

MEMORANDUM OF UNDERSTANDING
BETWEEN ANC 6B AND WATKINS ALLEY, LLC
FOR DEVELOPMENT AT 1309-1323 E STREET SE

This Memorandum of Understanding (the "**MOU**" or "**Agreement**") is made this ____ day of March 2016 by and between Watkins Alley, LLC, a District of Columbia limited liability company ("**WA**") or its successors and assigns, and Advisory Neighborhood Commission 6B ("**ANC 6B**") for the benefit of the Neighbors (as defined below). WA and the ANC are collectively referred to herein as the "**Parties.**"

UNDERSTANDING OF THE PARTIES

WHEREAS, WA is the owner of the property located at 1309-1323(rear) E Street SE (Square 1043, Lots 142 & 849-851) and 516(rear) 13th Street SE (Square 1043, Lot 859) in the District of Columbia (the "**Property**" or "**Subject Property**");

WHEREAS, the Subject Property is within the boundaries of ANC 6B;

WHEREAS, WA intends to construct a new multi-family building with 44 residential units and underground parking spaces on the Property (the "**Project**");

WHEREAS, WA has applied for approval of a planned unit development ("**PUD**") and related Zoning Map Amendment from the D.C. Zoning Commission ("**ZC**") in Case No. 15-13 (the "**ZC Case**");

WHEREAS, there exists a public alley system, with widths ranging from approximately 16 – 30 feet, that serves Square 1043 and abuts the Property (the "**Alley System**") [See Exhibit A];

WHEREAS, the entrance to the underground parking for the Project will be from the western portion of the Alley System;

WHEREAS, the "Community Members" shall mean the owners and/or residents of the properties within the boundaries of ANC 6B;

WHEREAS, the "Neighbors" shall mean the owners and/or residents of the properties within 200 feet of the Property as listed in Exhibit 1F of the record for the ZC Case;

WHEREAS, "Adjoining Properties" shall mean the owners of the below listed properties:

1. 500 13th Street SE, Washington DC 20003
2. 502 13th Street SE, Washington DC 20003
3. 504 13th Street SE, Washington DC 20003
4. 506 13th Street SE, Washington DC 20003
5. 508 13th Street SE, Washington DC 20003

6. 516 13th Street SE, Washington DC 20003
7. 518 13th Street SE, Washington DC 20003

WHEREAS, “Neighboring Properties” shall mean the owners of the below listed properties:

1. 500 13th Street SE, Washington DC 20003
2. 502 13th Street SE, Washington DC 20003
3. 504 13th Street SE, Washington DC 20003
4. 506 13th Street SE, Washington DC 20003
5. 508 13th Street SE, Washington DC 20003
6. 510 13th Street SE, Washington DC 20003
7. 512 13th Street SE, Washington DC 20003
8. 514 13th Street SE, Washington DC 20003
9. 516 13th Street SE, Washington DC 20003
10. 518 13th Street SE, Washington DC 20003
11. 520A 13th Street SE, Washington DC 20003
12. 520B 13th Street SE, Washington DC 20003
13. 520 ½ A 13th Street SE, Washington DC 20003
14. 520 ½ B 13th Street SE, Washington DC 20003
15. 522A 13th Street SE, Washington DC 20003
16. 522B 13th Street SE, Washington DC 20003
17. 524A 13th Street SE, Washington DC 20003
18. 524B 13th Street SE, Washington DC 20003
19. 526A 13th Street SE, Washington DC 20003
20. 526B 13th Street SE, Washington DC 20003
21. 528A 13th Street SE, Washington DC 20003
22. 528B 13th Street SE, Washington DC 20003
23. 530 13th Street SE, Washington DC 20003
24. 532 13th Street SE, Washington DC 20003
25. 534 13th Street SE, Washington DC 20003
26. 1323 E Street SE, Washington, DC 20003
27. 1325 E Street SE, Washington, DC 20003
28. 1327 E Street SE, Washington, DC 20003
29. 1329 E Street SE, Washington, DC 20003
30. 1331 E Street SE, Washington, DC 20003
31. 1333 E Street SE, Washington, DC 20003
32. 1335 E Street SE, Washington, DC 20003
33. 1337 E Street SE, Washington, DC 20003

NOW THEREFORE, provided that ANC 6B supports the Project and the ZC Case (“support” shall be indicated by a majority vote of the ANC on a resolution or motion recommending approval of the ZC Case), WA agrees to the following:

DESIGN

1. Landscaping: WA will follow all DDOT standards and guidelines for the protection of existing trees and addition of new trees in the public space surrounding the Property. WA will ensure that the post-construction quantity of trees in public space adjacent to the Property is equal to or greater than the current quantity of trees in public space adjacent to the Property.

CONSTRUCTION

2. Point Person: WA will designate a "point person" who will provide his/her name, email and cell phone number to ANC 6B to disseminate to the Community Members as well as posted on a placard on the construction fence. This person will be available during demolition, environmental remediation, and construction to address Community Members' concerns.
3. Hours of Construction: WA and its contractors will not engage in any construction activities including standing, idling, reversing or staging of trucks, other than emergency repairs, before 7AM and after 7PM Monday - Friday, or before 8AM and after 7PM on Saturday. WA and its contractors will not engage in any construction, other than emergency repairs, on Sundays or Federal holidays.
4. Rodent Control: WA will hire a pest control company to manage rodents and other pests at the Subject Property prior to demolition and during the course of construction. Non-toxic, chemical-free pest control measures will be used as appropriate. Such measures shall also be extended to the exterior of Adjoining Properties at WA's expense.
5. Property Surveys: WA will conduct pre-construction surveys (including, but not limited to, photographic and video documentation) of Neighboring Properties. The pre-construction surveys of these properties will be used to document property conditions and to serve as a basis for insurance claims and maintenance reimbursement claims for those properties. If WA is not permitted full access to a property to conduct a survey, then such property owner will not have any right to make a claim for reimbursement or repair under Paragraph 6 below. WA will also conduct periodic visual assessments of the exterior of Neighboring Properties throughout construction. Settlement monitoring will be provided to any Adjacent or Neighboring properties during construction as deemed essential by a 3rd party engineer.
6. Maintenance Reimbursement: WA will repair or reimburse property owners of Neighboring Properties for damage directly resulting from construction of the Project. A licensed third-party inspection firm will determine whether the damage directly resulted from the Project. WA shall be permitted to adjust any claims of damage under the applicable insurance policy before being compelled to perform repairs. All reimbursement claims must be filed within 3 months after issuance of a Certificate of Occupancy for the Project. Claims filed during the construction and extended claim periods will trigger an inspection by WA or its designated representative.

7. Access to Alley System: During construction, WA will make all commercially reasonable efforts to ensure that the Alley System remains open so that Neighboring Property owners/residents may come and go from their parking spaces. In the event that a temporary alley closure or blockage is necessary, WA will provide 72 hours prior notice to owners of any Neighboring Properties with alley access, except in cases of emergency. In cases of emergency, WA will make every reasonable effort to notify owners and/or residents of Neighboring Properties with alley access of an alley closure as soon as possible. If a temporary alley blockage will occur outside of construction hours, then WA will work with affected owners of Neighboring Properties with alley access to find a mutually-agreeable solution to the issues caused from blocking alley access including, but not limited to, the inability of Neighboring Properties to access their parking spaces.
8. Construction Dust: WA agrees to follow all District of Columbia regulations throughout the razing of the existing buildings, excavation of the foundation, and during the building construction including a plan to control dust using water during the raze phase. Additionally, the buildings will go through a full remediation and removal of all hazardous materials prior to being razed. WA will use all commercially reasonable efforts to minimize the generation of dust. WA agrees to clean the exterior windows of Adjoining Properties on a semi-annual basis during construction. WA agrees to clean the exterior of Adjoining Properties, as well as those at 520 through 528 13th Street SE, at the end of construction to remove all dust and debris caused by construction activities.
9. Construction Noise: WA will include a provision in its agreement with a Contractor to use commercially reasonable efforts to minimize noise in accordance with all District of Columbia regulations during excavation and construction. WA will provide at least 10 days notice to ANC 6B of when to expect the greatest impacts due to construction noise, which is anticipated to be demolition of the existing buildings.
10. Construction Vehicle Transportation Management: All truck and other construction-related traffic to and from the Property during construction will use commercially reasonable efforts to utilize E Street SE to the maximum reasonable extent. WA will use commercially reasonable efforts to ensure that construction-related vehicular access to the Property will be as limited as possible in the alley system, particularly in the narrowest north-south portion.
11. Construction Worker Parking: WA will work in good faith with DDOT, DPW, ANC 6B, and the Contractor to minimize construction vehicle parking in RPP zones. Prior to the commencement of construction, WA will present a construction vehicle management plan to ANC 6B for review and comment.
12. Trash Removal: WA, or its contractors, will promptly remove all trash and construction debris from any adjoining public space that is accessible to pedestrians and not otherwise permitted for temporary occupancy by WA.

13. Pedestrian Passageways: During construction, WA will ensure compliance with DDOT's regulations for safe accommodation of pedestrians and bicyclists (DCMR 24-3315). Furthermore, WA will ensure that all accommodation maintains a pedestrian passage on the south side of the 1300 block of E Street SE. Final construction staging plans, including pedestrian passageways, will be subject to review and comment by ANC 6B and Community Members.
14. Construction Fencing: Prior to the commencement of Construction, WA will erect and maintain construction fencing in order to screen the Property and limit dust and other impacts on the community. WA shall maintain fences free of graffiti and in good order and repair. All construction materials and equipment, including portable toilets, will be located behind the construction fence for the duration of construction.
15. Disruption of Utility Service: WA shall notify any affected properties 72 hours in advance of known utility service disruption resulting from construction activities at the Property.
16. Construction Schedule: At least seven (7) days before WA starts construction on the Project, WA will provide an estimated construction schedule to ANC 6B and to the Neighboring Properties.
17. Public Space Permits: WA will not seek any public space occupancy permits for construction staging for any part of the alley system that is less than 30 feet wide.
18. Coordination: Before and during construction of the Project, WA shall use its best efforts to consult and coordinate with Insight Property Group on transportation management, alley system operations, and construction issues as they affect the Neighboring Properties.

CONSTRUCTION LIAISON COMMITTEE

19. Committee Formation: WA, ANC 6B, and Community Members will establish a five-person Construction Liaison Committee that shall include two representatives of WA, two representatives of the Community Members, and one representatives of ANC 6B (the "Construction Liaison Committee"). The Construction Liaison Committee may also include one representative from Insight Property Group if they so choose.
20. Committee Responsibilities: The Construction Liaison Committee will serve as a recipient of notices, information, warnings and other items of communication which affect or may affect the Community Members. Additionally, the Construction Liaison Committee will be provided with all construction staging and traffic control plans for review and comment prior to approval from DCRA, DDOT, or other municipal agencies.
21. Term: The Construction Liaison Committee will be dissolved and eliminated 3 months after the Project receives a certificate of occupancy.

THE ALLEY SYSTEM

22. Alley Lighting, Security & Mirrors: WA will install additional alley lighting on the Project. Such lighting on private property will be coordinated with Neighboring Properties. Security cameras monitoring the Alley will be installed on the finished Project. Any security cameras on the Project must not be pointed directly at adjacent property windows or on their backyards and must have recording capability. WA will install mirrors on the Project, to the extent permitted by DDOT, to assist drivers in the alley with seeing oncoming traffic and traffic entering/exiting garages and parking spaces.
23. Snow Plowing: The condominium association that governs the Project shall be responsible for plowing snow in the alley system adjacent to the Property whenever more than 3 inches of snow falls in one event.
24. Management: WA will work with its transportation consultants and DDOT to identify the best commercially reasonable approaches for improving the safety and use of the alley system. WA will consult with Insight Property Group and the DDOT facilities in the alley system as these measures are developed and implemented.

OPERATIONS

25. Building Operations Contact: WA will designate a "building operations contact" and will provide his/her name, email and cell phone number to ANC 6B to disseminate to the owners of Neighboring Properties and other Neighbors as requested. This person will be available to address all concerns related to the operation of the building.
26. Loading Management Plan: WA will implement a loading management plan for the Project, as described in Exhibit 14I of the record for the ZC Case. WA will identify a clear point of contact (e.g. loading coordinator) for questions/concerns about loading issues.
27. Sanitation Collection: WA will ensure that contracts with any sanitation company will limit trash collection to the hours of 9AM-5PM and that trash and recycling receptacles will not be left or stored outside the building at any point. The sanitation company will not completely obstruct the alley or park its trucks in the alley.
28. Residential Move-ins & Move-outs: WA will ensure that residential move-ins and move-outs will be limited to the hours of 9AM-5PM Monday through Saturday, and moving trucks will not stand or park in the alley but must occupy the loading area.
29. Pedestrian Passageway: The pedestrian passageway from E Street through the project site shall remain open and unobstructed at all times for the life of the Project. This section shall survive the termination of this Agreement and shall not be changed by any actions of the condominium association for the Project.

30. Parking Spaces: Parking spaces in the Project that are unallocated to Project residents shall be available for rent or purchase to residents of ANC 6B. Residents of the Project shall be permitted to rent their parking spaces to other residents of ANC 6B.
31. Parking Information: WA (or the condominium association) shall provide data to ANC 6B on parking space utilization in the Project. WA (or the condominium association) shall not be required to provide such data more often than once every six (6) months.

EFFECT OF AGREEMENT

32. No Approval: If the ZC does not approve the ZC Case, then this Agreement shall be null and void.

MISCELLANEOUS

33. Enforcement: If a majority vote of the ANC determines that WA has not fulfilled its obligations under this Agreement, then any Community Member shall be permitted to take all necessary legal action to enforce this Agreement.
34. Entire Agreement: This Agreement constitutes the entire Agreement between the Parties hereto, and no party is liable to the other or bound in any manner by express or implied warranties, guarantees, promises, statements or representations pertaining to the subject matter hereof unless such warranties, guarantees, promises, statements, or representations are expressly and specifically set forth herein.
35. Choice of Law: All parts of this Agreement shall be governed by and construed in accordance with the laws of the District of Columbia.
36. Modifications: Modifications, waivers, and consents regarding this Agreement shall only be binding if in writing and signed by both Parties.
37. Succession: This Agreement shall be binding upon and shall inure to the benefit of WA and ANC 6B, and their respective heirs, successors, and assigns.

Watkins Alley, LLC,
a District of Columbia limited liability company

By: 
Name: Sean Ruppert
Title:

Advisory Neighborhood Commission 6B

By: 
Name: Kirsten Oldenburg
Title: Chair