

*Wilmington, Delaware
Louis L. Redding
City/County Building
December 10, 2020*

City Council met in “**virtual**” regular session on the above date at 6:30 p.m., President Hanifa Shabazz presiding.

The opening prayer was done by Andrea Queen, Deputy Clerk.

The Pledge of Allegiance was recited by City Council.

ROLL CALL

The following members responded to the Call of the Roll: Council Members Gray, Oliver, Harlee, Turner, McCoy, Johnson, Freel, Adams, Dixon, Guy and Walsh, and Council President Shabazz. Total, twelve.

MINUTES

After reading a portion of the minutes of December 3, 2020, upon a motion of Council Member Freel, seconded by Council Member Walsh, it was moved they be accepted as written. Motion prevailed.

COMMITTEE REPORTS

The City Clerk read the following committee report:

<u>Community Development & Urban Planning Committee Members</u>	<u>Present</u>	<u>Absent with Leave</u>	<u>Absent w/out Leave</u>
Rysheema Dixon, Chair	x		
Yolanda McCoy, Vice-Chair	x		
Linda M. Gray	x		
Zanthia Oliver	x		
Va'Shun “Vash” Turner	x		
Dr. Hanifa Shabazz, Ex-Officio	x		

President and Members of Council of
The City of Wilmington

Nov. 30, 2020

Ladies and Gentlemen:

We, your Community Development & Urban Planning Committee by **Virtual Meeting**, to who was referred **Ordinance No. 20-007** entitled:

AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY CODE
REGARDING THE INSPECTIONS OF RENTED OR LEASED
DWELLINGS OR BUILDINGS FOR RESIDENTIAL OCCUPANCY

Have given this Ordinance careful study and recommend Council vote on it accordingly.

Respectfully submitted, Members of
Community Development & Urban Planning Committee

Upon a motion of Council Member Dixon, seconded by Council Member Freel, the Report was received, recorded and filed. Motion prevailed.

TREASURER'S REPORT

The following Treasurer's Report for December 10, 2020 was read into the record by City Clerk and upon a motion of Council Member Freel, seconded by Council Member McCoy, the Report was received, recorded and filed. Motion prevailed.

Note: The Treasurer's Report is included herein as an insert from Page 3 to Page 4.

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City of Wilmington
Delaware

Velda Jones-Potter
City Treasurer

Louis L. Redding City/County Building
800 Pricer Street
Wilmington, Delaware 19801-3537
(302) 576-1400
ctreasurer@wilmingtonde.gov



Treasurer's Report
December 10, 2020

Cash - Ledger Balance (as of 12/09/2020):

General	M & T Bank	\$ 8,179,454.00
Payroll	M & T Bank	\$ 1,349,715.10
Law Department Court Costs	M & T Bank	\$ 4,181.07
Total Petty Cash	M & T Bank	\$ 6,299.22
Police - Evidence Found (Currency)	M & T Bank	\$ 1,040,045.56
Police & Fire Remembrance	M & T Bank	\$ 7,469.49
Police Department Discretionary	M & T Bank	\$ 34,293.11
Rent Withholding Escrow	M & T Bank	\$ 4,137.97
Grant-in-Aid	M & T Bank	\$ 140,137.65
Community Development Block Grant	M & T Bank	\$ 1.00
Capital Projects	M & T Bank	\$ 1.00
Total Cash on Hand		\$ 10,765,735.17

Cash Equivalents & Investments (as of 12/09/2020):

Account Type & Fund	Institution	Invest. Type	Maturity Date	Interest Rate	Interest Receivable	Investment Amount
LIQUIDITY:						
General	M&T	Overnight Repo	12/10/2020	0.01%	\$ 5.60	\$ 15,634,931.83
General	TD	CD	12/14/2020	0.15%	\$ 3,325.00	\$ 19,000,000.00
General	TD	CD	12/28/2020	0.15%	\$ 425.00	\$ 3,000,000.00
General	TD	CD	1/25/2021	0.15%	\$ 1,575.00	\$ 7,000,000.00
General	TD	CD	1/25/2021	0.14%	\$ 894.44	\$ 5,000,000.00
SUB-TOTAL:						\$ 49,634,931.83
RESERVE:						
General ¹	TD	CD	12/14/2020	0.15%	\$ 3,138.52	\$ 16,738,774.00
SUB-TOTAL						\$ 16,738,774.00
RESTRICTED:						
Capital Project	TD	CD	12/14/2020	0.15%	\$ 860.31	\$ 4,590,963.53
Capital Project	TD	CD	12/14/2020	0.15%	\$ 1,784.82	\$ 9,519,037.38
Water/Sewer	TD	CD	12/14/2020	0.15%	\$ 571.86	\$ 3,049,927.70
Capital Project	TD	CD	1/25/2021	0.15%	\$ 13,951.16	\$ 53,147,276.13
SUB-TOTAL						\$ 70,307,204.74
Total Investments						\$ 136,680,910.57
Total Cash on Hand						\$ 10,765,735.17
Grand Total						\$ 147,446,645.74

¹ Budget Reserve

Velda Jones-Potter, City Treasurer

Treasurer's Report (Pensions)
December 10, 2020

Cash - Ledger Balance (as of 12/09/2020):

Pension Payroll	M & T Bank	\$	153,416.12
Retiree Healthcare	M & T Bank	\$	98,945.52
Police Pension	M & T Bank	\$	235,560.60
Fire Pension	M & T Bank	\$	32,743.01
Non-Uniform Pension Act of 1990-Plan 3	M & T Bank	\$	187,552.15
Non-Uniform Pension Plan 2	M & T Bank	\$	1,500.00
Old Non-Uniform Pension - Plan 1	M & T Bank	\$	1,592.81
Total Cash on Hand		\$	711,310.21

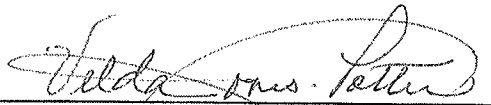
Cash Equivalents (as of 12/09/2020) & Investments (Market Value as of 11/30/2020)

Account Type & Fund	Institution	Invest. Type	Maturity Date	Interest Rate	Interest Receivable	Investment Amount
LIQUIDITY:						
Pension Plan III	WSFS	CD	12/21/2020	0.05%	\$ 137.21	\$ 3,710,000.00
SUB-TOTAL:						\$ 3,710,000.00
RESERVE:						
Pension Trust	Edgar Lomax					\$ 22,771,561.13
Pension Trust	Vanguard Fixed					\$ 35,025,443.75
Pension Trust	Earnest Partners					\$ 30,593,670.27
Pension Trust	Wilmington Trust					\$ 42,017,803.55
Pension Trust	Vanguard Stock Index					\$ 24,442,119.41
Pension Trust	Artisan Global					\$ 11,434,385.73
Pension Trust	Dodge & Cox					\$ 12,339,156.21
Pension Trust	Fidelity					\$ 15,079,903.04
Pension Trust	Harding Loevner					\$ 11,839,991.89
Pension Trust	Vanguard Global					\$ 16,367,925.15
Pension Trust	MFS Management					\$ 26,728,383.96
Pension Trust	Clarion Lyon					\$ 9,767,124.86
Pension Trust	Money Market					\$ 552,278.32
Pension Trust	Morgan Stanley					\$ 9,464,319.62
Pension Trust	Vanguard-OPEB					\$ 28,399,955.95
SUB-TOTAL						\$ 296,824,022.84
Total Investments						\$ 300,534,022.84
Total Cash on Hand						\$ 711,310.21
Grand Total						\$ 301,245,333.05

Total Funds under Treasury Management:

Total Investments						\$ 437,214,933.41
Total Cash on Hand						\$ 11,477,045.38
Grand Total¹						\$ 448,691,978.79

¹ Excludes non-City funds held in trust on behalf of City employees (Mass Mutual)


 Velda Jones-Potter, City Treasurer

NON-LEGISLATIVE BUSINESS

Upon a motion of Council Member Freel, seconded by Council Member Gray, the following non-legislative resolutions were accepted into the record and motion prevailed:

Oliver	Recognize Pancreatic Cancer Month
Oliver	Sympathy Kathy Church
Shabazz	Sympathy Bradford Powns
Shabazz	Sympathy Terry Mitchell
Walsh	Sympathy Joseph William McKinley

LEGISLATIVE BUSINESS

Upon a motion of Council Member Gray, seconded by Council Member Freel, Council dissolved into the Committee of the Whole for the purpose of holding a public hearing on Ordinance No. 19-018. Motion prevailed.

PUBLIC HEARING

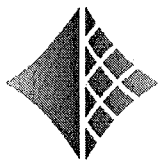
ORD. 19-018 – REZONE THE PARCEL OF LAND LOCATED AT 700 LEA BOULEVARD FROM R-2 (ONE-FAMILY DETACHED DWELLINGS AND ONE-FAMILY SEMI-DETACHED DWELLINGS) TO R-5-A-1 (LOW-MEDIUM DENSITY APARTMENT HOUSES) ZONING CLASSIFICATION

President Shabazz requested the Clerk to read the Affidavit of Publication

The City Clerk read the Affidavit of Publication. Upon a motion of Council Member Gray, seconded by Council Member Freel, the Affidavit of Publication was made a part of the record. Motion prevailed.

Note: The Affidavit of Publication was added into the record and is attached herein as an insert from Page 6 through Page 7.

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The News Journal
Media Group

A GANNETT COMPANY

Street Address:
950 West Basin Road
New Castle, DE 19720

(302) 324-2500
(800) 235-9100

Mailing Address:
P.O. Box 15505
Wilmington, DE 19850

Legal Desk:
(302) 324-2676
Legal Fax:
302 324-2249

SD CITY OF WILMINGTON
800 N FRENCH ST

WILMINGTON, DE 19801

DE,

AFFIDAVIT OF PUBLICATION

State of Delaware
New Castle County

Personally appeared **The News Journal**

Of the **The News Journal Media Group**, a newspaper printed, published and circulated in the State of Delaware, who being duly sworn, depose and saith that the advertisement of which the annexed is a true copy, has been published in the said newspaper 1 times, once in each issue as follows:

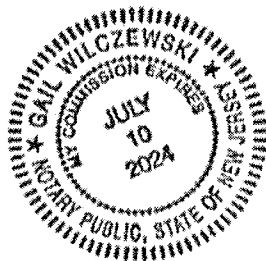
11/24/20 **A.D 2020**

Melanie C Altz

Ad Number: 0004479844

Gail Wilczewski
Sworn and subscribed before me, this 24 day of
November, 2020

Legal notification printed at larger size for affidavit.



Notice of time and place of a public hearing before City Council of the City of Wilmington on Ordinance No. 19-018, which proposes to amend Chapter 48 of the Wilmington City Code of the City of Wilmington.

Please take notice that a public hearing will be held in the Council Chambers, 1st floor, City/County Building, 800 French Street, Wilmington, Delaware on December 10 at 6:30 p.m. before City Council of the City of Wilmington, sitting as a Committee of the Whole, for the purpose of considering Ordinance No. 19-018 entitled:

AN ORDINANCE TO REZONE THE PARCEL OF LAND LOCATED AT 700 LEA BOULEVARD FROM R-2 (ONE-FAMILY DETACHED DWELLINGS AND ONE-FAMILY SEMI-DETACHED DWELLINGS) TO R-5-A-1 (LOW-MEDIUM DENSITY APARTMENT HOUSES) ZONING CLASSIFICATION

Ordinance No. 19-018 was introduced in City Council at a regular meeting held on April 18, 2019 and received 1st & 2nd readings at that time. Resolution No. 20-067 was adopted by City Council at the meeting of City Council held on November 19, 2020 directing that a public hearing on same be held by City Council on December 10, 2020 at 6:30 p.m. in the Council Chambers and directed that the President of City Council and the City Clerk of the City of Wilmington give public notice of the said hearing in the manner and form required by the Zoning Enabling Act and that ordinance.

Ordinance No. 19-018 proposed to amend the existing zoning ordinance of the City and its accompanying map.

This notice is given pursuant to the provisions of Sec. 48-51 of the Wilmington City Code providing that the zoning ordinance may be amended after a public hearing is held, at which time interested property owners and citizens may have an opportunity to be heard in favor of or in opposition to the proposed amendment.

The text, map, and report of the City Planning Commission related to this proposed amendment may be examined in the City Clerk's Office, 9th floor, City/County Building from 8:30 a.m. to 4:30 p.m. Except Saturday, Sunday, and Holidays.

By direction of City Council
Hanifa Shabazz, President
11/24-NJ

City Clerk
MARIBEL SEIJO

President Shabazz requested the Clerk read the Planning Commission Report.

The City Clerk read the Planning Commission Report. Upon a motion of Council Member Gray, seconded by Council Member Freel, the Planning Commission Report was made a part of the record. Motion prevailed. The Planning Commission's Report constituting the recommendations to City Council are further reflected in the videotape of the December 10, 2020 City Council meeting and public hearing, which is incorporated herein by reference.

Mr. Herbert Inden (Director of Planning Department) did a presentation, which is reflected in the videotape of the December 10, 2020 City Council meeting and public hearing, which is incorporated herein by reference.

As there were no comments from members of Council, at this time, President Shabazz opened up the floor for anyone from the public to speak for or against the proposed rezoning; however, nobody desired the privilege of the floor. President Shabazz requested Council Member Gray move to return to regular order of business.

Upon a motion of Council Member Gray, seconded by Council Member Freel, Council returned to Regular Order of Business. Motion prevailed.

RETURN TO REGULAR ORDER OF BUSINESS

President Shabazz requested the Clerk to read the committee report.

<u>Community Development & Urban Planning Committee Members</u>	<u>Present</u>	<u>Absent with Leave</u>	<u>Absent w/out Leave</u>
Rysheema Dixon, Chair	X		
Yolanda McCoy, Vice-Chair	X		
Linda M. Gray	X		
Zanthia Oliver	X		
Va'Shun "Vash" Turner	X		
Dr. Hanifa Shabazz, Ex-Officio		X	

President and Members of Council of
The City of Wilmington

Nov. 12, 2020

Ladies and Gentlemen:

We, your Community Development & Urban Planning Committee by
Virtual Meeting, to who was referred **Ordinance No. 19-018** entitled:

AN ORDINANCE TO REZONE THE PARCEL OF LAND LOCATED
AT 700 LEA BOULEVARD FROM R-2 (ONE-FAMILY DETACHED

DWELLINGS AND ONE-FAMILY SEMI-DETACHED DWELLINGS)
TO R-5-A-1 (LOW-MEDIUM DENSITY APARTMENT HOUSES)
ZONING CLASSIFICATION

Have given this Ordinance careful study and recommend Council vote on it accordingly.

Respectfully submitted, Members of
Community Development & Urban Planning Committee

Upon a motion of Council Member Gray, seconded by Council Member Freel, the Report was received, recorded and filed. Motion prevailed.

President Shabazz asked the Clerk if there were any Findings and the Clerk noted there were.

The City Clerk read the following Findings:

MEMORANDUM

TO: The Honorable Hanifa Shabazz, President of City Council
The Honorable Members of City Council

FROM: Elizabeth D. Power, Senior Assistant City Solicitor

CC: Marchelle Basnight, City Council Chief of Staff
Maribel Seijo, City Clerk
Tanya Washington, Mayor's Office Chief of Staff
Herbert M. Inden, Director of Planning
Gwinneth Kaminsky, Planning Manager
Robert M. Goff, Jr., City Solicitor

DATE: December 9, 2020

RE: **City Council Findings Supporting the Enactment of Ordinance No. 19-018 to Rezone the Parcel of Land Located at 700 Lea Boulevard from R-2 (One-Family Detached Dwellings and One-Family Semi-Detached Dwellings) to R-5-A-1 (Low-Medium Density Apartment Houses) Zoning Classification**

Enclosed please find a copy of the findings (the "Findings") prepared in connection with Council's scheduled public hearing on December 10, 2020 regarding the above-referenced zoning ordinance (the "Ordinance"). The Findings supplement the record of the Planning Commission and its report, as well as the record of the Council's public hearing, and the Law Department advises their inclusion in the record as a means

of complying with Delaware Court decisions that involve zoning ordinances of County governments, but the principles of which apply to Wilmington, as well.

In this instance, the Findings support the provisions of the Ordinance. The Findings and the Ordinance reflect the recommendations approved by the City Planning Commission at its regular meeting following its public hearing on March 19, 2019. At that meeting, the Planning Commission approved its Resolution No. 4-19, which recommended the rezoning proposed in the Ordinance. The enclosed Findings support those recommendations.

Should you have any questions regarding this matter, please do not hesitate to contact me.

FINDINGS SUPPORTING THE ENACTMENT OF ORDINANCE NO. 19-018

City Council makes the following findings (the “Findings”) regarding the rezoning of the parcel of land that is the subject of Ordinance No. 19-018 (the “Ordinance”).

Proposed Rezoning Action:

An Ordinance to Rezone the Parcel of Land Located at 700 Lea Boulevard from R-2 (One-Family Detached Dwellings and One-Family Semi-Detached Dwellings) to R-5-A-1 (Low-Medium Density Apartment Houses) Zoning Classification

1. The proposed rezoning action is consistent with the recommendations of the Citywide comprehensive plan entitled “Wilmington 2028: A Comprehensive Plan for Our City and Communities”.
2. Due to the adoption of the Citywide comprehensive plan entitled “Wilmington 2028: A Comprehensive Plan for Our City and Communities”, the amendment to the Comprehensive Development Plan for the Northwest Analysis Area recommended in City Planning Commission Resolution 3-19 is no longer necessary.
3. The proposed rezoning action will not affect the currently permitted land uses within the affected parcel, which will continue to be matter-of-right uses.
4. The proposed rezoning action will not create any nonconforming uses.
4. The proposed rezoning action is appropriate because it would allow for development that could serve as a buffer between existing land uses in the surrounding area.
6. The proposed rezoning action is consistent with the adjacent zoning.

7. The land uses that would be permitted under the proposed rezoning classification are consistent with the adjacent land uses.
8. The proposed rezoning action will have no negative effect on population density patterns and will not overburden public utilities and facilities.
9. The proposed rezoning action will not create or excessively increase traffic congestion or otherwise adversely affect public safety.
10. The proposed rezoning action will not seriously reduce light and air to adjacent areas, but will be consistent with and complementary to the zoning classifications of nearby zoning districts and the property uses therein.
11. The proposed rezoning action will not adversely affect property values in the adjacent areas, nor will it be a deterrent to the improvement or redevelopment of adjacent properties, but rather should have a positive effect.
12. The proposed rezoning action will best serve the public welfare and will not constitute a grant of any special privilege to any individual owner of property.
13. The proposed rezoning action will not be out of scale but rather will be consistent with the needs and current and future uses of the subject area and the City of Wilmington.
14. The proposed rezoning action will not create any isolated districts, but rather will better relate the subject property to each area and to future best uses of the property.
15. The proposed rezoning action adheres to the standards set forth in the applicable provisions of Chapter 48 of the City Code, Title 22 of the Delaware Code, and applicable Delaware case law.

CONCLUSION

This concludes the set of Council's Findings for the rezoning of the parcel of land that is the subject of the Ordinance, as illustrated on the map attached to the Ordinance. The Ordinance incorporates the recommendations of the City Planning Commission regarding the proposed rezoning action, which were approved at the Planning Commission meeting on March 19, 2019 and contained in its Resolution 4-19.

Upon a motion of Council Member Gray, seconded by Council Member Freel, the Findings were made a part of the record. Motion prevailed.

Council Member Gray presented for third and final reading Ordinance No. 19-018 (Agenda #4644) entitled:


AN ORDINANCE TO REZONE THE PARCEL OF LAND
LOCATED AT 700 LEA BOULEVARD FROM R-2

(ONE-FAMILY DETACHED DWELLINGS AND
ONE-FAMILY SEMI-DETACHED DWELLINGS) TO
R-5-A-1 (LOW-MEDIUM DENSITY APARTMENT
HOUSES) ZONING CLASSIFICATION

Upon a motion of Council Member Gray, seconded by Council Member Freel, the Ordinance was before the Council for its consideration. Motion prevailed. Council Member Gray requested that the Clerk read several documents into the record.

Note: The Declaration of Voluntary Assurances, Access Easement Agreement and Partial Assignment of Supplement to Access Easement Agreement were added into the record and is attached herein as an insert from Page 13 to Page 54.

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20190506-0033376
P 1 of 19 F \$283.00
5/6/2019 10:02:04 AM
Michael E. Kozikowski T20190020534
New Castle Recorder MISC

Parcel No 26-009 10-002

Prepared By/Return To
Richards, Layton & Finger, P A
One Rodney Square
P O Box 551
Wilmington, DE 19899

DECLARATION OF VOLUNTARY ASSURANCES

This Declaration of Voluntary Assurances (this "Declaration") is made this 3rd day of May, 2019, by RIVERSIDE HOSPITAL REDEVELOPMENT, LLC, a Delaware limited liability company, its successors and assigns ("Declarant") in favor of the BRANDYWINE HILLS COMMUNITY ASSOCIATION (the "Community" or "BHCA") and to the extent made applicable herein, THE CITY OF WILMINGTON, a municipal corporation of the State of Delaware (the "City")

WHEREAS, Declarant entered into an Agreement of Sale with Christiana Care Health Services, Inc, successor by merger with The Osteopathic Hospital Association of Delaware, a Delaware corporation, its assigns or nominees ("Seller"), dated June 20, 2016, as amended (the "Agreement"), to purchase in fee simple a certain parcel of land located at 700 Lea Boulevard, Wilmington, New Castle County, Delaware 19802, comprising 4.581 acres more or less, being Tax Parcel No 26-009 10-002, and being more particularly described on Exhibit A attached hereto and hereby made a part hereof (the "Premises"), and

WHEREAS, Declarant intends to develop the Premises for low-medium density, multifamily, residential apartment uses, and

WHEREAS, in connection with Declarant seeking from the City of Wilmington, a rezoning of the Premises from R-2 classification (one-family detached dwellings and one-family semidetached dwellings) to R-5-A-1 classification (low-medium density apartment houses), the Community and City requested and Declarant agreed, in its capacity as the equitable owner of the Premises pursuant to the Agreement, to impose certain voluntary assurances (as defined below) on the Premises on the terms and conditions set forth herein, and

WHEREAS, upon closing under the Agreement, which closing is anticipated to occur prior to April 8, 2019, Declarant will record against the Premises the Voluntary Assurances, prior to the recordation of any mortgage or lien against the Premises and concurrently with the recordation of the deed for the Premises, binding itself and its successors and assigns who may hereafter be owners of all or part of the Premises, and

WHEREAS, Declarant acknowledges that the City, its Boards, Commissions, and legislative Council have neither agreed or contracted, nor bound themselves in any way whatsoever, to grant the rezoning Declarant is seeking referred to in this Declaration, and

WHEREAS, Declarant seeks to induce the Community and the City, its Boards, Commissions, and legislative Council to support its request for rezoning pursuant to the legal factors appropriate for consideration under Chapter 48 ("Zoning") of the Wilmington City Code as well as these voluntary assurances,

NOW, THEREFORE, know all persons by these Premises, that Declarant does hereby covenant and declare for itself, its successors and assigns, that (i) provided that the Premises are rezoned to R-5-A-1 classification, Declarant shall become owner of the Premises, and (ii) the Premises shall henceforth be subject to the following voluntary assurances which shall be deemed to run with the Premises in perpetuity

1 Uses Declarant will not utilize the Premises for the following uses, which are permitted as a matter of right by R-5-A-1 classification

(a) Churches or other places of worship, parish houses or Sunday school buildings,

(b) Public or parochial elementary schools,

(c) Public libraries, public museums, public art galleries,

(d) Cemetery,

(e) The taking of nontransient nonrelated children for day care by a family resident on the premises provided there is no display or advertising on the premises in connection with such use and provided there are not more than six school children This number shall include the preschool children who are permanent members of the family,

(f) Family day care homes,

(g) Group day care homes and day care centers that are located in a building in which there is a lawful, conforming, nonresidential use in the zoning district in which it is located and in which providing day care service is not the primary use,

(h) Group home type I,

(i) Water supply reservations and dams and reservoirs connected therewith, but not pumping stations unless operated solely by electric power,

- (j) Municipal fire house, Neighborhood police station,
- (k) Public or parochial junior or senior high school,
- (l) College or university, which may include a dormitory on the same lot,
- (m) Public health center or public community center,
- (n) Private art gallery or museum,
- (o) Hospital, or other similar health care facility including, but not limited to inpatient or outpatient care for the treatment of addiction,
- (p) Telephone central office, not to include storage of materials or trucks, maintenance of repair facilities or housing of repair crews,
- (q) No billboards or telecommunications cell towers are allowed on the Premises,
- (r) Private school or nursery school,
- (s) Sanitarium or convalescent home not for the care of contagious diseases, excluding group homes and rooming houses, provided that any such permitted use is located in a building that shall be fully detached,
- (t) Dormitory, fraternity house or sorority house,
- (u) Bed and breakfast guest facility,
- (v) Group home type II, or
- (w) No non-residential use shall be permitted on the Premises

2 Further Voluntary Assurances

(a) Declarant shall provide a second permanent vehicular access to the site via 37th Street on the plans for the Premises and agrees that the final certificate of occupancy shall not be granted without this permanent access,

(b) Declarant shall cause the primary entrance for construction of the apartment uses planned herein to be via 37th Street, while the 37th Street entrance shall be the primary construction entrance during construction, the parties hereto acknowledge and agree there will be times when access from Lea Boulevard and work along Lea Boulevard will be required and permitted hereunder,

(c) Declarant shall build no more than three (3) residential apartment buildings in a manner that is substantially similar to the concept site plan attached hereto as Exhibit B and made a part hereof, the maximum building height shall be limited to sixty feet (60') and five stories, inclusive of the ground floor parking deck,

(d) Declarant shall provide, build, and install sidewalk, streetlights and black aluminum picket-style fence with cut sheet as shown on Exhibit C along the entire frontage of 37th Street along the property of St Nicholas Ukrainian Catholic Church to the point where the sidewalk intersects with Miller Road,

(e) Declarant shall limit the number of multifamily apartment units to 163, shall provide a minimum of 295 parking spaces and a maximum of 340 parking spaces, shall limit the Floor Area Ratio of the apartment buildings to 1.4, and shall provide a minimum setback of 50 feet from the DelDOT right-of-way line,

(f) The Declarant shall limit the development of the Premises along Lea Boulevard in the following manner one (1) story of parking and three (3) stories of residential units, the roof of the 4th floor may be used for individual apartment decks but not for common use, the fifth floor of the building will be set back a minimum of 20 feet from the façade fronting Lea Boulevard,

(g) Declarant shall build substantially according to the elevations shown on Exhibit D, shall develop the apartment uses with materials including stone, cementitious siding and other hard surface materials, including, without limitation PVC trim substantially similar to what is shown on the attached Exhibit B, but in no event shall vinyl siding or stucco be used or installed,

(h) All apartment buildings shall have elevators, including access to parking areas,

(i) Landscaping shall be provided substantially in accordance with the proposed plan, and shall contain trees along 37th Street and a mix of trees and bushes in front of the retaining walls as shown on Exhibit B,

(j) Declarant shall maintain the existing and any future trees along Lea Boulevard and protect existing trees during construction as shown on Exhibit E attached hereto and made a part hereof,

(k) Declarant shall provide to the Community paper and electronic copies of all land development submissions and plans seeking permission to build at the time of their submission, the contact party who shall receive such materials on behalf of the Community is as follows

BHCA President
 Linda Gray
 703 Coverly Road
 Wilmington, DE 19802
 Telephone (302) 764 8634
 Email bbbjewelry@comcast.net

(l) Declarant shall develop the apartment uses in compliance with and without material deviation from any Zoning Application and its Exhibits which may be granted and with any exhibits, plans, and other documentation approved by the City Planning Department and/or Planning Commission, including but not limited to the character and layout of the neighborhood and the conceptual elevations and floor plans,

(m) Declarant shall ensure that the conditions of this Declaration are referenced as General Notes on all subdivision and land development plans for the Premises and acknowledges herein that these conditions are binding upon the Declarant, its successors and assigns, and that these restrictions are covenants which run in perpetuity with the Premises,

(n) Declarant shall adhere to the representations made in its rezoning application, comply with the statements made by its witnesses and representatives at any hearing for rezoning,

(o) To the extent permitted or required by law, if a rezoning of the Premises is granted, Declarant acknowledges it is subject to any civil, administrative and criminal penalty provided under the Wilmington City Code or other applicable law of Delaware, and

(p) Declarant acknowledges the City may require the satisfaction of these conditions as a condition of any approval, permit, or certificate

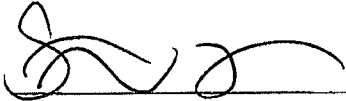
3 Recordation Concurrently, upon closing on the Premises this Declaration shall be filed by Declarant in the same manner as a deed to the Premises the Office of the Recorder of Deeds in and for New Castle County, Delaware

4 Beneficiaries and Amendments The foregoing Voluntary Assurances are hereby imposed for the benefit of the Brandywine Hills Community Association, its successors and assigns, and the City and are not for the benefit of, nor may any provision hereof be enforced by, any other person, entity or any other governmental authority other than the City and the BHCA This Declaration may not be altered, amended, or modified in whole or in part, without the written consent of both the Brandywine Hills Neighborhood Association, its successors and assigns and the City

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed and seal by duly authorized persons the day and year first above written

WITNESS



RIVERSIDE HOSPITAL REDEVELOPMENT,
LLC

By  (SEAL)

Name Louis J Capano, III
Title Manager

STATE OF DELAWARE)
COUNTY OF NEW CASTLE) SS

This instrument was acknowledged before me on April 8, 2019 by
Louis J Capano, III as Manager of RIVERSIDE HOSPITAL REDEVELOPMENT, LLC



Notary Public
My commission expires

[Seal]

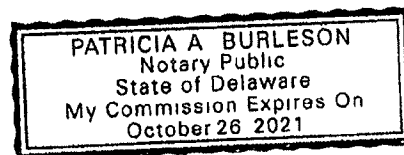


EXHIBIT A
DESCRIPTION OF PROPERTY

Description of land known as **Parcel 'A-1', 700 Lea Boulevard**, Lea Boulevard, City of Wilmington, New Castle County, Delaware

ALL THAT CERTAIN tract, piece or parcel of land situate, Lea Boulevard, City of Wilmington, New Castle County, Delaware and shown as Parcel 'A-1' on a plan prepared by VanDemark & Lynch, Inc , Engineers, Planners and Surveyors, Wilmington, Delaware, dated May 15, 2017, File Name 24216 00-RECORD-01 and entitled "Major Subdivision Plan, 700 Lea Boulevard" and being more particularly described as follows to wit

BEGINNING at an iron pin set, the northerly common corner for land now or formerly of Riverside Healthcare Corporation (Deed Record 1282, Page 50) and land now or formerly of Osteopathic Hospital Association of Delaware (Deed Record Y, Volume 73, Page 329) on the southwesterly side of Lea Boulevard, a 100 foot wide public street, said point being measured, along the said southwesterly side of Lea Boulevard, North 44°30'00" West, 197 00 feet from a monument found, the intersection of the northwesterly side of Franklin Place, an 80 foot wide public street, with the said southwesterly side of Lea Boulevard,

THENCE from the said point of Beginning, leaving the said southwesterly side of Lea Boulevard, along a northwesterly line for the said land now or formerly of Riverside Healthcare Corporation, South 45°30'00" West, 103 47 feet to an iron pin found in concrete,

THENCE through the said land now or formerly of Osteopathic Hospital Association of Delaware, the four (4) following described courses and distances

- 1 South 50°42'30" West, 50 46 feet to a point of curvature,
- 2 Southwesterly, by a curve to the left having a radius of 75 00 feet, an arc length of 40 46 feet to a point of tangency, said point being distant by a chord of South 35°15'15" West, 39 97 feet from the last described point,
- 3 South 19°48'00" West, 82 56 feet to a point, and
- 4 South 67°40'30" West, 260 82 feet to a point on the northeasterly line for a 10 foot wide strip of land now or formerly of G-Wilmington Associates L P (Deed Record Y, Volume 112, Page 342), said line also being the political division line between Brandywine Hundred and the City of Wilmington,

THENCE along the said northeasterly line for a 10 foot wide strip of land, North 22°19'30" West, 477 90 feet to a monument found, the southerly corner for land now or formerly of St Nicholas Ukrainian Catholic Church (Deed Record R, Volume 80, Page 396),

THENCE along the southeasterly line for the said land now or formerly of St Nicholas Ukrainian Catholic Church, North $61^{\circ}05'00''$ East, 341 13 feet to an iron pin in concrete found on the said southwesterly side of Lea Boulevard,

THENCE along the said southwesterly side of Lea Boulevard, South $44^{\circ}30'00''$ East, 411 02 feet to the point and place of Beginning

Containing within said metes and bounds, 4 581 acres of land, being the same, more or less

EXHIBIT B

CONCEPT SITE PLAN TO BE ATTACHED

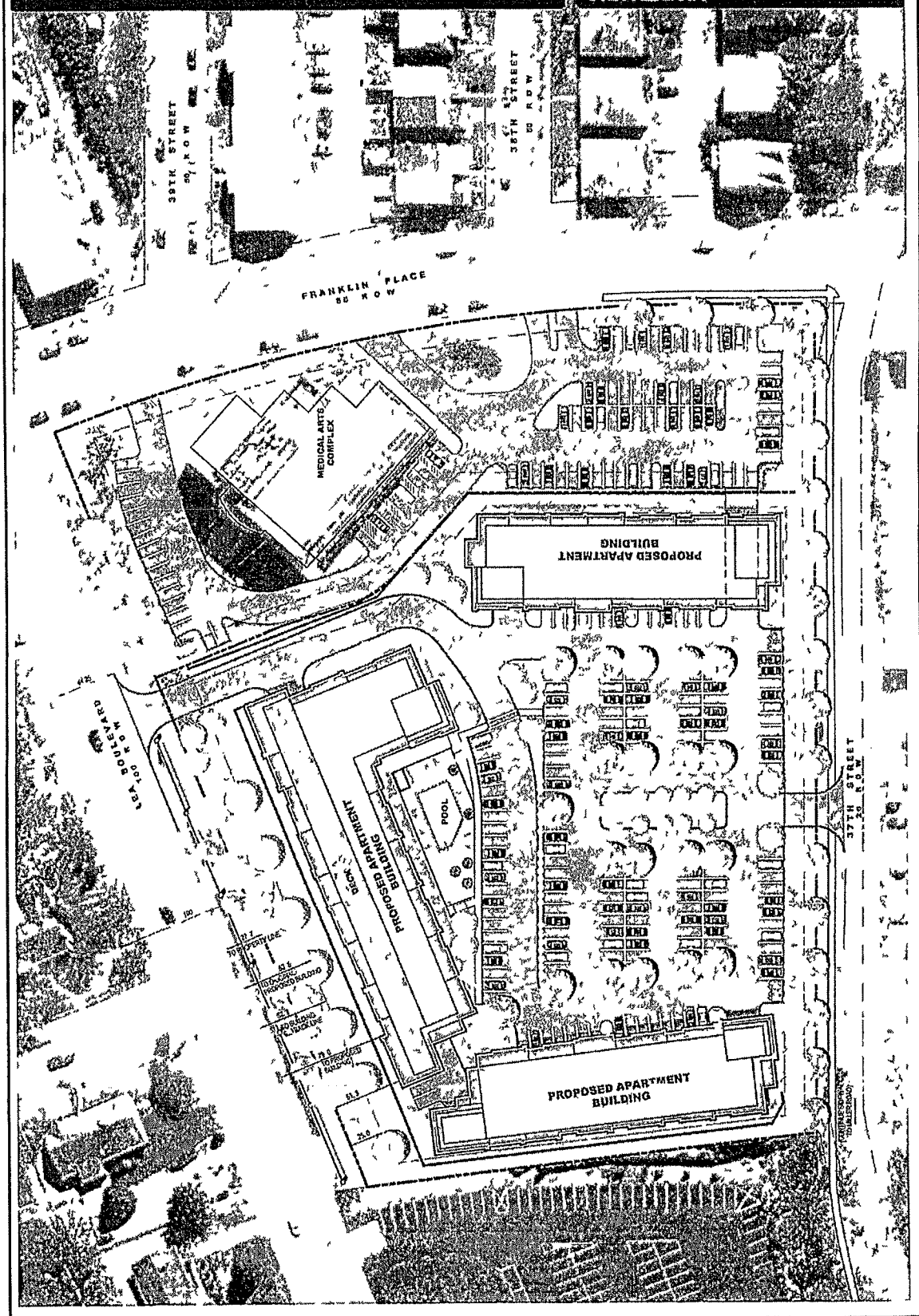


EXHIBIT C

EXAMPLE FENCING TO BE ATTACHED

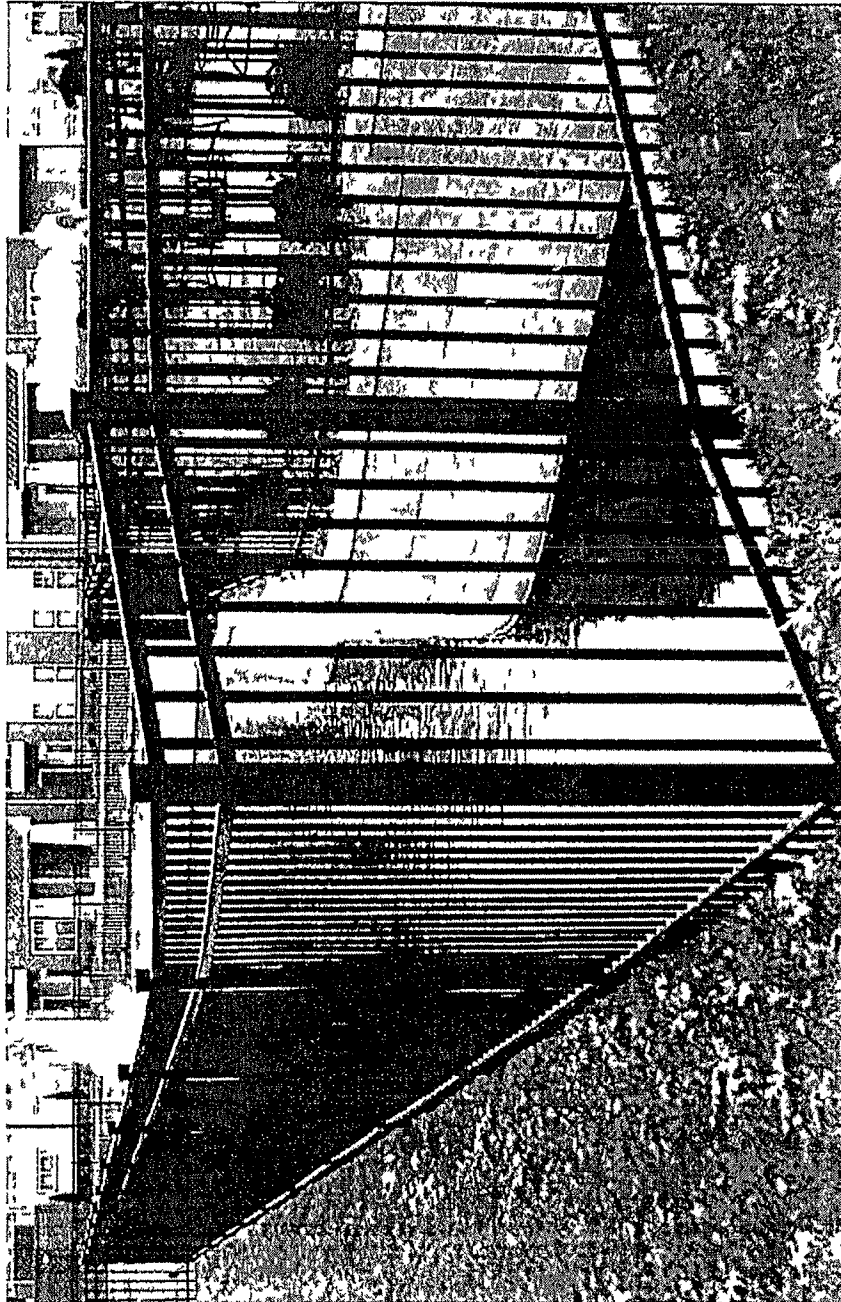
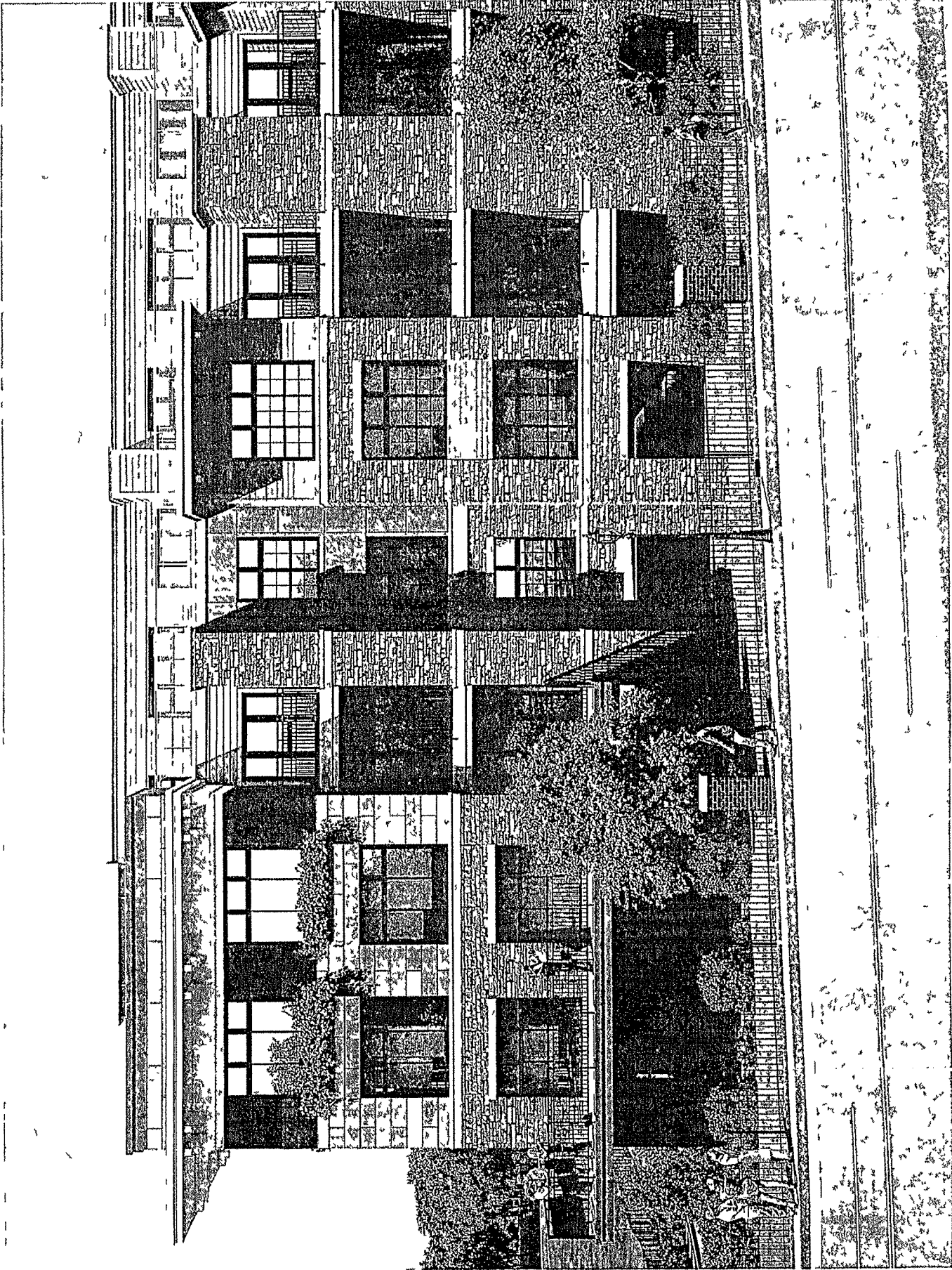
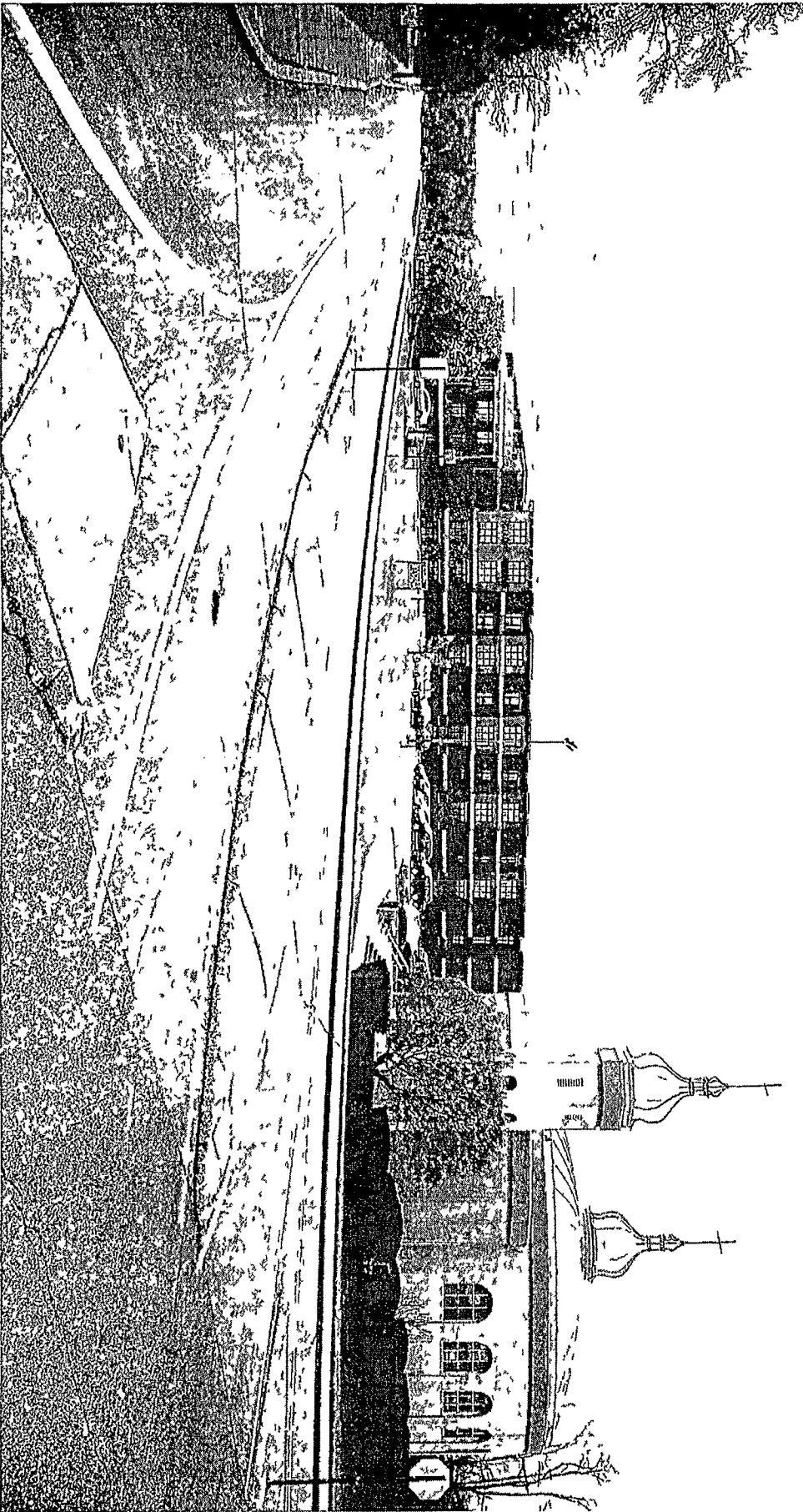


EXHIBIT D

BUILDING ELEVATIONS TO BE ATTACHED





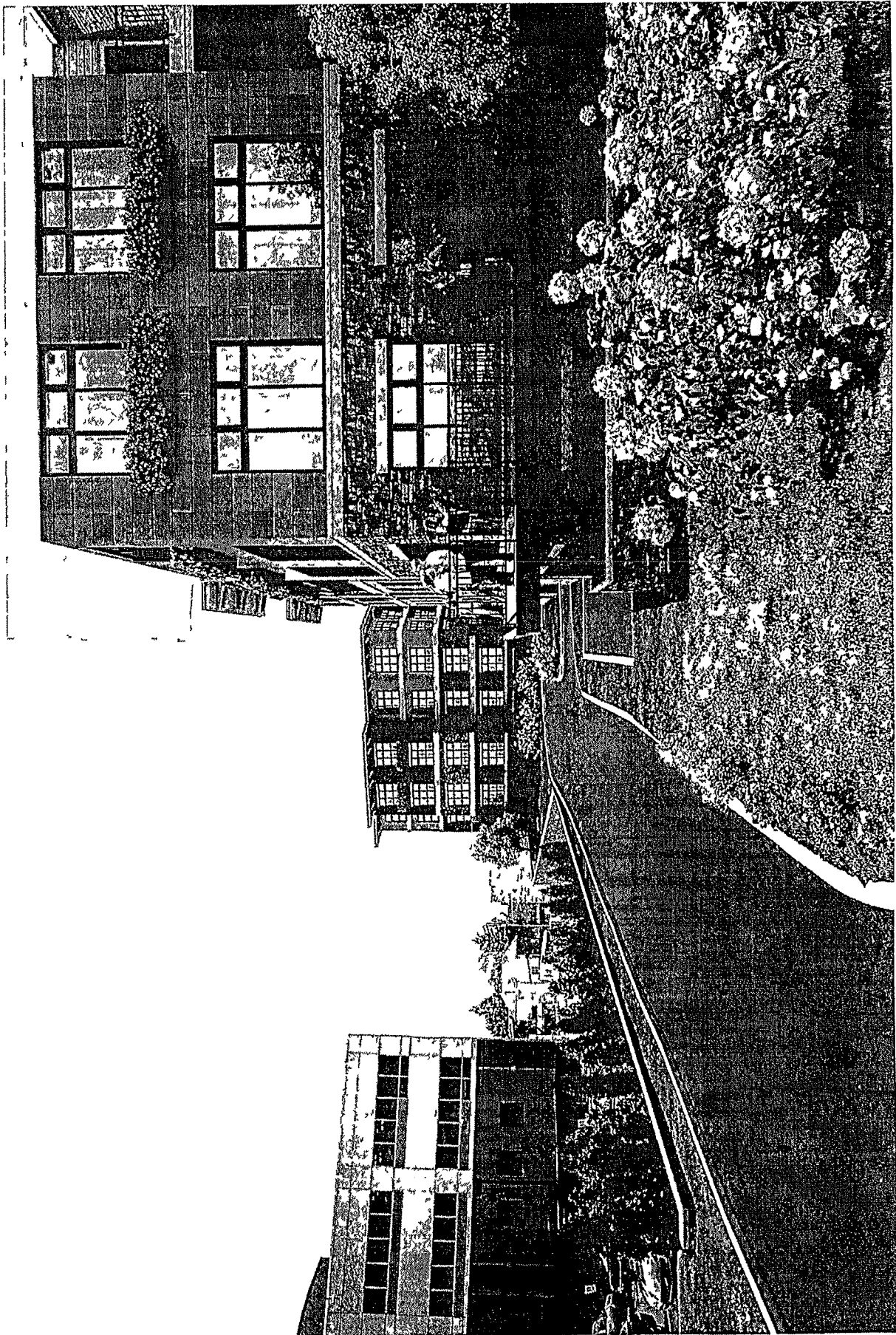
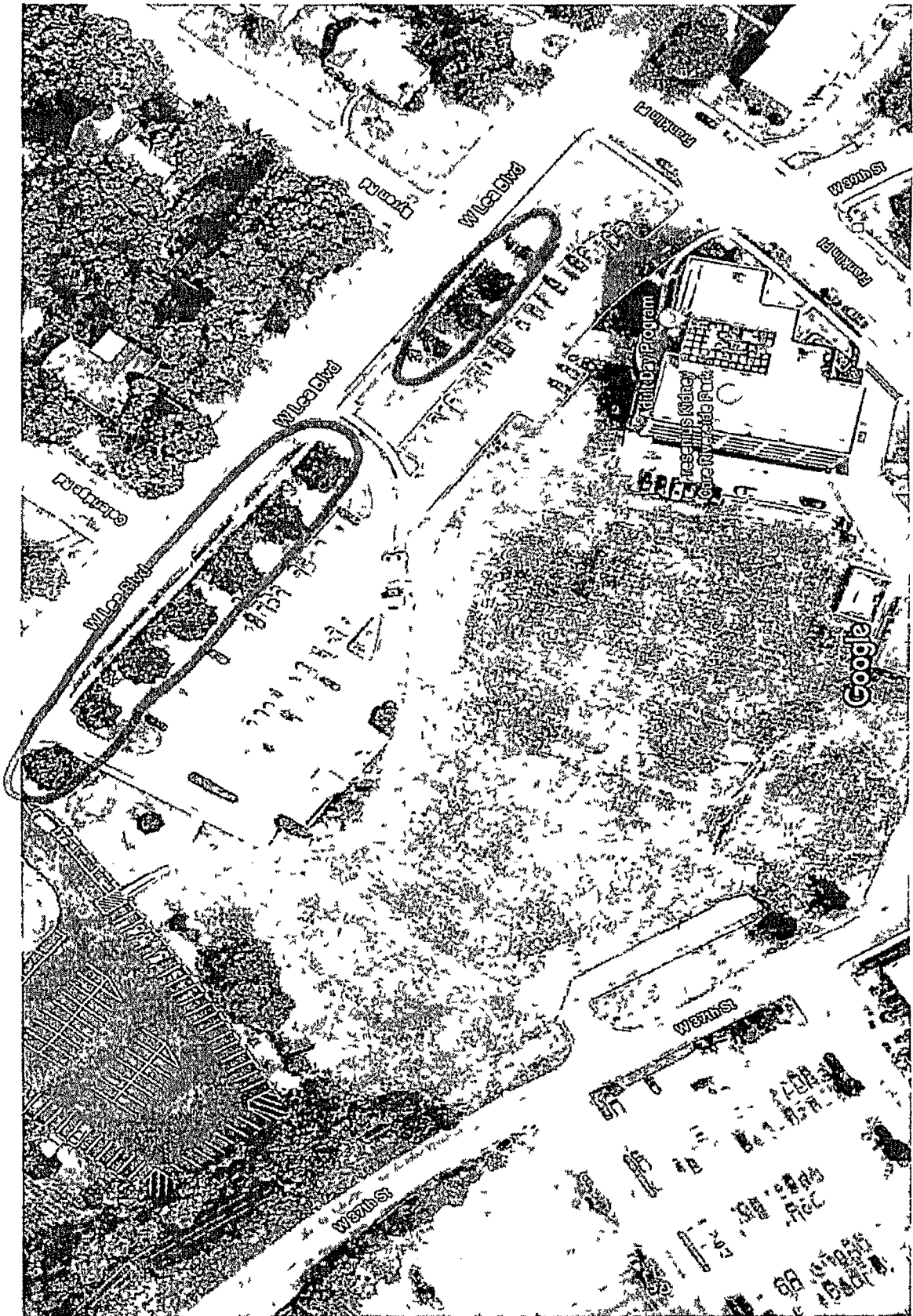


EXHIBIT E

TREE PLAN TO BE ATTACHED

Google Maps



Imagery ©2019 Google Map data ©2019 Google 50 ft

Tax Parcel Nos.: 06-137.00-011
26-009.10-002

20200430-0033774

P: 1 of 16 F:\$243.00
4/30/2020 8:51:32 AM
Michael E. Kozikowski T20200018114
New Castle Recorder MISC

Prepared by and Return to:
Riverside Hospital Redevelopment, LLC
105 Foulk Road
Wilmington, DE 19803

ACCESS EASEMENT AGREEMENT

THIS ACCESS EASEMENT AGREEMENT (this "Agreement") is made this 22 day of April 2020, by and between **Riverside Hospital Redevelopment, LLC**, a Delaware limited liability company ("**RHR**") and **G-Wilmington Associates**, a New York limited partnership ("**GWA**").

RECITALS

A. RHR is the owner of a certain parcel of land (the "RHR Parcel") situate in the City of Wilmington, New Castle County, State of Delaware, currently identified as tax parcel number 26-009.10-002 and located at 710 Lea Boulevard, Wilmington, Delaware, and being more particularly shown and identified as 'Parcel A-1' on the plan entitled "Major Subdivision Plan, 700 Lea Boulevard" prepared by VanDemark & Lynch, Inc., dated May 15, 2017, as amended, and recorded in the Office of Recorder of Deeds in and for New Castle County (the "Recorder's Office") on August 31, 2017, in Instrument No. 20170831-0045037, as the same may be amended, supplemented or modified from time to time (the "RHR Plan").

B. GWA is the owner of a certain parcel of land (the "Shopping Center Parcel") situate in Brandywine Hundred, New Castle County, State of Delaware adjoining the RHR Parcel, commonly known as Miller Road Shopping Center, currently identified as tax parcel number 06-137.00-011 and located at 3600 Miller Road, Wilmington, Delaware, and being more particularly shown and identified on the plan entitled "Record Minor Redevelopment Plan for Miller Road Shopping Center" prepared by Landmark Engineering dated September 28, 2004, as amended, and recorded in the Recorder's Office on February 17, 2005, in Instrument No. 20050217-0016570, as the same may be amended, supplemented or modified from time to time (the "Shopping Center Plan").

C. A certain perpetual easement for access on, over, through, and across a certain portion of the Shopping Center Parcel is necessary for the desired development and use of the RHR Parcel (the "Project").

D. The parties hereto therefore desire to impose on themselves, their successors and assigns, and any subsequent owner or owners of the Parcels or part thereof, and to bind themselves, their successors and assigns, and any subsequent owner or owners of the Parcels or part thereof to, certain covenants and easements with respect to the Parcels as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of these recitals, and the easements, covenants, conditions, restrictions, and encumbrances contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby covenant and agree as follows:

1. Definitions. For purposes of this Agreement, "RHR Parcel Owner" shall collectively mean RHR in its capacity as owner of the RHR Parcel, its successors and assigns, and all future owners of the RHR Parcel or any part thereof; and "Shopping Center Parcel Owner" shall collectively mean GWA in its capacity as owner of the Shopping Center Parcel, its successors and assigns, and all future owners of the Shopping Center Parcel or any part thereof. The RHR Parcel and the Shopping Center Parcel are each sometimes individually referred to as a "Parcel" and collectively as "Parcels". The RHR Parcel Owner and the Shopping Center Parcel Owner are sometimes individually referred to as "Owner" and collectively as "Owners."

2. Permanent Access Easement.

2.1. The Shopping Center Parcel Owner hereby grants, conveys, and confirms unto the RHR Parcel Owner, for the benefit of the RHR Parcel Owner, its employees, tenants, occupants, contractors, agents, servants, licensees, representatives, and invitees (collectively the "RHR Parties"), subject to the rights of others therein, a permanent, nonexclusive easement and right (the "Permanent Easement") for the purpose of facilitating pedestrian and vehicular access, ingress, egress, and regress in, on, to, from, upon, under, across, over, and through that portion of the Shopping Center Parcel (the "Easement Area"), as shown on that certain "Access Easement Exhibit" prepared by Vandemark & Lynch, Inc., dated January 14, 2020 attached hereto as Exhibit A and made a part hereof, and as more specifically described in Exhibit B attached hereto and made a part hereof. It is expressly acknowledged and agreed by the parties that, following date hereof, the Easement Area may be altered by RHR in connection with its seeking approval(s) for the Project, provided that (a) any such alterations shall be subject to the prior written approval of GWA, which approval shall not be unreasonably withheld, conditioned or delayed (b) the final Easement Area shall in no event be larger than what is depicted on Exhibit A or described in Exhibit B attached hereto, (c) the final Easement Area shall not be relocated to another area outside of what is depicted on Exhibit A or described in Exhibit B attached hereto, and (d) the final curb-cut on the RHR Parcel shall not be expanded to a size larger than what presently exists as of the date hereof.

2.2. The RHR Parcel Owner shall have the right, at its sole cost and expense, to install, construct, use, connect, maintain, repair, and replace such improvements on the Easement Area (the "Easement Area Improvements") as are necessary to connect the RHR Parcel to the public right-of-way identified as "37th Street" on the RHR Plan, and/or as desirable to the RHR Parcel Owner for the use of the Permanent Easement; provided (i) the RHR Parcel Owner shall bear all costs and expenses associated with installation, construction, use, connect, maintenance, repair, and replacement of the Easement Area Improvements, (ii) all work in connection with the Easement Area Improvements shall be done in a good, workmanlike, and timely manner, and in accordance with all applicable laws, regulations, and standards, (iii) the RHR Parcel Owner shall make all necessary repairs or replacements as shall be required to place the Shopping Center Parcel

in at least as good a condition as it was prior to the RHR Parcel Owner's actions, and (iv) for so long as the Easement Area remains open, the RHR Parcel Owner shall make all necessary repairs or replacements as shall be required to keep and maintain the Easement Area in safe condition and good repair. The Shopping Center Parcel Owner shall provide reasonable cooperation with the RHR Parcel Owner in good faith and at no cost to the Shopping Center Parcel Owner, to obtain the swift completion of the Easement Area Improvements; and provide the RHR Parcel Owner with such information as may be reasonably requested by the RHR Parcel Owner in order to facilitate the swift completion of the Easement Area Improvements, including, but not limited to, executing applications and other documents.

2.3. The use of the Permanent Easement granted hereunder shall at all times be exercised in a reasonable, prudent, lawful, and safe manner subject to reasonable requirements for safety, maintenance, and traffic flow. In no event, however, shall the Shopping Center Parcel Owner erect or allow to be erected any fences, obstructions, curbing, beams, blockades, partitions, or other similar installations (other than reasonably temporary installations for purposes of repair, maintenance, or preventing the accrual of rights) on any portion of the Shopping Center Parcel, which would materially or significantly inhibit the uninterrupted free flow of traffic to and from the RHR Parcel or materially or significantly impair the open and unrestricted access, use, and passage to and from the RHR Parcel; provided, however, that nothing contained herein shall limit or curtail the rights of the Shopping Center Parcel Owner to lawfully close the Easement Area and/or seek injunctive relief preventing the further use of the Easement Area by the RHR Parcel Owner or any other RHR Parties following a breach of the terms hereof, pursuant to Article 7 below.

2.4 Prior to any entry upon the Easement Area and/or the Shopping Center Parcel by any RHR Parties, and prior to any work being performed in, on, or under the Easement Area, or any access being granted thereto, RHR shall provide to GWA, at RHR's sole cost and expense, plans and specifications for the Easement Area Improvements and RHR's plans for the installation and maintenance thereof, for GWA's prior approval, such approval not to be unreasonably withheld, conditioned or delayed, and RHR shall reimburse GWA for all reasonable costs and fees incurred by GWA in connection with such review, including fees and expenses incurred by GWA to engineers, architects, attorneys, or other consultants retained by GWA in connection with such review.

2.5 The RHR Parcel Owner shall at all times be liable to the Shopping Center Parcel Owner to obtain and continuously maintain, at its sole cost and expense, all certificates, approvals, permits, licenses and other consents respecting the Easement Area that are required by any local, county, state or federal agencies or other authorities having jurisdiction over the Easement Area and/or the Shopping Center Parcel and shall, for and during the term of this easement, strictly observe any and all laws, rules, codes, statutes and regulations of any such authorities.

3. Payment. Simultaneously with the full execution and delivery of this Agreement, as partial consideration for GWA's agreement to the terms hereof, RHR shall pay to GWA the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00). Thereafter, and as additional consideration for GWA's agreement to the terms hereof, commencing on the first (1st) day of the second (2nd) full month following such full execution and for so long as this Agreement remains

in effect, the RHR Parcel Owner, shall pay to the Shopping Center Parcel Owner the sum of Two Thousand and 00/100 Dollars (\$2,000.00) per month, which payment shall increase on a compounding basis by Twelve Percent (12%) every five (5) years following its commencement (the "Easement Fee"). In addition to the foregoing, RHR shall, upon execution hereof, and following verification, reimburse GWA for the reasonable third-party costs and expenses directly incurred by GWA in connection with this Agreement, including but not limited to reasonable attorneys' and consultants' fees.

4. Security. RHR acknowledges and agrees that adequate security and reasonable police response time are of material importance to GWA regarding the safety and security at the Shopping Center Parcel, and is one of the primary considerations in GWA's agreement to the terms hereof. As a result, and notwithstanding the fact that the Shopping Center Parcel is located in New Castle County, RHR has advised GWA that the Chief of Police for the City of Wilmington has agreed, by letter dated November 22, 2019, a copy of which is attached hereto as Exhibit C, that the City of Wilmington Police Department will work jointly and cooperatively with the Delaware State Police to provide directed patrols and mutual aid to assist in providing heightened safety and security measures for the Shopping Center Parcel. Notwithstanding the foregoing, in the event that, in the reasonable and good faith discretion of the Shopping Center Parcel Owner, the City of Wilmington Police Department and/or the Delaware State Police are unable to or are otherwise failing to provide reasonably adequate security and safety to the Shopping Center Parcel, then at the written request of the Shopping Center Parcel Owner, the RHR Parcel Owner shall assume all security responsibility for the Shopping Center Parcel, to the reasonable satisfaction of the Shopping Center Parcel Owner, and at the sole cost and expense of the RHR Parcel Owner. In the event that the RHR Parcel Owner assumes the responsibility for providing security to the Shopping Center Parcel as aforesaid, and thereafter, in the reasonable and good faith discretion of the Shopping Center Parcel Owner, the RHR Parcel Owner is unable to or is otherwise failing to provide reasonably adequate security and safety to the Shopping Center Parcel, then upon written notice from the Shopping Center Parcel Owner to the RHR Parcel Owner, the Shopping Center Parcel owner shall assume all security responsibility for the Shopping Center Parcel, at the sole cost and expense of the RHR Parcel Owner, and the RHR Parcel Owner shall reimburse the Shopping Center Parcel owner for the reasonable costs and expenses incurred by the Shopping Center Parcel Owner in connection therewith on a monthly basis, together with a fifteen percent (15%) management fee, simultaneously with its payment of the Easement Fee.

5. Parking. Each RHR Parcel Owner shall use ongoing commercially-reasonable efforts, including the use of signage and notice to its employees, tenants, contractors, and business invitees, to ensure that parking on the Shopping Center Parcel is not utilized by such individuals or otherwise for the benefit of the RHR Parcel.

6. Use of RHR Parcel. RHR shall develop the RHR Parcel and construct improvements thereon in order to lease and manage upscale, market-rate multifamily housing and that the RHR Parcel shall continuously be used primarily for such purpose throughout the term of this Agreement. RHR further represents that the commencement of the work relating to the construction and installation of the Easement Area Improvement will be completed no later than thirty-six (36) months from the date of this Agreement. In the event that the Easement Area Improvements are not completed within thirty-six (36) from the date of this Agreement, the Shopping Center Parcel Owner shall have the right to terminate this Agreement as of the expiration

of such 36-month period. The parties acknowledge and agree that the foregoing representations and agreements are material inducements to GWA entering into this Agreement.

7. Breach; Enforcement. Upon a breach of this Agreement by either party hereunder, the non-breaching party shall provide written notice to the breaching party and a reasonable opportunity to cure such breach. In the event of uncured breach of this Agreement by the RHR Parcel Owner, it is expressly acknowledged and agreed that, given the subject matter and consideration involved hereunder, the Shopping Center Parcel Owner shall be entitled to all remedies available at law or in equity, including but not limited to the lawful closure of the Easement Area and injunctive relief preventing the further use of the Easement Area by the RHR Parcel Owner or any other RHR Parties. The RHR Parcel Owner shall reimburse the Shopping Center Parcel Owner for any and all reasonable costs and expenses, including reasonable attorney's fees, which the Shopping Center Parcel Owner may directly incur in connection with the enforcement of this Agreement. Notwithstanding anything to the contrary contained herein, in no event shall either the Shopping Center Parcel Owner or the RHR Parcel Owner be liable to the other for any consequential, punitive, exemplary, or like damages as a result of or arising from any negligence, tortious act, breach of any term, covenant or obligation under this Agreement, or any other act or omission relating to arising from this Agreement, the use of the Easement Area by any party, or any other matter affecting the parties hereto.

8. Further Acts. Each Owner shall cooperate with each other Owner in good faith to more fully effectuate the provisions of this Agreement as is reasonably requested by an Owner or as is required by applicable Law. Each Owner shall, whenever and as often as it shall be reasonably requested so to do by another Owner, execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, any and all conveyances, assignments, correction instruments, and all other instruments and documents as may be reasonably necessary in order to complete the transaction provided for in this Agreement or to carry out the intent and purposes of this Agreement.

9. Liability. Nothing contained in this Agreement shall in any way be construed to impose liability on any Owner or for the conduct or acts of the other Owner, or their respective employees or agents, nor shall anything in this Agreement shall be construed to compose a joint venture, partnership, or other relationship between the parties other than as grantor and grantee of the easement, the right of way and other rights created hereunder.

10. Retained Rights. Except as provided herein, each Owner shall have full use and enjoyment of its Parcel.

11. Successors. The easements, restrictions, benefits, obligations, and rights granted or reserved hereunder shall create mutual benefits and servitudes running with the land for the benefit of the Parcels, and any owner of any portion thereof, its successors, assigns, licensees, and/or invitees. The terms, conditions, and covenants of this Agreement shall bind and inure to the benefit of the Owners and their respective successors and assigns, lessees, grantees, subtenants, invitees, licensees, mortgagees, and all other subsequent owners of any portion of the Parcels affected by this Agreement.

12. Estoppel Certificate. At any time and from time to time, each Owner agrees to execute, acknowledge, and deliver to any other Owner of any of the Parcels and any mortgagee(s), as applicable, not later than ten (10) Business Days after a request in writing from such Owner, a statement in writing, in a commercially reasonable form, reasonably satisfactory to the requesting Owner or mortgagee(s), certifying that this Agreement is in full force and effect and unmodified (or if there have been modifications, that this Agreement is in full force and effect as modified and stating the modifications), and whether the requesting Owner or any other party to this Agreement, is in default thereunder, whether there are any conditions which, with the passage of time or the giving of notice, or both, would constitute a default thereunder, and certifying such other matters reasonably requested by such Owner or mortgagee(s), as applicable. Failure by an Owner to so execute and return such certificate within twenty (20) Business Days shall be deemed an affirmative admission on such Owner's part that the requesting Owner is not in default under this Agreement. Each Owner acknowledges that any such certificate may be relied upon by transferees and mortgagees.

13. Applicable Laws. Each easement, restriction, and right contained herein is subject to all present and future applicable laws, ordinances, rules, regulations and orders of the City of Wilmington, New Castle County and the State of Delaware, and any administrative agency of any of the foregoing. Nothing contained herein shall be construed as permitting any action or condition inhibited by such applicable law, ordinances, rules, regulations and orders.

14. Perpetuity. Unless otherwise canceled, terminated or released of record, and except as the same may be terminated pursuant to the terms hereof, the easement granted in this Agreement and all of the other rights and obligations hereunder shall continue in perpetuity.

15. Indemnification; Insurance.

15.1 Prior to any entry upon the Easement Area and/or the Shopping Center Parcel by any RHR Parties, and prior to any work being performed in, on, or under the Easement Area, or any access being granted thereto, including but not limited the initial installation of the Easement Area Improvements and all future maintenance, operation, alteration, replacement, repair, abandonment, and/or removal thereof, all RHR Parties at their own expense shall procure and maintain in full force and effect for the duration of this Agreement, insurance in amounts in amounts and coverages reasonably required by the Shopping Center Parcel Owner, with responsible insurance carriers that have an A.M. Best rating of A- or better authorized and licensed to do business in Delaware, including but not limited to (i) a performance and payment bond, in form and content reasonably satisfactory to GWA, in an amount equal to 125% of the amount reasonably estimated by RHR's engineer as the cost of the complete construction and installation of all Easement Area Improvements (it being agreed by GWA that a letter of credit in form and content reasonably satisfactory to GWA shall be suitable in lieu of a bond, at RHR's election), and (ii) a certificate of general liability insurance (including contractual liability), naming the Shopping Center Parcel Owner as an additional insured, having a combined single limit of at least \$5,000,000 per occurrence;

15.2 The RHR Parcel Owner shall indemnify, defend (with counsel reasonably satisfactory to the Shopping Center Parcel Owner) and hold the Shopping Center Parcel Owner and its tenants, and any mortgagees and their respective officers, directors, shareholders, members,

partners, employees, agents, lenders, successors and assigns, harmless from and against any and all claims, liabilities, lawsuits, damages, penalties and costs, including, without limitation, reasonable attorney's fees, engineering and other professional and expert fees and expenses which any and all of them may incur, resulting from or relating to (i) the exercise by the RHR Parcel Owner of any rights under this Agreement including, but not limited to, work performed by any RHR Parties, either pursuant to this Agreement or in undertaking any installing, maintaining, operating, altering, replacing, repairing, abandoning, and/or removing the Easement Area Improvements; (ii) any and all activities performed or failed to be performed pursuant to this Agreement by or on behalf of any RHR Parties; and (iii) any injury or death to person or damage to property, resulting from or relating, directly or indirectly, to (A) the presence of any RHR Parties in the Easement Area or on the Shopping Center Parcel and/or (B) the construction, installation, access to or use of the Easement Area by any party. The obligations of the RHR Parcel Owner and the rights of the Shopping Center Parcel Owner set forth herein shall survive the expiration and/or termination of the Easement and/or this Agreement.

15.3 In the event that any action shall be brought against the Shopping Center Parcel Owner based upon any of the above and in respect of which indemnity may be sought, the Shopping Center Parcel Owner shall promptly notify the RHR Parcel Owner in writing, and the RHR Parcel Owner shall, if so requested by the Shopping Center Parcel Owner, assume defense thereof including employment of counsel, the payment of all expenses and the right to negotiate and consent to the settlement with the prior written consent of the indemnified party. Notwithstanding anything to the contrary contained herein, the Shopping Center Parcel Owner shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such separate counsel shall be at the expense of the RHR Parcel Owner. The Shopping Center Parcel Owner shall not be liable for any settlement without its consent, said consent not to be unreasonably withheld. If there is a final judgment for the plaintiff in any action covered by this provision, the RHR Parcel Owner agrees to indemnify and hold harmless the Shopping Center Parcel Owner from and against any loss or liability by reason of such a judgment.

15.4 The Shopping Center Parcel Owner shall pay when due any judgments or claims for damages, penalties or otherwise and shall assume the burden and expense of defending all suits, administrative proceedings and resolutions of any description with all persons, political subdivisions or governmental agencies arising out of an occurrence set forth in this Agreement. In the event that such payment is not made, the Shopping Center Parcel Owner may proceed to file suit and collect such payment.

16. Waiver. No delay or omission by any Owner to exercise any right or power accruing upon any non-compliance or failure or performance by any party of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by an Owner of any of the covenants or conditions hereof to be performed by the other shall not be construed to be a waiver of any succeeding breach thereof or of any covenants or conditions herein contained.

17. Number and Gender. The singular shall include the plural and the plural, the singular; the masculine, feminine, or neuter gender shall include the other genders.

18. Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other part hereof.

19. Amendments. This Agreement shall not be modified, supplemented, or altered in any respect except by a writing signed by each of the Owners, or their respective successors or assigns, and duly recorded.

20. Notices. All notices shall be in writing. Any notice shall be conclusively deemed to have been received by a party hereto and to be effective on the date on which delivered to such party at the address set forth below (or at such other address as such parties shall specify to the other party in writing) so long as actual delivery is subsequently confirmed in writing (such confirmation being evidenced by, without limitation, a United States Postal Service return receipt or appropriate confirmation of delivery by a nationally-recognized overnight courier):

If to GWA: G-Wilmington Associates
c/o Rosen Management Corp.
33 South Service Road
Jericho, NY 11753
Attn: David S. Rosen

With a copy simultaneously therewith to:

Lasser Hochman, L.L.C.
75 Eisenhower Parkway, Suite 120
Roseland, New Jersey 07068
Attn: Daniel Bibergal, Esq.

If to RHR: Riverside Hospital Redevelopment, LLC
105 Foulk Road
Wilmington, DE 19803
Attn: Louis J. Capano, III

21. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of laws rules.

22. Counterparts. The parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be signed by all parties; each counterpart shall be deemed an original instrument as against any party who has signed it. The parties acknowledge and agree that notwithstanding any Law or presumption to the contrary, the exchange of copies of this Agreement and signature pages by electronic transmission shall constitute effective execution and delivery of this Agreement for all purposes, and signatures of the parties hereto transmitted electronically shall be deemed to be their original signature for all purposes. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have executed this Agreement as of the day and year first above written.

Witness:

G-WILMINGTON ASSOCIATES,
a New York limited partnership,

W. Harris

By: [Signature] (SEAL)
Name: FLORENCE ROSEN
Title: V.P.

STATE OF NEW YORK)
COUNTY OF NASSAU) SS.

The instrument was acknowledged before me this 22nd day of APRIL 2020, by FLORENCE ROSEN, V.P. of G-Wilmington Associates, on behalf of the partnership.

KATHLEEN MARKART
Notary Public, State of New York
No. 01MA6027050
Qualified in Suffolk County
Certified in Nassau County
Commission Expires June 28, 2023

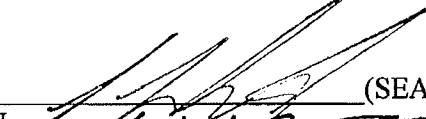
Kathleen Markart
Notary Public
Print Name: KATHLEEN MARKART
My commission expires: JUNE 28, 2023

[Notary Seal]

Witness:

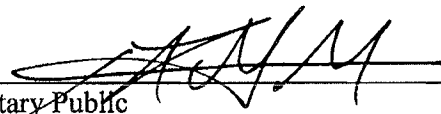
**RIVERSIDE HOSPITAL
REDEVELOPMENT, LLC**
a Delaware limited liability company,



By:  (SEAL)
Name: Louis L. Capano, III
Title: Manager

STATE OF DELAWARE)
) SS.
COUNTY OF NEW CASTLE)

The instrument was acknowledged before me this 1st day of April 2020, by Louis L. Capano, III, Manager of Riverside Hospital Redevelopment, LLC, on behalf of the limited liability company.

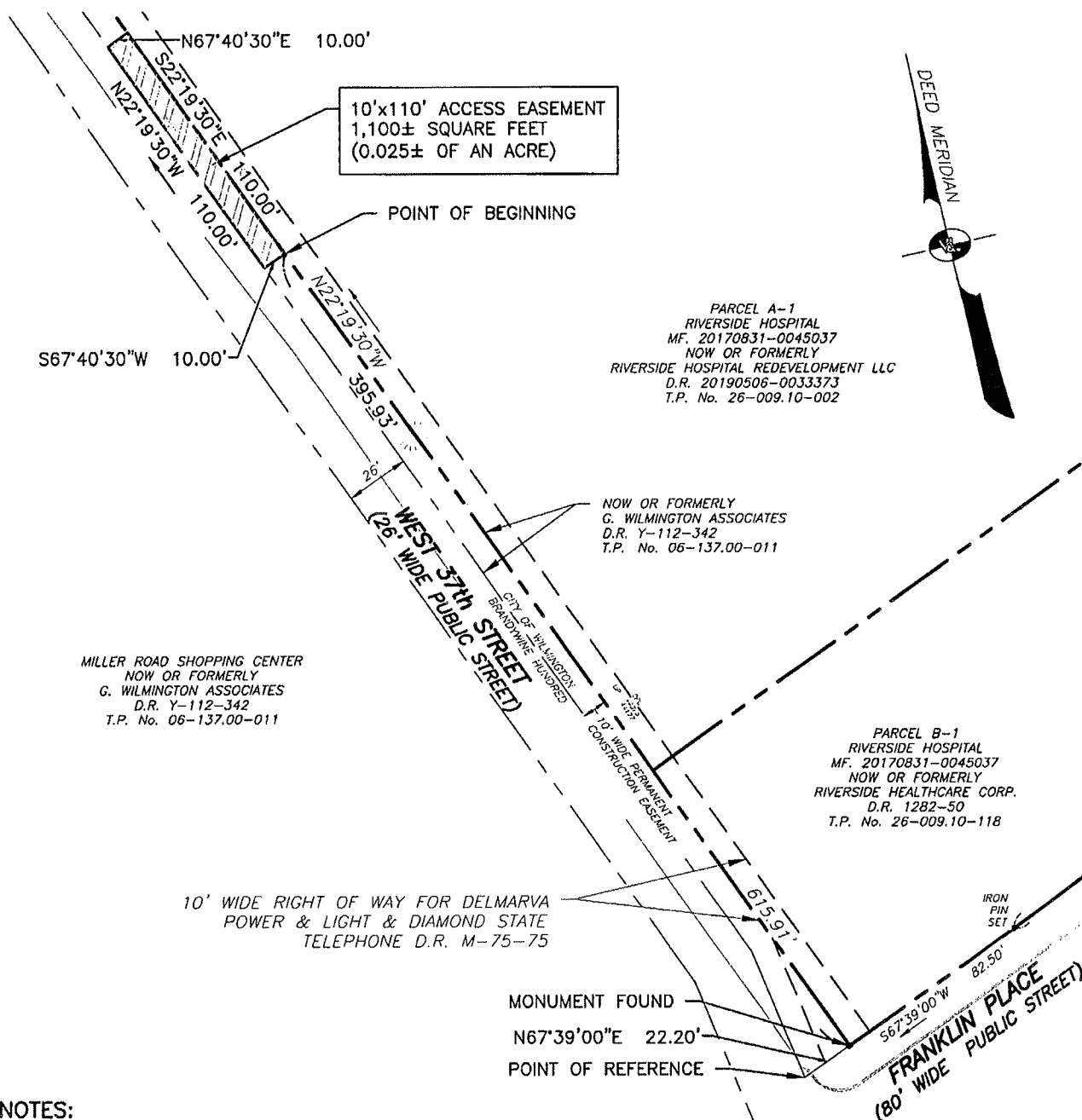

Notary Public
Print Name: _____
My commission expires: _____

[Notary Seal]

FRANCIS X. GORMAN, ESQ.
LICENSED ATTORNEY, STATE OF DELAWARE
NOTARIAL OFFICER, STATE OF DELAWARE
COMMISSION HAS NO EXPIRATION DATE
29 DEL.C. § 4323(a)(3)

EXHIBIT A

[Plat of Easement Area]

**NOTES:**

THE PURPOSE OF THIS PLAN IS TO SHOW THE ACCESS EASEMENT TO 37th STREET.

OWNER: RIVERSIDE HOSPITAL REDEVELOPMENT LLC

SOURCE OF TITLE: DEED RECORD
20190506-0033373

TAX PARCEL NUMBER: 26-009.10-002

EASEMENT AREA = 1,100± SQUARE FEET
(0.025± OF AN ACRE)

ACCESS EASEMENT EXHIBIT
RIVERSIDE APARTMENTS

710 LEA BOULEVARD
CITY OF WILMINGTON
NEW CASTLE COUNTY DELAWARE
SCALE: 1"=60' JANUARY 14, 2020



**VANDEMARK
& LYNCH, INC.**

ENGINEERS - PLANNERS - SURVEYORS
4308 MILLER RD./PO BOX 2047
WILMINGTON, DE 19899/(302) 764-7635

PERMANENT FILE
112/364

FILE NO.

24216.00-ESMT-01

SHEET
1 OF 1

REVISION

EXHIBIT B

[Metes and Bounds Description of Easement Area]



VANDEMARK & LYNCH, INC.

ENGINEERS • PLANNERS • SURVEYORS

4305 MILLER ROAD
WILMINGTON, DE 19802-1901
(302) 764-7635 FAX (302) 764-4170
www.vandemarklynch.com

File Name: 24216.00-ESMT-01

January 14, 2020

Description of a **10' x 110' Access Easement, Riverside Apartments**, West 37th Street near Lea Boulevard, City of Wilmington, New Castle County, Delaware.

ALL THAT CERTAIN tract, piece or parcel of land situate West 37th Street near Lea Boulevard, City of Wilmington, New Castle County, Delaware and shown on a plan prepared by VanDemark & Lynch, Inc., Engineers, Planners and Surveyors, Wilmington, Delaware, dated January 14, 2020, File Name 24216.00-ESMT-01 and entitled "Access Easement Exhibit, Riverside Apartments" and being more particularly described as follows to wit:

BEGINNING at a point on the common line for land now or formerly of G. Wilmington Associates (Deed Record Y, Volume 112, Page 342) and land now or formerly of Riverside Hospital Redevelopment LLC (Deed Record 20190506-0033373), said point being measured the two (2) following described courses and distances from the intersection of the northerly side of Franklin Place, an 80 foot wide public street, with the easterly side of West 37th Street, a 26 foot wide public street:

1. North 67°39'00" East, 22.20 feet to a monument found, the southerly end of said common line; and
(Course 2 along said common line)
2. North 22°19'30" West, 395.93 feet to the Point of Beginning;

THENCE from the said point of Beginning, through the said land now or formerly of G. Wilmington Associates, South 67°40'30" West, 10.00 feet to a point on said easterly side of West 37th Street;

THENCE along said easterly side of West 37th Street, North 22°19'30" West, 110.00 feet to a point;

THENCE through the said land now or formerly of G. Wilmington Associates, North 67°40'30" East, 10.00 feet to a point on said common line;

THENCE along said common line, South 22°19'30" East, 110.00 feet the point and place of Beginning.

Containing within said metes and bounds, 1,100 square feet (0.025 acres) of land, being the same, more or less...

AKG

EXHIBIT C

[Letter from Wilmington Police Department]

City of Wilmington



MICHAEL S. PURZYCKI
Mayor

November 22, 2019

Mayor Michael Purzycki
800 N. French Street, 9th Floor
Wilmington, DE 19801

Re: Miller Road Commons

Dear Mayor Purzycki,

Following our conversation, I have spoken with my colleagues at the Delaware State Police in reference to Miller Road Commons.

While the Delaware State Police maintains jurisdiction and fields calls for service for this property – which is considered part of New Castle County – we will be working jointly with the Delaware State Police to provide directed patrols and mutual aid to help address some of the quality-of-life concerns that have been reported in and around this shopping area.

Respectfully,

A handwritten signature in black ink, appearing to read "R. J. Tracy". The signature is stylized with a large, looped "R" and a cursive "J. Tracy".

Chief Robert J. Tracy

Tax Parcel Nos.: 06-137.00-011
26-009.10-002

Prepared by and Return to:
Richards, Layton & Finger, P.A.
One Rodney Square
P.O. Box 551
Wilmington, DE 19899
Attn: Sara T. Toner, Esq.

**PARTIAL ASSIGNMENT OF AND SUPPLEMENT TO
ACCESS EASEMENT AGREEMENT**

This PARTIAL ASSIGNMENT OF AND SUPPLEMENT TO ACCESS EASEMENT AGREEMENT (this "Agreement") is made this 10 day of December, 2020, by and between **Riverside Hospital Redevelopment, LLC**, a Delaware limited liability company ("RHR" or "Assignor") and **The City of Wilmington**, a municipal corporation of the State of Delaware ("City" or "Assignee") for the sole and exclusive purposes set forth herein.

RECITALS

A. Assignor is the owner of that certain parcel of land (the "RHR Parcel") located on Lea Boulevard, situate in the City of Wilmington, New Castle County, Delaware, comprising approximately 4.581 acres of land, being currently identified as Tax Parcel No. 26-009.10-002, and being more particularly shown and identified as 'Parcel A-1' on the plan entitled "Major Subdivision Plan, 700 Lea Boulevard" prepared by VanDemark & Lynch, Inc., dated May 15, 2017, as amended, and recorded in the Office of Recorder of Deeds in and for New Castle County (the "Recorder's Office") on August 31, 2017, in Instrument No. 20170831-0045037.

B. **G-Wilmington Associates**, a New York limited partnership (together with its successors and assigns, "GWA") is the owner of that certain parcel of land (the "Shopping Center Parcel") located on Miller Road adjoining the RHR Parcel, situate in Brandywine Hundred, New Castle County, State of Delaware, commonly known as Miller Road Shopping Center, being currently identified as tax parcel number 06-137.00-011, and being more particularly shown and identified on the plan entitled "Record Minor Redevelopment Plan for Miller Road Shopping Center" prepared by Landmark Engineering dated September 28, 2004, as amended, and recorded in the Recorder's Office on February 17, 2005, in Instrument No. 20050217-0016570.

C. Assignor and GWA are parties to that certain Access Easement Agreement dated April 22, 2020, and recorded in the Recorder's Office on April 30, 2020, in Instrument No. 20200430-0033774 (the "Easement").

D. Assignor desires to partially assign, transfer, and convey to Assignee certain rights and responsibilities with respect to the Easement as specifically described herein.

COVENANTS

NOW, THEREFORE, for and in consideration of the above recitals and the mutual covenants, terms, conditions, restrictions, and promises contained herein this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby covenant and agree as follows:

1. Assignment. Without limiting the generality of the Easement, and to supplement the rights of "RHR Parcel Owner" under the Easement, Assignor expressly partially assigns and delegates to Assignee, its successors and assigns, the following rights:

1.1. The right of Assignor to make or deliver any payments, fees, costs, or expenses due to GWA pursuant to Section 3 of the Easement.

1.2. The right of Assignor to cure any breach of the Easement under Section 7 of the Easement.

1.3. The right of Assignor to construct and install the Easement Area Improvements (as defined in the Easement) pursuant to Section 2 and Section 6 of the Easement.

2. Additional Rights and Conditions. Notwithstanding the forgoing, Assignor and Assignee agree as follows:

2.1. Exercise of Assignee's Rights.

2.1.1. In the event Assignor fails to make or deliver any payments, fees, costs, or expenses due to GWA pursuant to Section 3 of the Easement, Assignee shall have the right to make or deliver any such payments, fees, costs, or expenses to GWA in accordance with the Easement.

2.1.2. In the event Assignor fails to cure any breach of the Easement following receipt of written notice of such breach from GWA, Assignee shall have the right to cure any such breach pursuant to Section 7 of the Easement.

2.1.3. In the event Assignor fails to complete the construction and installation of the Easement Area Improvements within thirty-six (36) months from the date of the Easement, as required pursuant to Section 6 of the Easement, Assignee shall have the right to construct and install the Easement Area Improvements pursuant to Section 2 of the Easement.

2.2. Estoppel Certificate and Notice.

2.2.1. Beginning on January 1, 2021 and continuing on the first (1st) business day of each calendar quarter thereafter, Assignor shall execute, acknowledge, and deliver to Assignee, a statement in writing, in a commercially reasonable form, reasonably satisfactory to Assignee, certifying that (a) the Easement is in full force and effect and unmodified (or if there have been modifications, that the Easement is in full force and effect as modified and stating the modifications) and (b) neither Assignor nor GWA, is in default of the Easement and that there are no conditions which, with the passage of time or the giving of notice, or both, would constitute a default under the Easement (each, an "Estoppel Certificate").

In addition, Assignee shall have the right, at any time and from time to time, to request that Assignor provide an Estoppel Certificate, and Assignor agrees to execute, acknowledge, and deliver to Assignee, no later than three (3) business days after receiving such written request from Assignee, an Estoppel Certificate. Failure by Assignor to execute and return an Estoppel Certificate on the first (1st) business day of each calendar quarter or within three (3) business days after receiving a written request from Assignee shall be deemed an affirmative admission by Assignor that Assignor is in default under the Easement.

2.2.2. In the event that (a) Assignor fails to timely pay any fees, costs, or expenses due to GWA pursuant to Section 3 of the Easement, including without limitation the Easement Fee (as defined in the Easement), (b) Assignor receives any written notice of breach from GWA pursuant to Section 7 of the Easement, or (c) Assignor permits any condition which, with the passage of time or the giving of notice, or both, would constitute a default under the Easement, Assignor shall immediately provide Notice to Assignee, including copies of any written notice of breach from GWA.

2.2.3. In the event that Assignee exercises any of its rights under this Assignment, Assignee shall promptly provide Notice of such exercise to Assignor.

3. Representations and Warranties. Assignor represents and warrants to Assignee as follows:

3.1. Assignor is not in default of any of its obligations under the Easement;

3.2. Assignee, as "RHR Parcel Owner" under the Easement, has no obligation to GWA other than as expressly set forth in the Easement;

3.3. no amendments, oral or written, have been made with respect to the Easement that affect the rights and obligations set forth in Section 1 above, and;

3.4. Assignor has not released or waived any obligation of GWA under the Easement.

4. Indemnification.

4.1. Assignor agrees to protect, exonerate, defend, indemnify and hold Assignee harmless from and against any and all costs, expenses, damages, losses or liabilities arising from any breach or default on the part of Assignor in the performance of any right, covenant, or obligation performed pursuant to the Easement or this Assignment and any exercise by Assignee of the rights set forth in Section 1 above.

4.2. Assignor shall pay immediately upon written request from Assignee any and all costs, expenses, damages, losses or liabilities arising from any exercise by Assignee of the rights set forth in Section 1 above. In the event that such payment is not made by Assignor within five (5) business days after receipt of such written request, Assignee may proceed to file suit and collect such payment or foreclose the lien against the RHR Parcel. In the event Assignee must seek reimbursement from Assignor for any reason set forth in this Assignment, Assignee shall be entitled to collect their reasonable attorney's fees, court costs, and all other reasonable fees, costs,

and expenses associated with such collection. It is expressly agreed that any amounts owed to Assignee under this Assignment shall be a lien or encumbrance on the RHR Parcel. Any lien for costs, expenses, damages, losses or liabilities validly asserted by Assignee and filed with the Recorder's Office shall be a lien on the RHR Parcel from the time of recording. Notwithstanding the forgoing, any lien under this Assignment shall be subordinate, by the express terms of this Assignment, to the lien of any lender secured with a mortgage recorded in the Recorder's Office against the RHR Parcel. In addition, at the request of Assignor or such lender or mortgagee, Assignee shall execute, acknowledge, and deliver to such lender or mortgagee, a subordination agreement, in a commercially reasonable form, reasonably satisfactory to such lender or mortgagee, within thirty (30) days of receipt of Notice of such request; and if Assignor fails to do so and has not given Notice of its objection within thirty (30) days of receipt of Notice of such request from Assignor or such lender or mortgagee, Assignor shall be authorized to do so hereby as the attorney-in-fact of Assignee, which power shall be irrevocable and coupled with an interest.

5. Further Acts. Each party agrees to cooperate with each other to more fully effectuate the provisions of this Assignment as is reasonably requested by any party or as is required by applicable Law.

6. Retained Rights. Except as explicitly provided herein, Assignor shall keep and maintain all of its rights and obligations under the Easement.

7. Waiver. No delay or omission by any party to exercise any right or power accruing upon any non-compliance or failure of performance by any party of the provisions of this Assignment shall impair any such right or power or be construed to be a waiver thereof. A waiver by any party of any of the covenants, conditions, or agreements hereof to be performed by another party shall not be construed to be a waiver of any succeeding breach thereof or of any covenants, conditions, or agreements herein contained.

8. Successors. The easements, restrictions, benefits, obligations, and rights assigned, granted, or reserved hereunder shall create benefits and servitudes running with the land for the benefit of Assignee as an easement in gross.

9. Amendments. This Assignment once executed and delivered shall not be amended, modified, supplemented, or altered in any respect except by a writing signed by the parties, or their respective successors or assigns.

10. Notices. All notices, demands, requests, or other communications hereunder (each, a "Notice") must be in writing, addressed to such party at its address provided below (or at such other address as such parties shall specify in writing to the other party), and must be delivered by (i) United States Postal Service, certified mail, return receipt requested, postage prepaid, (ii) by reputable courier providing for receipted delivery (such as FedEx), (iii) hand delivery, or (iv) electronic mail with a copy sent by any method which would otherwise be acceptable under this Section. Any such Notice will be deemed given when sent, and will be deemed received and effective when received or when receipt is refused or unclaimed, as indicated by the notations or records of (as applicable) the United States Postal Service or such courier service.

If to Assignee: The City of Wilmington
800 N. French Street
Wilmington, DE 19801
Attention: Mayor, Michael S. Purzycki

With a copy to: The City of Wilmington
800 N. French Street
Wilmington, DE 19801
Attention: City Solicitor, Robert M. Goff, Jr., Esq.

If to Assignor: Riverside Hospital Redevelopment, LLC
105 Foulk Road
Wilmington, DE 19803
Attention: Louis J. Capano, III

With a copy to: Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Attention: Sara T. Toner, Esq.

11. Severability. If any provision of this Assignment shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other part hereof.

12. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of law principles.

13. Recording. This Assignment (or a memorandum summarizing the material terms hereof) shall be recorded in the Recorder's Office.

14. Counterparts. The parties may execute this Assignment in two or more counterparts, which shall, in the aggregate, be signed by all parties; each counterpart shall be deemed an original instrument as against any party who has signed it. The parties acknowledge and agree that notwithstanding any Law or presumption to the contrary, the exchange of copies of this Assignment and signature pages by electronic transmission shall constitute effective execution and delivery of this Assignment for all purposes, and signatures of the parties hereto transmitted electronically shall be deemed to be their original signature for all purposes. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have executed and sealed this Assignment on the day and year first above written.

**SIGNED, SEALED, AND DELIVERED
IN THE PRESENCE OF:**

Witness

Morgan Burns
Name (print): Morgan Burns

RIVERSIDE HOSPITAL REDEVELOPMENT, LLC
a Delaware limited liability company

By: [Signature] (SEAL)
Name: Louis J. Capano, III
Title: Manager

STATE OF DELAWARE)
COUNTY OF New Castle)

ss:

On this, the 10 day of December, 2020, before me, a Notary Public, the undersigned officer, personally appeared Louis J. Capano, III, who acknowledged themselves to be the manager of Riverside Hospital Redevelopment, LLC, a Delaware limited liability company, and that they, in such capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing on behalf of said company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Morgan Elizabeth Burns
Notary Public
Print Name: Morgan Elizabeth Burns
My commission expires: 4-20-2022

[Signature Page Continues]

**SIGNED, SEALED, AND DELIVERED
IN THE PRESENCE OF:**

Witness

CITY OF WILMINGTON,
a municipal corporation of the State of Delaware

Tanya Washington
Name (print) Chief of Staff

By: [Signature] (SEAL)
Name (print): MICHAEL S. RUZYCKI
Title: MAYOR

STATE OF DELAWARE)
COUNTY OF NEW CASTLE

ss:

On this, the 10th day of December, 2020, before me, a Notary Public, the undersigned officer, personally appeared MICHAEL RUZYCKI, who acknowledged themselves to be MAYOR of the City of Wilmington, a municipal corporation of the State of Delaware, and that they, in such capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing on behalf of said corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[NOTARY SEAL]

[Signature]
Notary Public
Print Name: SARAH S. LUOMA
My commission expires: 3/20/2021



Upon a motion of Council Member Gray, seconded by Council Members Council Freel and Turner, the above-referenced three documents were received, recorded and filed, and made a part of the record. Motion prevailed.

Council Member Gray spoke on the purpose of the documents that were accepted into the record.

At this time, President Shabazz opened up the floor for public comments; however, nobody desired the privilege of the floor.

Council Member Walsh raised a question and Council Member Gray responded and made closing comments.

The above-referenced Ordinance was read for the third and final time and was adopted by title and section recurring to the Enacting Clause and was passed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Gray – Yes, based on the findings; Oliver – Yes, based on the findings; Harlee – Yes, based on the findings; Turner – Yes, based on the findings; McCoy – Yes, based on the findings; Johnson – Yes, based on the findings; Freel – Yes, based on the findings and the work of the Council Member and the community; Adams – Yes, based on the findings; Dixon – Yes, based on the findings; Guy – Yes, based on the findings and Walsh – Yes, based on the findings; and Council President Shabazz – Yes, based on the findings and the three agreements that were made between all the stakeholders. Great work Councilwoman Gray. Total, twelve. Nays, one.

President Shabazz declared the Ordinance adopted.

As there was only one other piece of legislation on the agenda, President Shabazz called on the sponsoring member.

Council Member Guy presented and called for the third and final reading Ordinance No. 20-007 (Agenda 4772) entitled:

AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY CODE REGARDING THE INSPECTIONS OF RENTED OR LEASED DWELLINGS OR BUILDINGS FOR RESIDENTIAL OCCUPANCY

Council Member Guy presented a **Substitute** in lieu of that Ordinance:

AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY CODE REGARDING THE INSPECTIONS OF RENTED OR LEASED DWELLINGS OR BUILDINGS FOR RESIDENTIAL OCCUPANCY

FISCAL IMPACT: Currently, Section 34-45 requires any dwelling or dwelling unit in a dwelling or building consisting of five or fewer units to be inspected every two years, and every dwelling or dwelling unit in a building with six or more units to be inspected every five years. This Ordinance requires pre-rental inspections of all dwellings and dwelling units prior to the lease, rental, or renewal of an existing lease agreement of such unit. The projected fiscal impact of this Ordinance, determined based on an estimated 15,000 rental units with a vacancy rate of 25%, is an annual cost of \$541,000.

Upon a motion of Council Member Guy, seconded by Council Member Freel, the Substitute Ordinance was before the Council for its consideration. Motion prevailed. Council Member Guy made comments.

Council Member Guy moved to make the following amendment:

On page 4, add a new paragraph (g) with the following: (g) When the term of a residential rental agreement expires and the term is converted by operation of the lease or by operation of law to a month to month tenancy, monthly pre-rental inspections are not required.

Council Member Turner seconded the motion.

ROLL CALL ON AMENDMENT BY GUY

Upon a motion of Council Member Guy, seconded by Council Member Turner, the above-referenced Substitute Ordinance was **amended** by the following Yea and Nay Roll Call Vote: Yeas, Council Members Gray, Harlee, Turner, McCoy, Adams, Dixon and Guy. Total, seven. Nays, Council Members Oliver, Freel and Walsh. Total, three. Present, Council Member Johnson and Council President Shabazz. Total, two.

President Shabazz declared the amendment adopted.

Council Member Guy made additional comments. Council Member Walsh made comments (technical difficulties during comments). Council Members Adams, Johnson and Oliver made comments. Council Member Adams made additional comments.

Council Member McCoy moved to make the following friendly amendment:

On page 4, Section 2 to read: This Ordinance shall become effective on July 1, 2021 and give it a sunset clause of one year.

Council Member Dixon seconded the motion.

ON THE QUESTION ON AMENDMENT

Council Members Guy, Adams, Johnson, Oliver and Turner made comments. Council Member Walsh experienced technical difficulties when trying to make comments. Council Member McCoy made comments and amended her amendment as follows:

On page 4, on Section 2, change language to read as follows: This Ordinance shall become effective on July 1, 2021 and have a review of the effectiveness of the program after one year.

Council Member McCoy clarified that she was deleting the language of the sunset.

Council Members Guy and Gray seconded the motion to amend the amendment made by Council Member McCoy.

ROLL CALL TO AMEND AMENDMENT MADE BY MCCOY

Upon a motion of Council Member McCoy, seconded by Council Members Guy and Gray, **“to amend the amendment”** by the following Yea and Nay Roll Call Vote: Yeas, Council Members Gray, Harlee, Turner, McCoy, Adams, Dixon and Guy. Total, seven. Nays, Council Members Oliver, Johnson, Freel and Walsh, Council President Shabazz. Total, five.

President Shabazz declared the vote to amend the amendment of the Substitute Ordinance adopted.

ROLL CALL ON THE AMENDED AMENDMENT MADE BY MCCOY

“On the amended amendment” of the Substitute Ordinance by the following Yea and Nay Roll Call Vote: Yeas, Council Members Gray, Harlee, Turner, McCoy, Adams, Dixon and Guy. Total, seven. Nays, Council Members Oliver, Johnson, Freel and Walsh, Council President Shabazz. Total, five.

President Shabazz declared the vote on the amended amendment of the Substitute Ordinance adopted.

At this time, President Shabazz opened up the floor for public comments.

Public Comment Speakers:

- Jeff Sheraton
- Joanne Gaitwood
- Don Farrell
- Susan Samuels
- Shané Darby
- Chris Vanderslice

Council Members McCoy, Johnson, Gray, Guy, Freel and Oliver made comments. Council Members Johnson and McCoy made additional comments. Council Members Dixon and Adams made comments. Council Member Gray made additional comments. Council Member Harlee made comments. Council Member Guy made closing comments.

ACTUAL VOTE ON SUBSTITUTE ORDINANCE AS AMENDED

The above-referenced **Substitute Ordinance, As Amended**, was read for third and final time and was adopted by title and section recurring to the Enacting Clause and was passed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Gray, Oliver, Harlee, Turner, McCoy, Adams and Guy. Total, seven. Nays, Council Member Freel and Walsh, and Council President Shabazz. Total, three. Present, Council Members Johnson and Dixon. Total, two.

President Shabazz declared the Substitute Ordinance, As Amended, adopted.

PETITIONS AND COMMUNICATIONS

Council President and Council Members spoke on the following: members of Council as well as Council President were thanked for their service and their leadership and well wishes were expressed; hope of growth in the 108th Session; announcements of events throughout various districts; new orders by the Governor; the need to show respect; Happy Holidays were expressed to everyone; behavior by adults; the staff, the Mayor and others were thanked; National League of Cities; members of Council were encouraged to get the knowledge of the process; the making of history of the 1st female president, the number of women on Council as well as the making of history of the number of African-Americans on Council; and including but not limited to, the opportunities to fix disparities.

ADJOURNMENT

Upon a motion of Council Member Freel, seconded by Council Member Gray, Council adjourned at 9:16 p.m. Motion prevailed.

Attest: Maribel Seijo
Maribel Seijo, City Clerk