installation of the New Tank shall be coordinated between the Venture and Tilden so as to minimize disruption to the residents of the 3901 Property, and to facilitate completion of the renovations and improvements to be undertaken by the Venture at the 3901 Property. The Venture shall provide clear access, at the Venture's cost, to the boiler room for installation of the New Tank. All permits, inspections, approvals and costs for the removal of the Tank and installation of the New Tank shall be the responsibility of Tilden. Removal of all disconnected appliances relating to the Tank and the furnishing and installation of appliances necessary for the proper hook-up and usage of the New Tank shall be performed and paid for by Tilden. Tilden shall complete removal of the Tank by August 31, 1999, and install the New Tank by September 30, 1999.

In the event the District of Columbia or other regulatory bodies having jurisdiction over the 3901 Improvements does not permit installation of the New Tank as contemplated above, Tilden and the Venture shall work together in a timely manner to determine a mutually acceptable and comparably priced oil tank replacement solution.

3.3 Parking Lot Paving. Upon or prior to completion of the Improvements, Tilden, at its sole cost, shall repave the rear portion of the 3901 Property identified on Exhibit J hereto in a manner that is usual and customary for surface parking lots.

3.4 Additional 16 Parking Spaces. Upon or prior to completion of the Improvements, Tilden, at its sole cost, shall pave thirteen (13) parking spaces on the southern portion of the 3901 Property (the "Permanent Boundary Spaces") and five (5) compact parking spaces on the rear lot of the 3901 Property (collectively the "Compact Spaces" and individually a "Compact Space") all where substantially identified on Exhibit D hereto (the exact final location shall be agreed upon by the Venture and Tilden). To the extent that any portion of the Compact Spaces are located on the Adjoining Property, and provided the "Release Payment" is made as set forth below, Tilden shall grant to the Venture, a permanent easement, granting to the Venture, or the future owners of the Units to which the right to use the Compact Spaces have been assigned (or may subsequently be assigned), and their permitted assigns, the exclusive right to use of the portion of the Compact Space located on the Adjoining Property, and the right to access the Compact Spaces from the Proposed Driveway, as set forth in Paragraph 2.4 of the Easement Agreement, which easement shall be recorded as an amendment to the Easement Agreement.

Tilden shall promptly notify the Venture of its completion of the Improvements, including completion of its paving obligations as set forth above. Thereafter, the Venture shall pay to Tilden at any time but in all events no later than ninety (90) days after such notice, if it so elects, the sum

of \$50,000 (the "Release Payment"). Upon payment of the Release Payment, the parties shall record the amendment to the Escrow Agreement in accordance with the terms of the preceding paragraph. If the Venture fails to pay the Release Payment within such ninety (90) day period, then the Venture shall immediately execute an amendment to the Escrow Agreement granting an easement to Tilden, in perpetuity, for the exclusive use by Tilden, or its assigns, of the Compact Spaces for the purpose of parking vehicles on the Compact Spaces, which amendment shall be promptly recorded in the land records of the District of Columbia.

3.5 Lender Consent. In the event that any lender has a lien on the 3901 Property, the 3901 Parties shall obtain from such lender its consent to this Agreement, and such lender shall cause any such lien to be subordinate to the easements set forth herein and in Exhibit E. Tilden likewise shall obtain from any lender having a lien on the Adjoining Property its consent to this Agreement, and such lender shall cause any such lien to be subordinate to the easements set forth herein and in Exhibit E.

3.6 Apartment Leases. Tilden currently leases apartments numbered 314 and 406 in the 3901 Improvements. Tilden shall vacate apartment 314 and 406 immediately after the recording of Exhibit E hereto. Upon Tilden tendering possession of apartment 314 and 406 (which relinquishment shall be free and clear of any claims of third parties), and as a condition to its effectiveness, the Venture shall return Tilden's security deposit for apartment 314 and 406 to it and provide it with a release as to any future obligations under the Lease for such Unit. Tilden shall continue to pay rent for each of the apartments as required under the leases for such apartments through the date that possession is tendered in the manner required. If Tilden (or any party claiming through Tilden) fails to vacate as required hereunder, the Venture may sue for specific performance of this provision in landlord and tenant court of the District of Columbia, any notice to quit required by applicable law being hereby waived. Tilden shall indemnify and hold harmless the Venture from and against any expenses, liabilities or costs arising by virtue of the claims of any third parties residing or occupying either Unit prior to the date possession is relinquished to the Venture.

3.7 Sale or Assignment. Each of the parties agrees that it will not sell or assign its interest in the 3901 Property or the Adjoining Property, as the case may be, except pursuant to a written agreement in which the purchaser or assignee acknowledges the terms of this Agreement and agrees to be bound thereby. The foregoing shall not apply to the individual sales of condominium units at the condominium to be created at the 3901 Property.

3.8 Representations. Each of the parties hereto represents and warrants that (a) it has full power to execute, deliver and carry out the terms and provisions of this Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement, (b) the person executing this Agreement on behalf of such party, has the authority to bind such party to the terms and conditions of this Agreement and (c) this Agreement constitutes the legal, valid and binding obligations of such party enforceable against such party in accordance with its terms.

3.9 Indemnity. The Venture shall exercise any and all rights under the Interim License and Temporary Parking License at its sole risk and expense. The Venture shall indemnify, defend and hold harmless Tilden its members, agents and employees from and against all claims, losses, liabilities, damages (including, without limitation, damages to the Adjoining Property) and expenses (including, without limitation, reasonable attorneys fees) arising from or in connection with the use by the Venture, its employees, guests, invitees and any tenants of the 3901 Improvements of the Interim License and/or Temporary Parking License.

3.10 Limitation of Interests. Each of the 3901 Parties hereby acknowledges that, other than as provided herein or in the Escrow Agreement attached hereto as Exhibit E, it has no right, title or interest in or to the Adjoining Property and shall not make a claim against Tilden or the Adjoining Property to enforce any right, title or interest in or to the Adjoining Property.

3.11 Notice. Any notice required or permitted to be given under this Agreement shall be in writing and signed by the party giving the same or its attorney, and shall be (i) hand-delivered, (ii) delivered by overnight courier, (iii) mailed by certified or registered mail, postage prepaid, return receipt requested, or (iv) delivered by facsimile transmission (provided that an electronic confirmation of receipt is obtained by the sender and a copy of such faxed notice is sent by one of the other methods of delivery provided herein) to the parties hereto at their respective addresses set forth below, or at such other addresses of which either party shall notify the other party in accordance with the provisions of this Section 3.11. Any such notice sent by one of the foregoing methods shall be deemed given as of the time of delivery (or refusal of delivery):

If to Tilden:

Tilden Gardens LLC
7500 Old Georgetown Road
Bethesda, Maryland 20814
Attn: W. Cleve Johnson, Group Executive
Facsimile No.: 301/272-8499

With a copy to:

Arnold & Porter
555 Twelfth Street, N.W.
Washington, D.C. 20004
Attn: S. Lee Narrow, Esquire
Facsimile: 202/942-5599

If to the 3901 Parties

c/o 3901 Connecticut Ave. Residents Association
3901 Connecticut Avenue, N.W.
Washington, D.C. 20008
Attn: Tony Trujillo
Facsimile: 202/944-7890

With a copy to:

P.N. Hoffman, Inc.
2450 Butler Road
Bethesda, Maryland 20816
Attn: Lanirot Hoffman
Facsimile: 301/656-7607

3.12 Effect of Agreement. This Agreement shall be binding upon, and inure to the benefit of Tilden and the 3901 Parties and each of their respective heirs, successors and assigns.

3.13 Enforcement. If any party breaches its obligations under this Agreement, the non-breaching party shall notify the breaching party in writing of the breach, and thereafter the breaching party shall have fifteen (15) days to cure such breach. If the breaching party fails to cure such breach within the time specified, then the non-breaching party may pursue all legal and equitable remedies which may be available, including a suit for specific performance. In any proceeding instituted with respect to the provisions of this Agreement, the prevailing party shall be entitled to reimbursement of its reasonable fees, including attorney's fees, in connection with such action from the non-prevailing party.

3.13 Ratification of Development Agreement. Except as specifically modified herein or in the Escrow Agreement to be executed by the parties, the Development Agreement remains in full force and effect and the parties hereto hereto hereby covenant and agree to perform, comply with and abide by each of the terms of the terms of the Development Agreement. Any work to be performed by Tilden hereunder on the 3901 Property, including, but not limited to, the items set forth in Sections 3.2, 3.3 and 3.4 (collectively the "Additional Work") shall be deemed included in the term "Work" as set forth in the Development Agreement and shall be subject to the provisions governing "Work" as set forth in the Development Agreement. Additionally, the provisions of Sections 2.6, 2.9 and 2.10 of the Development Agreement are incorporated herein with respect to such Additional Work.

3.14 Completion of Improvements. Tilden agrees to use its best efforts to undertake commencement of construction and completion of the Improvements, and upon request, to provide the Venture with information regarding the current status of its efforts with respect thereto.

3.15 Termination of Agreement. Notwithstanding anything herein to the contrary, if the event Tilden is unable to obtain final approval from the District of Columbia for a permanent curb cut either on Connecticut Ave., N.W., or Tilden Ave., N.W. (the "Curb Cut Approval") prior to February 15, 2001 permitting construction of a driveway leading to the Improvements (which Curb Cut is (a) sufficient to enable Tilden to obtain building permits required to construct the Improvements, and (b) if the Curb Cut is only obtainable on Tilden Street, N.W., is at least 20 wide, and includes the right to a median cut in the middle of Tilden Street), Tilden may elect to terminate the Escrow Agreement as provided therein. In such an event, the terms of this Agreement shall likewise become null and void provided that the provisions of Paragraphs 3.2 and 3.6 shall remain effective (as well as any related provisions, such as indemnity provisions) provided, however, that upon termination the Venture shall pay to Tilden the amount of \$50,000.00 representing an agreed upon payment for the relinquishment of Tilden's rights under the

Apartment Lease as set forth in Paragraph 3.6 above, which payment shall be made within forty-five (45) days of the termination of this Agreement.

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

TILDEN GARDENS LLC *7c RBO CT*
By: *[Signature]* CLARK REALTY CAPITAL, L.L.C., Managing Member

By: *[Signature]*
Name: Douglas R. Sandor
Title: Co-manager

By: *[Signature]*
Name: Lawrence C. Nossdorf
Title: Co-manager

WK INVESTORS, L.L.C

By: *[Signature]*
Name: Lauren Hoffman
Title: Managing Member

3901 CONNECTICUT AVE. RESIDENTS ASSOCIATION

By: *[Signature]*
Name: Tony Tringillo
Title: President

3901 CONNECTICUT, L.L.C

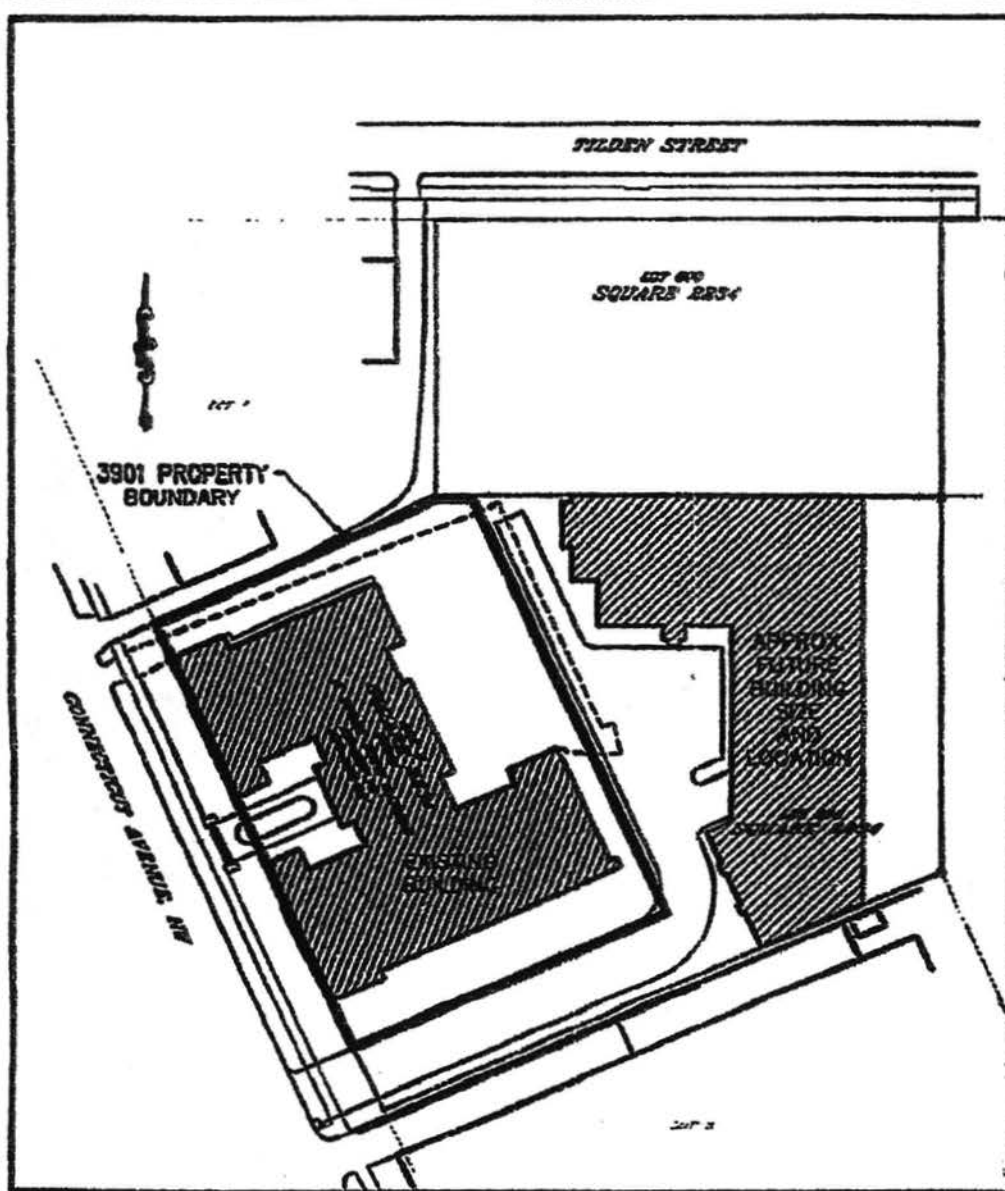
BY: WK INVESTORS, L.L.C., MANAGING MEMBER

By: *[Signature]*
Name: Lauren Hoffman
Title: Managing Member

EXHIBITS

Exhibit A	3901 Property
Exhibit B	Adjoining Property
Exhibit C	Proposed Driveway Area
Exhibit D	Additional 18 Parking Spaces
Exhibit E	Easement Agreement
Exhibit F	Interim Parking
Exhibit G	Temporary Parking
Exhibit H	Conceptual Plan
Exhibit I	Parking Lot To Be Repaved
Exhibit J	Tilden Street Curb Cuts and Median Breaks

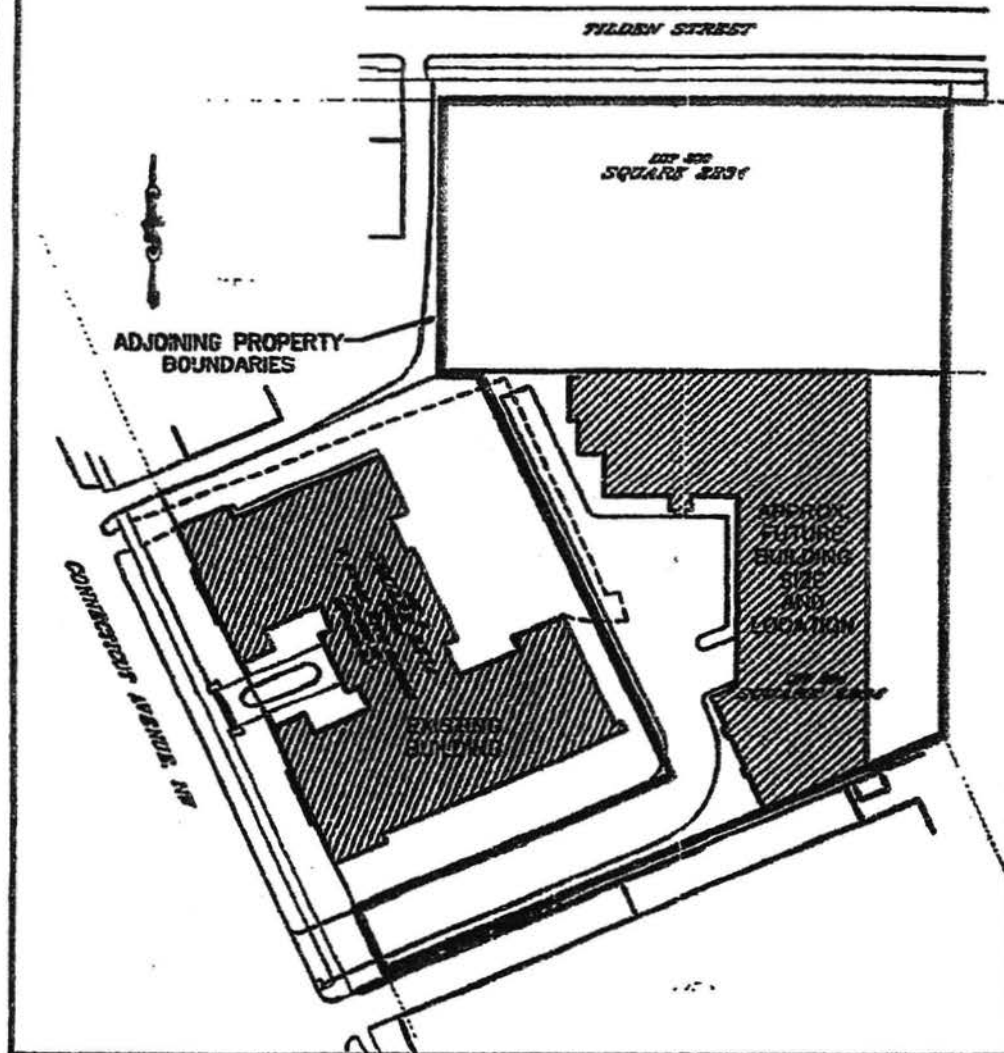
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CLARK REALTY CAPITAL
CONNECTICUT AVENUE
 WASHINGTON, D.C.

3901 PROPERTY
EXHIBIT A
 NOT TO SCALE

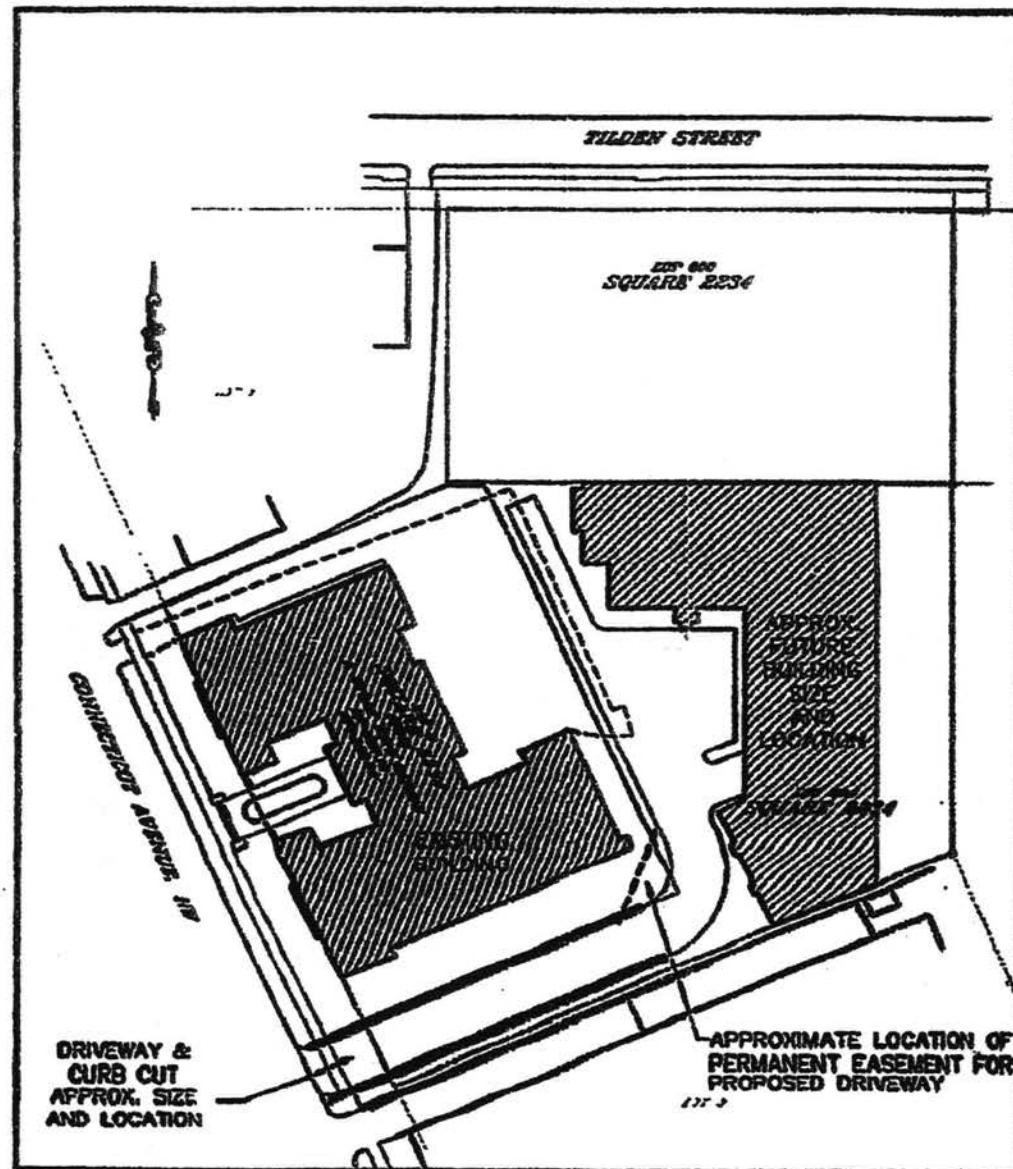
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CLARK REALTY CAPITAL
CONNECTICUT AVENUE
WASHINGTON, D.C.

ADJOINING PROPERTY
EXHIBIT B
NOT TO SCALE

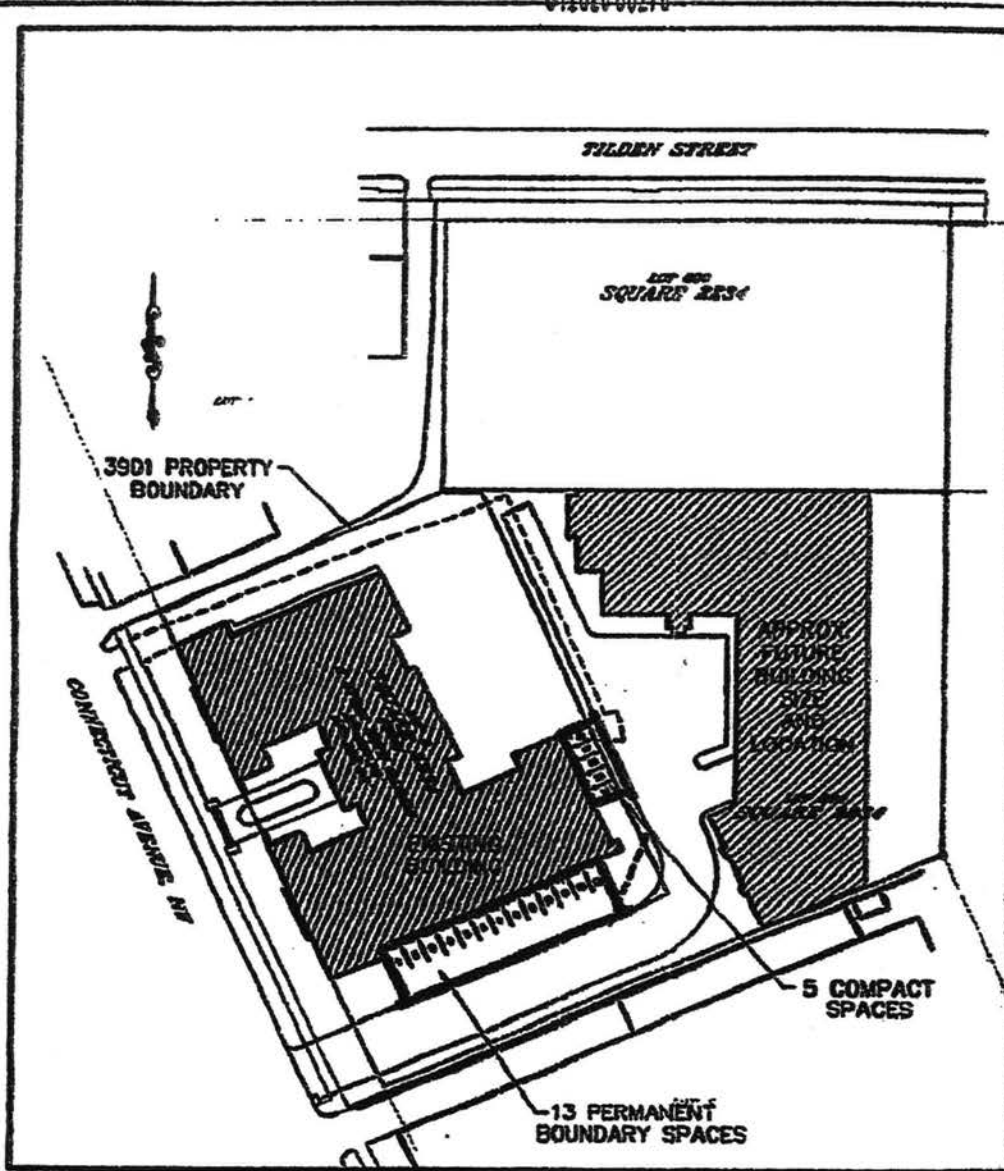
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CLARK REALTY CAPITAL
CONNECTICUT AVENUE
 WASHINGTON, D.C.

PROPOSED DRIVEWAY

EXHIBIT C
 NOT TO SCALE



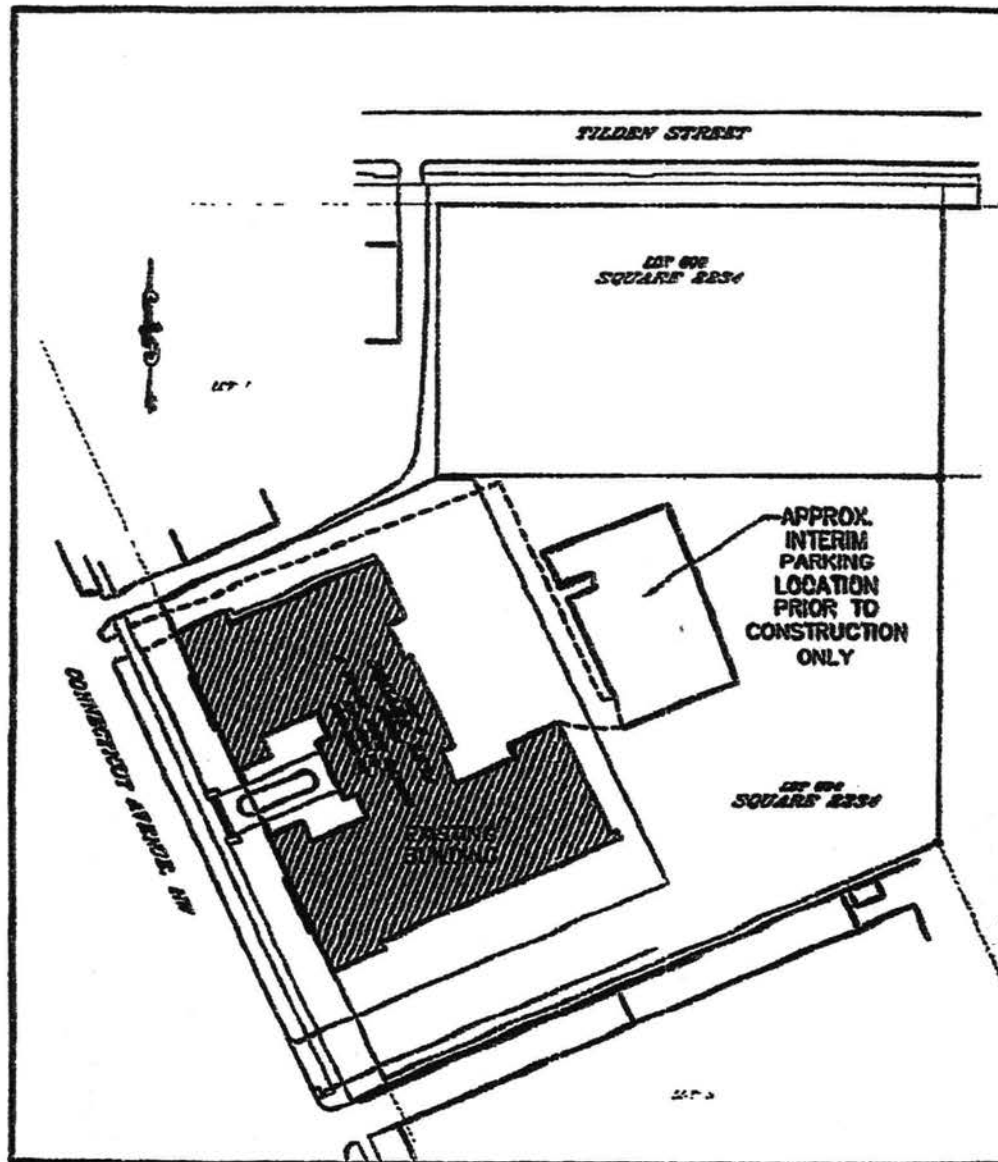
CLARK REALTY CAPITAL

ADDITIONAL 18 PARKING SPACES

**CONNECTICUT AVENUE
WASHINGTON, D.C.**

EXHIBIT D
NOT TO SCALE

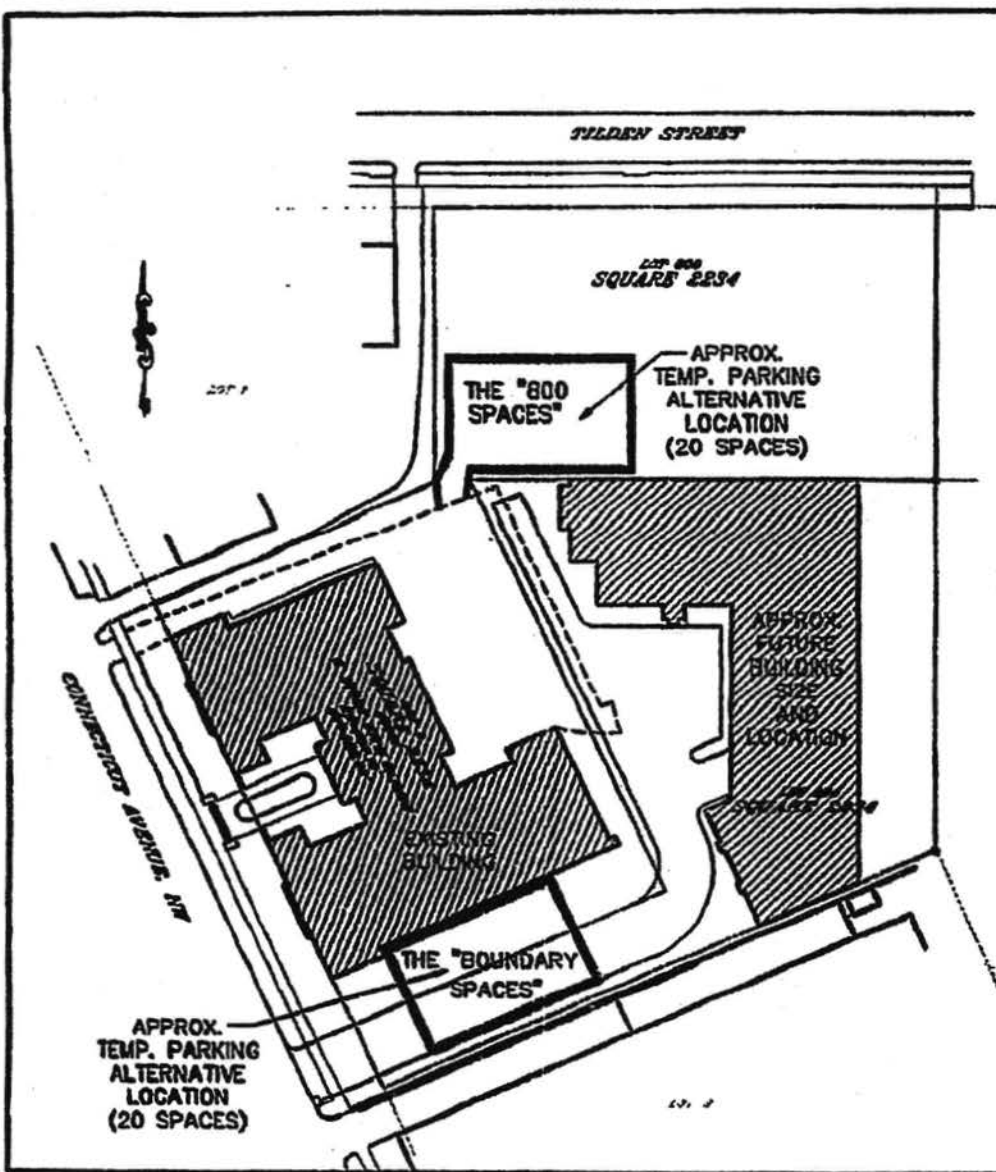
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CLARK REALTY CAPITAL
CONNECTICUT AVENUE
WASHINGTON, D.C.

INTERIM PARKING
EXHIBIT F
NOT TO SCALE

01262000270



CLARK REALTY CAPITAL
CONNECTICUT AVENUE
 WASHINGTON, D.C.

TEMPORARY PARKING
EXHIBIT G
 NOT TO SCALE

012620 00270

CONCEPTUAL LAYOUT
FOR ADJACENT
PROPERTY

MILLEN STREET

LOT 899
SQUARES 2234

8 ROWHOUSES (4 DUPLEXES)

APPROX
FUTURE
BUILDING
SIZE
AND
LOCATION

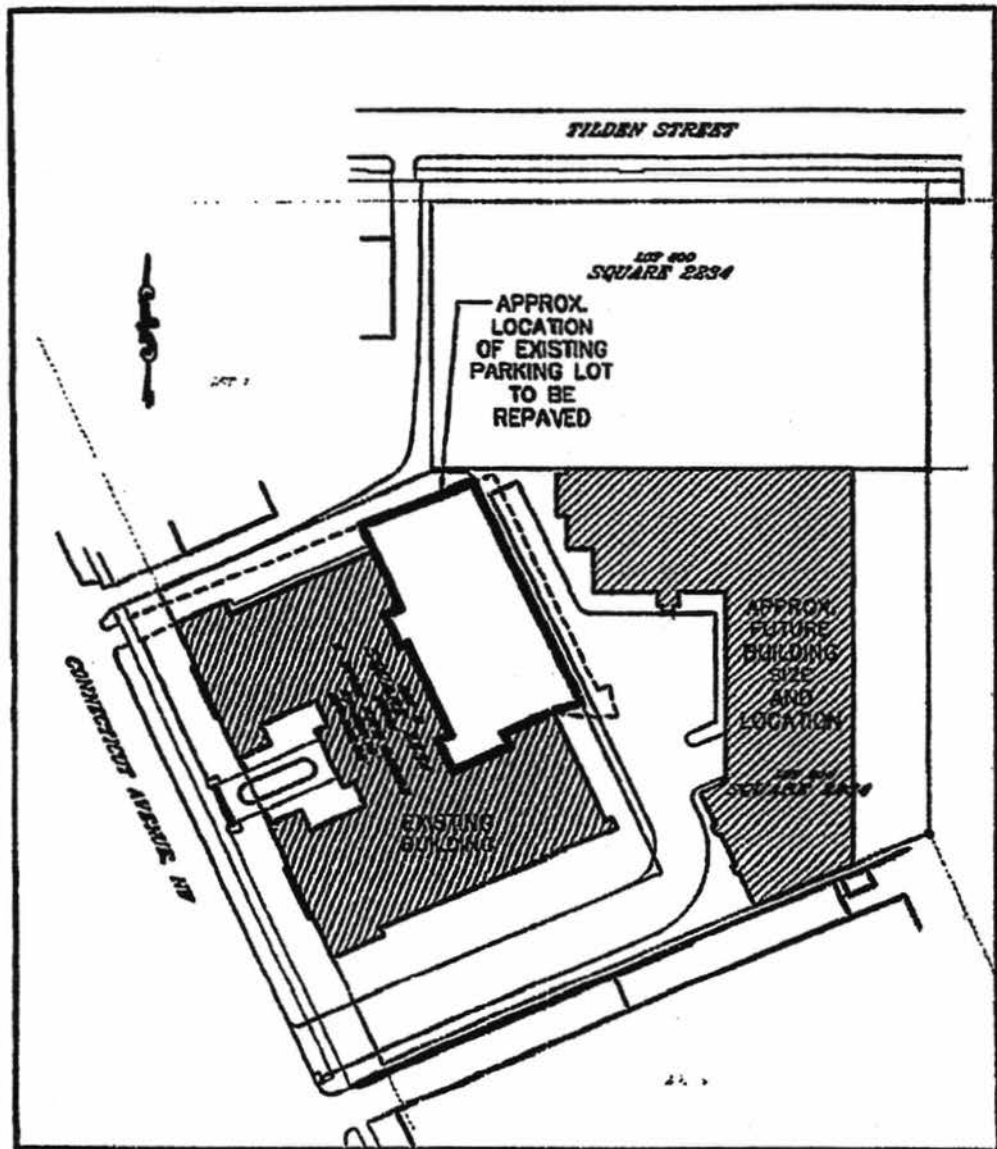
EXISTING
BUILDING

LOT 3

CLARK REALTY CAPITAL
CONNECTICUT AVENUE
WASHINGTON, D.C.

CONCEPTUAL PLAN
EXHIBIT H
NOT TO SCALE

012620-00270

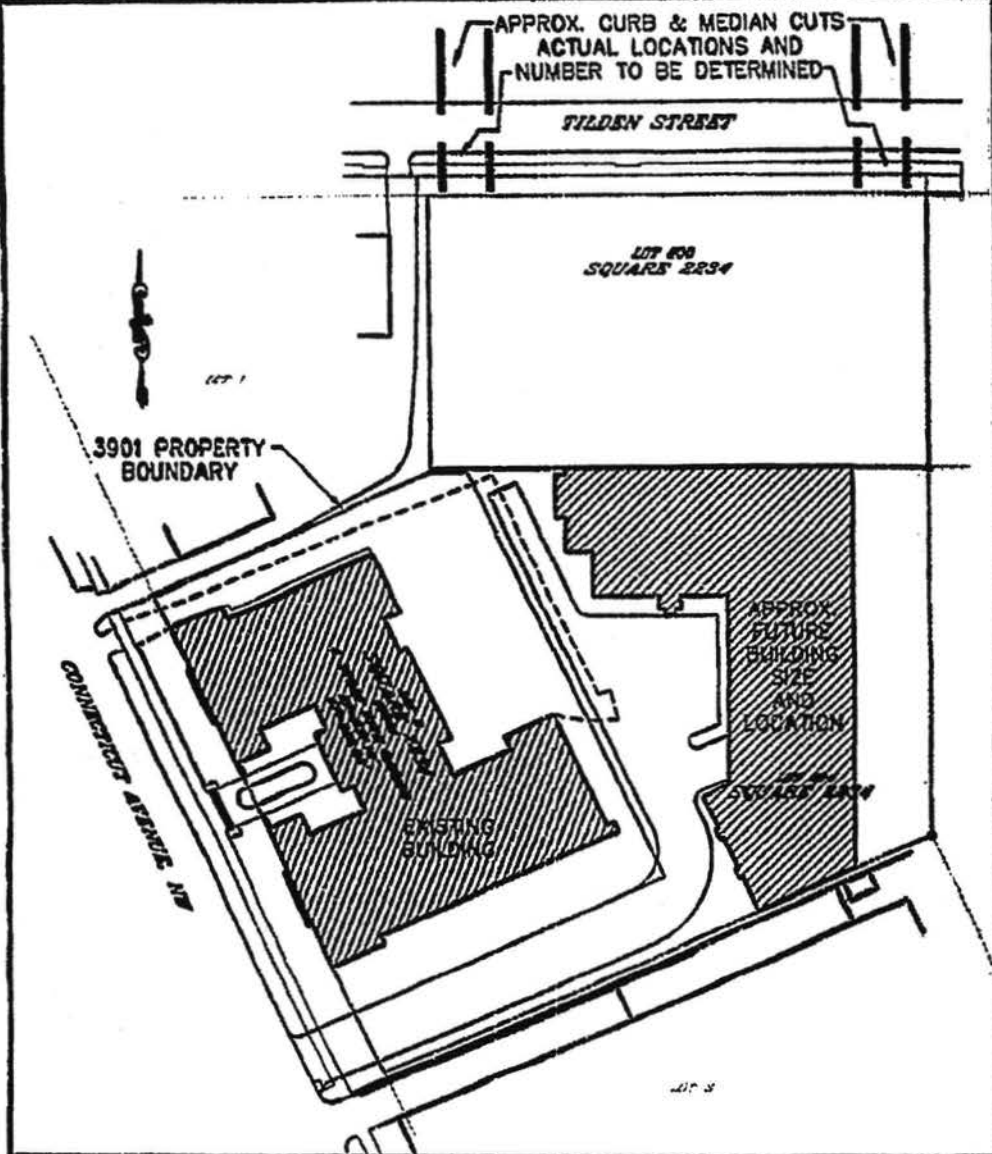


CLARK REALTY CAPITAL
CONNECTICUT AVENUE
WASHINGTON, D.C.

PARKING LOT TO BE REPAVED

EXHIBIT I
NOT TO SCALE

012620-00270



CLARK REALTY CAPITAL
CONNECTICUT AVENUE
WASHINGTON, D.C.

TILDEN CURB & MEDIAN CUTS

EXHIBIT J
NOT TO SCALE

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made as of 2/21, 1999, between TILDEN GARDENS LLC, a District of Columbia limited liability company ("Tilden") and 3901 CONNECTICUT, L.L.C., a District of Columbia limited liability company (the "Venture").

RECITALS:

A. Tilden is the owner of the Adjoining Property and intends to construct certain improvements including a nine story apartment building and eight duplex residences (the "Improvements") thereon.

B. The Venture is the owner of the 3901 Property.

C. The parties hereto desire to cooperate with each other in connection with the development and construction of the Improvements and to provide certain easements and licenses to benefit the Adjoining Property and the 3901 Property.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants set forth in this Agreement, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

I. INTERPRETATION

1.1 **Definitions.** When used in this Agreement, the following capitalized terms shall have the meanings indicated:

3901 Improvements: The improvements on the 3901 Property as of the date hereof.

3901 Property: Lot 2, Square 2234, Washington D.C. which is more particularly described on Exhibit A hereto.

Adjoining Property: Lots 800 and 804, Square 2234, Washington, D.C. which are more particularly described on Exhibit B hereto.

Curb Cuts: The curb cut required to be made by Tilden either on Connecticut Avenue, N.W., and/or on Tilden Ave., N.W. to permit construction and use of driveway to serve the proposed Improvements.

Development Agreement: Development Agreement dated as of May 26, 1998 and recorded as document 980004261 in the Land Records of the Office of the Recorder of Deeds of the District of Columbia.

Improvements: The improvements to be constructed on the Adjoining Property.

Proposed Driveway: The driveway Tilden intends to construct on those portions of the Adjoining Property and a small portion of the rear portion of the 3901 Property, all as identified on Exhibit C hereto.

1.2 **Captions.** Captions in this Agreement are for convenience of reference only and shall not be used to interpret this Agreement.

1.3 **Gender; Number; Including.** The use of any gender in this Agreement shall refer to all genders, and the use of the singular shall refer to the plural, as the context may require. The term "including" and variants thereof shall mean "including without limitation."

1.4 **Not Construed Against Drafter.** All of the parties hereto and their respective legal counsel, have fully participated in the preparation and negotiation of this Agreement, and accordingly waive any rule of construction that this Agreement be construed against its drafter.

1.5 **Severability.** If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be severable and the remainder of this Agreement shall continue in full force and effect.

RECORDER OF DEEDS
9900069957

99 AUG -4 PM 12:35

1.6 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument.

1.7 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the District of Columbia, without reference to conflicts of law principles.

1.8 **Modifications.** This Agreement shall not be modified, altered, amended or otherwise changed unless such modification, alteration, amendment or other change is in writing and signed by all of the parties hereto. No purported waiver of any of the provisions of this Agreement shall be valid or effective unless the same is in writing and signed by the party against whom it is sought to be enforced.

II. EASEMENTS

2.1 **Temporary Construction Easements.** Subject to the terms of this Agreement, the Venture hereby grants to Tilden, its employees, agent, consultants, contractors, materialmen and subcontractors, the following easements in, to, over and across the 3901 Property for the purpose of effecting, constructing and completing the Improvements:

2.1.1 **Sheeting and Shoring.** An easement in, to, over, under and across the eastern rearmost two feet of the 3901 Property for sheeting and shoring in connection with the Improvements. At or before completion of construction of the Improvements, Tilden shall cause the sheeting and shoring to be cut off at least three (3) feet below the ground surface and shall repair any damage caused by such sheeting and shoring work to the paved parking areas of the 3901 Property.

2.1.2 **Tie Back and Underpinning Work.** An easement in, to, over, under and across the 3901 Property to complete the work provided for in Section 2.1.1 of the Development Agreement including, without limitation, the permanent installation of underpinning and tie-ins as permitted by Section 2.1 of the Development Agreement, the restoration of the 3901 Property and 3901 Improvements and any repair to the 3901 Property or 3901 Improvements Tilden is required to perform pursuant to Section 2.1.1. of the Development Agreement.

2.1.3 **Construction Access.** A temporary, non-exclusive easement during construction of the Improvements for vehicular and pedestrian ingress, egress and access purposes, and for staging purposes, over and across that portion of the 3901 Property as depicted on Exhibit E.

2.2 **Pedestrian Access Easement.** The Venture hereby grants to Tilden, a permanent, non-exclusive easement solely for pedestrian ingress, egress and access over and across the surface parking, driveways and walkways on the 3901 Property.

2.3 **Sidewalk/Monument Easement.** The Venture hereby grants to Tilden a permanent, non-exclusive easement on and over the portion of the 3901 Property between the building located on the 3901 Property and the south property line of the 3901 Property on which Tilden shall have the right to construct a sidewalk (the "Sidewalk"), at a location and using such materials, as may be mutually agreed upon by Tilden and the Venture. The width of the sidewalk shall be no wider than six (6) feet, unless otherwise expressly agreed to by the Venture. The Venture further grants Tilden a permanent easement to construct a entry monument (the "Monument") to the Proposed Driveway on a portion of the 3901 Property as depicted on Exhibit F. The Venture shall approve or disapprove the proposed Sidewalk and/or Monument within fifteen (15) days of Tilden's request for such approval. If the Venture does not respond within such fifteen (15) day period, then the Sidewalk or Monument, as the case may be, shall be deemed approved. The style and size of the Monument shall be subject to the reasonable approval of the Venture, provided that no approval shall be required for a Monument substantially of a design and size as set forth on Exhibit F. Tilden shall maintain and repair the Sidewalk and the Monument, provided the Venture shall be responsible to repair any damage to the Sidewalk or Monument caused by the Venture, its agents, employees, invitees and any residents of the 3901 Improvements or their employees, agents or invitees.

2.4 **Post Construction Parking Easement In Favor of the Venture.** Upon or prior to completion of construction of the Improvements, Tilden shall construct, at its sole cost, thirteen (13) parking spaces on the southern portion of the 3901 Property identified on Exhibit D hereto. In addition, in order to access such parking spaces, Tilden hereby grants the Venture a permanent, non-exclusive easement, to be effective upon the final completion of the construction of the

Improvements and the Proposed Driveway for vehicular ingress, egress and access over and across that portion of the Proposed Driveway located on the Adjoining Property.

2.5. Driveway Easement. The Venture hereby grants to Tilden a permanent, non-exclusive easement for vehicular and pedestrian ingress, egress and access over and across that portion of the rear portion of the 3901 Property identified on Exhibit C for construction of and use as part of the Proposed Driveway. Tilden shall have the right to pave over that portion of the 3901 Property identified on Exhibit C as part of the construction of the Proposed Driveway. Tilden shall maintain and repair such Proposed Driveway; provided, however, that the Venture shall be responsible to repair any damage to the Proposed Driveway caused by the Venture, its employees, agents, invitees and any residents of the 3901 Improvements or their employees, agents or invitees.

2.6. Utility Easement. The easements for utilities to be granted from time to time by the Venture in accordance with Section 2.4 of the Development Agreement shall include, without limitation, easements for the repair, maintenance and/or replacements of any utilities located in accordance with such easements.

2.7. Repair License Modification. The Venture hereby modifies the Repair License (as defined in the Development Agreement) provided for in Section 2.5 of the Development Agreement and, subject to the terms of Section 2.5 of the Development Agreement, grants to Tilden, its employees, agents, consultants, contractors, materialmen and subcontractors a license on, to, over, under and across the 3901 Property and 3901 Improvements to repair, maintain and/or replace the Proposed Driveway, the Sidewalk and any portion of the 3901 Property or 3901 Improvements that Tilden is required to repair pursuant to the Development Agreement or this Agreement, and to access the 3901 Property and 3901 Improvements to conduct the surveys specified in Section 2.7 of the Development Agreement, solely for the purposes and in the manner specified in such Section 2.7.

2.8. Limitations on Certain Easements. Tilden hereby agrees to the following limitations on certain easements granted in accordance with the Development Agreement, which limitations shall supersede any provisions in the Development Agreement to the contrary, and shall be binding upon Tilden, and its successors, assigns and parties claiming through Tilden:

2.8.1 Construction Staging. Notwithstanding anything to the contrary in the Development Agreement, Tilden shall not use as a staging area during the construction of the Improvements any portion of the 3901 Property, except such area as is designated in Exhibit E,

2.8.2 Access Easement. Notwithstanding anything to the contrary in the Development Agreement, the easement provided in Section 2.3 of the Development Agreement over and across the existing driveway on the 3901 Property shall be used solely for access by emergency vehicles and for no other purposes whatsoever. The parties shall jointly and reasonably develop a means for ensuring that this driveway is used solely for the stated purpose, and for no other purpose by Tilden.

2.8.3 Utility Easement. Notwithstanding anything to the contrary in Section 2.4 of the Development Agreement, Tilden shall not locate any utilities for the benefit of the Adjoining Property within or under the currently existing building on the 3901 Property.

2.9 Incorporation of Provisions All of the provisions of the Development Agreement with respect to the manner of performing "Work", as specified in Section 2.1, including approval conditions, compliance with Historic Preservation Regulations as provided in Section 2.6, and the insurance, indemnity and mechanic's liens provisions of Paragraphs 2.8, 2.9, and 2.10 and as to termination, as set forth in Section 3.1, are hereby incorporated herein by reference, and shall be applicable to the additional work to be performed hereunder by Tilden, and the additional easements granted herein; provided that the additional easements set forth in Sections 2.2 - 2.7 of this Agreement shall not be subject to termination, except as set forth in Paragraph 3.6 below.

III.

MISCELLANEOUS

3.1 Representations. Each of the parties hereto represents and warrants that (a) it has full power to execute, deliver and carry out the terms and provisions of this Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement, (b) the person executing this Agreement on behalf of such party, has the authority to bind such party to the terms and conditions of this Agreement and (c) this Agreement constitutes, the legal,

valid and binding obligations of such party enforceable against such party in accordance with its terms.

3.2 Indemnity. The Venture shall indemnify, defend and hold harmless Tilden, its members, agents and employees from and against all claims, losses, liabilities, damages (including, without limitation, damage to the Adjoining Property) and expenses (including, without limitation, reasonable attorneys fees) arising from or in connection with the use by the Venture, its employees, guests, invitees and any tenants of the 3901 Improvements, their employees, guests and invitees of any of the licenses and/or easements granted to the Venture hereunder, except in the event such claim, liability, loss, damage or expense is caused by the negligent or willful act or omission of Tilden, or its agents, employees or invitees. Tilden shall indemnify, defend and hold harmless the Venture, its members, agents and employees from and against all claims, losses, liabilities, damages (including, without limitation, damage to the 3901 Property) and expenses (including, without limitation, reasonable attorneys fees) arising from or in connection with the use by Tilden, its employees, guests, invitees and any tenants of the Improvements, their employees, guests and invitees, of any of the easements granted to Tilden hereunder, except in the event such claim, liability, loss, damage or expense is caused by the negligent or willful act or omission of the Venture, its agents, employees or invitees.

3.3 Ratification of Development Agreement. Except as specifically modified herein, the Development Agreement remains in full force and effect and the parties hereto hereby covenant and agree to perform, comply with and abide by each of the terms of the Development Agreement.

3.4 Notices. Any notice required or permitted to be given under this Agreement shall be in writing and signed by the party giving the same or its attorney, and shall be (i) hand-delivered, (ii) delivered by overnight courier, (iii) mailed by certified or registered mail, postage prepaid, return receipt requested, or (iv) delivered by facsimile transmission (provided that an electronic confirmation of receipt is obtained by the sender and a copy of such faxed notice is sent by one of the other methods of delivery provided herein) to the parties hereto at their respective addresses set forth below, or at such other addresses of which either party shall notify the other party in accordance with the provisions of this Section 3.4. Any such notice sent by one of the foregoing methods shall be deemed given as of the time of delivery (or refusal of delivery):

If to Tilden: Tilden Gardens LLC
7500 Old Georgetown Road
Bethesda, Maryland 20814
Attn: W. Cleve Johnson, Group Executive
Facsimile No.: 301/272-8495

With a copy to: Arnold & Porter
555 Twelfth Street, N.W.
Washington, D.C. 20004
Attn: S. Lee Narrow, Esquire

If to the Venture: 3901 Connecticut, L.L.C.
c/o P.N. Hoffman, Inc.
5450 Butler Road
Bethesda, Maryland 20816
Attn: Lamont Hoffman
Facsimile: 301/656-7607

3.5 Effect of Agreement. The provisions and covenants of this Agreement shall run with and bind the 3901 Property, the 3901 Improvements, the Adjoining Property and the Improvements and shall inure to the benefit of and be enforceable by Tilden, its assigns and any future owner of the Adjoining Property and by the Venture, its assigns and any future owners of the 3901 Property. The Venture currently proposes to submit the 3901 Property to a condominium regime in accordance with applicable District of Columbia law, and in such an event the Venture may assign all rights and obligations under this Agreement to the unit owner's association formed in connection with the conversion of the 3901 Property. This Agreement shall be recorded by either Tilden or the Venture among the land records of the District of Columbia and the parties shall share equally any recordation fees or taxes incurred in connection with such recordation.

3.6 Termination of Agreement. Notwithstanding anything herein to the contrary, in the event Tilden is unable to obtain final approval from the District of Columbia for a permanent curb cut either on Connecticut Ave., N.W., or Tilden Ave., N.W. (the "Curb Cut Approval") prior to January 1, 2001 permitting construction of a driveway leading to the Improvements (which "Curb

Cut is (a) sufficient to enable Tilden to obtain building permits required to construct the Improvements, and (b) if the Curb Cut is only obtainable on Tilden Street, N.W., is at least 20' wide, and includes the right to a median cut in the middle of Tilden Street). Tilden may elect to terminate this Agreement by giving written notice of such election to the Venture (or its successors) in the manner provided above. If Tilden exercises its termination right, then this Agreement, and all the easements and rights granted hereunder, shall immediately become null and void, and of no further force and effect, and the parties shall be restored to the same rights and liabilities which they may have had with respect to their respective properties on the date immediately prior to the execution of this Agreement, including, but not limited to, the right of the Venture to contest the Development Agreement.

Tilden shall diligently pursue all necessary actions required to obtain the Curb Cut Approval and shall keep the Venture informed of Tilden's efforts with respect thereto. Until the issuance of the Curb Cut Approval, Tilden shall not undertake any work on or otherwise use any portion of the 3901 Property permitted under this Agreement or the Development Agreement, provided Tilden shall be permitted to exercise its access easements for purpose of conducting studies, tests and other pre-construction activities, and removing and replacing the oil tank, construction the "800 Spaces" (as defined in the Cooperation and Development Agreement of even date herewith attached hereto as Exhibit G (the "Cooperation Agreement")). Upon termination of this Agreement as provided herein either Tilden or the Venture may file an appropriate document in the land records of the District of Columbia evidencing such termination, provided a copy of the notice from Tilden shall be included as an exhibit to the filing.

3.7 Future Amendments Each party shall promptly upon request from the other party execute such amendments to this Agreement as are necessary to effect the provisions of the Cooperation Agreement relating to the amendment of this Agreement, as and when applicable.

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

TILDEN GARDENS LLC *PC KBO CO*
 By: *[Signature]*
 Name: Douglas R. Sander
 Title: Co-Manager
 By: *[Signature]*
 Name: Lawrence C. Nussdorf
 Title: Co-Manager

3901 CONNECTICUT L.L.C.

By: WK INVESTORS L.L.C., Managing Member

By: *[Signature]*
 Name: Lamont Hoffman
 Title: Managing Member

NOTARY ACKNOWLEDGEMENTS ON NEXT PAGE

Declarer
Notary Public, ss

This instrument was acknowledged before me on this 21st
day of July, 1999, by Louise H. H., in his capacity as Manager of
WK Investors L.L.C., in its capacity as Managing Member of 3901 Connecticut L.L.C.

SEAL
My Commission Expires

Notary Public

Irma Thokkar
Notary Public
District of Columbia
My commission exp. 06/14/04

This instrument was acknowledged before me on this 21st
day of July, 1999, by DOUGLAS B. ADAMS, in his capacity as Manager of
Enterprise T. Development LLC

SEAL
My Commission Expires

Notary Public

Joanna K. B. Meyer
Notary Public, State of Maryland
Montgomery County
My Commission Expires Jan. 1, 2002

This instrument was acknowledged before me on this 21st
day of July, 1999, by DAVID R. K. M. S. D. J. H.

SEAL
My Commission Expires

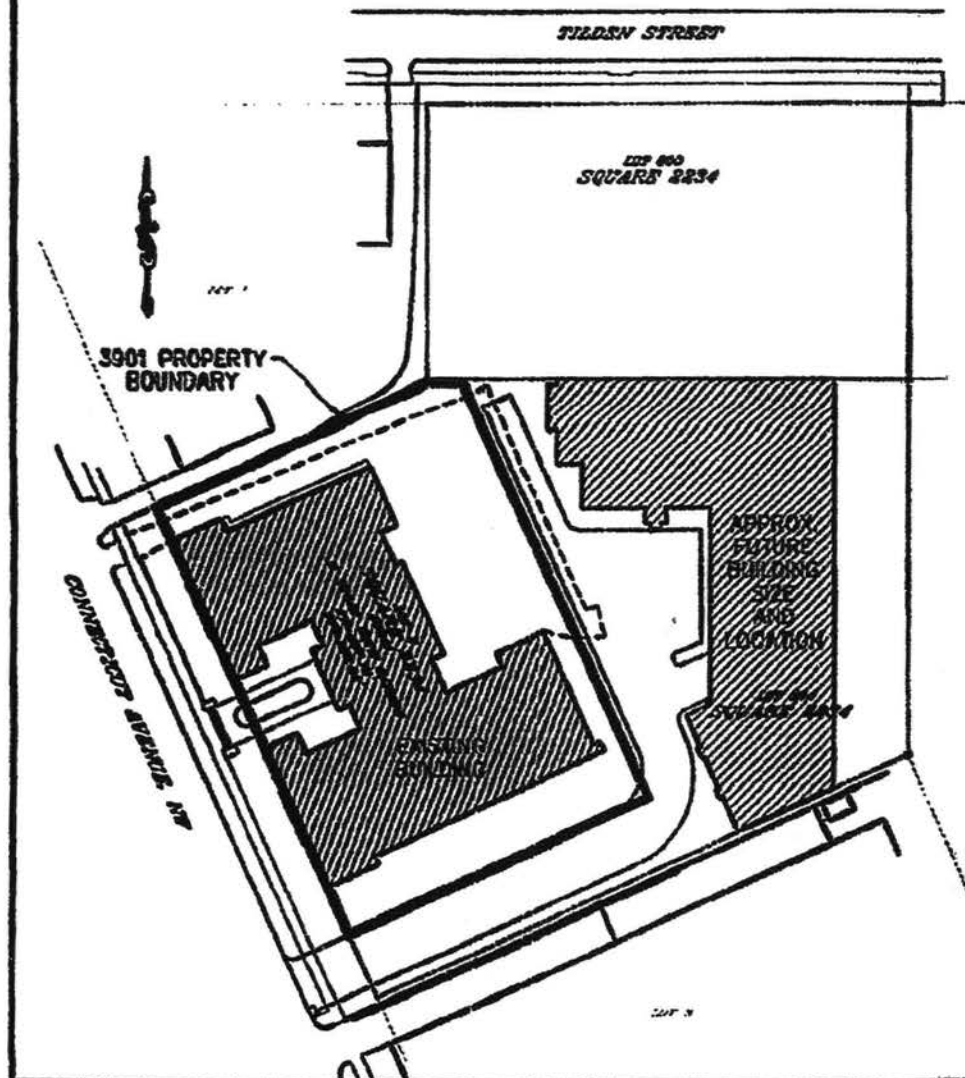
Joanna K. B. Meyer
Notary Public, State of Maryland
Montgomery County
My Commission Expires Jan. 1, 2002

Notary Public

EXHIBITS

Exhibit A	3901 Property
Exhibit B	Adjoining Property
Exhibit C	Proposed Driveway
Exhibit D	Additional 18 Parking Spaces
Exhibit E	Construction Access and Staging Area
Exhibit F	Monument Design and Location
Exhibit G	Cooperation and Development Agreement

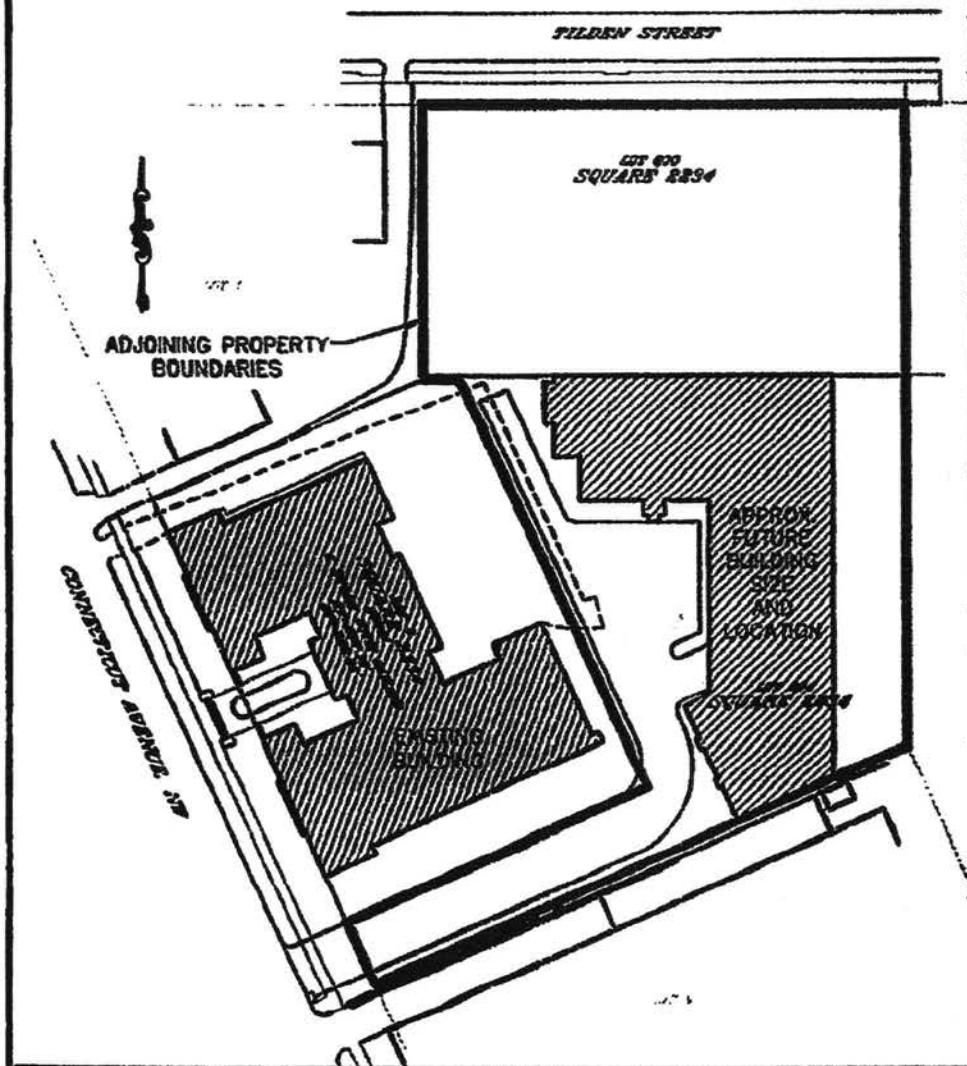
012620-00289



CLARK REALTY CAPITAL
CONNECTICUT AVENUE
WASHINGTON, D.C.

3901 PROPERTY
EXHIBIT A
NOT TO SCALE

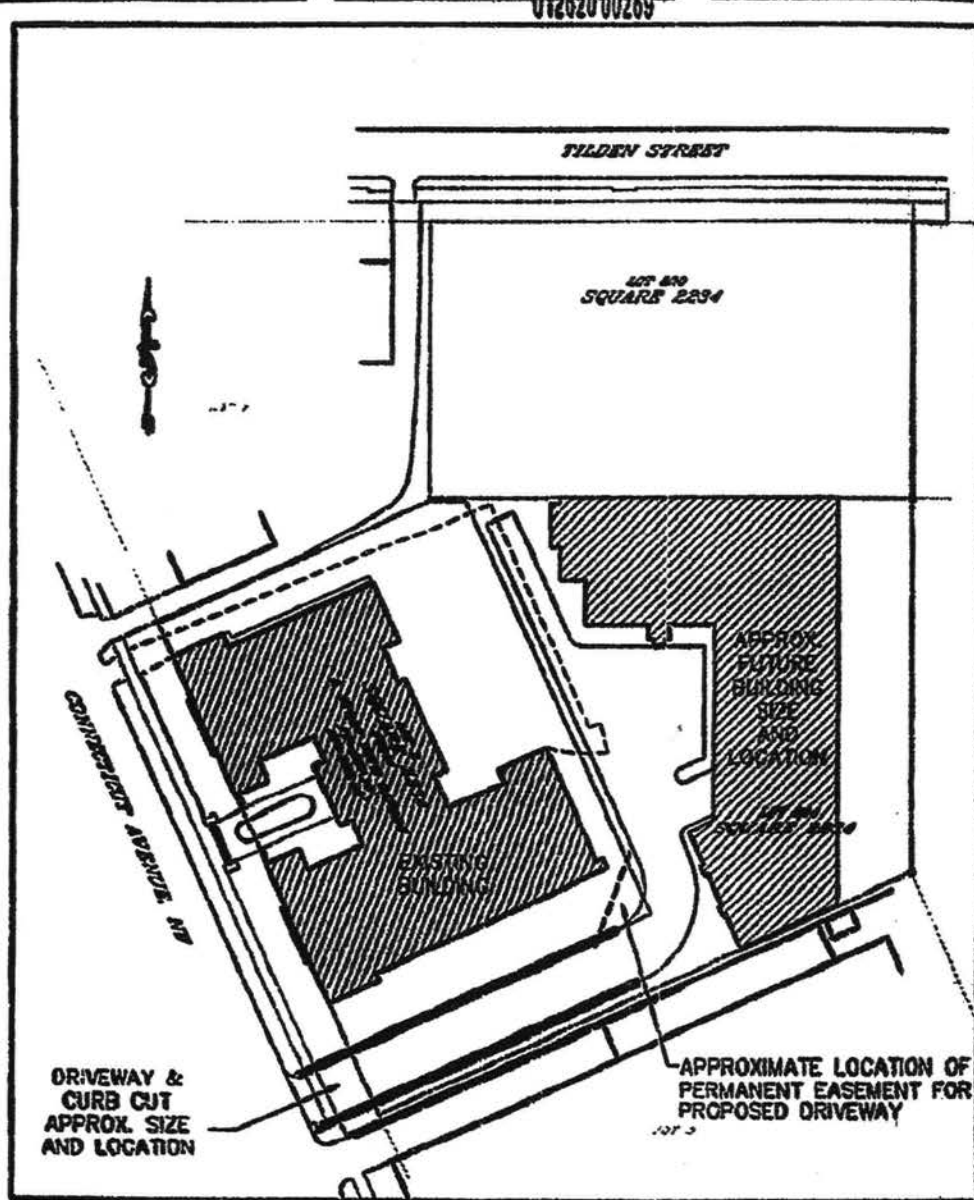
01262000269



CLARK REALTY CAPITAL
CONNECTICUT AVENUE
WASHINGTON, D.C.

ADJOINING PROPERTY
EXHIBIT B
NOT TO SCALE

012620-00269

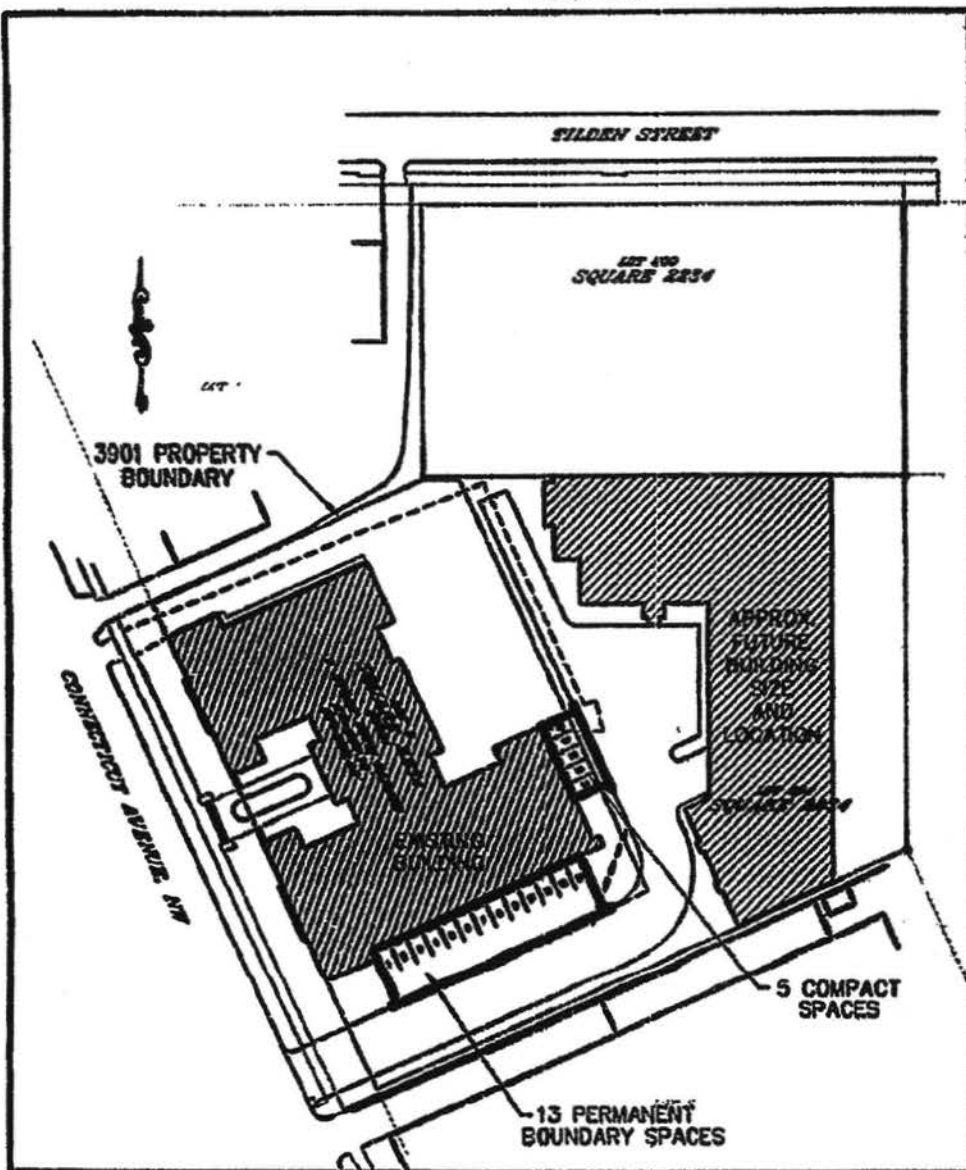


CLARK REALTY CAPITAL
CONNECTICUT AVENUE
 WASHINGTON, D.C.

PROPOSED DRIVEWAY

EXHIBIT C
 NOT TO SCALE

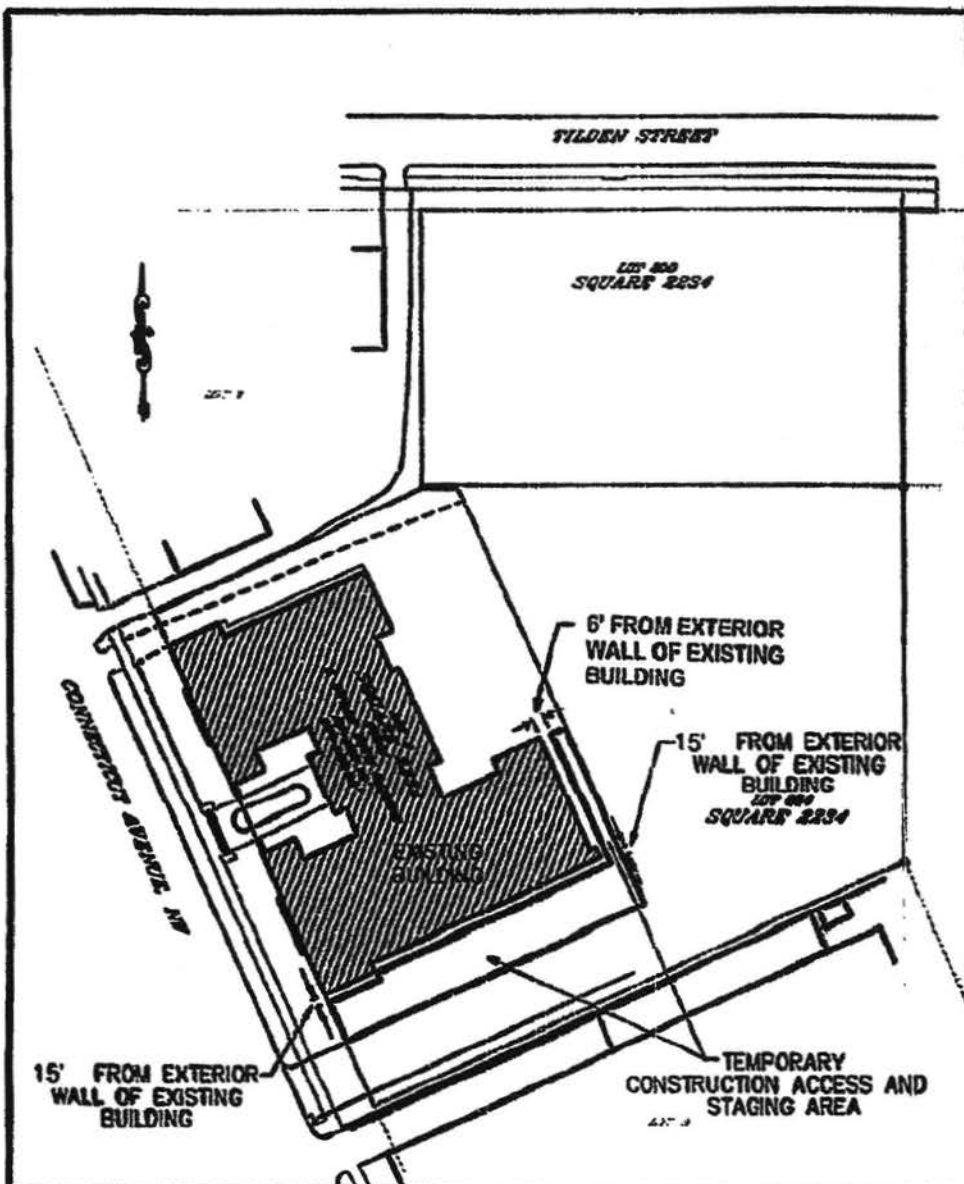
01262000269



CLARK REALTY CAPITAL
CONNECTICUT AVENUE
 WASHINGTON, D.C.

ADDITIONAL 18 PARKING SPACES

EXHIBIT D
 NOT TO SCALE



CLARK REALTY CAPITAL
CONNECTICUT AVENUE
WASHINGTON, D.C.

CONSTRUCTION ACCESS AND STAGING AREA

EXHIBIT E
NOT TO SCALE

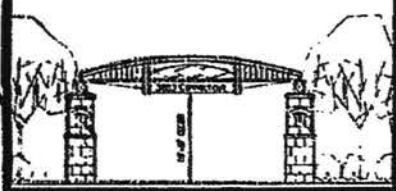
AVENUE.
N

APPROXIMATE ENTRY
MONUMENT ELEVATION

PIERS: 3'-6" WIDE²

2'-0" DEEP²

CLEARANCE HEIGHT: 14'-2"



RELOCATED CATCH BASIN

PROPOSED ACCESS POINT
FROM CONNECTICUT AVENUE

PROPOSED HANDICAP RAMP

APPROX.
SIDEWALK
LOCATION

CATCH
BASIN
FILLED
W/DEBRIS
TOP=227.87'

MONUMENT DESIGN & LOCATION

EXHIBIT F

PLAN
CONC
BRICK WALL
18.0'
11.2'
33.8'
PLANTER

PIER LOCATION
ALTERNATE #1

PIER LOCATION
ALTERNATE #2

0.06'
TO P/L

15' OAK
16' OAK

15.7'

25.0'

4.0'

PR
V0000005
227.87

DETAILED

75

Return Copy To:
Lee Narmon
Arnold Q Porter
535 12th Street, N.W.
Washington, DC 20004

REORDER OF DEEDS
9900069957

99 AUG-6 PM12:35

[Faint, illegible text, possibly a signature or stamp]

08-041670792	12:35PM
9900069957	
12758166	70.00
SIN CHS	5.00
TOTAL	75.00
PURCHASE	2
E01 # 1 R4205	
CHEQUE	75.00

TILDEN PROPERTY EASEMENT AGREEMENT

THIS TILDEN PROPERTY EASEMENT AGREEMENT (this "Agreement") is made and entered into as of August 30, 2004, by and between 3883 CONNECTICUT LLC, a District of Columbia limited liability company ("3883 Owner"), and TILDEN 800 LLC, a District of Columbia limited liability company ("Tilden Owner"), with reference to the following recitals of fact.

RECITALS:

A. 3883 Owner is the owner of certain land described on Exhibit A-1 attached hereto (the "3883 Land"). The 3883 Land is improved with a nine (9) story residential apartment building and related improvements (collectively, the "3883 Improvements"), and is located at 3883 Connecticut Avenue, N.W., Washington, D.C. The 3883 Land and the 3883 Improvements are collectively referred to herein as the "3883 Property."

B. Tilden Owner is the owner of certain vacant land described on Exhibit A-2 attached hereto (the "Tilden Land"). Any improvements to be located on the Tilden Land are referred to herein as the "Tilden Improvements." The Tilden Land and the Tilden Improvements are collectively referred to herein as the "Tilden Property."

C. The 3883 Land and the Tilden Land are adjacent parcels of land located near the intersection of Connecticut Avenue and Tilden Street in Washington, D.C., and the Tilden Land is burdened by a fire lane access easement benefiting the 3883 Land pursuant to that certain Declaration of Covenants made by 3883 Connecticut LLC, dated as of April 18, 2002, and recorded in the land records of the District of Columbia as Document No. 2002050183.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, 3883 Owner and Tilden Owner hereby agree as follows:

1. Access Easements.

(a) 3883 Easement. 3883 Owner hereby grants and conveys to Tilden Owner and its tenants, licensees, invitees, agents, employees and guests a perpetual (except as provided herein), non-exclusive easement (the "3883 Easement") in, on, over and across a portion of the 3883 Land more particularly described on Exhibit B attached hereto (the "3883 Easement Area") for purposes of vehicular (including, but not limited to, fire and emergency vehicles) and pedestrian ingress and egress to, from and between Connecticut Avenue and the Tilden Property; provided that Tilden Owner's construction vehicles of any type shall have no right to use the 3883 Easement; and provided further that from and during such time that the Tilden Land has separate access to Tilden Street via an approved curb cut and driveway, the Tilden Owner's construction and moving vehicles and trucks of any type shall have no right to use the 3883 Easement. 3883 Owner shall have the right to make any use of the 3883 Easement Area that is not inconsistent with the rights herein conveyed. 3883 Owner shall not have the right to relocate the 3883 Easement Area unless and until 3883 Owner obtains prior written approval of Tilden Owner (which approval shall not be unreasonably withheld, conditioned or delayed) and the

5/16

location of a replacement easement area shall continue to provide Tilden Owner and its tenants, licensees, invitees, agents, employees and guests substantially equivalent access to, from and between Connecticut Avenue and the Tilden Property. 3883 Owner shall have the right to temporarily close the 3883 Easement Area or any portion thereof for such reasonable periods of time as may be reasonably necessary for cleaning, repair, alteration, improvement or maintenance or as required for emergencies or to prevent the acquisition or creation of any prescriptive right by any person or the public; provided, however, that prior to closing any portion of the 3883 Easement Area (except in the event of an emergency), 3883 Owner shall give at least five (5) days' prior written notice to Tilden Owner of its intention to do so and shall coordinate its closing with Tilden Owner so that no unreasonable interference with the 3883 Easement occurs. Tilden Owner shall indemnify and hold harmless 3883 Owner from and against any and all claims, losses, liabilities, damages (other than punitive, indirect or consequential damages), costs and expenses (including reasonable attorneys' fees) resulting from the negligence or willful misconduct of Tilden Owner or its tenants, licensees, invitees, agents, employees or guests in the use of the 3883 Easement Area. The 3883 Easement Area, including the paved driveway located thereon, shall continue to be maintained and repaired by 3883 Owner in a clean and safe condition in a manner considered commercially reasonable by 3883 Owner, and Tilden Owner shall have no obligation or liability for any costs or expenses relating to any such maintenance or repair, except as otherwise expressly set forth herein. There shall be no charge for use by the Tilden Owner of the 3883 Easement.

(b) Tilden Easement. In the event the Tilden Owner, in its sole and absolute discretion, (i) obtains all necessary approvals for a curb cut and a paved vehicular driveway that connects the curb cut on Tilden Street to and from the Tilden Land, and (ii) develops the Tilden Land with more than sixteen (16) dwelling units, then Tilden Owner will use commercially reasonable efforts to obtain approvals for a connection between the Tilden Property and the 3883 Property, and if such connection is approved and constructed, Tilden Owner hereby agrees, and shall be obligated, to grant and convey to 3883 Owner and its tenants, licensees, invitees, agents, employees and guests a non-exclusive easement in perpetuity (the "Tilden Easement") in, on, over and across a portion of the Tilden Land that provides access to such driveway and curb cut. Such easement shall be legally described on and memorialized by an amendment to this Agreement, which shall be signed by Tilden Owner and 3883 Owner and recorded among the land records of the District of Columbia. The area covered by said easement is referred to in this Agreement as the "Tilden Easement Area," which Tilden Easement Area shall be used for sole purposes of passenger vehicular and pedestrian ingress and egress to, from and between Tilden Street and the 3883 Property, it being understood that 3883 Owner's construction and moving vehicles and trucks of any type shall have no right to use the Tilden Easement. Tilden Owner shall have the right to make any use of the Tilden Easement Area that is not inconsistent with the rights herein conveyed. Tilden Owner shall not have the right to relocate the Tilden Easement Area unless and until Tilden Owner obtains prior written approval of 3883 Owner (which approval shall not be unreasonably withheld, conditioned or delayed) and the location of a replacement easement area shall continue to provide 3883 Owner and its tenants, licensees, invitees, agents, employees and guests substantially equivalent access to, from and between Tilden Street and the 3883 Property. Tilden Owner shall have the right to temporarily close the Tilden Easement Area or any portion thereof for such reasonable periods of time as may be reasonably necessary for cleaning, repair, alteration, improvement or maintenance or as required for emergencies or to prevent the acquisition or creation of any prescriptive right by any person

contained herein, in no event shall any termination of the 3883 Easement terminate the use the 3883 Easement Area for fire and emergency vehicles.

2. Development of Tilden Property.

(a) 3883 Owner hereby acknowledges that Tilden Owner intends to develop the Tilden Land for use as a sale or rental single-family, multi-family or semi-detached residential housing, which may include rezoning of the Tilden Property.

(b) Any purchaser of a condominium unit at the 3883 Property is hereby put on notice by this Agreement of the intended development of the Tilden Land.

3. Covenants Running With the Land. This Agreement shall constitute a covenant running with the land and shall inure to the benefit of the parties hereto and their respective successors and assigns as owners of all or any portions of the 3883 Property or the Tilden Property.

4. Intentionally Deleted.

5. Miscellaneous.

(a) All notices, demands, requests or other communications required or permitted to be given hereunder must be sent (i) by United States certified mail, postage fully prepaid, return receipt requested, (ii) by hand delivery, (iii) by Federal Express or a similar nationally recognized overnight courier service, or (iv) by facsimile with both telephonic confirmation and a confirmation copy delivered by another method set forth in this Section. All such notices, demands, requests or other communications shall be deemed to have been given for all purposes of this Agreement upon the date of receipt or refusal, except that whenever under this Agreement a notice is either received on a day which is not a Business Day or is required to be delivered on or before a specific day which is not a Business Day, the day of receipt or required delivery shall automatically be extended to the next Business Day. The addresses for proper notice under this Agreement are as follows:

3883 Owner:

c/o Monument Realty
1155 Connecticut Avenue NW
Seventh Floor
Washington, DC 20036
Attn: F. Russell Hines
Phone: (202) 777-2010
Fax: (202) 777-2020

With copies to:

Piper Rudnick LLP
1200 19th Street NW
Washington, DC 20036

Tilden Owner:

c/o Clark Realty Capital
2 Bethesda Metro Center
Suite 250
Bethesda, Maryland 20814
Attn: Douglas R. Sandor
Phone: (240) 497-6630
Fax: (240) 497-6730

With copies to:

Clark Enterprises, Inc.
7500 Old Georgetown Road
15th Floor

Attn: Frederick L. Klein
Phone: (202) 861-6668
Fax: (202) 689-7455

Bethesda, Maryland 20814
Attn: Rebecca L. Owen, Esq.
Phone: (301) 657-7216
Fax: (301) 654-2564

Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037
Attn: John Engel, Esq.
Phone: (202) 663-8863
Fax: (202) 663-8007

Either party may from time to time by written notice to the other party designate a different address for notices within the United States of America.

(b) Captions and Headings for Convenience. The captions and headings contained in this Agreement are included herein for convenience of reference only and are not to be considered a part hereof, are not intended in any way to limit or enlarge the terms of this Agreement and will not affect the meaning or interpretation of this Agreement.

(c) Governing Law. The construction and interpretation of this Agreement will be governed by the laws of the District of Columbia without regard to conflict of laws principles.

(d) Severability. If any provision of this Agreement is held to be invalid or unenforceable as applied to a specific set of circumstances, then all of the other provisions of this Agreement, including such unenforceable provision as applied to any other circumstances, will continue in full force and effect.

(e) Amendments. No amendment shall be effective unless such amendment is in writing, signed by each Owner and recorded among the land records of the District of Columbia.

(f) Article and Section References: "Including," "Herein" and "Hereunder" All references in this Agreement to Articles or Sections refer to Articles or Sections of this Agreement. Wherever used in this Agreement, the word "including" means "including but not limited to" or "including without limitation," and "herein" and "hereunder" refer to this Agreement in its entirety and not to any Article or Section of this Agreement in particular.

(g) Counterparts. This Agreement may be executed in several counterparts, each of which is deemed an original, and all such counterparts constitute one and the same instrument.

(h) No Waiver. No delay or omission by any Owner in exercising any right or power accruing upon any non-compliance or failure of performance by any other Owner under the provisions of this Agreement will impair any such right or power or be construed as a waiver thereof. A waiver by any Owner of any covenant, condition, provision or performance under this

Agreement will not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition, provision, or performance of this Agreement.

(i) No Partnership. Nothing contained in this Agreement shall be construed to make the Owners partners or joint venturers, or to render any Owner liable for the debts or obligations of another Owner.

(j) No Dedication. No provision of this Agreement is to be construed to grant any gift, dedication or irrevocable rights to the general public or for any quasi-public purpose whatsoever, of, in, or to any portion of the 3883 Land, the Tilden Land or the 3883 Easement Area.

(k) No Third-Party Beneficiary. Except as provided herein, no rights, privileges or amenities of any Owner will inure to the benefit of any third party, nor will any third party be deemed to be a third-party beneficiary.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties to this Agreement have executed this Tilden Property Easement Agreement as of the date first written above.

3883 CONNECTICUT, LLC,
a District of Columbia limited liability company

By: Carlyle 3883 Connecticut, L.L.C.,
a Delaware limited liability company,
its Member

By: _____

Gary E. Block
Vice President

By: 3883 Connecticut Holdings, L.L.C.,
a Delaware limited liability company,
its Member

By: 3883 Mezz Connecticut Holdings, L.L.C.,
a Delaware limited liability company,
its Managing Member

By: Carlyle 3883 Connecticut, L.L.C.,
a Delaware limited liability company,
its Managing Member

By: _____

Gary E. Block
Vice President

By: MR 3883 Connecticut LLC,
a Delaware limited liability company,
its Member

By: MR Mezz 3883 Connecticut LLC,
a Delaware limited liability company,
its Sole Member

By: _____

Michael J. Darby

Title: _____

IN WITNESS WHEREOF, the parties to this Agreement have executed this Tilden Property Easement Agreement as of the date first written above.

3883 CONNECTICUT, LLC,
a District of Columbia limited liability company

By: Carlyle 3883 Connecticut, L.L.C.,
a Delaware limited liability company,
its Member

By: _____
Gary E. Block
Vice President

By: 3883 Connecticut Holdings, L.L.C.,
a Delaware limited liability company,
its Member

By: 3883 Mezz Connecticut Holdings, L.L.C.,
a Delaware limited liability company,
its Managing Member

By: Carlyle 3883 Connecticut, L.L.C.,
a Delaware limited liability company,
its Managing Member

By: _____
Gary E. Block
Vice President

By: MR 3883 Connecticut LLC,
a Delaware limited liability company,
its Member

By: MR Mezz 3883 Connecticut LLC,
a Delaware limited liability company,
its Sole Member

By: _____
Michael J. Darby,
Managing Member

DISTRICT OF COLUMBIA, to-wit:

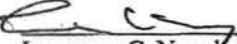
3883 - Tilden Property Easement Agreement.DOC

TILDEN 800 LLC, a District of Columbia limited liability company

By: Clark Realty Capital, L.L.C., a Delaware limited liability company, its manager

By: 
Douglas R. Sandor, a Manager

By: CEI Realty, Inc., a District of Columbia corporation, a Manager

By: 
Lawrence C. Nussdorf, President