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September 27, 2005

BY MESSENGER

Ms. Jerrily R. Kress, FAIA
Director
Office of Zoning
441 Fourth Street, N.W., Suite 210
Washington, D.C. 20001

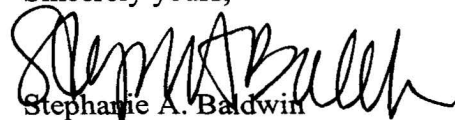
Re: Submission of Pre-Hearing Statement; BZA Application No. 17364; CIH/VMS
Restorations, LLC; Skyland Terrace, S.E.

Dear Ms. Kress:

Enclosed please find the original and twenty (20) copies of the above-referenced Pre-Hearing Statement for filing with the Board.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

Sincerely yours,


Stephanie A. Baldwin

271426v1
Enclosures

cc: All Copies By First Class Mail
Mr. Kevin O'Malley
Mr. Albert Edgecombe
John Patrick Brown, Jr., Esquire

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17364
EXHIBIT NO. 27

Board of Zoning Adjustment
District of Columbia
CASE NO. 17364
EXHIBIT NO. 27

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

**Re: Application of CIH/VMS
Restorations, LLC
Skyland Terrace, S.E.**

**BZA Application No. 17364
Public Hearing: October 11, 2005
ANC 8B**

PRE-HEARING STATEMENT OF APPLICANT

September 27, 2005

This Pre-Hearing Statement ("Statement") is submitted on behalf of the CIH/VMS Restorations, LLC, by its attorneys, Greenstein, DeLorme & Luchs, P.C., by John Patrick Brown, Jr., Esquire and Stephanie A. Baldwin, Esquire, in support of an application for a special exception and variance.

I.

Summary of Application. The BZA Application filed on February 23, 2005 (the "Application") sought a special exception pursuant to the Zoning Regulations, 11 DCMR § 3104.1 and Section 353, to allow the development of seven (7) townhomes with seven (7) off-street parking spaces within an R-5-A zone district, and an area variance pursuant to 11 DCMR § 3103 and Section 2116.3, from the requirements that parking spaces be located only in a rear or side yard.

II.

Property Description; Existing Zoning Authority. The property is located on Skyland Terrace, S.E. in the Skyland neighborhood in Ward 8 (Square 5740, Lot 862) (the "Subject Property" or "Property"). The Property is bounded by Skyland Terrace, S.E. and an improved residential lot to the south, Fort Stanton Park to the west, an improved residential lot to the east, and new residential construction to the north. The Subject Property is zoned R-5-A and contains approximately 48,000 square feet of land. Homes in the immediately surrounding area are single-family row-dwellings constructed by Habitat for Humanity approximately twelve years ago.

The Subject Property is a vacant lot owned by the District of Columbia. The District of Columbia acquired the Property through the Home Again Initiative, a program of Mayor Anthony A. Williams and his administration to decrease the number of vacant and abandoned residential properties within the District of Columbia. Home Again properties owned by the District of Columbia are bid on by pre-qualified developers which rehabilitate or develop the properties. The selection of a developer is based on several factors, including the quality of the proposed rehabilitation and the proposed unit sale prices. Completed homes are sold by the

developer to qualified homebuyers. A goal of the Home Again Program is to sell thirty percent (30%) of all Home Again properties to homebuyers who earn less than sixty percent (60%) of the Area Median Income (AMI). The Applicant is a qualified developer under the Home Again Program.¹

III.

Proposed Development. The Applicant intends to subdivide the Subject Property into seven (7) individual record lots and construct seven (7) townhomes arranged in a row to face Skyland Terrace, S.E. (the "Townhouse Development" or "Development") (See the "Site Plan," attached hereto as Exhibit "A" and "Elevations," attached hereto as Exhibit "B"). The remainder of the Property will remain undeveloped because the steep topography of the site sloping downhill from Skyland Terrace to the rear of the Property, makes it difficult or impossible for construction.

The townhomes will consist of two floors and one lower level. Each of the seven (7) townhomes will have one master bedroom, two additional bedrooms, two and one-half bathrooms, a kitchen, a living room, a dining room and a recreation room.

The townhomes will be constructed using brick and vinyl siding. At the election of a home buyer, an optional bay window may be located on the rear of the home on the first floor. The main entrance way to each townhome will be located at the front of the homes, facing Skyland Terrace. Due to the steep grade of the Property, the lowest level of each home is below grade in the front, but at grade in the rear. As a result, each home also has a rear entrance way on its lower level. An optional deck may be built adjacent to the rear of each home on the first floor.² If a home buyer elects not to have a deck, the developer will construct a guard rail in front of the sliding glass door on the first floor. A retaining wall will be constructed in the rear yards of four of the lots to help provide slope stability.

One (1) parking space will also be provided in the front of each home. Because Lots 1, 2, and 3 do not directly front Skyland Terrace, these three lots will share a driveway. All three of these lots will be subjected to an easement agreement for the use of the shared driveway which will be recorded among the land records of the District of Columbia. Lots 4, 5, 6 and 7 will each have a separate driveway. As discussed below, because of the change in grade from the front to the rear of all the lots, parking is provided in the front yard. Such a parking arrangement requires an area variance.

¹ To date, the Applicant has completed construction and/or restoration on five (5) other Home Again properties, 1650 U Street, S.E., 832 Yuma Street, S.E. and 14 and 15 Farragut Place, N.W.

² A typical deck would be seven foot by eight foot (7 ft. x 8 ft.) with a three foot (3 ft.) wide stair that runs about eleven feet (11 ft.) from grade to the deck. If the decks were included in the calculation of lot occupancy for each lot, the increase of percentage of lot occupancy would be approximately two to three percent (2-3 %). As proposed without decks, the lot occupancy of the lots range from 17.51% to 29.05%. Thus, if a deck was included on any lot, it would not exceed the lot occupancy requirements.

Each of the lots will be landscaped with grass in both the front and rear yards. Ornamental trees will also be planted on each of the lots. The developer intends to preserve the trees and vegetation currently existing in those areas of the Property which will remain undeveloped. The result will be a substantial portion of the Property being devoted to open green space.

In order to meet the storm water management requirements of the site, the Applicant will install dry wells. Dry wells are designed to pick up the rain water runoff from roof leaders attached to each of townhomes. Applicant proposes to install two (2) drywells per lot, one (1) in the front yard and one (1) in the rear yard, to ensure that all the water from the roof leaders discharge into a dry well (See "Dry Wells" attached here to as Exhibit "C").

A homeowners association ("HOA") composed of all townhome owners will be established by the Applicant. The HOA will own and be responsible for the maintenance of all of the common areas, including but not limited to, the retaining wall, the shared driveway and the storm water management system. The HOA will be funded with adequate reserves for the maintenance of such features.

IV.

Statement of Satisfaction of Burden of Proof for Zoning Relief Sought. The Applicant submits that, based upon (i) its Application and the materials submitted in conjunction therewith, (ii) the evidence to be presented at the public hearing and (iii) other evidence to be submitted subsequent hereto, it will satisfy and comply with the applicable legal standards and burdens of proof for the special exception and variance requested.

A. Special Exception

The Application submitted by the Applicant will satisfy the requirements of a special exception pursuant to Section 3104.1 of the Zoning Regulations which require the special exception to "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps" In addition, the Application will comply with the requirements of Section 353.

The Subject Property is zoned R-5-A, which allows low building heights and densities. The development of a new residential community in a R-5-A zone district is controlled by Section 353 of the Zoning Regulations. This Section requires that the Application be reviewed by various District of Columbia agencies and comply with the requirements of Section 3104.1 of the Zoning Regulations. The Application will comply with these requirements.

The Townhouse Development will not adversely affect neighboring or nearby property and meets the purpose and intent of the objectives of the zoning plan. The design of the Development is in harmony with the surrounding neighborhood. The Development will not adversely effect the light or air of surrounding properties. The scale, size, orientation and

materials of the proposed townhomes are compatible with the other residential buildings in the area. The design, bulk and height of the townhomes will be harmonious with the houses in the surrounding neighborhood. The townhomes will be attached two-story structures, in keeping with the surrounding neighborhood.

The Townhouse Development will provide a sufficient number of parking spaces to support its residents. The surrounding road network will support the very limited amount of additional traffic generated by the Development.

Moreover, the construction of the Development will fulfill the development goals of the Home Again Initiative to redevelop or rehabilitate properties which are vacant and abandoned. Such properties are often the cause of blight, crime, neighborhood instability or, at the very least, unsightliness. As a part of the Mayor's Home Again Initiative, the development of the Subject Property meets the general objective of the Initiative to construct new homes at the site. Both the Site Plan and the individual house plans have been approved by the Office of the Deputy Mayor for Planning and Economic Development.

The Townhouse Development will also contribute to the goals of the Housing Objectives for Ward 8 under the Comprehensive Plan to "[i]ncrease the number of owner-occupied and single-family housing units in the ward"(10 DCMR §1908.1(a)), to "[p]romote new and rehabilitated housing to meet all levels and demand, and provide incentives to construct the types of housing at desired locations" (10 DCMR §1908.1(e)) and to "[p]rovide housing for low- and moderate- income households by promoting the construction and renovation of a range of housing types" (10 DCMR §1908.1(f)).

Thus, the Townhouse Development is in harmony with the surrounding community and the general purposes and intent of the Zoning Regulations and Zoning Map, is consistent with the Comprehensive Plan and will not have any adverse impacts on surrounding properties nor the present or future character of the neighborhood.

B. Area Variance

With regard to the Applicant's request for a variance to allow for the location of one (1) parking space within the front yard of each townhome, the Application must satisfy the requirements of Section 3103.2 of the Zoning Regulations. Pursuant to that Section, the Board is authorized to grant variances when it finds that three requirements are satisfied.

First, the Applicant must show that the Property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition. The Property is unique in shape and topography. The Property has an irregular shape and a unique topography with a significant drop in grade from Skyland Terrace to both the northeast and northwest edges of the Property. Much of the northwest section is unsuitable for development due to a grade change of as much as seventy feet (70 ft.). As well, the northeast section also experiences a drop off from Skyland Terrace through the rear yards of the proposed lots to the northeast edge of the Property. Due to the extreme topography of the site,

construction is feasible only on that portion of the northeast section of the Property which is located parallel and adjacent to Skyland Terrace. Thus, the topography of the site restricts the areas available for construction and the locations available for parking to the most level areas of the Property located along Skyland Terrace.

The second prong of the variance test is that strict application of the Zoning Regulations would result in a peculiar and exceptional practical difficulty. The Applicant submits that the Application complies with this requirement because the unique conditions of the Property result in and cause such practical difficulty.

Section 2116.2 of the Zoning Regulations requires that "parking spaces ... be located ... on an open area of the lot ... within a rear yard [or] a side yard..." the Applicant requests a variance from this requirement to allow a parking space to be located in front of each of the townhomes. As noted above, usable area available for construction is minimal, with a significant portion of the Property unsuitable for development due to the Property's unique topography. Likewise suitable space for parking is limited. In order to provide a parking space for each townhome, the Applicant must locate parking within the most level areas of the Property. Because the grade in the rear and to the northwest of the townhomes experiences significant drops in elevation, those areas are unsuitable for parking or providing the required access to the parking. In particular, the rear yard of four of the townhomes requires the construction of a retaining wall in order to improve the stability of the slope and is thus unsuitable terrain for parking spaces. As a result, due to such practical difficulties, the Applicant must place the parking spaces in the front of each townhome where the Property is most level and more readily accessible.

Under the third prong of the variance test, relief granted cannot cause substantial detriment to the public good or substantially impair the intent, purpose, and integrity of the zoning plan. (See Section 3103.2 of the Zoning Regulations). No substantial adverse impacts or detriment to the public good will result if the variances are granted. The permission to allow for a parking space in the front yard of each home will have no adverse impact. The other homes in the immediate area along Skyland Terrace also have a parking space within the front yard of each lot. The proposed construction has been designed with a commitment to compliment the existing architecture and character of the neighborhood.

V.

Witnesses. The following witnesses will testify in support of the Application:

1. Mr. Kevin O'Malley, CIH Properties, Inc.
2. Mr. Albert Edgecombe, VMS, LLC

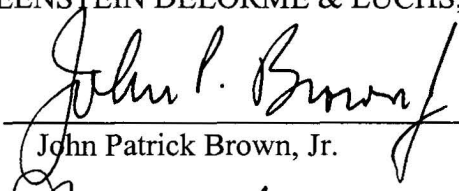
VI.

Conclusion. For the reasons set forth above, the Applicant submits that its Application satisfies all applicable zoning requirements and the requisite burdens of proof for a special exception and the requested variance and, therefore, should be granted.

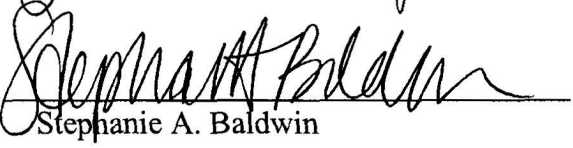
Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.

By:


John Patrick Brown, Jr.

By:


Stephanie A. Baldwin

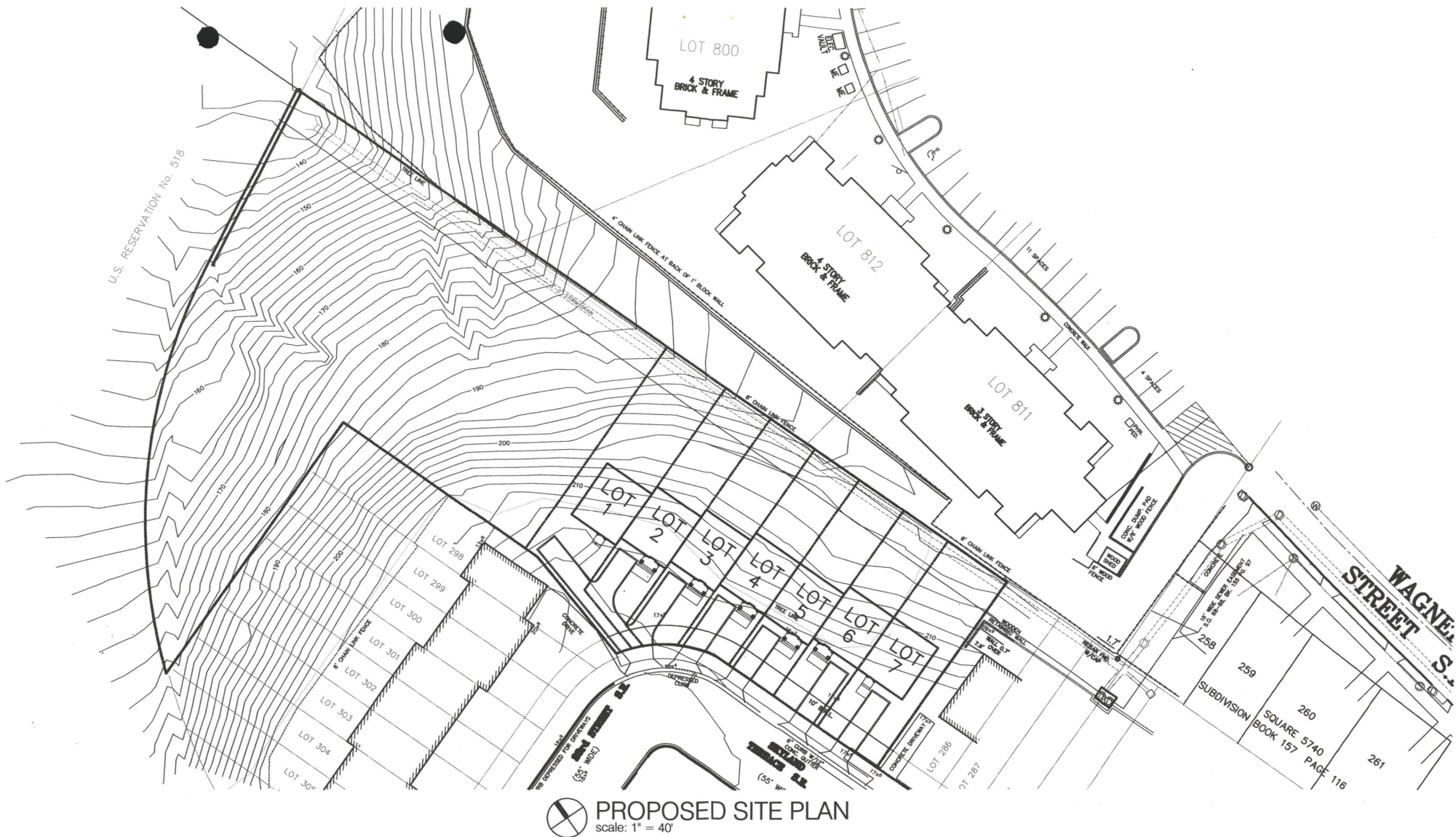
1620 L Street, N.W., Suite 900
Washington, D.C. 20036
Telephone: (202) 452-1400

Attorneys for Applicant

A

Exhibit "A"

Site Plan



ARCHITECT:

McAllister
ARCHITECTS, P.C.

119 South Saint Asaph Street
Alexandria, Virginia 22314
(703) 519-8823
(703) 519-0102 fax

DEVELOPER:

CIH Homes L.C.

9316 Piney Branch Road
Suite 106
Silver Spring, MD 20903
(301) 445-5000
(301) 445-1805 fax

**Skyland Terrace, S.E.
Washington, D.C. 20020**

APRIL 1, 2005

2

B

Exhibit "B"

Elevations



ARCHITECT:

McAllister
ARCHITECTS, P.C.

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DEVELOPER:

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**Skyland Terrace, S.E.
Washington, D.C. 20020**

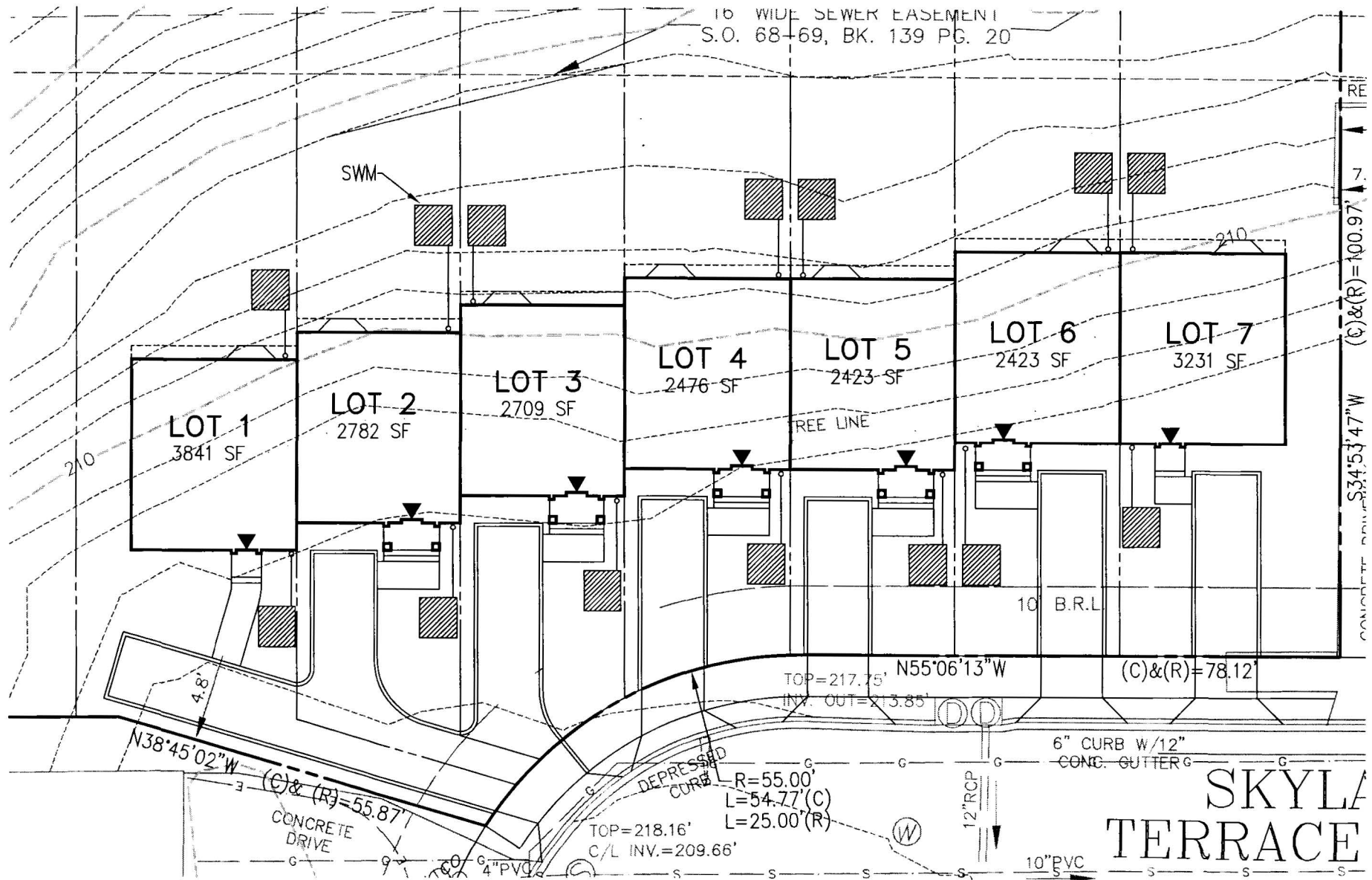
APRIL 1, 2005

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C

Exhibit "C"

Dry Wells



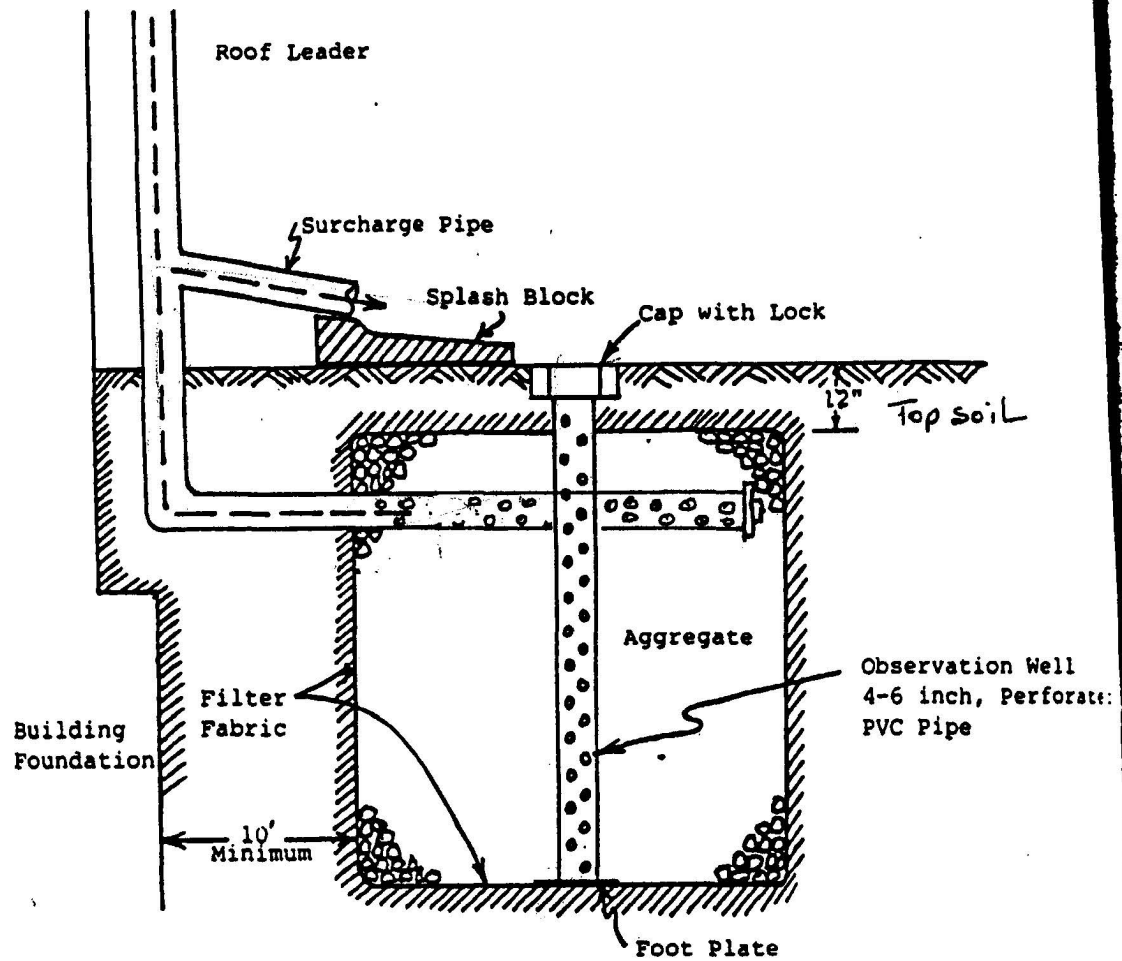


Figure 3-6. Typical Dry Well Cross Section

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Pre-Hearing Statement of the Applicant was mailed, first-class, postage prepaid, this 27th day of September 2005 to:

Advisory Neighborhood Commission 8B
c/o Mr. Jacque Patterson, Chair
3521 21st Street, S.E.
Washington, D.C. 20020

Mr. Travis Parker
Office of Planning
801 North Capitol Street, N.E.
Fourth Floor
Washington, D.C. 20002


Stephanie A. Baldwin