

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), is effective the 17 day of March, 2021 by and between 12300 Carroll Investors, LLC a limited liability corporation existing under the laws of the State of Maryland, and its successors and assigns ("Carroll Investors"), and Terrapin Main Street, LLC ("Terrapin"), a limited liability corporation existing under the laws of the State of Maryland, and its successors and assigns, referenced herein collectively as the "Developer" and the CITY OF COLLEGE PARK (the "City") a municipal corporation of the State of Maryland.

WHEREAS, Terrapin is the owner of certain real property located at 7313 Baltimore Avenue, Carroll Investors is the owner of certain real property located at 4424 Hartwick Road, and Terrapin Side Street, LLC, owns certain real property located at 7302 Yale Avenue, all in College Park, MD 20740; and

WHEREAS, Carroll Investors and Terrapin have submitted a Conceptual Site Plan (CSP) request to rezone lots 9 and 10 on Yale Avenue in the Old Town neighborhood from R-55 to MUI. The Developers plan a future redevelopment to include all three locations, Parcel A and Lots 9-12. The proposed development is a mixed-use retail/multifamily building with approximately 160-175 units and 10,000-15,000 square feet of retail.; and

WHEREAS, although the Planning Board hearing date is scheduled for March 25, 2021, and a future District Council hearing will be scheduled to approve the zoning request, the preliminary plan of subdivision ("PPS") and the detailed site plan ("DSP") for the project are not filed and not contemplated to go forward at this time; and

WHEREAS, the Developers have requested that the City recommend to the Planning Board and District Council that the CSP be granted; and

WHEREAS, the City has agreed to make the requested recommendation, upon certain conditions; and

WHEREAS, the conditions that are requested by the City in return for its support for the CSP would ordinarily be included in a Declaration of Covenants entered into at the PPS and DSP stages of development approvals; and

WHEREAS, the parties wish to memorialize the conditions of support in this MOU until such time as a Declaration of Covenants is agreed.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises of the Parties, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, be it understood that the Parties do hereby acknowledge and agree as follow:

1. The recitals set forth above as well as the foregoing "NOW, THEREFORE," are incorporated herein as operative provisions of this Agreement.
2. At the time of Preliminary Plan, the Developer will:
  - a. Show no vehicular access to US Route 1.
  - b. Show the centerline of Hartwick Road and dedicate 10-feet of right-of-way along Hartwick Road between Parcel A and Yale Avenue to the City.
  - c. Consider the inclusion of a pocket park to fulfill the Mandatory Dedication of Parkland requirement, unless modified by the Planning Board.
3. At the time of DSP the Developer will:
  - a. Show conformance with the Development District standards of the Central US 1 Corridor Sector Plan, unless modified pursuant to Section 27-548.25(c) except that lot coverage and parking requirements shall be met..
  - b. Explore opportunities with the City to preserve two specimen trees located on Hartwick Road and Yale Avenue.
  - c. Meet all Landscaping and Tree Canopy Coverage requirements on site.
  - d. Provide more details on courtyard and green roof landscaping.
  - e. In return for the City support of the conceptually designed architectural elevations provided for illustrative purposes in CSP-20002, the Developer should:
    - Consider providing a decorative balustrade at the top floors of the building "fingers" that front Yale Avenue.
    - Incorporate a cornice treatment into the building facades.
    - Obtain a minimum of Silver Certification in LEED or equivalent using an alternative licensing authority.
  - f. Show a minimum of 6-foot-wide sidewalks along the Hartwick Road and Yale Avenue frontages and a minimum of 10-foot-wide sidewalks along Baltimore Avenue. If this cannot be met within the public right-of ways, public access easements to the City will be required.
  - g. Show a cycle track along Baltimore Avenue with a minimum width of six feet and one-foot buffer from the sidewalk.

- h. Show street trees behind the curb at a minimum spacing of 30 feet on center with a 4-6-foot planter width along all property frontages.
  - i. Show pedestrian-scaled light fixtures behind the curb, generally not more than 30 feet on center along the Baltimore Avenue and Hartwick Road property frontages.
  - j. Show publicly accessible bike racks and an area reserved for micro- mobility share parking.
  - k. If using ground transformers that are visible from a public right-of-way, screen them with a mural or some other decorative screen.
4. Prior to obtaining a demolition permit, the Developer will:
- a. If determined to be feasible, based on a structural analysis (to be provided by the applicant) and the City's ability to identify and secure a suitable location, at no cost or expense to the Developer, work with the City to attempt to relocate the house at 4424 Hartwick Road/7300 Yale Avenue. If this is not feasible and/or the City is unable to identify and secure a suitable location, document the house on a Maryland Inventory of Historic Properties form to be reviewed and approved by Historic Preservation staff. The form shall include floor plans, representative interior, and exterior photos of the dwelling.
5. Prior to Planning Board approval of the Preliminary Plan and/or DSP, the Developer will execute a Declaration of Covenants Agreement with the City that includes, at a minimum, the following provisions:
- a. Prior to a demolition permit, determine the feasibility, based on a structural analysis provided by the Applicant and based on the City's ability to identify and secure a suitable location (at no cost or expense to the applicant), to work with the City to relocate the house at 4424 Hartwick Road/7300 Yale Avenue.
  - b. Payment is lieu of taxes to City if the property becomes tax exempt.
  - c. Unitary management and condominium conversion requirements.
  - d. Acknowledgement of responsibility for maintenance of pedestrian light fixtures, landscaping, and sidewalks.
  - e. Public access easements to the City of College Park for any pocket park, if provided, and sidewalks, if needed.
  - f. Provision of an outdoor public art feature, which can be matched by City funds (up to \$15,000).
  - g. Evidence of LEED SILVER or equivalent certification.
6. This Agreement shall be effective immediately as to Terrapin, Carroll Investors, and the City and shall be binding on their heirs, successors and assigns subject to the terms and conditions hereof.
7. Neither any failure nor any delay on the part of the City, Terrapin and Carroll Investors in exercising any right, power or remedy hereunder or under applicable law shall operate as a waiver thereof nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

8. This MOU shall be binding upon, and shall inure to the benefit of, the respective transferees, successors and assigns of the parties hereto.

9. This MOU may not be amended or modified except in writing executed by all parties hereto, and no waiver of any provision or consent hereunder shall be effective unless executed in writing by the waiving or consenting party. The provisions of this MOU shall be deemed severable, so that if any provision hereof is declared invalid, all other provisions of this MOU shall continue in full force and effect.

10. This MOU shall be construed in accordance with and governed by the laws of the State of Maryland without regard to its conflict of laws provisions.

11. These obligations are subject to and contingent upon final approval of the aforesaid CSP (with such approval being beyond appeal). This MOU shall be automatically considered null and void without further action in the event that the CSP is not approved. In the event the condition in the foregoing sentence is not satisfied then this MOU shall automatically terminate and be of no further force or effect and neither party to this MOU shall have any further obligation to the other with respect to this MOU

12. This Property shall be held, conveyed, encumbered, sold, leased, rented, used, and/or occupied subject to the terms and provisions of this MOU, which shall run with the land. Each person accepting a deed, lease or other instrument conveying any interest in the Property shall be bound by the terms of this MOU whether or not the same is incorporated or referred to in such deed, lease or instrument and this MOU is hereby incorporated by reference in any deed or other conveyance of all or any portion of each person's interest in any real property subject hereto.

13. In the event that any provision of this MOU is in direct conflict with any provision mandated by any government agency with jurisdiction, to the extent that the provision in this MOU is by necessity precluded, then that provision shall be null and void, provided, however, that the remainder of this MOU shall remain in full force and effect.

14. All notices and other communications under this MOU shall be in writing and shall be sent either by first class mail, postage prepaid, or by personal delivery, addressed to the parties as provided below. Notice shall be deemed given on the date delivered or attempted to be delivered during normal working hours on business days.

If to the City:                      City Manager  
8400 Baltimore Avenue  
Suite 375  
College Park, MD 20740

With a copy to:                      Suellen M. Ferguson, City Attorney  
Council Baradel  
125 West Street, Fourth Floor  
Annapolis, MD 21401  
Ferguson@councilbaradel.com

If to the Applicant:                      Richard Greenberg  
Stuart Schooler  
12300 Carroll Investors, LLC &  
Terrapin Main Street, LLC  
4901 Fairmont Avenue, Suite 200  
Bethesda, MD 20814  
rgreenberg@greenhillcompanies.com

With a copy to:                      Matthew C. Tedesco, Esq.  
McNamee Hosea  
6411 Ivy Lane, Suite 200  
Greenbelt, Maryland 20770  
mtedesco@mhlawyers.com

[Signature page to follow]



IN WITNESS WHEREOF, the parties have caused these presents to be executed and delivered.

WITNESS:

TERRAPIN MAIN STREET, LLC

By: 

By: 

Title: Trustee

WITNESS/ATTEST:

12300 CARROLL INVESTORS, LLC

By: 

By: 

Title: Manager

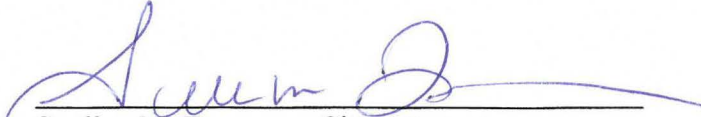
WITNESS/ATTEST:

CITY OF COLLEGE PARK

By: Janeen S. Miller  
Janeen S. Miller, CMC, City Clerk

By: William F. Gardiner  
William F. Gardiner, Interim City Manager

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

  
Suellen M. Ferguson, City Attorney

**22-G-88**

**Consideration of the  
EAC proposal for a  
tutoring program at  
Greenbelt Middle  
School**