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OF COUNSEL

March 20, 2007

By Facsimile (845) 877-4273 and Regular Mail

Supervisor Jill Way and Members of the
Town Board of the Town of Dover
125 East Duncan Hill Road
Dover, NY 12522

Re: Dover Knolls

Dear Supervisor Way and Members of the Board:

Members of the public and others have urged the Dover Knolls Development Company II, LLC's ("Applicant") and the Town Board to again meet to attempt to overcome our apparent differences concerning the Dover Knolls Project. This is to inform the Board that Dover Knolls shares the public's concerns, and that we stand ready to meet with the Board at your earliest convenience.

In anticipation of such a meeting, we thought it would be worthwhile to outline certain issues that seem to divide us. Also, we have included a draft Memorandum of Understanding ("MOU"), which we believe provides a framework for discussion at our future meeting:

1) Dover Knolls Believes That It Has Gone To Great Lengths To Accommodate The Town Board's Vision For The Site. To No Avail:

- In the first instance, Dover Knolls not only agreed to, but in fact funded, the inspection of the Site by the Town's environmental consultant, Michael Klemens, which resulted in the extraordinary designation of significant portions of the Site as undevelopable even before the environmental review process began.

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- Thereafter, Dover Knolls' prepared its first "Proposed Action," which, contrary to certain recent statements by the Town Board, actually conformed to the current MC Overlay Zoning for the Site.

- In the Final Written SEQRA Scoping document, which set forth the requirements of the Draft Environmental Impact Statement ("DEIS") for the Project, however, the Town Board effectively rejected that Plan, again, before the environmental review process began in earnest.

- Instead, the Town Board demanded in the Scoping Document that Dover Knolls hire a New Urbanism consultant and economist to develop a very different vision for the Site, which the Board denominated its "Primary Alternative Development Scenario" ("PADS"). Dover Knolls hired such experts, including the preeminent New Urbanism planning firm Torti Gallas, and requested that they perform the necessary studies.

- Thereafter, Dover Knolls worked with the Town Board in good faith over a 5 month period, which included multiple meetings with Torti Gallas and the Town's consultants, to supposedly develop a viable PADS for the Project.

- When Dover Knolls indicated that it was prepared to substitute the Torti Gallas PADS for its currently "rejected" Proposed Action and commence the DEIS process in earnest, the Town, in its February 2, 2007 Letter, essentially rejected such Plan before the DEIS process even began.

Respectfully, these are the undisputed facts as Dover Knolls sees them, and the primary source of our frustration and disagreement with the Town.

2) The Town Board Fails To Heed The Very Studies It Mandated For The Development Of The PADS: The purpose of the hiring of the additional experts set forth in the Scope was, among other things, to determine if the specifications for the PADS set forth in the Scope were economically and physically viable. (See Scoping Document at pp. 43-44.) Rather than delay those studies until after the DEIS was prepared, Dover Knolls agreed to undertake those studies upfront and, based upon those studies, cooperate with the Town in jointly developing a *feasible* PADS. This process purportedly took place over the past five months, only to have that Plan essentially rejected in complete contravention of the information generated from the required studies.

Dover Knolls cannot grasp how it can spend hundreds of thousands of additional dollars studying the PADS in the Scope as the so-called preferred plan or "Proposed Action," when all of the empirical data shared with the Town demonstrates that such a Plan is not feasible. Dover Knolls will also not agree to spend hundreds of thousands of dollars studying the Torti

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Gallas PADS when the Town Board, in its February 2nd Letter, already dismissed the studies upon which the Plan was based without even waiting for the results of the DEIS.

3) Framing Our Dispute As Dover Knolls' Unwillingness To Prepare A PADS In Conformance With The Scope Is A Disingenuous Red herring - Even though the marketing consultant, whom Dover Knolls hired at the Town Board's behest, raised serious questions about the viability of the PADS in the Scoping Document, Dover Knolls has specifically agreed at our previous technical meetings to study in the DEIS, the PADS set forth in the Scope as an alternative for comparative purposes. The Scope, however, must be modified to make clear that the Proposed Action or preferred plan is the Torti Gallas PADS.

4) It Does Not Make Sense For The Town Board To Cling To Unrealistic and Outdated Zoning Requirements - The Town has invoked repeatedly in its statements that Dover Knolls is acting improperly by not studying a Proposed Action, which complies with the current MC Overlay Zoning and/or Scope. First, Dover Knolls has agreed repeatedly to study in the DEIS its current "Proposed Plan," which again conforms with the Overlay Zoning. We do not think that anyone favors this Plan at this juncture, and that it should only be studied as an alternative for comparative purposes. Second, the MC Overlay Zone was created in 1999, prior to any meaningful feasibility studies of the Site. Dover Knolls has shown that the current zoning would not result in the best or feasible Plan. The Board must be willing in the DEIS to modify the zoning as one of the related actions necessary to achieve the New Urbanism PADS it desires. To continue to cite the MC Overlay Zone as a fixed predicate for any future project will produce a failed Project, and consequently represents a non-starter to Dover Knolls as far as proceeding with the SEQRA process.

Once again, it is not in anyone's interest to spend substantial time, money and effort preparing a DEIS based on plan that Dover Knolls firmly believes and has demonstrated will fail, or a plan that the Town has already rejected. We need to reach a conceptual agreement on the vision for the Site. Once there is agreement on a vision, we would respectfully submit that an MOU would be the best mechanism for memorializing our respective commitment to work in good faith to advance that vision. As you can see, the MOU as drafted specifically retains the Town Board's authority to modify or deny the Project, in whole or part, but only based upon the empirical results of the SEQRA process and actual substantial evidence produced in the record.

Please be advised that in response to the letters from the Town concerning the Escrow Account, until such time as we reach agreement on the issues raised herein and a shared vision for the Site, we agree that it probably does not make sense for the Town or its consultants to incur any additional fees under the Escrow Account.

Finally, we are in receipt of the most recent letter from the Town Board's counsel, Shannon Lalrance, dated March 12, 2007, which contains, in Dover Knolls' opinion, a number of unnecessary, inflammatory, and inaccurate statements. Suffice it for now to state that Dover

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Knolls intends to move forward with the remedial work it had agreed to perform in a responsible and timely manner. It continues to dispute the Town's recent position that Dover Knolls still owes money in connection with its Chapter 65 Applications beyond the \$3,500.00 payment it already made, and it has no intention of proceeding with the test well drilling until the issues set forth herein are resolved.

Once again, Dover Knolls looks forward to meeting with the Town Board to sort out these and the other outstanding issues related to the Project, so that we can all move forward on this very important Project in a more productive and rational manner.

We look forward to scheduling a date for our meeting. In the meantime, if there are any questions or comments, please do not hesitate to contact us.

Very truly yours,



Michael D. Zarin

MDZ/mth

enc.

- cc: Shannon Martin LaFrance, Esq. (by facsimile and regular mail)
- Kelly Fusco,
- Town of Dover Finance Department (by facsimile and regular mail)
- The Applicant's Development Team

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "MOU") dated as of _____, 2007 is between and among the **TOWN OF DOVER, NEW YORK**, a municipality organized and existing under the laws of the State of New York, having its principal office at 125 East Duncan Hill Road, Dover, New York 12522 ("Dover" or the "Town Board") and **THE BENJAMIN COMPANIES**, a corporation organized and existing under the laws of the State of New York, having its principal offices at 1377 Oak Street, P.O. Box 739, Garden City, New York 11530 (the "Benjamin Companies").

RECITALS

WHEREAS, the Town Board enacted Section 145-16 of the Dover Town Code to establish a Mixed-Use Institutional Conversion Overlay ("MC") District to facilitate the redevelopment of the former Harlem Valley Psychiatric Center as a mixed-use community, as that site is more particularly described in the metes and bounds description annexed hereto as Exhibit "A" ("HVPC Property"); and

WHEREAS, the Benjamin Companies acquired the HVPC Property, as well as an option with respect to the Dykeman Parcel (which is more particularly described in the metes and bounds description annexed hereto as Exhibit "B" (collectively, with the HVPC Property, the "Site")), with the goal of developing a mixed-use community in harmony with the Town Board's vision for an MC District; and

WHEREAS, Dover and the Benjamin Companies are entering into this MOU in order to set forth certain understandings among them with respect to: (i) the agreed upon conceptual development plan for the Site ("Project") and (ii) the processing of the Project by the Town, including, the environmental review of the Project pursuant to the New York State Environmental Quality Review Act and the regulations promulgated thereunder by the New York State Department of Environmental Conservation ("DEC") (collectively, "SEQRA"); and

WHEREAS, the Parties agree and acknowledge that although by this MOU Dover and the Benjamin Companies covenant in good faith to diligently undertake the necessary actions and perform the obligations as set forth herein with respect to the Project, Dover and the Benjamin Companies make no representations nor do they commit to any particular outcome, results or action(s) regarding the Project under SEQRA or otherwise, subject to compliance with all applicable laws and regulations hereunder; and

WHEREAS, on _____, 2007, the Town Board approved this MOU for execution by the Supervisor of Dover,

IN ORDER TO ACCOMPLISH THE FOREGOING PURPOSES, THE PARTIES HEREBY AGREE, AS FOLLOWS:

1. Purpose. The purpose of this MOU is to establish a renewed good faith framework between the Parties to advance the planning process for the Project in a timely and more effective manner.
2. Preferred Development Concept. Subject to the terms and conditions herein, the Parties agree that the attached development plan prepared by Torti Gallas and Partners, Inc., in consultation and cooperation with Dover, dated February __, 2007 (the "Torti Gallas Plan") shall constitute the preferred conceptual development plan or "Proposed Action" for the Project, provided, that the Parties understand and acknowledge that the Torti Gallas Plan may be modified, amended, reduced in scope or rejected, in whole or in part, based upon the results of the public review process, including, SEQRA, and any substantial evidence set forth in the relevant administrative record thereunder. The Parties further understand and acknowledge that although they agree that the Torti Gallas Plan satisfies the general spirit and intent of the Primary Alternative Development Scenario ("Prior PADS") requested of the Benjamins as set forth in the Final Written Scope for the Project adopted by the Town Board on or about June 28, 2006 ("Scope"), the Benjamin Companies shall also include the Prior PADS in the Draft Environmental Impact Statement ("DEIS"), as an alternative to the Proposed Action (i.e., the Torti Gallas Plan) at a level of detail sufficient to permit a comparative assessment.
3. Zoning. The Parties expressly recognize that public-private partnership developments of the type and scope contemplated herein often require as a necessary and related action the re-zoning of or modifications to the current zoning of the property to conform to the Proposed Action or final development plan, as well as the economic realities as determined during the public review process. The Parties agree that they shall cooperate in preparing the appropriate draft modifications and changes to the zoning of the Site to be included in the DEIS and final environmental impact statement so as to be included in the relevant public review of the Project.
4. Amendment of Scope: Within fifteen (15) days of the execution of this Agreement, the Town Board shall amend the Scope to reflect the aforementioned changes as set forth hereunder, including, but not limited to, (i) substituting the Torti Gallas Plan for the current Proposed Action contained in the Scope, (ii) declaring that the Torti Gallas Plan is the agreed upon preferred development scenario, (iii) providing provisions for studying the modification of the current zoning of the Site in conformance with the Torti Gallas Plan or final development plan for the Site, and the economic realities thereof as determined by Economic Research Associates ("ERA") as part of the development of the Torti Gallas Plan, and (iv) affirming the requirement in the Scope, as alternatives to the Torti Gallas Plan, the study of the Prior PADS set forth in the present Scope, and the current Proposed Action in the Scope prepared by the Benjamin Companies, which is in conformance with the MC Overlay Zone.
5. Continuation of Land Use Approval Process. The Benjamin Companies shall as soon as practicable following execution of this MOU, at its sole cost and expense, continue with the processing of its application(s) with the Town Board and any other governmental entity having approval authority under applicable State law or applicable Town zoning, subdivision or other land development laws, rules and regulations, for any and all land

use approvals necessary to accomplish the Project.

6. Cooperation by the Town Board. The Town Board shall, to the extent permitted by law, promptly, in good faith, and with due diligence advance all review procedures necessary pertaining to the Project, including, but not limited to, the review of the Project under SEQRA, as well as shall in good faith cooperate with the Benjamin Companies to the extent permitted by law in any other manner necessary in furtherance of the Project.

7. DEIS Completeness. The Parties recognize that the DEC's SEQR Handbook specifically states that, in reviewing a draft DEIS to determine its adequacy for public review, reviewing agencies "should not require an unreasonably exhaustive or 'perfect' document." (SEQR Handbook at 70.) SEQRA further mandates that an environmental impact statement ("EIS") be analytical and not encyclopedic, and that the intent of the lead agency's completeness review is to attempt to release the DEIS to the public for its review as soon as possible. Expressly guided by these principles, the Town Board shall, pursuant to Section 617.9(a)(1) of SEQRA's implementing regulations, determine whether to accept for the purposes of commencing public review the draft DEIS submitted by the Benjamin Companies within forty-five (45) days of its submission. In the event that the Town Board determines that such draft DEIS is not complete, it shall set forth in detail in writing those areas of the draft DEIS that it finds inadequate ("Incompleteness Letter"). In such event, the Benjamin Companies shall undertake best efforts to reasonably respond to all matters set forth in the Incompleteness Letter, and thereafter, the Town Board shall reasonably find such revised draft DEIS complete for the purposes of commencing public review in accordance with the principles set forth herein.

8. Negotiations with MTA. Dover and the Benjamin Companies shall jointly participate in discussions with the Metropolitan Transportation Authority concerning those issues relevant to the implementation of the Project.

9. Consultation. It is the intent of the Parties that during the term of this MOU, representatives of the Town Board and the Benjamin Companies shall meet regularly to confer about the progress of the Parties' activities under this MOU. The Parties shall endeavor to meet no less frequently than bi-monthly.

10. Default. If either the Town Board or the Benjamin Companies fails to materially comply with any provision of this MOU or is otherwise in breach of this MOU, and such failure continues for more than thirty (30) days after written notice from the non-defaulting Party to the purportedly defaulting Party specifying the failure and requiring that it be remedied, such failure shall, upon a finding of the American Arbitration Clause pursuant to Paragraph ___ herein ("Arbitration"), constitute a Default, provided, however, that if any such Default is not reasonably capable of cure within thirty (30) days, then provided the purportedly defaulting Party immediately commences to cure and diligently prosecutes the same, such cure period shall be extended for an additional period of time not to exceed ninety (90) days. In the event of a Default, the non-defaulting Party may:

- (i) waive strict compliance with the pertinent provision of this MOU

and provide the other Party with an additional time period to rectify or "cure" the Default; or

(ii) terminate this MOU, and upon such termination, the defaulting Party shall be liable for and shall promptly reimburse to the non-defaulting Party all costs and expenses paid by such Party to any outside consultants (but not legal counsel) in connection with this MOU and the processing of the Project, pursuant to SEQRA or otherwise, and

(iii) due to the fact that there would not be an adequate remedy at law, in addition to any other rights and remedies available at law or in equity, the non-defaulting Party shall be entitled to seek equitable relief including, but not limited to, specific performance, with respect to the Default.

11. Arbitration. Any controversy, dispute or claim arising out of or relating to this MOU or any of the relationships or transactions contemplated hereby, including any alleged Default, shall be settled by binding private arbitration under the aegis of the American Arbitration Association ("AAA"). It shall be a condition precedent to the commencement of proceedings before the AAA that the allegedly offending Party has not remedied any allegedly disputed matter within thirty (30) days of its receipt of written notice specifying the failure and requiring that it be remedied or within ninety (90) days of its receipt of such notice if the purportedly defaulting Party immediately commences to cure and diligently prosecutes the same. Judgment on the award rendered by the AAA may be entered in any Court having jurisdiction over this matter.

12. Governing Law. This MOU shall be governed by and construed in accordance with the laws of the State of New York without regard to conflict of laws principles.

13. Counterparts. This MOU may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument, and any of the parties or signatories hereto may execute this MOU by signing any such counterpart.

14. Captions. The captions of this MOU are for the purpose of convenience of reference only, and in no way define, limit or describe the scope or intent of this MOU or in any way affect this MOU.

15. No Third Party Beneficiaries. Except as may be expressly provided to the contrary in this MOU, nothing contained in this MOU shall or shall not be construed to confer upon any person other than the parties hereto, any rights, remedies, privileges, benefits or causes of action to any extent whatsoever.

16. Successors and Assigns. The agreements, terms, covenants and conditions of this MOU shall be binding upon and inure to the benefit of the parties hereto and, except as otherwise provided herein, their respective successors and permitted assigns.

17. Further Assurances. Each party hereto shall do all acts and things and

make, execute and deliver such written instruments as shall from time to time be reasonably required to carry out the terms and provisions of this MOU.

18. No Amendment. Neither this MOU nor any provisions hereof may be changed, modified, amended, supplemented, altered, waived, discharged or terminated orally, except by an instrument in writing signed by the party against who enforcement of the change, modification, amendment, supplement, alteration, waiver, discharge or termination is sought, and, if required by any mortgage document, the applicable lender has consented thereto.

19. Entire Agreement. This MOU, together with the Schedule and Exhibits hereto, contain all of the promises, agreements, conditions, inducements and understandings between and amongst the parties hereto concerning the Project and there are no promises, agreements, conditions, inducements or understandings, oral or written, expressed or implied, between them other than as expressly set forth herein and therein.

20. No Recourse. All covenants, stipulations, promises, agreements and obligations of the Parties contained in this MOU shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Town Board and the Benjamin Companies, respectively, and not of any individual officer, partner, member, shareholder, agent, servant or employee of the Parties in any capacity, and no recourse under or upon any obligation, covenant or agreement contained in this MOU, or otherwise based or in respect thereof, shall be had against any past, present or future officer, partner, member, shareholder, agent, servant or employee of the Parties or any member thereof, either directly or through any successor thereto or any person executing this MOU.

21. Notice. Any notice, demand, request or other communication which under the terms of this MOU must or may be given or made or served by any of the Parties hereto shall be in writing and shall be given or made by mailing the same by registered or certified mail, express courier, or by hand delivery, addressed as set forth below:

If to the Town Board:

Supervisor Jill Way and Members of the
Town Board of the Town of Dover
125 East Duncan Hill Road
Dover, NY 12522

with a copy to:

Rappaport Meyers Whitbeck Shaw & Rodenhausen
Dooley Square
35 Main Street, Suite 541
Poughkeepsie, NY 12601
Attention: Shannon Martin LaFrance, Esq.

If to the Benjamin Companies:

The Benjamin Companies
377 Oak Street
P.O. Box 739

Garden City, NY 11530
Attention: Russell Mohr

with a copy to:

Zarin & Steinmetz
81 Main Street, Suite 415
White Plains, New York 10601
Attention: Michael Zarin, Esq.

Any of the Parties hereto or their counsel may designate by notice in writing a new or other address to which such notice or demand shall thereafter be given, made or mailed. Any notice given herein shall be deemed given when posted in the U.S. mail, delivered to the overnight express courier or personally delivered, and shall be deemed complete upon the receipt (or refusal of acceptance) by the party to whom such notice is sent.

IN WITNESS WHEREOF, the Parties have executed this MOU as of the date first written above.

THE TOWN OF DOVER

By: _____
Supervisor Jill Way

Dated: _____

THE BENJAMIN COMPANIES

By: _____
Russell Mohr

Dated: _____