LT1-5-2005080708-1

LT2-0-0-39

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# AGREEMENT

## On the Construction of 1515, 1517, and 1521 32nd Street, NW, Washington, DC

This agreement ("**Agreement**"), made as of this 28th day of April, 2005, by and among Gtown 32nd LLC[1] and Strategic Georgetown, LLC[2] ("**Gtown**"), Advisory Neighborhood Commission 2E, as represented by Thomas Birch, who will act on behalf of ANC 2E ("**ANC**") with respect to this Agreement, David M. Halley, Stanley W. Cloud, Christina Lynne Olson, Theodore S. and Yvette G. Boone, Richard P. and Roberta M. Theis, Cynthia S. Ely, Mary L. Coyne and William J. Kolasky, and Joseph and Jini C. Brittain (collectively, the "**Adjacent Residents**") and Councilmember Jack Evans (hereinafter, Gtown, ANC, Adjacent Residents, and Councilmember Evans are collectively referred to as the "**Parties**" or individually as "**Party,**" and ANC, Adjacent Residents, and Councilmember Evans are collectively referred to as the "**Community Parties**").

WITNESSETH

WHEREAS, Gtown is the owner in fee simple of five (5) parcels of land known as Lots 19 and 20 ("**Lots 19 and 20**"), 73 ("**Lot 73**"), 74 ("**Lot 74**"), and 75 ("**Lot 75**") in Square 1270 in the District of Columbia and more commonly referred to as 1521, 1525, 1517 and 1515 32nd Street, NW, Washington, DC, respectively (collectively, the "**Subject Property**"); and

WHEREAS, Gtown has a valid building permit for the construction of a single-family house on Lot 73 (1525 32nd Street, NW) and has started construction of that house; and

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1 Darrin Phillips, Managing Member

2 Darrin Phillips, Managing Member

BZA
Case No. 17387
Exhibit No. 20

Board of Zoning Adjustment
District of Columbia
CASE NO. 17387
EXHIBIT NO. 20

WHEREAS, Gtown has received approval from the Mayor's Agent for Historic Preservation ("**Mayor's Agent**") to build two (2) single-family houses on Lot 74 and Lot 75, in accordance with the site plan attached as Exhibit A (In Re: Darrin Phillips, et al On Behalf of Gtown 32nd LLC, Property Owner, (Application for New Construction), HPA 03-480 and HPA 03-481); and

WHEREAS, the Adjacent Residents have appealed the issuance of the Mayor's Agent's Orders for Lot 74 and Lot 75 in HPA 03-480 and HPA 03-481 to the District of Columbia Court of Appeals[3] ("**Court**"), and Gtown has intervened in those cases; and

WHEREAS, Gtown intends to file an application to subdivide Lots 19 and 20 into a single record lot and the Parties have agreed that pursuant to the terms of this Agreement one single-family house shall be constructed on the resulting record lot; and

WHEREAS, the development of the Subject Property (other than the construction of 1525 32nd Street, NW, on Lot 73, for which a valid permit has been issued and on which construction work has begun and is ongoing and which is, except as expressly provided herein with respect to Sections VI (Trees), VII (Sidewalk), VIII C (Permits), VIII F (Work Hours), and VIII G (Contractors), specifically excluded from this Agreement) is the subject of this Agreement (the "**Project**").

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, as further described herein, the mutual receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

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[3] David M. Haley, et al. v. District of Columbia Mayor's Agent for Historic Preservation, Historic Preservation Office, Office of Planning, Case No. 04-AA-1295; and David M. Halley, Stanley Could and Christina Lynne Olson, Theodore and Yvette G. Boone, Cynthia S. Ely, William J. Kolasky and Mary Coyne, Robert and Christine Steiner, and Joseph and Jini Brittain, Case No. 04-AA-28.

**I.** The new house on **Lot 75** shall be set back from the curb approximately[4] twelve (12) feet, as shown in the plans attached as Exhibit B ("**Plans**"). The Plans have been reviewed and approved by all Parties and shall be developed as necessary for submission to the Board of Zoning Adjustment ("**BZA**") and the Department of Consumer and Regulatory Affairs ("**DCRA**") with applications for the permit(s) necessary to construct the Project. The 14-foot setback results in a rear yard approximately 20 feet deep, which meets the requirements in the District of Columbia Zoning Regulations of a 20-foot rear yard. The Community Parties agree to support in writing as reasonably requested by Gtown any necessary modification of building permit number B466742 so that the modified building permit can be issued as soon as possible.

**II.** The new house on **Lot 74** shall be set back from the curb approximately fourteen (14) feet, as shown in the Plans. This setback results in a rear yard approximately 18.8 feet deep. However, the Zoning Regulations require a 20-foot rear yard. The Community Parties agree to support in writing as reasonably requested by Gtown any necessary zoning variance related to the rear yard, and any and all other variances required at Lot 74 in order to obtain a permit to construct the Plans. The Community Parties further agree to support in writing as reasonably requested by Gtown any necessary modification of building permit number B466743, including modifications for the addition of a garage on the north side of the house, as shown in the Plans, so that the modified building permit can be issued as soon as possible.

**III.** Gtown intends to file an application to subdivide (by combination) **Lots 19 and 20** into a new record lot (the "**New Lot**") as shown on the Plans. Such subdivision requires review by the Historic Preservation Review Board ("**HPRB**") and approval by the Mayor's Agent. The Community Parties shall support in writing as reasonably requested by Gtown such

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[4] The term "approximately" as used in Sections I, II and III of this Agreement is defined as being no more than six (6) inches, plus or minus.

approval. The house on the New Lot shall be set back from the curb approximately fifteen (15) feet, as shown on the Plans. This setback results in an average rear yard of approximately 18.2 feet deep. However, the Zoning Regulations require a 20-foot rear yard. The Community Parties agree to support in writing as reasonably requested by Gtown any necessary zoning variance related to the rear yard, and any and all other variances required to obtain a permit to construct the house on the New Lot, with access to its garage as shown on the Plans. As part of any request for BZA approval, Gtown agrees to limit the total height to that shown on the Plans and to request that the BZA condition its approval on Gtown adhering to said total height.

**IV.** As shown on the Plans, Gtown is also seeking a curb cut on the south side of the New Lot, abutting Lot 74. Such curb cut will provide access to both a new garage on Lot 74, as referenced in Paragraph II above, and the garage for the proposed house on the New Lot, as referenced in Paragraph III above. The Community Parties agree to support approval of such curb cut in writing as reasonably requested by Gtown. Gtown agrees to avoid any danger to or impairment of the continued health of the center two mature trees along 32nd Street in the construction, installation and placement of the curb cut and associated access to the garages.

**V.** Permanent landscaped green space ("**Green Space**") shall be provided on **Lot 21** and the pipe stem remainder of **Lot 76** (the "**Miller Property**") as shown in Exhibit C and to be combined into a new Assessment and Taxation lot (**"A & T Lot"**). If the settlement date for the house on the New Lot is less than forty-five (45) days from the date of execution of a contract to purchase such house, then such combination shall take place as soon as possible, but in all cases not later than five (5) days prior to settlement. If the settlement date for the house on the New Lot is more than forty-five days from the date of execution of a contract to purchase such house, then such combination shall take place as soon as possible, but in all cases not later than thirty

(30) days from such date of execution. The Green Space shall be planted and the retaining wall adjacent to the east side of the Green Space constructed in accordance with Exhibit C. Gtown shall pay such costs as necessary to landscape the Green Space and improve said retaining wall in accordance with Exhibit C and the Plans. The deed for the New Lot shall specify that the Green Space shall be owned and maintained as landscaped green space by the future owner(s) of the New Lot. Gtown shall enter into a separate agreement ("**Deed, Covenant and Maintenance Agreement**" in a form similar to the attached Exhibit D) with Herbert S. Miller to transfer the A & T Lot to the owner(s) of the New Lot. The Deed, Covenant and Maintenance Agreement shall be recorded among the land records of the District of Columbia thirty (30) days prior to the settlement date for the house on the New Lot. If the settlement date is less than forty-five (45) days from the execution of a contract to purchase the house on the New Lot, then the Deed, Covenant and Maintenance Agreement shall be recorded as soon as possible, but in all cases not later than five (5) days prior to settlement. If the settlement date is more than forty-five (45) days from the execution of a contract to purchase the house on the New Lot, then the Deed, Covenant and Maintenance Agreement shall be recorded as soon as possible, but in all cases not later than thirty (30) days from such date of execution. Such Deed, Covenant and Maintenance Agreement shall require the owner(s) of the New Lot to retain and maintain the landscaping on the Green Space. The Green Space shall be maintained by Gtown until such time as the Deed, Covenant and Maintenance Agreement is recorded.

**VI.** **Trees**: The Parties agree that the northernmost and the southernmost trees shall be removed. Since these trees occupy both private property and pubic space, the Community Parties agree to support in writing as reasonably requested by Gtown the request of Gtown that the District of Columbia ("**District**") remove said trees. Should the District not agree to remove

said trees in front of Lots 73, 74 and 75, Gtown shall do so. Gtown agrees to replace said trees, as soon as reasonable prior to the settlement date for Lots 73, 74 and 75, respectively, and in all events no later than five (5) days prior to such settlement dates in each case in accordance with the specifications provided in Exhibit C. Gtown agrees not to take any action that would immediately or eventually impair or endanger the continued health of the center two mature trees along 32nd Street and will take all reasonable efforts to preserve or improve their current condition.

**VII. Sidewalk**: A sidewalk shall be provided in the location shown in the Plans attached as Exhibit B, except that under no circumstances may the installation or presence of a sidewalk endanger or impair the continued health of the center two trees on 32nd Street. Gtown shall use its best efforts both that such a sidewalk is provided and that the continued health of the center two trees on 32nd Street is not endangered or impaired. The Community Parties shall support Councilmember Evans' commitment that the District Department of Transportation ("**DDOT**") pay for the design, installation, and maintenance of the sidewalk.

**VIII. Construction**: Gtown shall insure that the construction of the Project is governed by the following provisions:

**A. Communication**.

1. **Gtown Representative**. Gtown shall designate a representative ("**Representative**") to be the primary contact for interaction with the Adjacent Residents. The Representative will have an office on site and be reasonably accessible during normal business hours. At any time construction activity is occurring on the Subject Property, the Representative or his/her designee ("**Designee**") shall be available onsite

or by telephone to receive communications from the Adjacent Residents. In addition, a name and telephone number of a person designated by Gtown to contact in case of an emergency ("**Emergency Contact**") during hours in which no construction activity is occurring shall be clearly displayed on the Subject Property. The name and work telephone number of the Representative, Designee, and Emergency Contact shall be clearly displayed on the Subject Property. The Representative, Designee and/or Emergency Contact shall be able to answer questions and receive comments about site activities, address any concerns the Adjacent Residents may have during the construction process, and have authority to promptly remedy any violation of this Agreement and enforce its provisions.

**2.** The Adjacent Residents shall designate a single contact person ("**Contact Person**"), who may change from time to time, to represent them for the term of this Agreement in the receipt and transmission of information related to the construction contemplated by this Agreement. The designation of a Contact Person pursuant to this Agreement shall not create an agency with any Adjacent Person nor shall the Contact Person be deemed to have any authority to represent or legally bind any Adjacent Person as a result of designation pursuant to this Agreement. The initial Contact Person will be determined prior to the start of construction activity on the Project and the Adjacent Residents shall provide to Gtown the name and telephone number(s) of said Contact Person and any

subsequent Contact Person. The Contact Person shall receive and disseminate information from Gtown to all other Adjacent Residents. Gtown shall provide to the Contact Person the name(s) and telephone number(s) of the Representative, Designee, and Emergency Contact, including their home telephone and beeper numbers, as appropriate, and keep such information updated.

**B. Regulations.** Gtown shall require all its personnel and vendors, including supply and service vendors, to comply with all District of Columbia Municipal Regulations applicable to hours of work, noise, dirt, trash, and public health and safety.

**C. Permits.** Gtown shall secure all permits required to complete the Project. All permits and related plans shall be onsite as required under the construction codes. Gtown further agrees to use best efforts to not unreasonably block any portion of 32nd Street, N.W. or the alley north of Lot 73, without controls to minimize impacts or traffic delays.

**D. Site Management**.

**1.** Gtown shall erect and maintain construction fencing and barricades in order to screen and secure the Project site during the construction process. Gtown and its contractors shall maintain temporary storm water management systems as required by the DCRA throughout the Project's construction until such time as the permanent facilities are constructed, approved, and functioning such that there shall be no adverse water

impacts on the adjacent neighborhood.

2. A minimum amount of lighting will be provided at the Project site at night. These lights will be sufficient to provide necessary security and to comply with Federal and municipal safety standards.

3. The construction trailer required for management of the construction of the Project shall not be located on public property.

E. **Refuse and Pest Control.** Gtown shall remove rubbish and construction debris continuously during the normal construction workday. Gtown shall monitor and police the Project site during the construction week or more often as required to ensure reasonable cleanliness. Gtown shall also undertake a program of pest control to ensure that no increase in pest activity occurs during the construction period. All excavation or back fill trucks shall be covered before proceeding from the Subject Property to city streets. Portable latrines will be located on the Subject Property to minimize impacts upon properties adjacent to the Subject Property.

F. **Work Hours**. The normal construction work week shall be Monday through Friday from 7:00 a.m. until 7:00 p.m. There will be no Saturday or Sunday work. All trucks for delivery of materials, construction or otherwise, shall arrive, operate on the Subject Property, and depart only during the foregoing hours. There will be no queuing of construction-related vehicles or arrival of workers prior to the foregoing work hours.

G. **Contractors.** Gtown shall ensure that all contractors and subcontractors comply with and act in accordance with the terms of this Agreement. Gtown shall also ensure that all contractors and subcontractors use only licensed vehicles and drivers and that they comply with all DC traffic laws and regulations.

H. **Timing of construction.** Barring significant delays due to reasons beyond Gtown's control and which could not have been reasonably foreseen by Gtown including, but not limited to, weather-related delays or delays in material deliveries or delays due to permit approvals; Gtown agrees to construct each house(s) within ten (10) months of breaking ground on each house and to complete construction on all three houses within thirty (30) months of breaking ground on the first house of the Project. If construction of all houses is not completed within thirty (30) months of breaking ground on the first house of the Project, Gtown shall pay the Adjacent Residents the following sums until construction of all three houses is completed:

| | |
|---|---|
| David M. Halley: | $100 per day |
| Stanley W. Cloud, Christina Lynne Olson: | $100 per day |
| Theodore S. and Yvette G. Boone: | $100 per day |
| Richard P. and Roberta M. Theis: | $100 per day |
| Cynthia S. Ely: | $100 per day |

Mary Coyne and William J. Kolasky: $100 per day

Joseph and Jini Brittain: $100 per day

Completion of construction of the three houses shall be evidenced by a final inspection of the houses by the DCRA. The same daily financial penalties shall apply for construction on Saturdays or Sundays unless such construction is approved by the Adjacent Residents in advance either in writing, by electronic mail or as communicated to Gtown by the Contact Person or is required due to life safety issues.

IX. **Conservation Easements:** No less than thirty (30) days prior to the sale of each house constructed as part of the Project, or if settlement is scheduled to occur in less than thirty (30) days prior to the date of execution of a contract to purchase such house then not less than five (days) prior to such settlement, Gtown shall place and register a conservation easement on each house with the Recorder of Deeds (each a "**Conservation Easement**"). The Conservation Easements shall be held by the Foundation for the Preservation of Historic Georgetown (the "Foundation"). The Conservation Easements shall be created using the form of easement document set forth on the Foundation's web page at http://preservegeorgetown.org/document.htm (the "**Easement Form**"). No changes to the terms set forth in the Easement Form shall be made without the express advance written consent of the Parties, provided, however, that the Parties agree than the Easement Form may be amended as reasonably necessary so as to enable Gtown to comply with its obligations under Section VI (Trees). Each Conservation Easement shall prohibit an increase in the height of each house and shall prohibit any change in the footprint or façade of each house as well as create the other obligations set forth on the Easement Form. In the case of the house located on the New Lot, the

Conservation Easement shall also, in addition to the other prohibitions set forth on the Easement Form, expressly prohibit further enclosure or partition of the green space fronting 32nd Street immediately north of that house and the Parties agree that the Easement Form may be amended as reasonably necessary so that this prohibition on enclosure or partition is included in it. The Parties agree that the Foundation may be provided by any Party with a copy of this Agreement. The Conservation Easement shall provide for changes to the property expressly provided for in this Agreement, including but not limited to the planting of trees and the installation of sidewalks.

X. **Support:** All Parties shall comply with all terms of this Agreement and the Community Parties shall support in writing, as reasonably requested by Gtown, the efforts of Gtown consistent with the terms of this Agreement through any and all review and approval processes required, including but not limited to those involving the: Old Georgetown Board ("**OGB**")/Commission of Fine Arts ("**CFA**"), HPRB, Mayor's Agent, DDOT/District Department of Public Works ("**DPW**"), and DCRA. Should any of those agencies approve the Plans but require modification, the Community Parties and Gtown agree to support such approvals with such modifications as may be required, with the exception of the following (each a "**Material Modification**"): (1) any decrease in the setback of the structure from the front lot lines; (2) any increase in the height of any of the structures; (3) the removal of sidewalks; (4) the removal of trees not already authorized for removal under Section VI (Trees); (5) the prohibition of tree plantings provided for in this Agreement; and (6) the enclosure or removal of the Green Space situated immediately to the north of the New Lot. Any Material Modification requires the advance written consent of all Community Parties which shall not be unreasonably withheld, conditioned, or delayed. A response to a request for such consent, shall be given within ten (10)

business days of notice to the Community Parties of a request for such a consent. If no response to such a request is provided within ten (10) business days of such notice, such consent shall be deemed granted. Implementing any Material Modification without obtaining such advance written consent shall constitute a material breach of this Agreement. The Community Parties shall support in writing as reasonably requested by Gtown's efforts to obtain the timely issuance of all required permits. No development, refinement, or revisions of the Plans shall be implemented without the advance, written, and reasonable approval of all Adjacent Residents. As noted in this Agreement, if so requested, the Community Parties agree to support in writing as reasonably requested by Gtown any necessary zoning variances, Mayor's Agent approvals and modifications, curb cuts, and related approvals to facilitate the completion of the Project. Gtown shall assist the Community Parties in the preparation of any support documents, as necessary. Notwithstanding any provision of this Agreement to the contrary, nothing in this Agreement shall require any Community Party to attend in person any hearing, proceeding, public, regulatory, or government meeting or similar event or incur any expenses.

**XI. Effective Date.** The terms of this Agreement shall only become effective upon its execution by all Parties and the filing with the Court of a Motion to Stay the appeals pending before the Court in accordance with this Agreement.

**XII. Choice of Law/Fora.** This Agreement shall be binding on the Parties and on their successors, affiliates, and assigns and shall continue in full force and effect as an Agreement among the Parties and it shall be governed, interpreted and enforced in accordance with the laws of the District of Columbia. Each Party irrevocably submits to the jurisdiction of the courts of the District of Columbia or the Courts of the United States located in the District of Columbia to resolve any disputes arising under this Agreement that cannot otherwise be resolved amicably

among the Parties.

**XIII. Good Faith Failure to Achieve All Approvals:** Upon notice in writing by Gtown to the Community Parties that all approvals, including but not limited to, the issuance of any and all permits necessary to construct the Project and install the sidewalk have not been obtained or cannot reasonably be obtained by Gtown despite the cumulative efforts of all of the Parties, including seeking additional approvals from the Mayor's Agent or Board of Zoning Adjustment as necessary, the Community Parties agree to file with the Court a Motion to Dismiss with prejudice their appeal(s) pending before the Court. Said motion shall be filed within 15 days of Community Parties' receipt of written notice from Gtown as referenced above. Community Parties further agree that, upon dismissal by the Court of their pending appeals, Gtown may proceed with construction of the houses on Lot 74 and Lot 75 as currently approved by Mayor's Agent with no further opposition from the Community Parties. The Parties also agree that Gtown may seek such approvals as necessary for construction on the New Lot. Should the Community Parties support such approvals and should such approvals be granted, Gtown shall provide the Green Space as described in Paragraph V above.

**XIV. Termination of Agreement Upon Satisfaction of All Terms:** Within forty-five (45) days of signing this Agreement, Gtown shall direct Congressional Title to record the deed transferring the A & T Lot to Gtown. Upon the recordation of all such documents described in Paragraphs V and IX, the planting of the replacement trees as provided in Paragraph VI above, and the fulfillment of each Party's obligations as set forth herein, Gtown and Adjacent Residents shall jointly file a Motion to Dismiss with prejudice their matters pending before the Court. This Agreement shall terminate upon the dismissal of all matters pending before the Court and the fulfillment of each Party's obligations as set forth herein. Upon termination, any of the Parties

may request that all Parties execute a written document acknowledging termination of this Agreement and the Community Parties and Gtown shall execute such document if such Party so requests.

**XV. Miscellaneous:**

**A.** This Agreement constitutes the entire Agreement among the Parties with respect to the Project.

**B.** The Plans shall only be modified pursuant to the terms and conditions of this Agreement.

**C.** There shall be no change or modification of this Agreement or waiver of any of the provisions hereof except as consented to in advance and in writing by the signatures of all Parties.

**D.** **Notice.** All notices and communications hereunder shall be in writing and deemed duly given if personally delivered or mailed by certified mail, return receipt requested, postage prepaid to the following addresses:

| | |
|---|---|
| If to Gtown: | Darrin Phillips<br>Strategic Redevelopment<br>10315 Thornbush Lane<br>Bethesda, MD 20814.<br>Fax: (301) 990-0756 |
| And: | Darrin Phillips<br>Strategic Redevelopment<br>13021 Saint Clair Road<br>Clarksburg, MD 20871<br>Fax (240) 597-4474 |
| With a copy to: | John T. Epting<br>Shaw Pittman LLP<br>2300 N Street, NW<br>Washington, DC 20037<br>Fax: (202) 663-8878 |

| | |
|---|---|
| If to ANC: | Thomas Birch<br>1240 29th Street, NW<br>Washington, DC 20007<br>Fax: (202) 342-6353 |
| If to Adjacent Residents: | Gunnar Halley<br>1520 32nd Street, NW<br>Washington, DC 20007<br>E-mail: gunnarhalley@yahoo.com<br>Fax: 202-298-0662 |
| If to Jack Evans: | Councilmember Jack Evans<br>Council of the District of Columbia<br>441 4th Street, NW, Room 106<br>Washington, DC 20001<br>Fax: (202) 724-8023 |

The Parties hereto shall be responsible for notifying each other of any change of address.

Gtown shall provide the Contact Person with: (a) copies of all documents (including, but not limited to, any letters of support for the Project signed by the Adjacent Residents) filed with or submitted to the Foundation or any regulatory, administrative, historic preservation or similar entity in relation to the Project, including, but not limited to the Foundation, the OGB, the CFA, HPRB, Mayor's Agent, the DPW, and the DCRA (such copies to be provided within five (5) business days of their filing or submission; (b) notice within one (1) business day of a contract being executed for the sale each house constructed as part of the Project of such execution (which notice shall include the proposed settlement date for the sale of such house); (c) copies of the Conservation Easements prior to their registration; (d) notice within one (1) business day of any change to a settlement date for the sale of each house constructed as part of the

Project; and (e) notice within one (1) business day of the settlement of the sale of each house constructed as part of the Project of such sale.

E. Nothing in this Agreement shall be construed to make any of the Parties hereto partners or joint venturers or render any of said Parties liable for the debts or obligations of any other Party.

F. Any date specified in this Agreement which is a Saturday, Sunday, or legal holiday shall be extended to the first regular business day after such date which is not a Saturday, Sunday, or legal holiday. Any reference herein to the singular shall include the plural.

G. The date on which this Agreement is executed by the last Party shall be inserted in the first paragraph by that Party as the effective date of this Agreement.

H. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and together all of which shall constitute one and the same instrument.

I. This Agreement shall be recorded in the land records of the District of Columbia.

J. Gtown shall notify the Contact Person of any ratified contract for the sale of any of the four houses within seven calendar days of ratification.

K. The Termination of this Agreement, as provided for above, shall be recorded in the land records of the District of Columbia. .

IN WITNESS WHEREOF, the Parties hereto have signed and delivered these presents as their own free act and deed as of the date and year first hereinabove written.

Gtown 32nd LLC, a Maryland limited liability company,

WITNESS:

Mandy Hoppe

By: _____

_____,
Managing Member

Strategic Redevelopment LLC, a Maryland limited liability company,

WITNESS:

Mandy Hoppe

By: _____

_____,
Managing Member

Advisory Neighborhood Commission 2E

WITNESS:

_____

By: _____
Thomas Birch

WITNESS:

_____

_____
Councilmember Jack Evans

WITNESS:

_____

_____
David M. Halley

WITNESS:

_____

_____
Mary Coyne and William J. Kolasky

WITNESS:

_____

_____
Joseph Brittain and Jini C. Brittain

WITNESS:

_____

_____
Stanley W. Cloud

WITNESS:

_____

_____
Christina Lynne Olson

Gtown 32nd LLC, a Maryland limited liability company,

WITNESS:

By: _____

_____

_____,
Managing Member

Strategic Redevelopment LLC, a Maryland limited liability company,

WITNESS:

By: _____

_____

_____,
Managing Member

Advisory Neighborhood Commission 2E

WITNESS:

By: _____
Thomas Birch

_____

WITNESS:

_____
Councilmember Jack Evans

_____

WITNESS:

_____
David M. Halley

_____

WITNESS:

_____
Mary Coyne and William J. Kolasky

_____

WITNESS:

_____
Joseph Brittain and Jini C. Brittain

_____

WITNESS:

_____
Stanley W. Cloud

_____

WITNESS:

_____
Christina Lynne Olson

Gtown 32nd LLC, a Maryland limited liability company,

WITNESS: By: _____

_____ _____,
Managing Member

Strategic Redevelopment LLC, a Maryland limited liability company,

WITNESS: By: _____

_____ _____,
Managing Member

Advisory Neighborhood Commission 2E

WITNESS: By: _____
Thomas Birch

WITNESS: _____
Councilmember Jack Evans

WITNESS: _____
David M. Halley

WITNESS: _____
Mary Coyne and William J. Kolasky

WITNESS: _____
Joseph Brittain and Jini C. Brittain

WITNESS: _____
Stanley W. Cloud

WITNESS: _____
Christina Lynne Olson

WITNESS:

_____

Yvette G. Boone and Theodore S. Boone

WITNESS:

_____

Richard P. Theis and Roberta M. Theis

WITNESS:

_____

Cynthia S. Ely

Undersigned Darrin Phillips, residing at 13021 Saint Clair Road, Clarksburg, MD 20871, in his individual capacity hereby unconditionally and irrevocably guarantees all obligations of Gtown 32nd LLC, Strategic Georgetown, LLC, and Strategic Redevelopment, LLC under this Agreement.

WITNESS:

_____

Darrin Phillips

WITNESS:

_____

_____
Yvette G. Boone and Theodore S. Boone

WITNESS:

_____

_____
Richard P. Theis and Roberta M. Theis

WITNESS:

_____

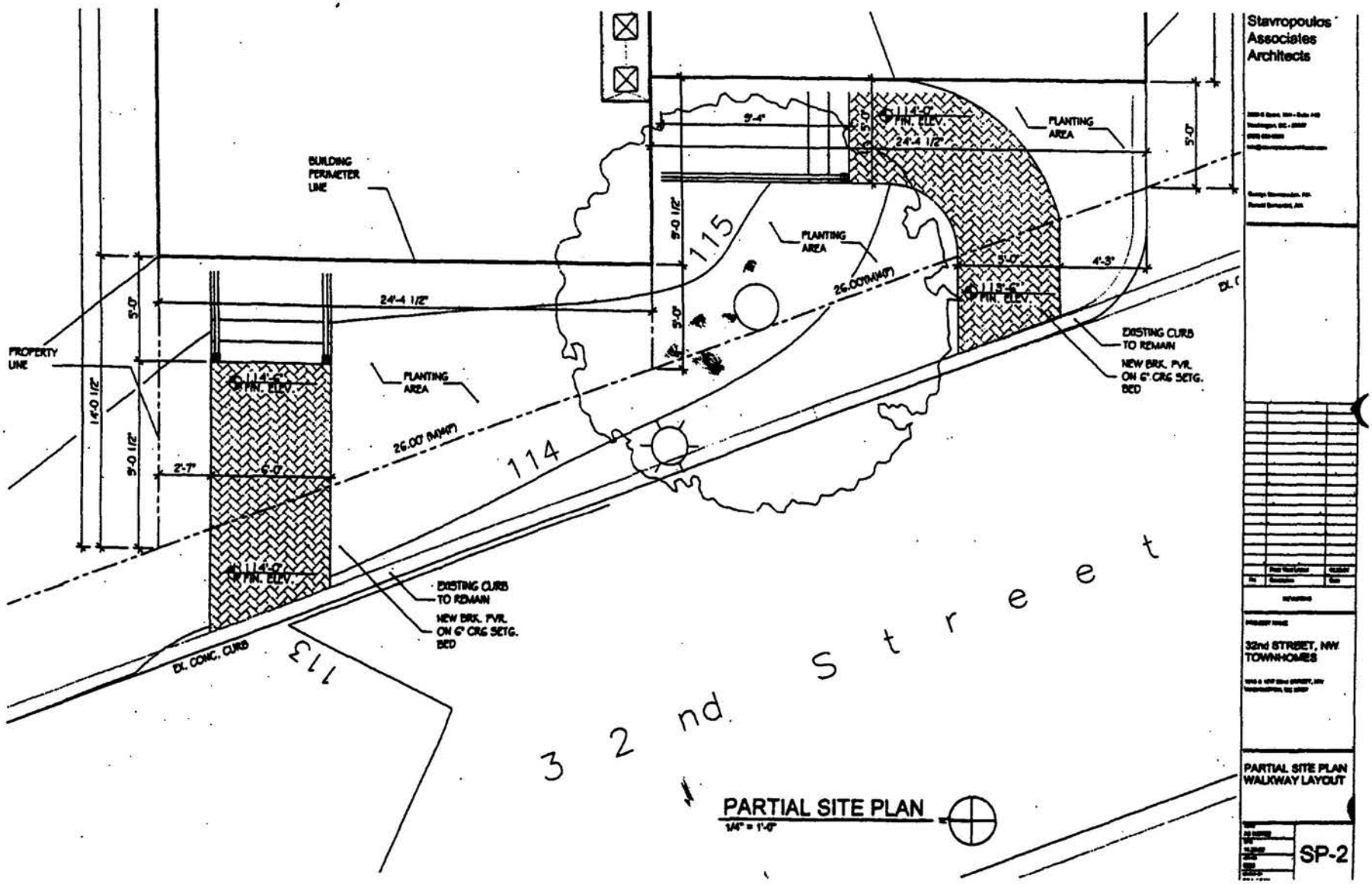
_____
Cynthia S. Ely

Undersigned Darrin Phillips, residing at 13021 Saint Clair Road, Clarksburg, MD 20871, in his individual capacity hereby unconditionally and irrevocably guarantees all obligations of Gtown 32nd LLC, Strategic Georgetown, LLC, and Strategic Redevelopment, LLC under this Agreement.

WITNESS: Mandy Hoge

_____
Darrin Phillips

**Exhibit A – Plans attached as part of Mayor's Agent review**




PARTIAL SITE PLAN
1/4" = 1'-0"

Stavropoulos Associates Architects

32nd STREET, NW TOWNHOMES

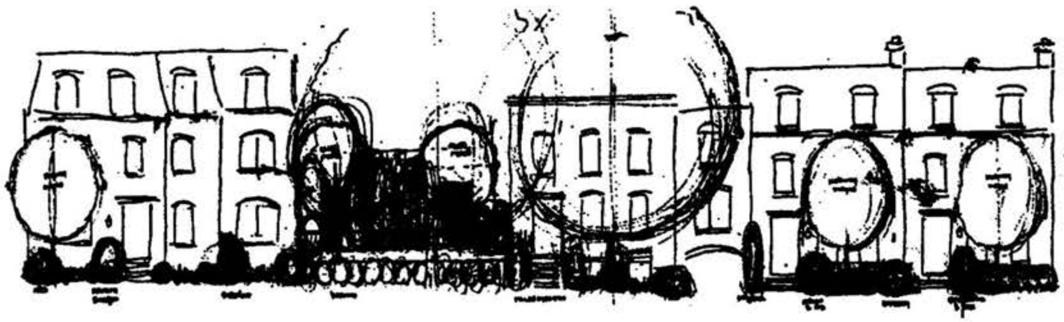
PARTIAL SITE PLAN WALKWAY LAYOUT

SP-2

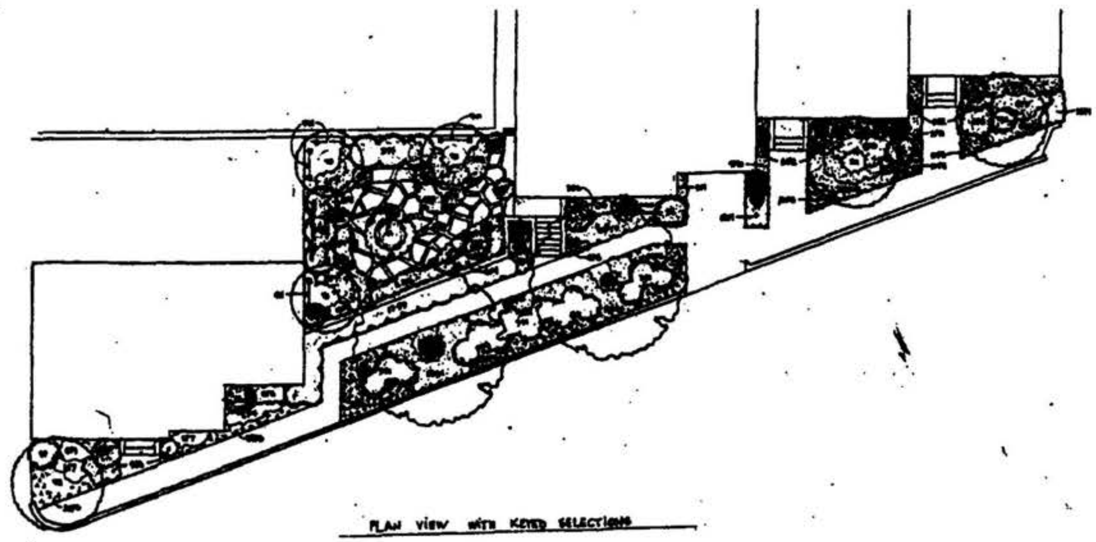
**Exhibit B – Plans**

Pool
Existing Public Alley
32nd Street N W
SEE ATTACHED LANDSCAPE PLAN
#1515 - LOT 79
- LOT AREA TOTAL: 2085.494 SQ.FT.
- PERCENTAGE OF LOT OCCUPANCY: 1260.25 SQFT. (60%)
#1517 - LOT 74
- LOT AREA TOTAL: 2085.494 SQ.FT.
- PERCENTAGE OF LOT OCCUPANCY: 1260.25 SQFT. (60%)
#1521 - LOTS 19,20
- LOT AREA TOTAL: 4266.62 SQ.FT.
- PERCENTAGE OF LOT OCCUPANCY: 1834.65 SQFT. (42.8%)
Stavropoulos Associates Architects
32nd STREET NW TOWNHOMES
SITE PLAN
SP

**Exhibit C – Plats of Green Space**



ELEVATION VIEW FROM 32ND STREET



PLAN VIEW WITH KEYED SELECTIONS

DPK
Garden
Designs

32nd STREET, NW
TOWNHOMES

LANDSCAPE DESIGN
AND ELEVATION

L1

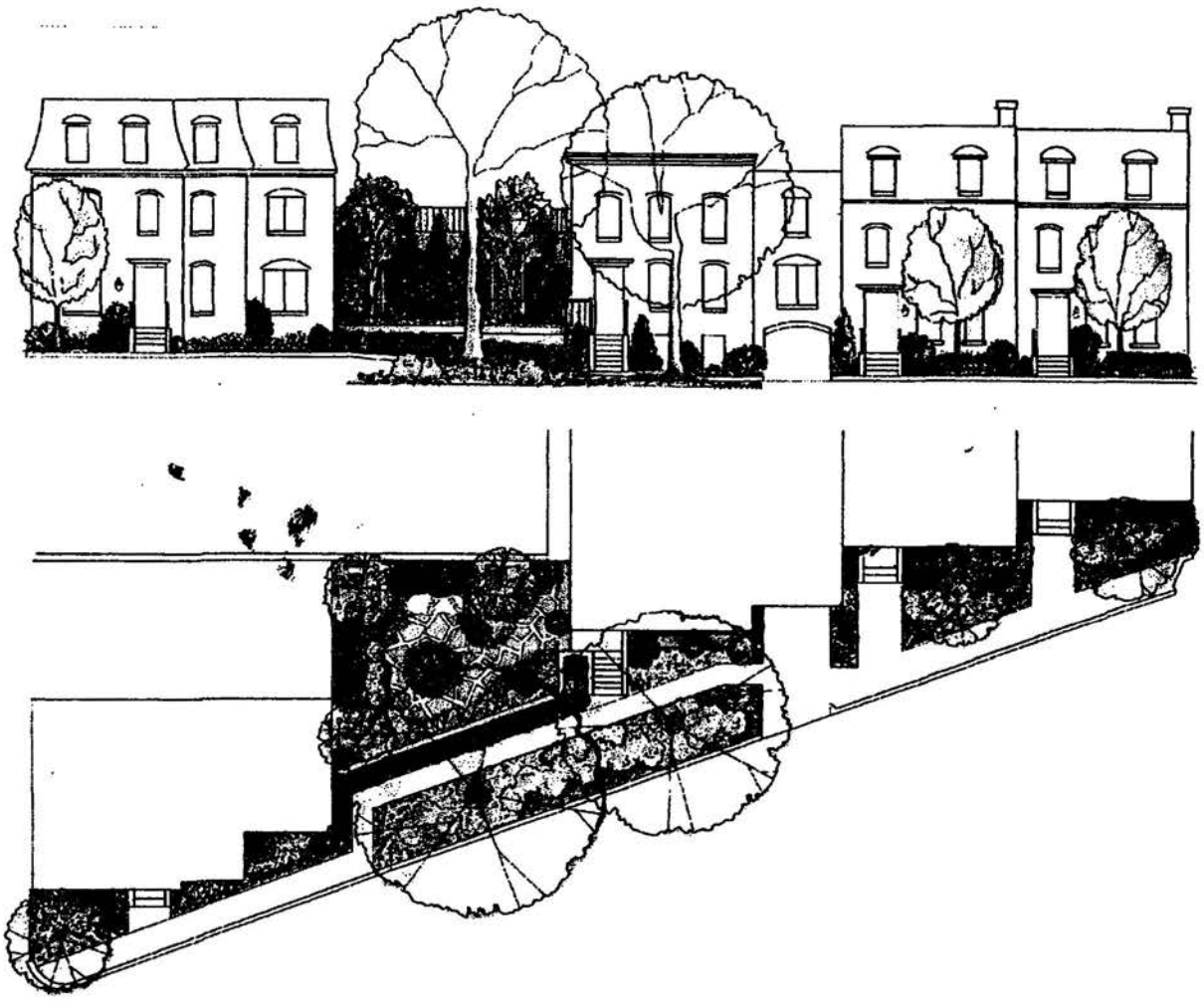


**Exhibit D – Form of Deed, Covenant and Maintenance Agreement**

Recording requested.
After recording please return to:

Shaw Pittman, LLP
2300 N Street, NW
Washington, DC 30027-1128
Attn: John Epting, Esq.

**DEED, COVENANT AND MAINTENANCE AGREEMENT**

THIS DEED, COVENANT AND MAINTENANCE AGREEMENT (this "Deed") is made as of _____, 200_ by and among **HERBERT S. MILLER** ("Grantor"), and _____ and _____ (collectively, "Grantee").

WITNESSETH:

For and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant, bargain, sell and convey, WITH SPECIAL WARRANTY OF TITLE, unto Grantee, in fee simple, all that land and premises located in Washington, D.C., and more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property").

TOGETHER WITH all improvements located in or on said property;

TOGETHER WITH all water, sewer, utility and development rights now or hereafter allocated or allocable to said property;

TOGETHER WITH all right, title and interest of Grantor in and to any land lying in the bed of any public and private streets, roads, highways, avenues, alleys, ways, waterways and creeks adjacent to said property; and

TOGETHER WITH all the rights, privileges, appurtenances and advantages thereunto belonging or appertaining.

TO HAVE AND TO HOLD the same unto the use and benefit of Grantee, its successors and assigns forever.

Grantor hereby covenants and agrees to provide Grantee, its successors and assigns, promptly following its receipt of request, such further assurances of the conveyances made pursuant to this Deed as shall be reasonably requested.

SUBJECT TO THE FOLLOWING:

Grantee agrees not to construct or install any of the following, without limitation, on the Property: any house, garage, building, addition, porch, balcony, patio, sunroom, enclosure, awning, pergola, arbor, gazebo, green house, fence, swimming pool, lap pool, hot tub, spa, outbuilding, studio, workshop, shed, tree house or play house, pond, fountain, antenna or satellite dish, flag pole, or any other structure.

Grantee agrees to maintain the exterior façade of the east facing common wall between the Property and Grantor's house having an address of ____ Q Street, NW, Washington, DC in accordance with the plans attached as Exhibit B. Grantor agrees to maintain the existing landscaping of the Property consistent with the plans and specification sets forth on Exhibit B.

Grantee agrees that within three (3) months following the date hereof Grantee shall file to have the Property combined into a single assessment and taxation lot together with Grantee's other real property described on Exhibit C. Grantee hereby covenants and agrees that Grantee shall not convey the Property to any other person or entity other than to any transferee of Grantee's other real property described on Exhibit C.

Grantor shall have the right to take such action as Grantor, in Grantor's reasonable discretion, determines to be necessary or appropriate to enforce the covenants and restrictions set forth in this instrument. Grantor shall be entitled to pursue any cause of action which may be available to Grantor at law or in equity to prevent or correct any breach, or threatened or potential breach, of such covenants and restrictions, including (without limitation) obtaining temporary and/or permanent injunctive relief to prevent or rectify any breach of this instrument.

Grantee agrees to refer to or incorporate the terms of this instrument in any deed, sales contract or other legal instrument by which Grantee divests itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Moreover, in any deed conveying all or any part of the Property, this instrument shall be referenced by Deed Book and Page Number or Instrument Number, as applicable. The failure of Grantee to perform any act required by this paragraph shall not impair the validity of this instrument.

This instrument shall be binding upon Grantee, its personal representatives, heirs, successors, and assigns, and any future owner of all or any portion of the Property, and shall constitute a servitude upon and touching the Property and shall continue as a servitude running in perpetuity with the Property. The terms and conditions of this instrument constitute real covenants, running with the land.

The grant of the restrictions, easements, rights, privileges and agreements set forth herein shall continue in perpetuity.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Deed under seal as of the date first above written.

**GRANTOR:**

_____
Herbert S. Miller

District of Columbia ) ss:

I, _____, a notary public in and for the District of Columbia, do hereby certify that Herbert S. Miller, party to a certain instrument bearing the date of _____, 200_, and hereto annexed, personally appeared before me in the District of Columbia and, being personally well known to me as the person who executed the said instrument, acknowledged the same to be his act and deed.

Given under my hand and seal this ___ day of _____, 200_.

_____
(Notary Seal) Notary Public

My Commission Expires: _____

**GRANTEE:**

_____

_____

_____

_____

District of Columbia )  ss:

I, _____, a notary public in and for the District of Columbia, do hereby certify that _____, party to a certain instrument bearing the date of _____, 200_, and hereto annexed, personally appeared before me in the District of Columbia and, being personally well known to me as the person who executed the said instrument, acknowledged the same to be his act and deed.

Given under my hand and seal this ___ day of _____, 200_.

(Notary Seal)

_____
Notary Public

My Commission Expires: _____

District of Columbia )  ss:

I, _____, a notary public in and for the District of Columbia, do hereby certify that _____, party to a certain instrument bearing the date of _____, 200_, and hereto annexed, personally appeared before me in the District of Columbia and, being personally well known to me as the person who executed the said instrument, acknowledged the same to be her act and deed.

Given under my hand and seal this ___ day of _____, 200_.

(Notary Seal)

_____
Notary Public

My Commission Expires: _____

**Exhibit A**

**Property Description**

# Exhibit B

## Landscaping Plans and Specifications

**Exhibit C**

**Grantee's Adjacent Real Property**

# PROPERTY DESCRIPTION

Lots numbered Seventy-three (73), Seventy-four (74), and Seventy-five (75), in Square numbered Twelve Hundred Seventy (1270) in a subdivision made by Herbert S. Miller and Patrice Miller, as per plat recorded in the Office of the Surveyor for the District of Columbia in Liber 192 at folio 112.

And

Lot numbered Twenty (20) in Square numbered Twelve Hundred Seventy (1270) in a subdivision made by William A. Gordon and Aubin L. Bulware, as per plat recorded in Liber A.R.S. at folio 123 among the Records of the Office of the Surveyor for the District of Columbia.

Lot numbered Nineteen (19) in Square numbered Twelve Hundred Seventy (1270) in a subdivision made by William A. Gordon and Aubin L. Boulware, as per plat recorded in Liber A.R.S at folio 123 among the records of the Office of the Surveyor for the District of Columbia.

Doc# 2005080708 Fees:$285.50
06/13/2005 1:32PM Pages 38
Filed & Recorded in Official Records of
WASH DC RECORDER OF DEEDS LARRY TODD

RECORDING $ 279.00
SURCHARGE $ 6.50