Parent "prev. decission"

IN RE: **PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE**	*	BEFORE THE
S/S Greenridge Road, E/S York Road **(1205 and 1209 York Road)**	*	ZONING COMMISSIONER
9th Election District 3rd Council District	*	OF BALTIMORE COUNTY
	*	Case No. 05-583-SPHXA
Louis Mangione, et al Petitioners	*	

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance relief, filed by the owners of the subject property, Louis Mangione and Rosemary Mangione Juras, by their attorney, Joseph C. LaVerghetta, Esquire. The Petitioners request a special exception to allow a Class B office building in the Residential-Office (R-O) zone, pursuant to Section 204.3.B.2 of the B.C.Z.R. In addition, special hearing relief is sought, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve: **1)** 100% medical offices in lieu of the maximum allowed 25% (Lot 2), and **2)** an amendment of all prior zoning relief and associated site plans and confirmation that a Residential Transition Area (RTA) is not applicable (Lots 1A, 1B and 2). Petitioners also request confirmation that the parking on Lot 1B is permitted and accessory to the two office buildings and that a use permit is not required for parking in a residential zone R-O and the Office Building-Residential (OR-1) zone for Lots 1A, 1B and 2. In the alternative, Petitioners request approval of a Use Permit for parking in a R-O zone and the OR-1 zone, pursuant to Sections 204.3.C.2 and 409.8.B of the B.C.Z.R. for Lots 1A, 1B and 2. Lastly, variance relief is requested from the B.C.Z.R. as follows: **1)** From Section 204.3.B.2.a to permit up to 100% medical offices in lieu of the maximum allowed 25% for the proposed building on Lot 2; **2)** from Section 204.3.C.2 to permit the parking on Lot 1B as accessory to the two office buildings and confirm that a Use Permit is not required for parking in a R-O and the OR-1 zones (Lots 1A, 1B,

ORDER RECEIVED FOR FILING
Date 7/24/05
By

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and 2); **3)** from Section 204.4.C.5 to permit a rear yard setback of 15 feet in lieu of the required 30 feet (Lot 2); **4)** from Section 204.4.C.7 to permit a 2.25-acre lot size in lieu of the maximum allowed 1.0 acre (Lot 2); **5)** from Section 204.4.C.9.c(1) to permit a 10-foot side landscape buffer in lieu of the required 20 feet; **6)** from Section 204.3.C.2, if necessary, to permit parking in the front yard in lieu of the side and rear yard (Lot 2); **7)** from Section 204.4.C.2 to permit a building height of 42'-8" in lieu of the maximum allowed 35', or, if deemed necessary, a building height of 46'-8" in lieu of the maximum allowed 35' (Lot 2); and **8)** for any other zoning relief as may be deemed necessary by the Zoning Commissioner. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing on behalf of the Petitioners were John D. Mangione; Rick Hoehn and Mitchell Kellman, representatives of Daft-McCune-Walker, Inc., the consultants who prepared the site plan for this property; and Joseph C. LaVerghetta, Esquire, attorney for the Petitioners. Also appearing in support of the request were Conrad Poniatowski and Larry Townsend, the President and Vice President of the Dulaney Valley Improvement Association (DVIA), the community in which the subject property(s) is located. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located near the southeast corner of the intersection of Greenridge Road and York Road in the heart of Lutherville. The property is located with frontage on York Road to the west, Greenridge Road to the north, and Tenbury Road to the east, and is situated just north of the Baltimore Beltway (I-695) exit for northbound York Road (Exit 26). The property is comprised of six contiguous parcels, which are collectively identified on the site plan as Lots 1A, 1B and 2, and contain a combined gross area of 5.70 acres, more or less, split zoned OR-1, R-O, and D.R.5.5. As shown on the site plan, Lot 1A is a rectangular shaped parcel containing 1.64 acres in area, located immediately adjacent to York Road. Lot 1A is improved with a 4-story brick building, known as 1205 York Road, which contains mostly medical offices, and the corporate business offices for the

Date 11/20/15
By

Mangione Family. An accessory parking area is located to the rear of that structure. Lot 1B is a roughly P-shaped parcel, with narrow frontage on York Road; however, widens to the rear of Lot 1A. Lot 1B contains 1.81 acres in area and is improved with a building that is used for commercial purposes in conjunction with the Mangione Family business operations. Lot 2, which is located immediately adjacent to the southwest corner of Greenridge Road and Tenbury Road and abuts Lot 1B to the north, contains a gross area of 2.5 acres, entirely zoned R-O, and is improved with a dwelling.

The Petitioners propose to raze the existing dwelling on Lot 2 and construct a three-story office building on that portion of the property, to be known as 1209 York Road. In addition, the building on Lot 1B will be removed and the existing parking area expanded to provide additional parking that will be shared by both buildings. The proposal is more particularly shown on the site plan submitted into evidence as Petitioner's Exhibit 1, and the architectural rendering marked as Petitioner's Exhibit 2. Essentially, Lots 1A and 1B would be combined to serve both the existing and proposed office buildings. Together, these lots (1A and 1B) contain a gross area of 3.66 acres, split zoned OR-1, R-O and D.R.5.5, and provide the required Floor Area Ratio (FAR), amenity open space, parking and storm water management for the existing office building.

Mr. LaVerghetta proffered the testimony on behalf of John Mangione, Rick Hoehn and Mitchell Kellman. Testimony and evidence was presented regarding the surrounding locale and existing and proposed improvements. Testimony indicated that the property is bounded to the north, south and west with a combination of commercial retail and office uses, including the First Financial Credit Union, the Heaver Plaza and the Maryland Fire Museum. The western side of York Road between the Beltway and Seminary Avenue is also developed commercially. To the east, on the other side of Tenbury Road, is the residential community of Dulaney Valley. In this regard, the Petitioners have obtained the support for their development from the Dulaney Valley Improvement Association and presented into evidence an executed, written agreement between the parties, dated August 24, 2004, which stipulates certain terms and conditions of that support. Copies of both the Agreement and Amendment thereto, were submitted into evidence and marked

UNDER RECEIVED FOR FILING
Date 7/21/15
By

as Petitioner's Exhibits 8 and 7, respectively, and are incorporated herein and made a part hereof. As evidenced by these Agreements, there have been extensive negotiations between the Petitioners and the community with respect to this project.

Special hearing relief is requested to approve 100% use of the proposed building for medical offices and to confirm that RTA is not applicable and that a use permit for parking is not necessary. In addition, alternative variance relief is requested to allow 100% medical office use in lieu of the maximum allowed 25%, and to permit parking on Lot 1B as accessory to the two office buildings and confirm that a use permit for same is not required. In this regard, testimony indicated that the existing building on Lot 1A is almost entirely used for medical offices. Moreover, it was indicated that other similar medical-use office buildings exist within the vicinity. Thus, the proposed use appears consistent and appropriate at this location. Further testimony indicated that the proposed building will be located on the lot in such a manner so as to be harmonious with its immediate neighbors and provide the least intrusive effect upon the neighboring residential properties to the east. Moreover, the large parking field that will serve the two buildings will be located in the center portions of the property on Lot 1B. Given the use of the buildings, the shared parking arrangement between the two, and the zoning of the various contiguous parcels, I find that RTA requirements are not applicable in this instance. I further find that a use permit for parking is unnecessary, given the combined use of the parcels and the location of shared parking areas. Thus, those portions of the Petitions for Special Hearing and Variance shall be dismissed as moot.

Finally, certain other variance requests were made, due to the unique configuration of the property, the location of existing improvements thereon, and its location immediately adjacent to three public roadways. The variance request to permit a 15-foot rear yard setback is acceptable to the affected neighbor and will provide a benefit to the community by preserving and increasing the landscape buffer area along the west side of Tenbury Road. In addition, the variance to permit a 10-foot landscape buffer is from an internal lot line between Lots 1B and 2 and thus, is appropriate. I also find that the area variance is appropriate in this instance and consistent with the R-O zoning classification for this property, which was established as the result of the 2004

ORDER RECEIVED FOR FILING
Date 7/21/05
By

Comprehensive Rezoning Process. It is clear that without the requested variance relief, a practical difficulty and unreasonable hardship will result in that Lot 2 would otherwise not be developable consistent and appropriate with its underlying zoning classification.

Alternative variance relief is also requested relative to the height of the proposed building. In this regard, testimony indicated that the building has been designed with a 4-foot high parapet wall atop the roof to shield the HVAC system. Relief is requested if the height of the parapet wall must be considered when calculating the height of the building. Section 300.1 of the B.C.Z.R. states specifically that height limitations shall not apply to...parapet walls which extend not more than four feet above the limiting height...provided that any such structure shall not have a horizontal area greater than 25% of the roof area of the building. Thus, I find that the variance request to allow a 46'8" building height is not required as the additional height requested is for screening roof top equipment only and not enclosed building area. I further find that the variance request to permit a 42'8" building height in lieu of 35' should be granted. The proposed building height is compatible with the existing office uses in the area and the lot is proportionate in area with the building height.

After due consideration of all of the testimony and evidence presented, I am persuaded to grant the requested relief. I find that the Petitioners have met the requirements of Section 502.1 for special exception relief to be granted. I find that the proposed medical office building is appropriate in this instance and consistent with existing uses in the area. I further find that the requested amendments are appropriate in order to reflect the proposed modifications. Finally, I find that the variance requests are appropriate and will not adversely impact adjacent properties. There were no adverse Zoning Advisory Committee comments submitted by any County reviewing agency and the neighboring community supports the proposal as evidenced by the Agreement/Amendment incorporated into the record of this case. Thus, I find that the relief requested will not be detrimental to the health, safety and general welfare of the surrounding locale and that the proposal meets the spirit and intend of the B.C.Z.R.

ORDER RECEIVED FOR FILING
Date 7/21/15
By

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the Petitions for Special Hearing, Special Exception and Variance shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 26th day of July 2005 that the Petition for Special Exception to allow a Class B office building in the R-O zone, pursuant to Section 204.3.B.2 of the B.C.Z.R., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing seeking relief, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve: **1)** 100% medical offices in lieu of the maximum allowed 25% (Lot 2), and **2)** an amendment of all prior zoning relief and associated site plans and confirmation that RTA is not applicable (Lots 1A, 1B and 2), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing seeking confirmation that parking on Lot 1B is permitted and accessory to the two office buildings and that a use permit is not required for parking in a residential zone R-O and the OR-1 zone for Lots 1A, 1B and 2, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the B.C.Z.R. as follows: **2)** from Section 204.3.C.2 to permit the parking on Lot 1B as accessory to the two office buildings and confirm that a Use Permit is not required for parking in a residential zone R-O and the OR-1 zone (Lots 1A, 1B, and 2), **3)** from Section 204.4.C.5 to permit a rear yard setback of 15 feet in lieu of the required 30 feet (Lot 2); **4)** from Section 204.4.C.7 to permit a 2.25-acre lot size in lieu of the maximum allowed 1.0 acre (Lot 2); **5)** from Section 204.4.C.9.c(1) to permit a 10-foot side landscape buffer in lieu of the required 20 feet; **6)** from Section 204.3.C.2 to permit parking in the front yard in lieu of the side and rear yard (Lot 2); and **7)** from Section 204.4.C.2 to permit a building height of 42'-8" in lieu of the maximum allowed 35' (Lot 2), in accordance with Petitioner's Exhibits 1 and 3, be and is hereby GRANTED, subject to the following restrictions:

Date 7/26/05
By

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with all of the terms and conditions set forth in the Agreement entered into by and between the Petitioners and the Dulaney Valley Improvement Association, dated August 24, 2004 (Petitioner's Exhibit 8) and Amendment No. 1, dated June 24, 2005 (Petitioner's Exhibit 7). Copies of the Agreement and Amendment No. 1 have been incorporated into the record of this case and made a part of this Order.

3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the alternative special hearing relief seeking approval of a Use Permit for parking in a residential zone and the OR-1 Zone, pursuant to Sections 204.3.C.2 and 409.8.B of the B.C.Z.R. for Lots 1A, 1B and 2, be and is hereby DISMISSED AS MOOT; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from, 1) Section 204.3.B.2.a to permit up to 100% medical offices in lieu of the maximum allowed 25% for the proposed building on Lot 2, as well as that portion of 7) from Section 204.4.C.2 pertaining to a building height of 46'8" which is deemed not necessary, be and are hereby DISMISSED AS MOOT.

IT IS FURTHER ORDERED that any appeal of this decision must be entered within thirty (30) days of the date hereof.

WJW:bjs

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

UNDER REVIEW FOR FILING
Date 7/24/06
By

PETITIONER'S

EXHIBIT NO. 8

AGREEMENT

THIS AGREEMENT (the "Agreement") is made this day of 24th August 2004, by and between the following: DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC., a Maryland corporation, hereinafter known as **"DVIA"**, Party of the First Part, and NICHOLAS B. MANGIONE, SR. & MARY C. MANGIONE, his wife, residents of Baltimore County, Maryland, hereinafter known as **"Mangione Senior"**, LOUIS MANGIONE, a resident of Baltimore County, Maryland, hereinafter known as **"LM"**, ROSEMARY MANGIONE JURAS, a resident of Howard County, Maryland, hereinafter known as **"RMJ"**, and M-10RESIDENTIAL LAND DEVELOPMENT, INC., a Maryland corporation, and hereinafter known as **"M-10"**, (Mangione Senior, LM, RMJ and M-10 are sometime collectively referred to as **"Mangione"**, and or their successors and assigns, Parties of the Second Part.

RECITALS

WHEREAS: DVIA, a legally chartered community association in the State of Maryland, is the authorized representative of the community neighborhood in the proximate vicinity of the Land (as hereinafter described) authorized and empowered to represent and bind the community on issues of interest and importance to the community including but not limited to zoning, land use and land development; and

WHEREAS: Mangione Senior, LM and RMJ are the land owners of the Land (hereinafter described) forming the subject of this Agreement; and

WHEREAS: M-10 is a corporate entity owned and controlled by the ten children of Mangione Senior and engaged in the business of land development, and by a separate agreement will contract to acquire the development rights of the Land (hereinafter described) subject to this Agreement for the purpose of developing the Land; and

WHEREAS: The Land subject to the terms and conditions of this Agreement is identified and described as follows: all being shown on Baltimore County Tax Map 61, Grid 19, and located in Lutherville, Maryland 21093, east of York Road, south of Greenridge Road, and either immediately east or west of Tenbury Road:

1. Parcel 97, Tax # 09-0908300573 and owned by LM and RMJ
2. Parcel 98, Tax # 09-2100009770 and owned by LM and RMJ
3. Parcel 99, Tax # 09-0908300572 and owned by LM and RMJ
4. Parcel 99, Tax # 09-0908300571 and owned by LM and RMJ
5. Parcel 100, Tax # 09-0907000010 and owned by Mangione Senior
6. Parcel 124, Tax # 09-0903000120 and owned by Mangione Senior
7. Parcel 216, Tax # 09-0919270910 and owned by Mangione Senior

and hereafter known as the **"Land"**; and

WHEREAS: Mangione Senior, LM and RMJ have applied for zoning reclassification of certain selected Parcels of the Land (a portion of those west of Tenbury

Date 7/26/05 By

Pet #3

Road), namely, Parcel 98, Pt. Parcel 99, and Parcel 100 through the Baltimore County CZMP-2004 process (Issues: 3-050 and 3-051) to change the zoning classification from DR5.5 to RO (the **"Zoning Reclassification"**) for the purpose of erecting an office building and parking structure on these Parcels and to construct additional parking and new ingress and egress on Parcels 97, 99, 100 and 216 for the proposed new construction and the existing commercial operation at 1205 York Road, with all of the described improvements to be known as and hereafter described as the **("1205 Complex")**;

WHEREAS: Mangione Senior, LM, RMJ, and M-10 in consideration of DVIA's support and recommendation for approval of the Zoning Reclassification and the Commercial Renderings (hereinafter defined) agree to abandon any commercial use of Parcel 124 of the Land as provided for by the Baltimore County Zoning Code for DR3.5 zoned land, and to further enter into this Agreement to establish the agreements between the Parties for the development plans and schemes for the Land.

WHEREFORE the Parties upon the considerations of the promises, covenants and representations hereinafter provided in this Agreement, and other good and valuable considerations the receipt and sufficiency of which are hereby acknowledged, do for themselves and for their respective personal representatives, legatees, heirs, assigns, and successors enter this Agreement on the terms and conditions hereinafter stated to contract and bind themselves.

TERMS and CONDITIONS

1. The above Recitals are hereby incorporated as if fully restated and form part of the material considerations of this Agreement.

2. Mangione will develop Parcel 124 (the 4.389A+- parcel east of Tenbury Road) as a residential sub-division consisting of no less than 14 and no more than 16 private duplex single-family residences in approximately the manner shown on the three drawings entitled: i) "Mangione Property, Lutherville, Maryland", dated August 2003 prepared by Daft-McCune-Walker, Inc. **("DMW")**, the East Parcel, ii) "Base Plan NV Homes Mangione/Tenbury Option – A", dated April 15, 2004, and prepared by DMW, iii) "Base Plan NV Homes Mangione/Tenbury Option – B", dated April 15, 2004, and prepared by DMW (and hereinafter collectively referred to as the **"Residential Renderings") (the "Residential Homes")** and which have been previously provided to DVIA and are attached hereto as **EXHIBIT A I, II, and III** respectively). Mangione will memorialize this paragraph 2 by way of a Declaration to be filed in the Land Records of Baltimore County which shall run with and bind the land to said development restriction (in similar form to **EXHIBIT B** attached and incorporated hereto).

3. Mangione, with respect to the Residential Homes, will use reasonable efforts to create an architectural design to blend the Residential Homes as much as is reasonably possible with the proximate surrounding community.

4. Mangione will comply with all reasonable requirements imposed by Baltimore County government for development of a major residential sub-division, including among other aspects of development the management of the on-site storm water, the on-site landscaping of Parcel 124, and the Residential Performance Standards, Section 260 of the Baltimore County Zoning Code. The aggregate enclosed space, per lot for the Residential Development at the time of the subdivision process, shall not be less than 1,700 sq. feet, nor more than 3,400 sq. feet, excluding basement, garage, and non-living attic space, the "Enclosed Space". The Enclosed Space shall not be obtained by means of a height variance or by an area variance seeking to reduce the distance between the proposed Residential Homes and the common boundary line of Parcel 124 and McMullen's Green.

5. Mangione and DVIA will work together and support one another to have the government of Baltimore County, Maryland repair the existing public facilities and or construct new public facilities with respect to the following issues of community concern:

i) the existing storm water management system. This system has failed causing the storm water runoff from commercial properties north of Greenridge Road and west of the residential properties, along the north and south sides of Greenridge Road, to not be collected in the existing storm water management system, and as a result flows unimpeded across the private residential properties and Parcel 124 and into the stream bordering the southern boundary both Parcel 124 and the sub-division known as McMullen's Green immediately east of Parcel 124;

ii) the intersection of Greenridge and Tenbury Roads. This intersection is the gateway entrance into the community for all traffic arriving via the intersection of Greenridge and York Roads and consequently, there is an existing traffic issue on Greenridge Road resulting in unabated vehicular traffic flow ingressing and egressing the community, especially on Greenridge Road.

DVIA believes these issues should be remedied, including the costs and expenses, by the governing authorities of Baltimore County, Maryland. Mangione's support will be in the form of reasonable cooperation with Traffic Engineering and the Public Works Departments of Baltimore County to affect remediation of these issues. With respect to issue ii) this may include among other things a reasonable contribution of land from the Land at the southeast and southwest corners of the intersection of Greenridge and Tenbury Roads. Any such reasonable land contribution by Mangione is conditioned upon said contribution in no way adversely affecting Mangione's Residential and Commercial Development Plans and Schemes, and the County performing all necessary and required work at its expense.

6. DVIA has expressed that it would like Mangione to be sensitive to the current landscaping on the Land during the respective development processes in order to preserve as much of the current character of the area. DVIA, however, acknowledges that there is a limited amount of preservation opportunity available and that a substantial amount of the vegetation will have to be removed to achieve the agreed upon Residential and

Commercial Development schemes. Mangione, mindful of DVIA's request, where possible and within reason, will try to preserve existing vegetation so long as said preservation in no way adversely affects the development processes and adds no additional financial burdens to the development processes. All Parties recognize and acknowledge that a part of the development process for the Land is the County's Landscaping regulations. These regulations will require Mangione to landscape, as part of the development plans, per landscaping plans for all disturbed areas of the Land as approved by the Baltimore County landscape architect. Mangione will abide by the Baltimore County Landscape regulations. Mangione, for themselves, and their successors and assigns, agrees to maintain and replace for the covenant period per those plans.

7. The easternmost boundary of Parcel 124 borders the westernmost boundary of the subdivision known as "McMullen's Green". Currently, at the execution of this Agreement, there exists a wooden stockade fence along the eastern side of this boundary line. The residents of McMullen's Green, who are represented by DVIA, would prefer that as much of the vegetative matter on Parcel 124 along the common boundary remain, nonetheless, it is recognized that this is not possible. As an alternative, DVIA on behalf of McMullen's Green, requests that Mangione install along this boundary line of Parcel 124 a new privacy fence 8 foot in height, if available but in no event less than 6 foot in height, consisting of white vinyl pre-built fencing consistent with **EXHIBIT C** attached hereto (the parties recognize that this Exhibit is by example only and is not meant to be restricted to those models pictured as models, styles and materials are subject to manufacturer's changes And vary among manufacturers) (the **"Privacy Fence"**). Mangione shall install, maintain and replace for the period of the Covenant, this Privacy Fence at such time that the Residential Homes are constructed on Parcel 124 along its boundary with McMullen's Green.

8. DVIA will support the proposed Mangione commercial development, consisting of, but not limited to, Building 2, the parking garage, and other impermeable surfaces on those portions of the Land lying to the west of Tenbury Road and as shown on the drawing identified as "1205 York Road, Maryland, dated August 2003, and numbered 93-16" prepared by Robert T. Hoffman &Assoc., Inc. (the "Commercial Rendering") previously provided to DVIA and attached hereto as **EXHIBIT D** (north/south orientation) and **EXHIBIT E** (east/west orientation) on condition that the proposed Building 2's and garage's elevations and footprints shall not change or exceed the dimensions as shown on the Commercial Rendering". Notwithstanding anything to the contrary herein stated DVIA agrees that the scope of the commercial development as shown on the Commercial Renderings can be less than shown and that Building 2 can be oriented as depicted on Exhibit D or E.

9. In consideration for DVIA's support for Mangione's Zoning Reclassification and Commercial and Residential Renderings, Mangione will continue to cooperate with DVIA during the County development review process by providing to DVIA, prior to submission to the County for approval, courtesy copies of engineering drawings showing elevations, entrances and exits to adjacent streets, structural characteristics, façade

features, landscaping, lighting and parking arrangements (**"Development Drawings"**) to allow DVIA the opportunity for review and comment; however, nothing is intended by this gesture to suggest or to provide that DVIA has a right of approval. Providing copies of the Development Drawings is an aspect of the continuing spirit of cooperation and a manifestation of the support between Mangione and DVIA to achieve the respective goals of Parties. DVIA acknowledges that the development process is lengthy and costly and promises to timely provide comments on the Development Drawings, if any they may have, so that Mangione will not be delayed, hindered, impaired or adversely affected due to tardy responses. For this purpose DVIA agrees that if has not provided written comments to Mangione and or its representatives within 17 days of receipt of the Development Drawings that DVIA's non response shall be deemed as DVIA's approval of the drawings as presented. Notwithstanding anything to the contrary stated herein, Mangione shall have the right to submit the Development Drawings to Baltimore County at such times as is deemed necessary and required to manage the Development Drawings through the development process in an efficient, orderly and timely manner without the benefit or necessity of DVIA's comments. In the event that Development Drawings submitted to Baltimore County for approval, that have been reviewed and commented upon by DVIA or DVIA failed to comment in the time prescribed by this Agreement, are required by Baltimore County to be amended by "red-line" revisions Mangione shall be able to make the "red-line" revisions pursuant to the following:

a) if the "red-line' revisions pertain to an aspect of construction below grade further DVIA review is not necessary;

b) if the "red-line" revisions pertain to an aspect of construction above grade and do not materially change, alter, or amend the respective Commercial Renderings (Exhibit D or E) Mangione may "red-line" the Development Drawings on condition that DVIA: i) be provided a copy of the "red-line" revision/s, and ii) have five (5) working days counting from the date of receipt of the "red-line" revision/s to object to the revisions on the grounds that the revision/s materially alter, amend, or modify the respective Commercial Rendering. DVIA's failure to timely respond in the time herein provided for "red-line" revisions shall be deemed to be DVIA's irrevocable approval of the revisions.

10. DVIA has expressed concerns about delivery vehicles parking in front of 1205 York Road, along the east curb of north bound York Road and requests that Mangione in the development of the 1205 Complex give consideration to provide parking accommodations for these vehicles. DVIA acknowledges that Mangione has no control of these delivery vehicles and their drivers and that even with parking accommodations being provided delivery vehicles may continue to stop and park on York Road. DVIA will support requests by Mangione to the Baltimore County authorities for relief from zoning (including variances for setbacks) and or development regulations to permit Mangione to provide a parking area for delivery trucks along the north/south common boundary line separating the 1205 Complex and the First Federal Financial Credit Union property. If permitted by Baltimore County Mangione will provide designated delivery parking in this area for a minimum of 2 delivery trucks.

11. Mangione will cause the Declaration, Exhibit B hereto, to be recorded among the Land Records of Baltimore County 35 days after the last act of the Baltimore County Government finalizing and approving Mangione's Zoning Reclassification as a final and non-appealable action. In the event that Mangione fails to record the Declaration as required herein, and after a 10 day written notice from DVIA of the failure to record, DVIA shall have the right, but not the obligation, to record the Declaration.

WITNESS the hands and seals of the respective parties to this Agreement on the day first above written.

WITNESS:

_____

_____

_____

_____

_____

_____

Michael P. Tanenbaum

Michael P. Tanenbaum

PARTIES:

Mangione

Nicholas B. Mangione, Sr.

Mary C. Mangione

Louis Mangione

Rosemary Mangione Juras

M-10 Residential Land Development, Inc.

BY: _____

Louis Mangione, President

Dulaney Valley Improvement Association, Inc. (DVIA)

BY: _____

Name: CONRAD J. POLAKOWSKI

Title: President

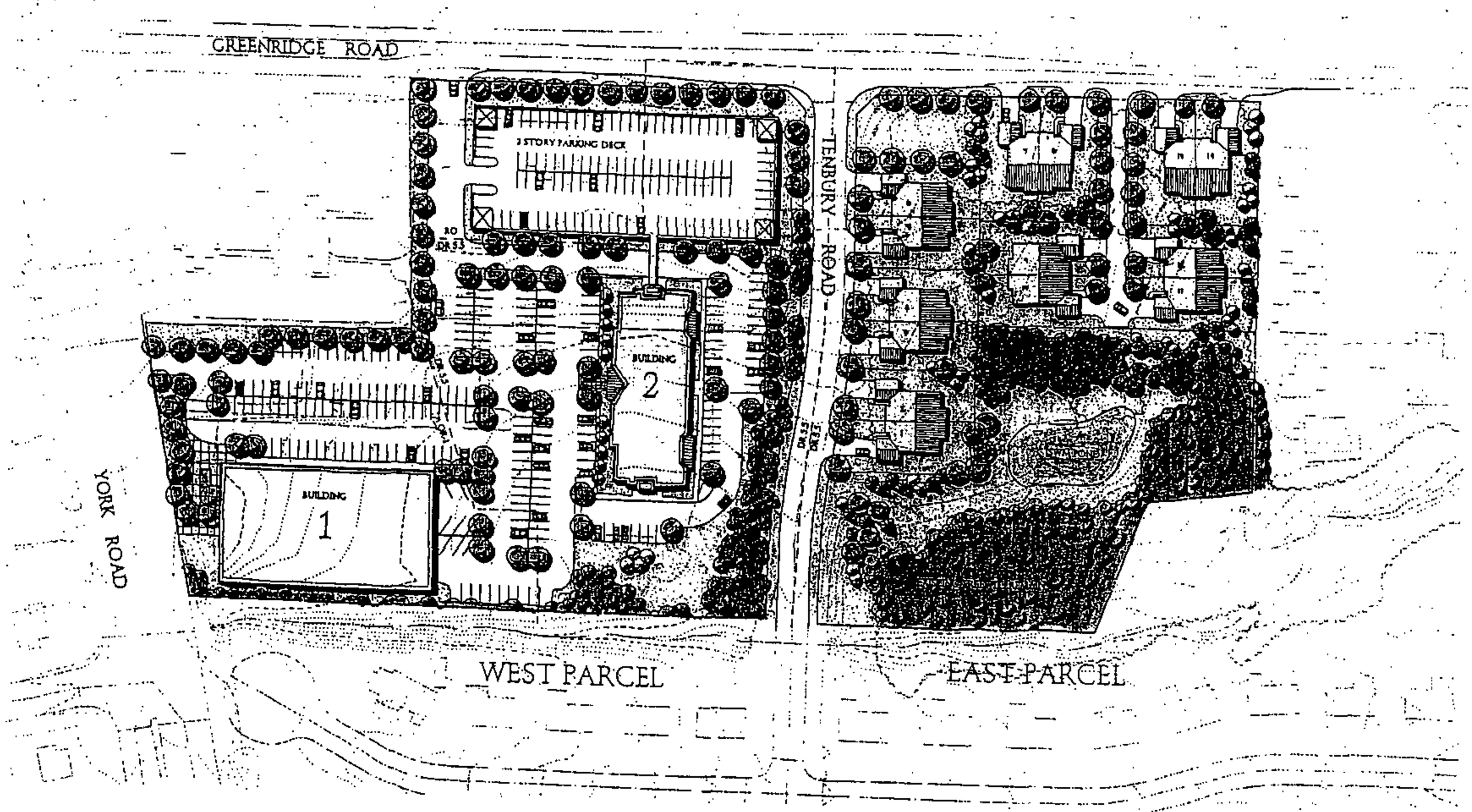
BY: _____

Name: L R TOWNSEND JR

Title: Vice President

AGREEMENT EXHIBIT A-I

Mangione Property, Lutherville, Maryland Dated August 2003, prepared by DMW, the East Parcel



MANGIONE PROPERTY

LUTHERVILLE, MARYLAND

DMW

AUGUST 2003 JOB # 94021.C

Site Data:

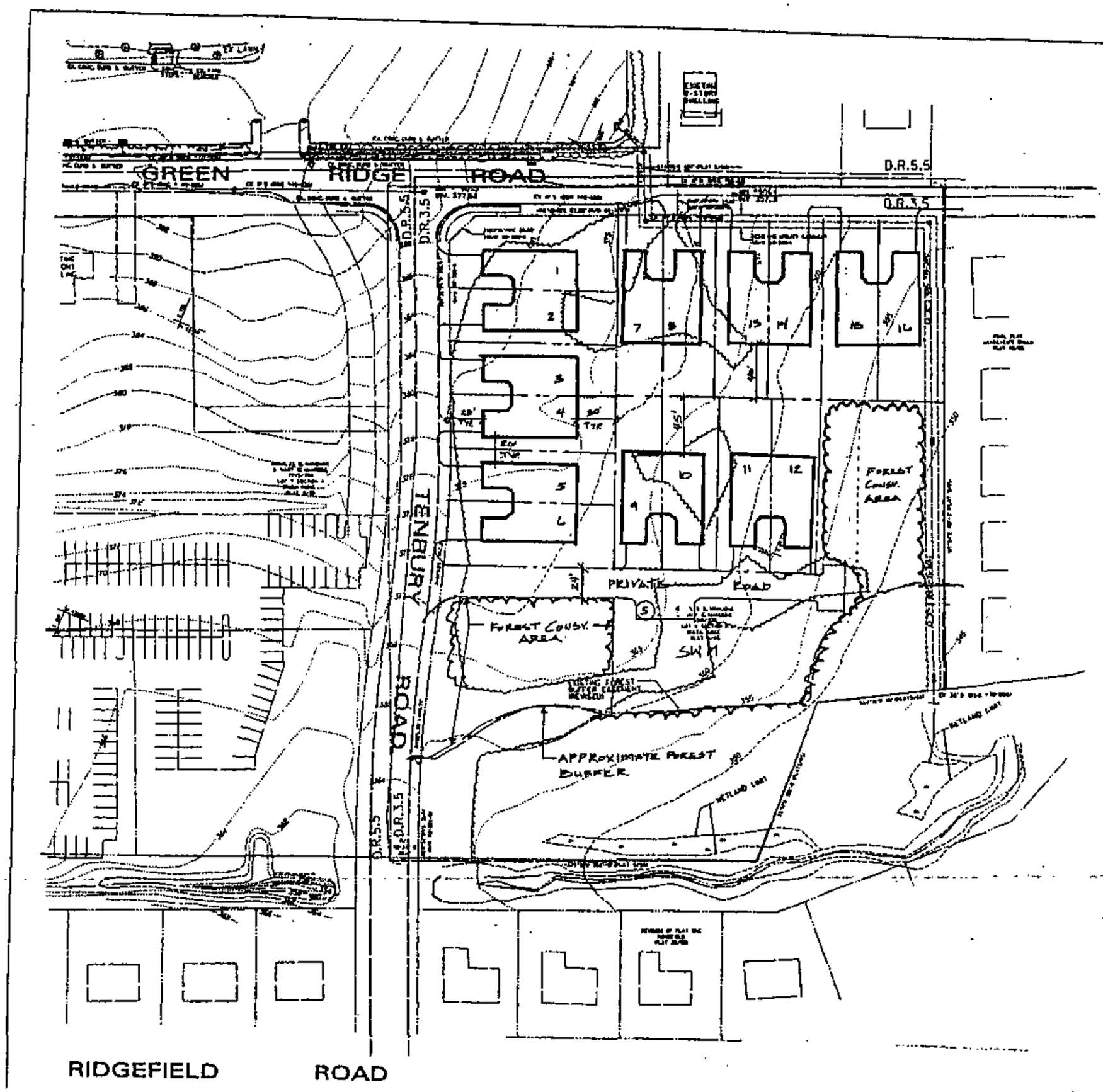
West Parcel Site Area	+/- 5.6 Ac.
Existing Zoning	OR-1, RO, D.R. 5.5
Proposed Zoning	OR-1, RO
East Parcel Site Area	+/- 4.8 Ac.
Existing Zoning	D.R. 3.5
Proposed Zoning	D.R. 3.5

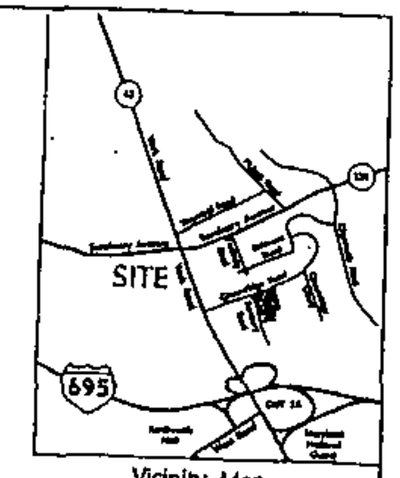
Program Data:

West Parcel	
Building 1 - Existing 4 Story Medical Office Building	120,000 sf
Building 2 - Proposed 3 Story Medical Office Building	72,000 sf
	48,000 sf
East Parcel	14 Semi-Detached Single Family Homes
Density Permitted	16.8 Dwelling Units
Density Shown	14 Dwelling Units

AGREEMENT EXHIBIT A-II

Base Plan NV Homes Mangione/Tenbury Option-A, Dated April 15, 2004, Prepared By DMW





Vicinity Map

SITE DATA:

Gross Site Area	24.5 Ac.
Net site Area	14.5 Ac.
100 year Floodplain Area	N/A
Existing Zoning	DR 3.5
Permitted Density	36 DU
Proposed Density	36 DU

ASSUMPTIONS:

1. Non-tidal wetland and land bulkhead lines as shown are approximate and must be delineated and approved by I.R.P.A.
2. Assumes there are no 100 year floodplain on the site.
3. Assumes the waiver of the Reforestation requirements will be met on site and the Reforestation Bonus for on-site or off-site land banking.
4. Assumes no variances to zoning regulations will be required.
5. The stormwater management facility is approximate as field and detailed suitable outlets available.
6. Assumes Open Space requirements will be met with fee-in-lieu payment, fee from $0,000 (?)
7. Assumes adequate public revised water and sewer service are available and can be utilized by this development.
8. Adequate culvert capacity must be verified.

DMW

A Team of Land Planners, Landscape Architects, Engineers & Surveyors

BASE PLAN
NV HOMES
MANGIONE /TENBURY
OPTION: A

APRIL 15, 2004

1 OF 1

1"=50'

AGREEMENT EXHIBIT A-III

BASE PLAN NV HOMES MANGIONE/TENBURY OPTIONE-B, DATED APRIL 15, 2004, PREPARED BY DMW

GREEN RIDGE ROAD

D.R.5.5

D.R.3.5

TENBURY ROAD

PRIVATE ROAD

LOCAL OPEN SPACE

FOREST CANOPY AREA

ACCESS EASEMENT

APPROXIMATE FOREST BUFFER

WETLAND LIMIT

RIDGEFIELD ROAD

Vicinity Map

SITE

695

Bench Mark

SITE DATA

Gross Site Area

Net site Area

100 year Floodplain Area

Existing Zoning

Permitted Density

Proposed Density

ASSUMPTIONS

1. Non-tidal wetland and tidal buffer lines are shown are approximate and must be delineated and approved by DEP&M

2. Assumes there are no 100 year floodplain on site

3. Assumes that some of the Hydrovision requirements will be met on site and the balance through flow-thru or off-site retrofitting

4. Assumes no variance to zoning regulations will be required

5. The stormwater management facility is approximate in size and assumes adequate outlet is available

6. Assumes Open Space requirements will be met with fee in lieu payment (less than 25,000 sf)

7. Assumes adequate public services (water and sanitary sewer) are available and can be utilized by this development

8. Lot lines should ultimately must be verified

DMW

BASE PLAN

HV HOMES

MANGIONE /TENBURY

OPTION: B

APRIL 15, 20

1 OF 1

1"=50'

AGREEMENT EXHIBIT B

DECLARATION

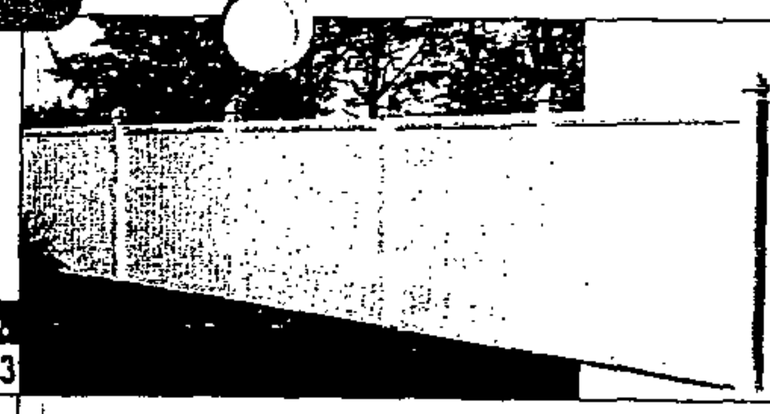
AGREEMENT EXHIBIT C

PRIVACY FENCE EXEMPLARS

Princeton 6'H X 6'W

72" High x 42" Wide

- Decorative Top & Bottom Rails
- Tongue & Groove Boards Provide Full Privacy



Model No. 73002113

Matching Princeton Gate

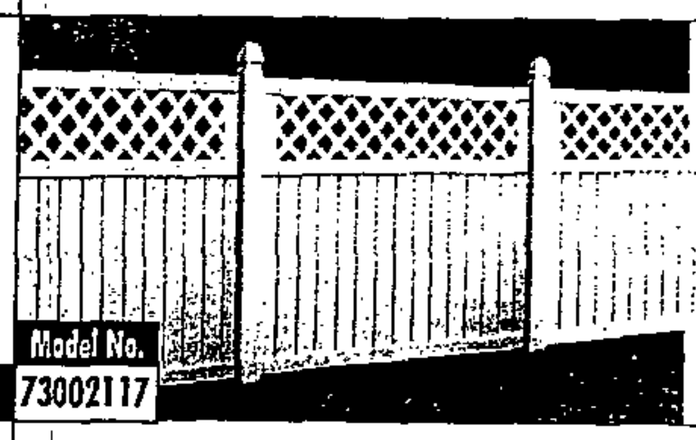
72" High x 42" Wide

Model No. 73099372

Lattice Top 6'H X 6'W

70" High x 67-3/4" Wide

- Semi Privacy Lattice Design
- Ideal For Side & Backyards
- 1/4" Board Spacing



Lowe's Item No. 37991 | Model No. 73002117

Matching Lattice Top Gate

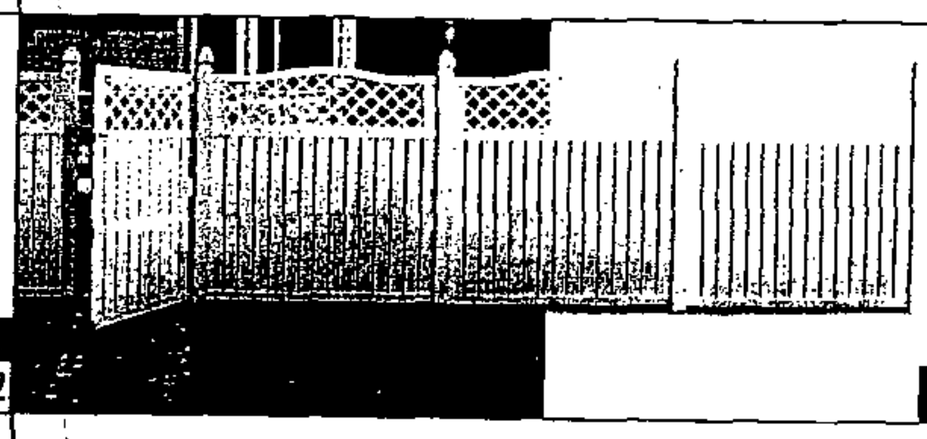
70" High x 40-3/4" Wide

Lowe's Item No. 20748 | Model No. 73002131

Arched Lattice Top 6'H X 6'W

70" High x 67-3/4" Wide

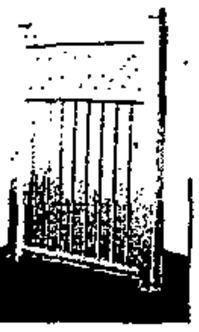
- Semi Privacy Lattice Design
- Ideal For Side & Backyards
- 1/4" Board Spacing



Model No. 73040072

Matching Lattice Top Gate

70" High x 40-3/4" Wide



Lowe's Item No. 20748 | Model No. 73002131

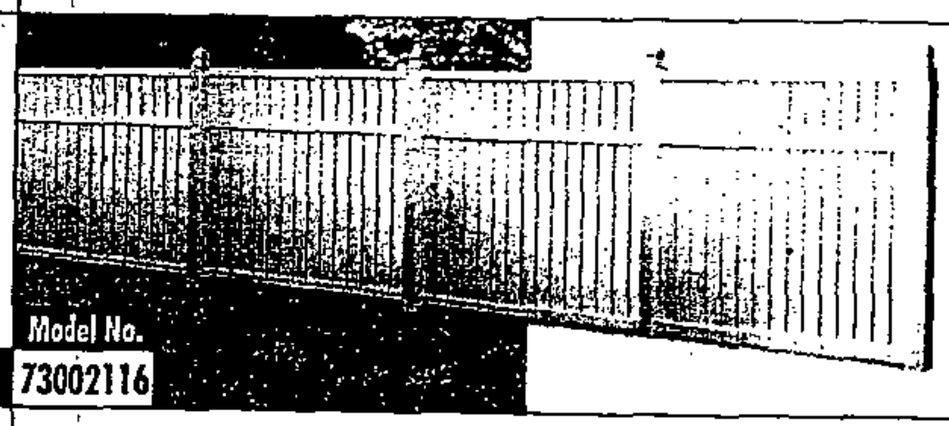
Estate Style 6'H X 6'W

70" High x 67-3/4" Wide

- Popular Privacy Design
- Ideal For Backyards
- 1/4" Board Spacing

Also available in:

Gray *Wicker*

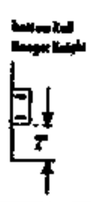


Lowe's Item No. 20750 | Model No. 73002116

Matching Estate Gate

70" High x 40-3/4" Wide

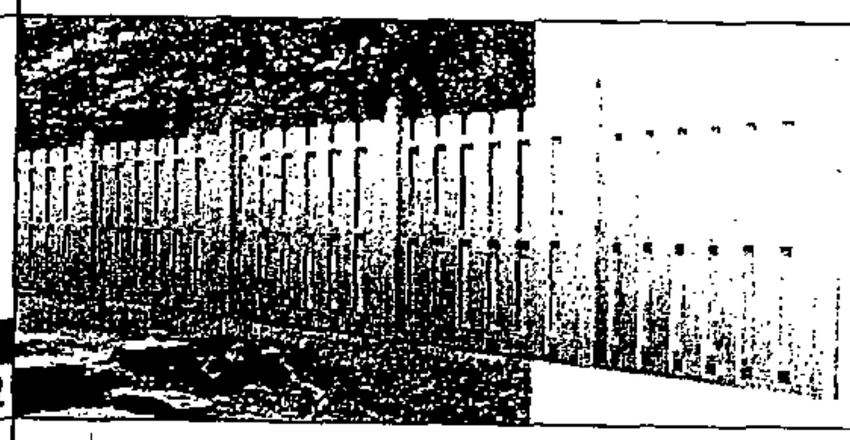
Lowe's Item No. 93867 | Model No. 73002129



Shadowbox 6'H X 6'W

70" High x 68-1/4" Wide

- Attractive Shadowbox Styling
- Ideal For Side & Backyards

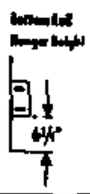


Model No. 73020872

Matching Dogear Gate

70" High x 42" Wide

Model No. 73002127



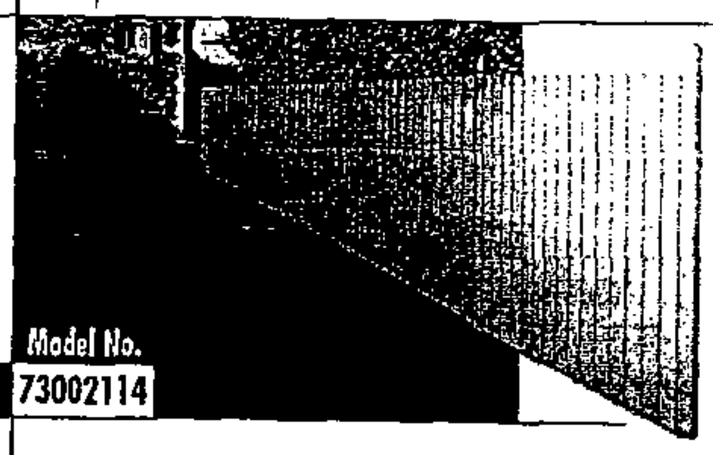
All American Dogear 6'H X 6'W

70" High x 68-1/4" Wide

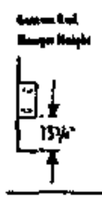
- Attractive Dogear Styling
- Ideal For Side & Backyards Where Privacy Is Desired
- 5/16" Board Spacing

Also available in:

Gray *Wicker*



Lowe's Item No. 137055 | Model No. 73002114



Matching Dogear Gate

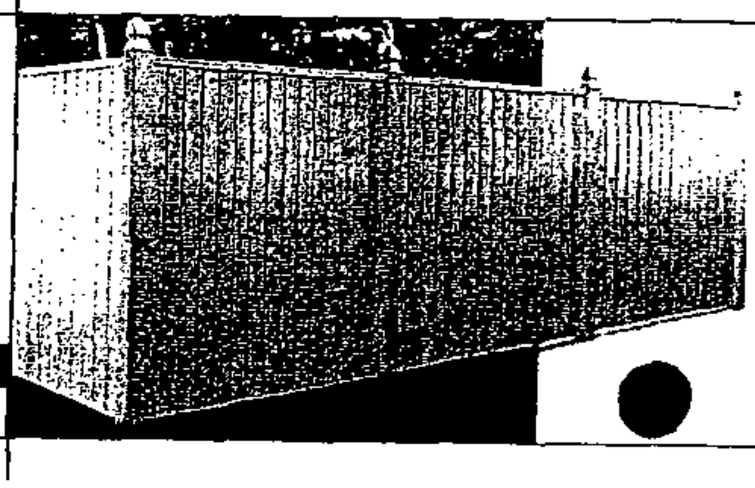
70" High x 42" Wide

Lowe's Item No. 137058 | Model No. 73002127

Williamsburg 6'H X 6'W

70" High x 68-1/4" Wide

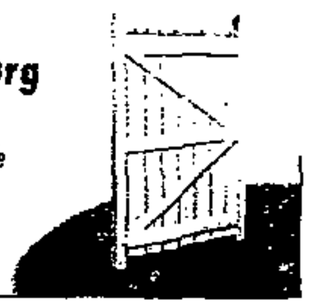
- Framed Styling For Privacy
- Ideal For Side & Backyards Where Privacy Is Desired



Model No. 73041572

Matching Williamsburg Gate

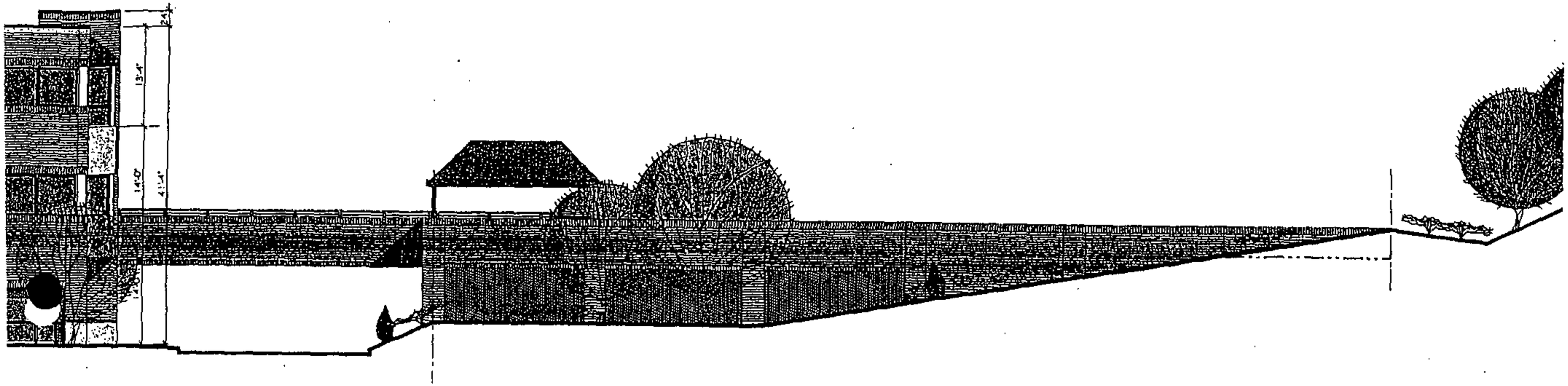
70" High x 42" Wide



Model No. 73051072

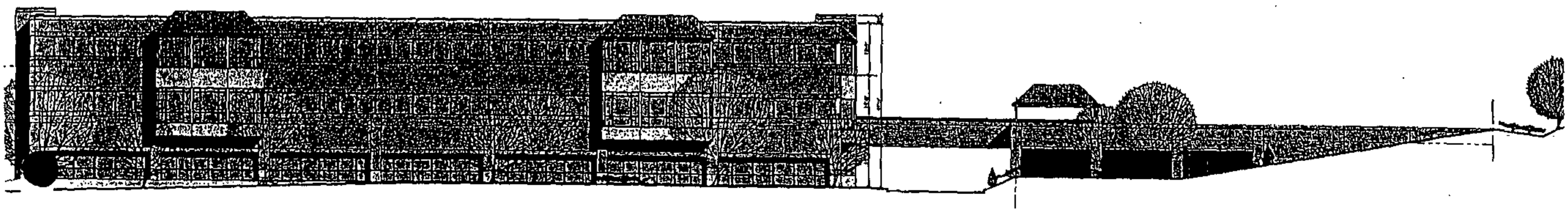
AGREEMENT EXHIBIT D

COMMERCIAL BUILDING ORIENTATION
NORTH/SOUTH



PARTIAL REAR ELEVATION

0 5 10 20



REAR ELEVATION

0 10 20 40

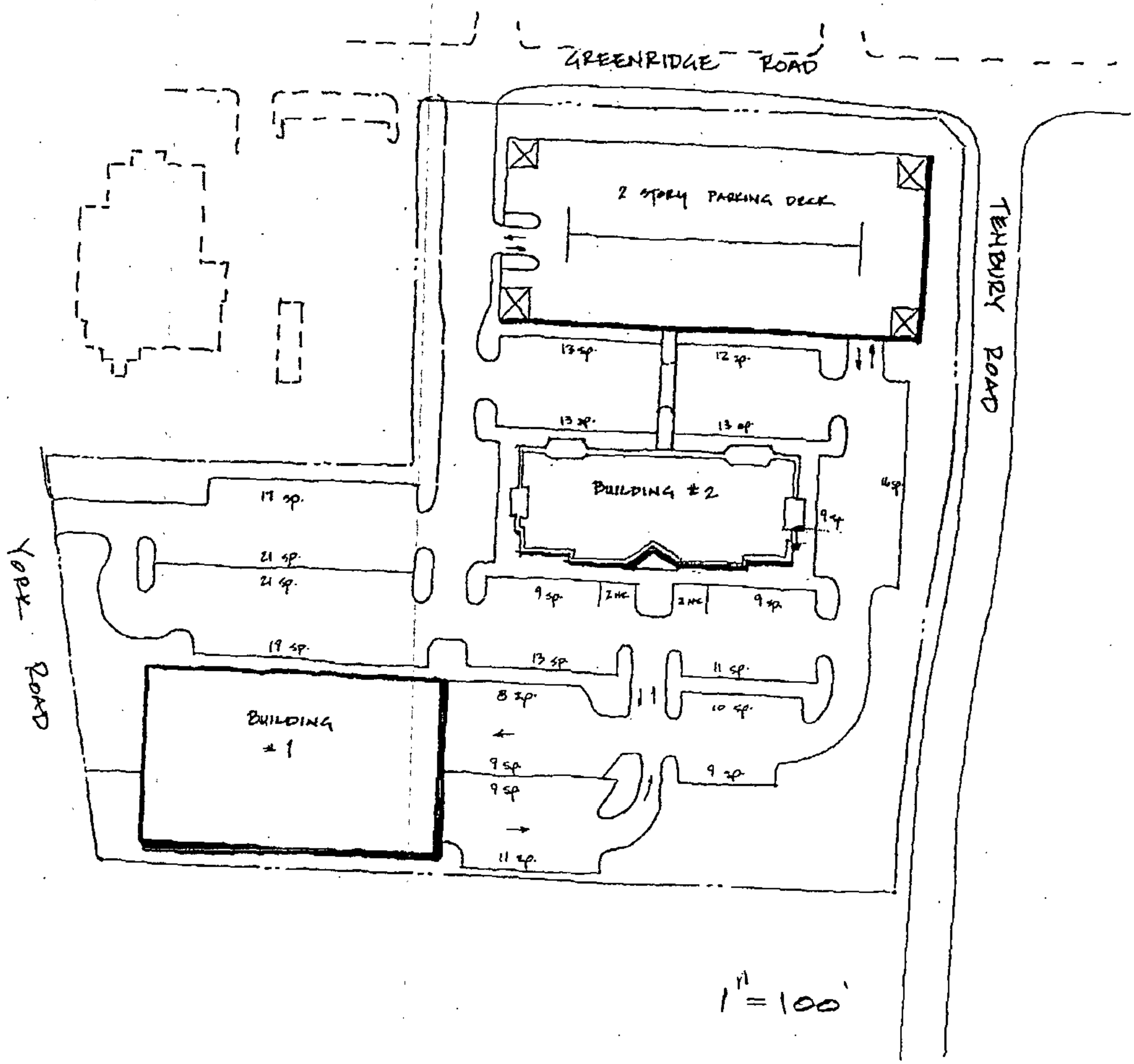
1205 York Roa

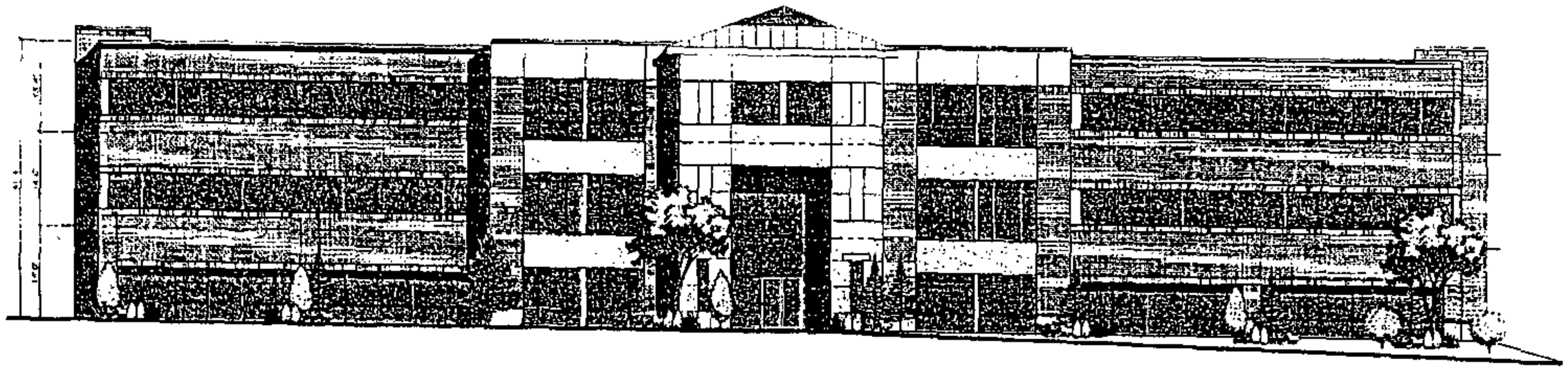
Maryland

Robert T. Hofmann & Assoc., Inc. - architect
93-61 / August 15, 2003

AGREEMENT EXHIBIT E

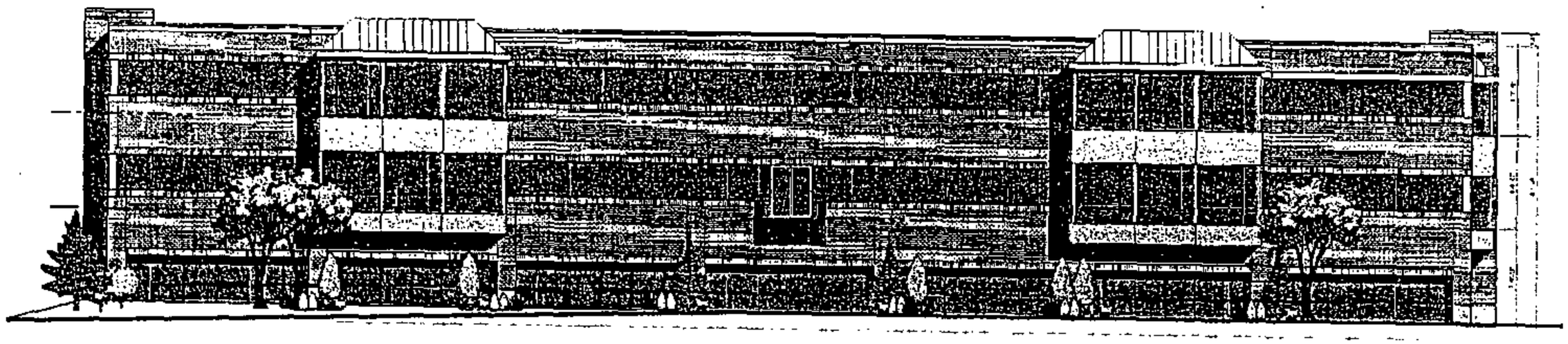
COMMERCIAL BUILDING ORIENTATION
EAST/WEST


GREENRIDGE ROAD
2 STORY PARKING DECK
TAHBUAY ROAD
13 sp.
12 sp.
13 sp.
13 sp.
BUILDING #2
16 sp.
9 sp.
9 sp.
2 HC
2 HC
9 sp.
17 sp.
21 sp.
21 sp.
YORK ROAD
19 sp.
13 sp.
11 sp.
8 sp.
10 sp.
BUILDING #1
9 sp.
9 sp.
9 sp.
11 sp.
1" = 100'



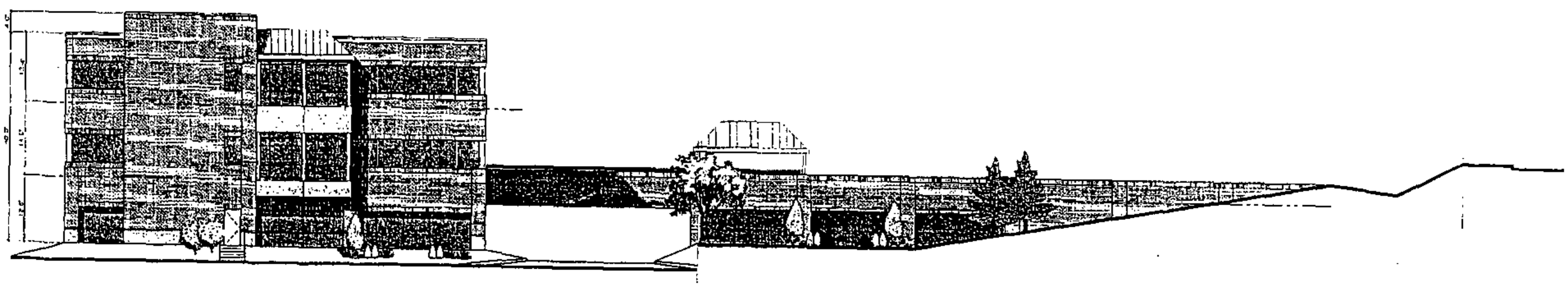
FRONT ELEVATION

SCALE 1/8" = 1'-0"



REAR ELEVATION

SCALE 1/8" = 1'-0"



SIDE ELEVATION (SIMILAR)

SCALE 1/8" = 1'-0"

ARCHITECTS
HOFMANN ASSOCIATES, INC

PROJECT NAME
STORY OFFICE BUILDING
1209 YORK ROAD
BALTIMORE COUNTY, MARYLAND

PROPERTY OWNER
MANDIONE FAMILY ENTERPRISES

ISSUE DATE

THE CONCEPTS, THEIR DESIGNS AND IMAGES ARE INTENDED ONLY FOR THE PROJECT SPECIFIED ON THIS SHEET AND ARE THE SOLE PROPERTY OF HOFMANN ASSOCIATES, INC. THEY ARE NOT TO BE REPRODUCED OR USED BY OTHERS WITHOUT WRITTEN REVIEW ON BY HOFMANN ASSOCIATES, INC.

ELEVATIONS

A01

PROJECT NO. 00-30

PETITIONER'S

EXHIBIT NO. 7

AMENDMENT NO. 1 TO AGREEMENT

This AMENDMENT NO. 1 TO AGREEMENT (this "Amendment") is made as of this 24th day of June, 2005, by and between DULANEY VALLEY IMPROVEMENT ASSOCIATION, INC., ("DVIA") and NICHOLAS B. MANGIONE, SR., MARY C. MANGIONE, LOUIS MANGIONE, ROSEMARY MANGIONE JURAS, and M-10 RESIDENTIAL LAND DEVELOPMENT, INC., ("Mangione").

EXPLANATORY STATEMENT

A. By Agreement dated August 24, 2004 (the "Original Agreement"), the parties memorialized their agreements with respect to the real property identified therein and owned by Mangione for Commercial and Residential Development.

B. Attached to the Original Agreement are Exhibits D and E that in part depict two (2) orientations and locations for Commercial Building **2**.

C. The Original Agreement further provided for the footprint size and total square footage of the Commercial Building **2**.

D. The Original Agreement further provided that DVIA would support Mangione's zoning request through the CZMP 2004 for RO zoning classification of certain portions of their land identified therein as the Zoning Reclassification, which support was provided by DVIA, and which zoning was granted to Mangione by the Baltimore County, Maryland.

E. Mangione is moving forward on the development process for Commercial Building **2** and has presented to DVIA a new layout for Commercial Building **2** different then that shown on Exhibits D and E that reduces its footprint and square footage, and eliminates the parking structure, attached and incorporated hereto as Amendment Exhibit 1, and further herein in section 2, identified as the Plan.

F. Mangione has also provided DVIA with two additional elevations for Commercial Building 2 at its new orientation and location, and depicting its footprint and height prepared by Hofmann Associates, Inc., architects and labeled as "Proposed Elevations A05 and A06 For Project 05-054" with a revision date of May 25, 2005, attached and incorporated hereto as Exhibits F and G, respectively (the "Elevations").

G. Mangione has identified development and use issues that will require filing petitions for a hearing before the Baltimore County Zoning Hearing Officer (identified on the Plan in the section entitled "Zoning Requests" as items SE 1, SH 1 thru 3, and V 1 thru 6, that among other things will request a Special Exception for a Class B Office Building in the new RO zone, a Special Hearing/and or Variance to permit up to 100% medical offices in lieu of the maximum 25% in the RO Zone, to amend all prior zoning relief and associated site plans, and confirm that RTA does not apply, and that the parking on Lot 1B is permitted and accessory to the two office buildings and that a Use

UNDER RECEIVED FOR FILING
Date 7/24/05
By

permit is not required for parking in a residential zone (RO) and the OR-1 Zone *IN THE ALTERNATIVE TO APPROVE A USE PERMIT TO ALLOW RO AND OR-1 LAND TO BE USED FOR PARKING TO SUPPORT THE MEDICAL OFFICE BUILDING UNDER SEC, BCZR 409.8*, and Variances for: height allowance from the allowed 35 foot height restriction to permit a maximum height of 42' 8" for the building and/or if necessary for the rooftop screening a maximum height of 46' 8", a 15 foot rear yard in lieu of 30 feet, a 10 foot side landscape buffer in lieu of 20 foot, to permit a 2.25 acre lot in lieu of the maximum 1 acre, if necessary parking in the front yard in lieu of the side and rear yard in the RO Zone, and any other Zoning Variance or Zoning Relief as determined necessary by the Zoning Commission and subject to DVIA approval, Lots 1A, 1B and 2,(the "Zoning Relief"); all of which Mangione is requesting DVIA to support.

H. The parties now desire to amend portions of the Original Agreement and the Declaration of even date to the Original Agreement which has been recorded among the Land Records of Baltimore County in Liber SM, No. 21424, folio 457,with respect to the commercial building to memorialize their further agreements as hereinafter set forth below.

NOW, THEREFORE, in consideration of the foregoing Explanatory Statement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Explanatory Statement. The provisions of the foregoing Explanatory Statement are incorporated herein as if fully restated.

2. Commercial Building-1209 York Road. The Commercial Building 2 orientation and location shall now be pursuant to the drawing attached hereto as Amendment Exhibit 1, and entitled "Plan To Accompany Variance, Special Hearing, and Special Exception Request, Mangione Property 1205 and 1209 York Road" dated and filed June 3, 2005, and prepared by Daft McCune Walker, Inc., and having a footprint of 12,075 square feet with 3 enclosed floors for a total of 36,225 square feet over a partial ground surface parking area for 21 vehicle parking space (the "Plan"), and the Elevations. Mangione does not anticipate any further changes to Commercial Building 2 with respect to orientation and height, except however minor revisions recommended by Daft McCune Walker, Inc., their civil and land design engineers. With respect to the Agreement and the original plan permitting elevated or decked parking, Mangione with the revised Plan attached hereto as Amendment Exhibit No. 1 is not pursuing installation of deck parking; however, in the event that deck parking in the future would be necessary for economic viability, and can be engineered for the site, and subject to DVIA approval, Mangione reserves the right after conferring with DVIA to apply for a building permit for elevated/decked parking.

3. Commercial Building 2 Use. The Commercial Building shall be used as medical offices offering a variety of medical services with affiliated administrative and other normal and customary ancillary uses associated with medical use. The Commercial Building will not have any veterinarian or veterinarian related uses. The roof top

screening will be an elevated wall built on an angle inward towards the roof's center and installed for the sole purpose of screening the rooftop mechanical equipment. It will not be occupied space without first obtaining the prior written consent and approval of DVIA, and approval from Baltimore County, Maryland. In conjunction with the medical use of the Commercial Building medical waste will not be stored or allowed to be stored outside of the Building.

4. Zoning Hearing. At the time of the execution of this Amendment No. 1 to the Original Agreement and with the knowledge of DVIA Mangione filed zoning petitions with the Baltimore County Office of Permits and Development Management requesting a hearing before the Zoning Hearing Officer for the Zoning Relief. Mangione has provided to DVIA a copy of the zoning petitions filed in Case No. 05-583 along with the Plan. DVIA with the execution of this 1st Amendment to the Agreement covenants and affirms it will support Mangione's Zoning Relief and development plans before any and all Baltimore County agencies and departments, including zoning hearings, DRC meetings, and if necessary, Community meetings. Mangione agrees that the Agreement and this 1st Amendment to the Agreement are to be made part of any zoning order granting Mangione's Zoning Request.

5. Storm Water Management Facility and the RTA area. There may be an opportunity for Mangione to utilize the existing RTA area that will encompassed in Lot 1B shown on Amendment Exhibit 1 for the storm water management facility or **a portion** of said facility serving the Commercial Building development. At the time of the signing of this Amendment No. 1 to the Original Agreement, Mangione's engineers have not determined whether the RTA can fulfill the required storm water management requirements of the Commercial Development, but in such event that it can be so utilized Mangione will follow and comply with all Baltimore County rules and regulations under the direction of the Baltimore County Department of Environment and Property Management. Nothing in this Section 5 is meant to modify, amend, or alter Section 5 of the Agreement. This section 5 is in addition to and not in lieu of Agreement section 5.

6. Traffic Control Intersection of Greenridge and Tenbury Roads. In addition to the provisions of Agreement Section 5 regarding traffic, and not in lieu thereof, Mangione in this section 6 agree to explore with Baltimore County of having adequate traffic device control management at the T-intersection of Greenridge and Tenbury Roads.

7. DVIA Approval and Support. DVIA approves of the changes proposed to Commercial Building **2** development as herein before set out, and will support Mangione at any and all Baltimore County hearings and or meetings, including but not limited to DRC meetings and the Zoning Hearing Officer hearings for the Zoning Relief. Additionally, in support of Mangione's proposals contained herein, DVIA will advise the Baltimore County Council person that it is in support of these proposed changes and will recommend to the Baltimore County Zoning Hearing Officer that the Commercial Development with the necessary Zoning Relief be approved.

8. Original Agreement Remains in Effect. To the extent the Original Agreement is not modified by this Amendment No.1, the balance of the terms and conditions of the Original Agreement not modified herein shall remain in full force and effect. With respect to any conflict or ambiguity between the Original Agreement, the Declaration (Exhibit B to the Original Agreement) and this Amendment No. 1 with respect to the subject matters contained in this Amendment No. 1, then in such event this Amendment No. 1 shall control.

9. Declaration Amendment. The parties agree to cooperate with one another in executing an amendment to the Declaration, which amendment shall be recorded among the Land Records of Baltimore County. Said Declaration shall be amended at such time as all matters with respect to Commercial Building 2 development have been identified to reflect the modifications agreed upon by the parties in this Amendment No. 1, and or any subsequent amendments executed by the parties. Mangione will cause the Amended Declaration to be recorded among the Land Records of Baltimore County thirty (30) days after the Zoning Hearing Officer's Opinion and Order approving the Zoning Requests becomes final and non-appealable.

WITNESS the hand and seals of the respective parties to this Amendment No. 1 to the Original Agreement on the day first above written.

WITNESS:

PARTIES:

Nicholas B. Mangione, Sr.

Mary C. Mangione

Louis Mangione

Rosemary Mangione Juras

M-10 Residential Land Development, Inc.

BY: Louis Mangione
Louis Mangione, President

Michael P Tang

Michael P Tang

Dulaney Valley Improvement Association, Inc. (DVIA)

BY: Conrad J. Powstowski

Name: CONRAD J. POWSTOWSKI

Title: President

BY: L R Townsend

Name: L R TOWNSEND JR

Title: Vice President