

# Exhibit 5

AGREEMENT  
FOR THE DEVELOPMENT OF THE  
ROCKEFELLER ESTATE

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THIS AGREEMENT, dated as of June 15, 1978  
between the Rozansky and Kay Construction Company (the "Developer")  
and the Coalition for Planned Environmental Development, Inc.  
("CPED").

WHEREAS, the Developer and CPED wish to provide for the  
orderly development of the Rockefeller Estate, located between  
Foxhall Road, Calvert Street, 49th and 46th Streets, in the  
District of Columbia, with due regard for human and natural  
environmental considerations and the interests of surrounding  
communities.

NOW, THEREFORE, the Developer and CPED, for good and  
valuable consideration, agree as follows:

I. ENVIRONMENTAL STANDARDS

A. Access Points And Traffic Control

1. There shall be a total of four access points  
to the project, which shall be on Foxhall  
Road, 49th Street, Calvert Street (directly  
extended) and 46th Street (directly extended),  
and a single drive serving two units on 49th  
Street.

2. There shall be no on-site roadway connections between housing units served by different access points.
3. For purposes of traffic control, CPED and the Developer shall actively cooperate in securing the following traffic signals:
  - a. signal light on Foxhall Road at W Street;
  - b. stop signs on access roads at 49th, Calvert, Foxhall and 46th; and
  - c. three-way stop sign at Calvert and 49th Streets.

B. Undisturbed Perimeter And Undisturbed Internal Areas

1. Except at the access points designated in Section A, the Developer shall maintain an "Undisturbed Perimeter" of no less than 30 feet around the entire property, measured from the exterior property lines.
2. The Developer shall designate on the Site Plan and shall maintain "Undisturbed Internal Areas."
3. The Undisturbed Perimeter and Undisturbed Internal Areas shall constitute no less than 30 percent of the entire property.
4. Within the areas of the Undisturbed Perimeter and Undisturbed Internal Areas, the Developer
  - a. shall not disturb any land form or landscape feature except to create a more effective visual buffer;
  - b. shall not grade;
  - c. shall not erect any structure, including, without limitation, housing units, private fences or walls, private terraces, decks or patios, and private driveways or roadways;
  - d. shall maintain all existing healthy trees;
  - e. shall provide and maintain new planting where necessary to create an effective visual buffer around the entire property; and

- f. shall practice effective forest management and bog improvement pursuant to a plan which shall be developed by a qualified environmental planning group chosen by the Developer, and shall be incorporated in the Site Plan.
  5. The Developer shall be permitted the seven exceptions to the Undisturbed Perimeter which are identified and described in the preliminary site plan attached hereto as Exhibit A; provided, however, that the maximum permissible encroachment on the Undisturbed Perimeter for any of the seven exceptions shall be five feet.
  6. Notwithstanding the above, the Developer, where reasonably necessary, may install underground utilities through the area of the Undisturbed Perimeter and Undisturbed Internal Areas, and may temporarily use areas extending no more than five feet into the Undisturbed Perimeter and Undisturbed Internal areas as working areas for housing units adjacent to those areas. The Developer shall install such facilities and utilize such working areas in a way which least disturbs the natural setting, shall replant and refill any disturbed areas to conform to the natural setting, and shall replace any unhealthy trees or plantings so installed in a one-year period.
- C. Tree Removal, Replacement And Planting
1. The Developer shall specify in the Site Plan all healthy trees which are to be removed from the property. No healthy trees shall be removed which are not so specified.
  2. No more than 60 percent of all healthy trees over 4" caliper (i.e., diameter measured 6" above ground) on the entire property, including the Undisturbed Perimeter and Undisturbed Internal Areas, may be removed. For every 4" or larger caliper tree removed in excess of 50 percent of all healthy trees, the Developer shall plant two 3" caliper trees at appropriate locations on the property.

3. As provided in Section B, supra, no healthy trees shall be removed from the Undisturbed Perimeter and Undisturbed Internal Areas.
4. The Developer shall specify in the Site Plan and shall implement reasonable plans for planting additional trees, shrubs and ground-covers to enhance the property.

D. Surface Drainage

The Site Plan shall contain a plan to accommodate drainage of surface waters. Such plan shall provide maximum protection for all adjacent properties and shall make maximum feasible use of existing natural drainage systems.

E. Grading

1. The Site Plan shall contain a detailed grading plan which shall employ the following land classifications:
  - a. "totally undisturbed land" -- areas comprising the Undisturbed Perimeter and Undisturbed Internal Areas;
  - b. "finely graded land" -- areas in which no healthy trees will be removed and no ground plan elevations will be altered over 6"; provided, however, that overhanging decks and ground level patios will be permitted in these areas if they comply with the stated requirements;
  - c. "land to be returned to original grade" -- areas requiring disturbance over 6" for construction purposes which will be returned to within 6" of original grade and replanted; and
  - d. "disturbed land" -- areas requiring new cuts and fills over 6" in elevational change which will not be returned to original grade.
2. The grading plan shall incorporate, and the Developer shall adhere to, the following grading standards:

- a. no less than 30 percent of the property shall be totally undisturbed land;
  - b. no less than 50 percent of the property shall be totally undisturbed land or finely graded land;
  - c. no less than 55 percent of the property shall be totally undisturbed land, finely graded land or land to be returned to original grade; and
  - d. no more than  $2/3$  of the slopes of 15 percent or greater shall be graded or otherwise disturbed.
- 3. Grading shall not affect existing stability (landscape or land form) of the Undisturbed Perimeter and Undisturbed Internal Areas.
  - 4. The Developer shall insure stabilization of all fill sites.

II. DENSITY LIMITATIONS

- A. The Developer shall not build more than 120 housing units on the property; provided, however, that if the existing Rockefeller House is removed, the Developer may build an additional six housing units on the site of the Rockefeller House in the manner of other interior crescent areas, and the percentages in Section B below shall be adjusted accordingly.
- B. Housing units shall be allocated to access points on approximately the following percentage basis:
  - 1. 49th Street . . . . . 32 percent
  - 2. Foxhall Road . . . . . 24 percent
  - 3. Calvert Street . . . . . 24 percent
  - 4. 46th Street . . . . . 19 percent

III. SITE PLAN AND PHASING REQUIREMENTS

A. Site Plan

- 1. Before any work begins, the Developer shall prepare, and the parties shall agree upon, a comprehensive Site Plan covering the entire project. The Site Plan shall adhere to all

provisions of this Agreement, and once agreed upon by the parties it shall be incorporated in and become a part of this Agreement.

2. The Site Plan shall include, without limitation, the following:
  - a. overall site plan, including delineation of Undisturbed Internal Areas, at 1" = 20' scale;
  - b. plan of access points and roadways with layout and details, at 1" = 20' scale;
  - c. site plans for all individual housing units adjacent to the Undisturbed Perimeter and associated areas of private use, at 1/8" = 1' scale;
  - d. plan and schedule of tree removal (to show all trees maintained or removed larger than 4" caliper), and 1" = 20' scale; and roadway easements;
  - e. plan with demarcation of individual lots at 1" = 20' scale;
  - f. plan and calculations for surface drainage systems, including natural and storm sewer systems, at 1" = 20' scale; and
  - g. grading plan with changes in topographic lines at 2' elevation intervals, at 1" = 20' scale.

B. Phasing

1. Except for work required for the installation of utilities (see Section I(B)(6), supra), work required for proper drainage, and work required to meet other environmental concerns as set forth in this Agreement, the Developer shall limit its activity to work within the separate phases, as follows:
  - a. no site work on the second phase shall begin until (1) clearing and grading are complete on the first phase, and (2) footings for at least half of the dwelling units in the first phase have been constructed;

- b. no site work on the third phase shall begin until (1) construction and tree replacement plantings of the first phase are substantially complete, (2) clearing and grading are complete on the second phase, and (3) footings for at least half of the dwelling units in the second phase have been constructed; and
  - c. no site work on the fourth phase shall begin until (1) construction and tree replacement plantings of the second phase are substantially complete, (2) clearing and grading are complete on the third phase, and (3) footings for at least half of the dwelling units in the third phase have been constructed.
2. Phases shall be defined according to groups of units served by access points and shall proceed as follows:
    - a. Foxhall Road
    - b. 49th Street
    - c. Calvert Street or
    - d. 46th Street

IV. OBLIGATIONS OF CPED

CPED shall:

1. cooperate with the Developer in the implementation of the Development Plan as set forth in this Agreement;
2. provide reasonable assistance to the Developer in its efforts to obtain necessary regulatory approvals for its Development Plan;
3. endeavor to dissuade persons residing in the communities represented by CPED from opposing the Development Plan; and
4. cooperate with the Developer in connection with any judicial or administrative proceeding involving the Development Plan by providing witnesses and appropriate affidavits at the Developer's request.



V. ENFORCEMENT PROVISIONS

A. Incorporation Of The Developer's Obligations In Condominium Documents

All persons acquiring ownership interests in the project to be built by the Developer shall be bound by all terms of this Agreement including the terms of the Site Plan, but not including the provisions of subsection D of this Section V ("Arbitration"). To achieve this result, the Developer shall cause all applicable terms of the Agreement to be incorporated in the pertinent condominium documents, and shall transfer the property to the condominium association (hereinafter referred to as the "Foxhall Crescents Condominium Association" or "FCCA") subject to such terms. Upon the transfer of all or any portion of the property to FCCA, subject to such terms, the Developer's obligations hereunder with respect to that portion of the property shall cease.

B. Transfer Of The Developer's Obligations Under Section I To Persons Other Than FCCA

In the event that the Developer transfers all or any portion of the property to any person or persons other than FCCA or members thereof, such persons, and their successors and assigns, shall be bound by the terms of Section I of this Agreement for a period of four years from the execution hereof. To achieve this result, the Developer shall promptly notify CPED of any proposed sale within such four-year period at least 30 days prior to the closing thereof.

C. Access To Project

CPED, through its designated planning and engineering consultants, shall have access to the project at all reasonable times for the purpose of monitoring compliance with the Agreement.

D. Arbitration

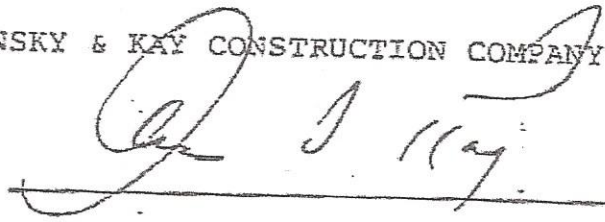
1. All disputes arising under this Agreement shall be submitted for decision to the Developer's architect, Arthur Cotton Moore. Any such submission shall be made within ten days of the arising of the dispute, and Mr. Moore's decision thereon shall be rendered, in writing, within ten days of submission. In carrying out his functions, Mr. Moore will not show partiality to either party and shall interpret the Agreement in a manner consistent with the intent of the parties. Mr. Moore shall enjoy absolute immunity from suits and claims in performing these functions.
2. In the event that either party is dissatisfied with Mr. Moore's decision, arbitration may be demanded. Such demand shall be made in writing within ten days after the rendering of Mr. Moore's decision, and copies shall be mailed to Mr. Moore and to the parties. Such demand shall state the particular respects in which the aggrieved party feels that Mr. Moore has failed to interpret correctly or enforce the Agreement. The failure to demand arbitration within ten days of Mr. Moore's decision will result in Mr. Moore's decision becoming final and binding upon the parties.
3. Upon receipt of such demand for arbitration, Mr. Moore shall immediately confer with the designated representative for CPED for the purpose of selecting a mutually acceptable third party to arbitrate further the dispute. Such third party shall be selected on the basis of his or her particular expertise respecting the type of subject in dispute and on the basis of his or her availability promptly to hear and decide the dispute.

parties are unable to agree on such reasonable modifications, then this Agreement shall, upon 30 days written notice by either party, be cancelled and nullified.


- B. Notwithstanding the foregoing provision, the Developer may not exercise its right to terminate this Agreement after site work has begun on the second phase of the project in accordance with the provisions of Article III(B) above.

IN WITNESS WHEREOF, the Developer and CPED have caused this Agreement to be executed to their duly authorized officers, as of the day and year first above written.

ROZANSKY & KAY CONSTRUCTION COMPANY

By: 

COALITION FOR PLANNED ENVIRONMENTAL DEVELOPMENT, INC.

By:   
President 6115178