MEMORANDUM OF UNDERSTANDING

This Memorandum captures the agreements reached between Knollwood Neighbors, (an organization consisting of owners of property on Stephenson Lane, 29th Street, Tennyson Street, 29th Place, Oregon Avenue, Nebraska Avenue, and Rittenhouse Street in close proximity to the Army Distaff Foundation/Knollwood property located at 6200 Oregon Avenue, NW), (collectively the "Knollwood Neighbors"), and the Army Distaff Foundation/ Knollwood ("Knollwood") and its successors and assigns, regarding Knollwood's intention to construct a specialized care unit for Alzheimer's patients (consisting of 25 rooms and 27 beds) and up to 22 independent living units. The parties have negotiated for a number of months, and have arrived at the following set of agreements:

1. Alzheimer's Unit and Independent Living Units:

   The new building will be sited and constructed as illustrated in the final exhibits submitted to the BZA.

2. Preservation of Green Buffer Zone:

   a. Knollwood agrees to establish a Green Buffer Zone as depicted on Exhibit A. For a period of 15 years from the date of this Agreement, Knollwood covenants and agrees not to construct, or seek from the District of Columbia a permit to construct, any buildings or structures in the Green Buffer Zone during the period. Knollwood further agrees not to construct, or seek from the District of Columbia a permit to construct, within the existing Knollwood Property that is *not* part of the Green Buffer Zone, any building or structure that exceeds the height of an adjacent structure, or any addition to an existing structure that exceeds the current height of that structure.

   b. After the expiration of this 15-year period, Knollwood agrees to inform and consult with the Knollwood neighbors at least one year

BZA Case No. 17055 Exhibit No. 137

Board of Zoning Adjustment
District of Columbia
CASE NO. 17055
EXHIBIT NO. 137

prior to filing an application with the District of Columbia Board of Zoning Adjustment for special exception approval for the construction of any buildings or structures in the Green Buffer Zone.

c. This agreement shall not be construed to prohibit the Neighbors from opposing, through the normal zoning process, any future ADF/ Knollwood construction plans or proposed uses of the Knollwood property, even if such plans would not be strictly prohibited under the terms of this agreement.

d. This agreement shall not limit the right of Knollwood to sell or convey unencumbered fee simple legal title of any portion of the Knollwood property to any purchaser that intends to use such transferred or conveyed property for a use that is permitted as a matter-of-right in the R-1-A Zone District in accordance with the relevant provisions of the District of Columbia Zoning Regulations enumerated in 11 DCMR.

3. Screening and Landscaping:

Screening, preservation of existing mature deciduous trees, and landscaping are important ingredients in this agreement. In this regard, the parties have agreed that:

a) transplanted screening trees are especially vulnerable during the initial years after transplantation and planting screening trees in locations exposed to sunlight is an essential condition for the success of transplantation, as well as their long term viability.

b) transplanted screening trees shall be placed in locations to minimize potential damage to all mature deciduous trees in woodlands and green buffer identified as preservation candidates.

c) screening trees at time of installation shall be of sufficient height and quantity to fully screen the view of the building and anyone standing on a rooftop terrace from each Neighbor's house if any Neighbor so desires.

d) Knollwood agrees to employ an arborist designated by the neighbors to participate in the planning, execution, and protection of landscaping during construction, in the areas between Stephenson Lane and the new building and between 29th Street and the new building. ADF/Knollwood agrees to consult with the Neighbors' designated arborist in all material aspects of the landscaping, including, but not limited to, the planting of screening trees between the building and Stephenson Lane and 29th Street before construction begins; establishing the height and variety of trees (and other landscaping materials); the placement of new trees and other landscaping material; supervising the planting of screening trees; and preserving existing mature deciduous trees during construction. Knollwood will consult with the arborist in determining a reasonable landscaping budget to maintain the new landscaping. This will be designated as a separate line item in the Knollwood budget.

e) Knollwood agrees to maintain the existing berm between Stephenson Lane, 29th Street and the new building. This shall include siting the new building so that (1) all of the new structures shall be sited, to the extent possible, within the existing parking lot; and (2) the structures are located as to allow planting of screening trees on the space currently occupied by the road all the way around to the part of the current road that heads down towards Nebraska Avenue. It shall also include appropriate techniques identified by Neighbors' arborist, so as to protect the berm and newly planted trees. In addition, Knollwood shall take all measures necessary to protect existing, mature, deciduous trees during construction. Singled out for special protection shall be the large white oak tree and the weeping cherry tree on the 29th Street side of the berm.

f) After construction, the frequency of maintenance and maintenance procedures, especially those pertaining to transplanted trees, shall be determined in consultation with Neighbors' designated arborist.

g) In the event that there is a dispute about any of the landscaping items set forth above, the arborist of Neighbors and Knollwood shall select a neutral expert arborist to resolve the dispute. This arborist shall be certified by the International Society of Arboriculture (ISA) and with demonstrated experience over 5 years in the field with both tree preservation and large tree transplantation. His or her decision will be binding on both parties. The fees of this neutral expert shall be equally shared between ADF/ Knollwood and the Knollwood Neighbors.

4. Construction Considerations:

Knollwood agrees to include the following provisions in construction contracts requiring the contractor to honor these obligations to which Knollwood has agreed with the Neighbors:

a) There will be no blasting associated with construction of the new building;

b) Work generating noise that will carry into the adjacent neighborhood shall be limited to the hours between 7:30 am and 5:30 pm., Monday through Friday. Any exceptions shall be coordinated with Neighbors a least one week in advance. This does not include work that will take place within the fully enclosed (including all windows and doors) structure. Further, Knollwood agrees to use good faith efforts to refrain from using heavy machinery before 8:00 a.m.

c) Construction vehicles shall be prohibited from idling on Stephenson Lane, 29th Street or Tennyson Street.

d) Vehicle parking for construction workers shall be contained within the Knollwood property to the greatest extent possible. There may be periods of time when street parking for construction personnel

may be necessary. Knollwood shall provide a Neighbor member of the Liaison Committee one week advance notice of the need for street parking and shall provide an estimate of the length of time street parking shall be needed. Street parking for construction personnel shall be limited to the sides of streets directly abutting Knollwood's property. Parking shall not impede normal two way traffic. Knollwood shall vigorously enforce these parking restrictions on a daily basis.

e) Knollwood shall police the areas outside Knollwood property on a daily basis to ensure that debris and waste materials do not accumulate in the neighborhood.

f) Knollwood agrees to control dust by periodically watering soil as needed.

5. Liaison Committee.

The parties agree to create an on-going Liaison Committee to handle construction-related complaints and concerns of Neighbors. Knollwood agrees to provide timely copies of all building permits to members of the Liaison Committee.

6. Damage to Property

Knollwood agrees to photograph interior and exterior conditions of Neighbors' houses where access is granted by the owner. In instances in which damage occurs to neighborhood buildings or other property caused by the excavation and construction, Knollwood agrees to repair any such damage.

7. Sediment, Erosion Control and Stormwater Management:

a) Contractor shall retain on site at all times during construction a construction manager's representative, who shall be responsible for all appropriate sediment and erosion control measures.

b) Contractor shall invite adjacent Neighbors to a pre-construction

meeting for the purpose of explaining the measures to be employed, and the program to be followed in the maintenance of these control measures. Knollwood and its contractor shall permit designated representatives from Neighbors to view the site and the measures in place in order to ensure that these requirements are being followed.

c) All required temporary and permanent stormwater management measures shall be rigorously maintained as required by the DC DOH and as required by the measures adopted at the site. The existing SWM pond shall be carefully protected during the construction period. Any damage resulting from the new construction shall be immediately corrected.

d) Tracking of mud and dirt into adjacent streets shall be carefully controlled and the streets shall be kept reasonably clean.

8. Noise Abatement:

In addition to the noise abatement requirements applicable during construction, Knollwood shall include noise abatement measures in the general design of the building. Specifically, the mechanical penthouse shall include sound absorbing material in its wall section to reduce ambient noise generated by the chiller, condensing unit, and emergency generator.

9. Tennyson Street Exit:

Knollwood agrees that if an exit to Tennyson is constructed, it shall be used only (a) in emergencies, and (b) as a right-turn-only exit by the residents of Knollwood. Appropriate curbing or barriers will be emplaced or constructed to restrict the capability of nonemergency vehicles to turn left onto Tennyson or to use this entrance while proceeding from west to east along Tennyson.

10. Utilities:

a. The parties agree to consider making a joint appeal to the utility companies and to the City to upgrade and bury the utilities on

Stephenson Lane and then resurface the block.

b. Knollwood shall confirm that no utilities shall be routed through the woodland or any new plantings.

c. Knollwood shall ensure that all exterior lighting shall be either of low intensity and/or shielded to prevent glare and intensity when lighting fixtures are viewed from Neighbors' locations.

11. Effect Of This MOU On The Upcoming BZA Hearing:

The parties agree that Neighbors shall support Knollwood's current application before the BZA and before the ANC.

12. Force of this Agreement:

The parties intend to prepare and execute a final agreement incorporating the terms of this MOU. This MOU and any final agreement shall be interpreted under the laws of the District of Columbia, and shall be enforceable in a court of law by ADF/Knollwood and by certain duly authorized representatives of the Knollwood Neighbors (Exhibit B). Any enforcement action by the Knollwood Neighbors shall require the consent of at least three signatories of this MOU.

Exhibit A – Delineation of Green Buffer Zone

Exhibit B – Authorized Representatives of Knollwood Neighbors

9/17/04 3:05 p.m.