COHEN and WOLF P.C.
ATTORNEYS AT LAW

PLEASE REPLY TO Danbury

7

HERBERT L. COHEN
(1928-1983)

AUSTIN K. WOLF
RICHARD L. ALBRECHT
JONATHAN S. BOWMAN
IRVING J. KERN
STEWART I. EDELSTEIN
NEIL R. MARCUS
G. KENNETH BERNHARD
DAVID L. GROGINS
GRETA E. SOLOMON
ROBIN A. KAHN
RICHARD SLAVIN
DANIEL S. NAGEL
RICHARD J. DI MARCO
DAVID B. ZABEL
MARK A. KIRSCH
DAVID M. LEVINE
JOSEPH G. WALSH
MATTHEW C. SUSMAN
DAVID A. BALL
JOCELYN B. HURWITZ
STUART M. KATZ
MONTE E. FRANK
PATRICIA C. SULLIVAN
VINCENT M. MARINO
JULIE D. KOHLER
ARI J. HOFFMAN
COURTNEY A. GEORGE
BARBARA M. SCHELLENBERG
RACHEL A. PENCU
JASON A. BUCHSBAUM
L. JOYELLE MAINI
DAVID M. MOROSAN
LAUREN G. WALTERS
MARCIA M. ESCOBEDO
DAVID DOBIN
NATHAN C. ZEZULA
PHILIP C. PIRES
DYAN M. KOZACZKA
ROBYN H. DRUCKER
RACHEL A. SCHWARTZMAN
JORDAN L. FIELDSTEIN
SHANE R. GOODRICH
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OF COUNSEL
MARTIN J. ALBERT
PETER A. ARTURI
ANN L. FOWLER-CRUZ
THEMIS KLARIDES
ROSAMOND A. KOETHER
BRUCE L. LEVIN
JACK E. MCGREGOR
JOHNPATRICK C. O'BRIEN
ALLAN J. ROSEN
MARTIN F. WOLF

November 10, 2014

VIA HAND DELIVERY

City Council
City of Danbury
155 Deer Hill Avenue
Danbury, Connecticut 06810

Re: Hatter's Dale Condominiums
38 Triangle Street, Danbury

Ladies and Gentlemen:

By this letter I am requesting that the City Council authorize Mayor Boughton to sign the enclosed contract between Senuna Realty, LLC and the City of Danbury regarding the above-referenced premises.

The contract has been reviewed and approved by the Office of the Corporation Counsel.

Kindly place this request on the agenda of the December meeting of the Council for consideration.

Very truly yours,

Robin A. Kahn

RAK/js
Enclosures
cc: Senuna Realty
Office of Corporation Counsel
Jennifer Emminger, Associate Planner

1115 BROAD STREET
P.O. BOX 1821
BRIDGEPORT, CT 06601-1821
TEL: (203) 368-0211
FAX: (203) 394-9901

158 DEER HILL AVENUE
DANBURY, CT 06810
TEL: (203) 792-2771
FAX: (203) 791-8149

320 POST ROAD WEST
WESTPORT, CT 06880
TEL: (203) 222-1034
FAX: (203) 227-1373

657 ORANGE CENTER ROAD
ORANGE, CT 06477
TEL: (203) 298-4066
FAX: (203) 298-4068

7-1

CONTRACT
BETWEEN
SENUNA REALTY, LLC,
and
THE CITY OF DANBURY
AFFORDABLE HOUSING APPLICATION

Agreement made this _____ day of _____ 2014, by and between Senuna Realty, LLC (the "Applicant") of 13 Fanton Road, Danbury, Connecticut, 06811 and The City of Danbury of 155 Deer Hill Avenue, Danbury, Connecticut 06810.

WITNESSETH:

Whereas, the Applicant is the Owner of property located at 36-38 Triangle Street in Danbury, Connecticut (the "Property"); and

Whereas, on or about August 12, 2014, the Applicant applied to the Planning Commission of The City of Danbury (the "Commission") for approval of its Special Exception Application pursuant to Section 4.B.7 of the Danbury Zoning Regulations (the "Regulations"); and

Whereas, Section 4.B.7 of the Regulations allows developers of property in the RMF-4 zoning district to exceed density limits in exchange for the set aside of units in a development as affordable housing units; and

Whereas, Section 4.B.7(1) provides that to be eligible for the density bonus, the Applicant must submit evidence showing compliance with Section 8-2g of the Connecticut General Statutes; and

Whereas, Section 8-2g of the Connecticut General Statutes and Section 4.B.7 of the Regulations require that the developer submit a proposed contract with Danbury regarding the affordable housing units; and

Whereas, the Commission held a public hearing on September 17, 2014, on the Applicant's application and which public hearing was closed on October 15, 2014; and

Whereas, on November 5, 2014, the Commission approved the Applicant's application for Special Exception pursuant to Section 4.B.7 of the Regulations, subject to the following conditions:

Now therefore, in consideration of the covenants and conditions contained herein, the parties hereto agree as follows:

1. DEVELOPMENT OF PROPERTY: Pursuant to Section 4.B.7 of the Danbury Zoning Regulations, the Applicant will develop the property described in Schedule A annexed

hereto as a project consisting of seven (7) newly constructed row house units and one (1) existing single family dwelling.

(a) The Applicant will have one (1) dwelling unit conveyed by a deed containing covenants or restrictions requiring said unit to be sold or rented at, or below, prices which will preserve the unit as affordable housing, as defined in § 8-39a of the Connecticut General Statutes (the "Affordable Housing Unit").

(b) The Affordable Housing Unit shall be offered for sale or rent only to persons and families whose income is less than or equal to the area median income for Danbury as determined by the United States Department of Housing and Urban Development (hereinafter "HUD") for at least forty (40) years from the date of completion of such unit, as evidenced by the issuance of a Certificate of Zoning Compliance for each such Affordable Housing Unit.

(c) For the purposes of determining the eligibility of applicants for the Affordable Housing Unit, "income" shall mean "adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 for individual Federal annual income tax purposes."

(d) The applicant shall notify the City of Danbury Fair Housing Officer in writing of the date the Affordable Housing Unit will first be offered for sale or rent, thirty (30) days in advance of said date, so that affirmative marketing outreach may be implemented by the City of Danbury.

(e) The sale price or amount of any rent for such Affordable Housing Unit shall not exceed that amount which is set forth on Schedule D attached hereto. Any reasonable periodic increase of the sale price or amount of rent shall be based on the formulas set forth on said Schedule D.

(f) The Affordable Housing Unit shall be conveyed by a deed, including covenants, which incorporate the terms and conditions contained in this Contract, which covenants shall run with the land and shall be enforceable by the City of Danbury. Upon sale or resale of the Affordable Housing Unit, the deed shall reflect the actual consideration paid. A form of the proposed deed is attached hereto as Schedule E.

(g) The restrictions contained in this Contract regarding the Affordable Housing Unit shall also apply to the resale or subsequent lease of such unit, the purchase and subsequent leasing of such unit and the conversion to the common interest form of ownership and subsequent sale of such unit and for the remaining term of such forty (40) year period.

(h) The Affordable Housing Unit shall be of comparable size, workmanship and materials as all of the other units being constructed in this development.

(i) Prior to any sale or resale or lease of the Affordable Housing Unit, the Applicant or its duly authorized agent, shall provide the prospective purchaser with a listing prepared by the Health and Human Services Department or its agent of the current median family income for Danbury as determined by HUD along with the annual Danbury median family income figures for the prior five (5) years.

2. DESIGNATED UNIT: The unit designated as affordable housing is Unit 6.

3. PROCEDURE FOR DESIGNATION OF AFFORDABLE HOUSING UNIT:

(a) The Affordable Housing Unit shall be constructed concurrent with other dwelling units included with the application for special exception. Zoning permits and certificates for compliance shall be issued for affordable and other dwelling units on a pro rata basis to ensure that all affordable housing units are completed and offered for sale or lease under the terms of this agreement. The row house units will be constructed in accordance with the following phasing plan: Phase I: three (3) market rate units; Phase II: four (4) market rate units and one (1) Affordable Housing Unit. The Zoning Enforcement Officer (the "ZEO") shall refuse to issue any zoning permits or certificates of compliance if the Applicant is not in compliance with this pro rata requirement, and, unless and until the requirement has been met.

(b) For a unit to qualify as an Affordable Housing Unit there shall be submitted to the ZEO of the City of Danbury or his or her authorized agent, not less than fifteen (15) days prior to the transfer of title, or if a rental unit, not less than fifteen (15) days prior to the commencement of the lease term of the Affordable Housing Unit, the following documents:

For a sale:

(i) a copy of the Contract between the seller and the purchaser
(ii) a copy of the proposed deed; and
(iii) an affidavit signed and sworn to by the purchaser substantially in the form as Schedule B attached hereto.

For a rental:

(i) a copy of the proposed Lease, sublease or assignment of lease between the lessor and the lessee; and
(ii) an affidavit signed and sworn to by the purchaser substantially in the form as Schedule B-1 attached hereto.

(c) The ZEO shall be prohibited from issuing a Certificate of Zoning Compliance ("Certificate") with regard to such Affordable Housing Unit until such time as he or she shall have received all of the documentation and information required under Subparagraph (b) above and until the ZEO receives verification in writing and recordable form from the Health and Human Services Department or its agent that, based upon the

information provided in said documents, the dwelling unit will qualify as an Affordable Housing Unit upon the sale to such purchaser or lease to such lessee.

Within thirty (30) days after receipt of said documents fully completed and legible, the Health and Human Services Department or its agent shall either (i) issue such verification in writing and in recordable form as provided for immediately above, or (ii) issue a written statement detailing why such verification is not being issued. Failure of the Health and Human Services Department or its agent to issue to the ZEO either of such documents shall be deemed a verification by the Health and Human Services Department or its agent that such dwelling unit, based upon the information provided in said documents, is an Affordable Housing Unit. In such event, the Applicant may file an Affidavit on the Danbury Land Records pursuant to Connecticut General Statutes Section 47-12a attesting to such deemed verification.

Upon receipt of such approval or verification of such documentation by the Health and Human Services Department or its agent and compliance with all other applicable provisions of the Zoning Regulations, a Certificate shall be issued by the ZEO and the same shall contain a notation as follows:

> Note: The foregoing dwelling unit is subject to all the terms and provisions relating to an "Affordable Housing Unit" contained in the City of Danbury Planning Commission's grant of Special Exception regarding Senuna Realty, LLC, recorded in Vol. ____ at Page _____ of the Danbury Land Records.

Any Certificate of Zoning Compliance regarding the Affordable Housing Unit shall be recorded by the Applicant on the Land Records of the City of Danbury no later than five (5) days from the date that such Certificate is issued by the ZEO.

(d) To the extent that market demand for the Affordable Housing Unit is insufficient to absorb the available dwelling unit, the Applicant shall include in its advertising such information relating to the availability of the Affordable Housing Unit as it deems appropriate to increase market demand for such housing. Notwithstanding the foregoing and for so long as the Affordable Housing Unit is not sold, not under Contract, or not leased, the Applicant shall adopt and carry out an advertising program whereby the existence of such Affordable Housing Unit is made known within the Applicant's area. Such advertising shall be comparable to the other advertising of market rate units and may be separate or combined with such advertising for the market rate units.

(e) Not less than fifteen (15) days prior to any subsequent transfer of title or, if a rental unit, commencement of any new or extended lease term or lease for such Affordable Housing Unit, the seller or lessor shall deliver to the Planning and Zoning Department all of the documents and information required to be submitted pursuant to the provisions of Paragraph 3(b) above, which information shall confirm that such transfer shall maintain such dwelling as an Affordable Housing Unit. No closing on the sale or occupancy pursuant to a Lease shall take place until the ZEO receives verification in writing and recordable form from the Health and Human Services Department or its

agent that, based upon the information provided in said documents, the unit qualifies as an Affordable Housing Unit upon the subsequent transfer.

(f) The Lease of the Affordable Housing Unit may not be extended or renewed at the end of its term without again going through the same process as set forth in this Paragraph 3. The ZEO or his or her agent may periodically demand from the lessor of any such dwelling unit or from the lessee and/or sublessee of any such unit, a statement or statements showing the income(s) of the lessee(s) as the case may be. If the ZEO or his or her agent determines that the lessee of the unit does not qualify for an Affordable Housing Unit within the meaning of §8-39a of the Connecticut General Statutes, as amended, the owner or lessor as the case may be shall not renew the lease with the particular lessee at the end of the lease term, unless immediately prior thereto, additional documentation is delivered to the ZEO or his or her agent, which shows that the proposed lessee has income which will qualify the unit as an Affordable Housing Unit.

The provisions of Paragraph 3(c) above relating to the automatic verification by the ZEO for failure to respond within thirty (30) days after complete and legible documentation has been presented as required herein shall also apply to this Paragraph 3(f).

(g) Standard Lease Provision: Each lease, sublease or assignment of lease for the Affordable Housing Unit will contain substantially the following provisions:

> This unit is being rented as an "affordable housing unit" as defined in Connecticut General Statutes Section 8-39a, and is available only to persons or families whose income is at or below the area median income for Danbury as determined by the U.S. Department of Housing and Urban Development. This development has been approved by the Danbury Planning Commission based in part on the condition that a defined percentage of units will be rented as affordable housing units. The owner is required by law to strictly enforce these restrictions for each such lease, sublease or assignment of lease of an Affordable Housing Unit and provide a copies of all such leases, subleases or assignments to the ZEO or his or her agent.

(h) The time period during which the Affordable Housing Unit has been rented as affordable housing unit shall count toward the forty (40) year restriction period and the previously leased Affordable Housing Unit converted to ownership shall be restricted only for the remaining portion of such forty (40) year period.

(i) Prior to executing a purchase and sale agreement or lease for the Affordable Housing Unit, the unit owner/lessor shall pay the City of Danbury a non-refundable fee of $200.00, which fee may be increased, from time to time, as requested by the City of Danbury, as is necessary to cover its reasonable costs incurred in ensuring

and verifying that all sales, resales and leases concerning the Affordable Housing Unit occur in compliance with all affordability restrictions contained in this contract and all applicable Sections of the Connecticut General Statues, Regulations of Connecticut State Agencies and Regulations as presently exist and as may be amended from time to time.

(j) The authorized agent of the ZEO for the purposes hereof may include the Health and Human Services Department or its agent of the City of Danbury. The authorized agent of the Health and Human Services Department or its agent for the purpose hereof, may include NP Rentals and Management, LLC or any other person(s) or entity retained to perform a similar function.

Notwithstanding anything herein to the contrary, the Applicant shall not be required to conform to any regulation to which it is not required to conform under the applicable Affordable Housing Regulations of the Connecticut General Statutes.

4. RECORDATION: The Applicant shall record this Agreement on the Land Records of the City of Danbury and provide evidence of recordation to the Office of the Corporation Counsel no later than (10) days after it has been approved and executed by both of the parties to this Agreement.

5. INCORPORATION BY REFERENCE: The provisions of Section 4.B.7 of the City of Danbury Zoning Regulations and the terms and conditions of the approval of the Planning Commission of the City of Danbury which is attached hereto as Schedule C are hereby incorporated by reference.

Dated: _____, 2014

THE APPLICANT
SENUNA REALTY, LLC

_____

By: _____
Antonio J. Nunes
Its Sole Member
Duly Authorized

_____

Dated: _____, 2014

THE CITY OF DANBURY

_____

By: _____
Mark D. Boughton
Its Mayor
Duly Authorized

_____

STATE OF CONNECTICUT :
: SS: DANBURY
COUNTY OF FAIRFIELD :

On this the ___ day of _____, 2014, before me, _____, the undersigned officer, personally appeared Antonio J. Nunes who acknowledged himself to be the sole member of Senuna Realty, LLC, a Connecticut limited liability company, and that he, as such member, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the LLC by himself as member.

In witness whereof, I hereunto set my hand and official seal.

_____
Commissioner of the Superior Court
Notary Public
My Commission Expires

STATE OF CONNECTICUT :
: SS: DANBURY
COUNTY OF FAIRFIELD :

On this the ____ day of _____, 2014, before me, _____, the undersigned officer, personally appeared Mark D. Boughton, who acknowledged himself to be Mayor of the City of Danbury, a municipal corporation, and that he, as such Mayor, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the City of Danbury by himself as Mayor.

In witness whereof, I hereunto set my hand and official seal.

_____
Commissioner of the Superior Court
Notary Public
My Commission Expires

SCHEDULE A
(Description of Premises)

PARCEL ONE:

Parcel B on Map Number 5607 on file in the Danbury Town Clerk's Office, titled "Map Showing Division of Land of Jose and Lidia Nunes, Danbury, Connecticut, Total Area = 0.496 AC, Scale: 1" = 40', September 24, 1975" certified substantially correct and in accordance with Class A-2 of the Code of Connecticut Technical Council, Inc. Surveying Associates, P.C., 432 Main Street, Danbury, Connecticut, Paul M. Fagan L.S. # 7756.

PARCEL TWO:

All that certain piece or parcel of land, together with the buildings thereon, situate in said Town of Danbury, known as #38 Triangle Street, and bounded and described as follows:

Commencing at a point of the Southerly side of Triangle Street on the boundary line separating land now or formerly of Anna and Patrick Mitchell from land now or formerly of John T. McGrath; thence running Southerly in a straight line along said boundary line 202 feet to land formerly of one Hoyt; thence running Westerly along land formerly belonging to said Hoyt 50 feet; thence running in a Northerly direction parallel with the boundary line separating land now or formerly of Anna and Patrick Mitchell from land now or formerly of John T. McGrath 202 feet to Triangle Street; thence running Easterly along the Southerly side of Triangle Street 50 feet to the point or place of beginning.

Said premises are further shown and described as 0.221 acres on a certain map entitled "Property Surveyed for Margaret A. Ellis Location Triangle Street, Danbury, Scale 1" = 30' Date February 2, 1984," which map is recorded in the Danbury Land Records as Map No. 7763.

SCHEDULE B

AFFIDAVIT OF PURCHASER

HATTERS DALE CONDOMINIUMS

CONFIDENTIAL - NOT SUBJECT TO DISCLOSURE UNDER
THE CONNECTICUT FREEDOM OF INFORMATION ACT

DATE:_____

TO: Zoning Enforcement Officer and the Health and Human Services Department or its agent, of the City of Danbury

FROM: Unit #_____, Hatter's Dale, Danbury, Connecticut property

Proposed Closing Date:_____ _____
(Must be at least 35 days after submission of this Affidavit)

I/We hereby attest to the following:

I/We intend to purchase an "Affordable Housing Unit" as defined in Connecticut General Statutes Section 8-39a.

I/We understand that there are certain restrictions governing the sale and resale of such Affordable Housing Unit, including income limits.

1. The total purchase price for the above property is $ _____

2. Amount of down payment is $_____

3. The area median income of the City of Danbury is $_____
(Verification Attached)

4. I/We hereby certify to the City of Danbury that our income of $ _____ is equal to or less than the area median income for the City of Danbury (as determined by the U.S. Department of Housing and Urban Development). "Income" shall mean "adjusted gross income, as defined for purposes of reporting under. Internal Revenue Service (IRS) Form 1040 for individual Federal annual income tax purposes." I/We agree to provide verification of income by providing complete signed copies of the form 1040 Federal Income Return filed for the tax year preceding the date of this affidavit to the City of Danbury Health and Human Services Department and Welfare or its agent I/We agree to file copies of additional 1040 returns and back up documentation if requested by the City of Danbury Health, Health and Human Services Department.

5. The following is a listing of the anticipated annual housing expenses for the property:

Mortgage payments	$
Real Estate taxes	$
Property insurance	$
Community Association charges	$
Electricity (estimate)*	$
Sewer and Water Use charges	$
Heat (estimate)*	$
Total: (Must not exceed 30% of the amount on line #4 above)	$

* TO BE BASED ON HUD FIGURES AVAILABLE FROM THE CITY OF DANBURY HEALTH AND HUMAN SERVICES DEPARTMENT

6. I/We intend to occupy the Affordable Housing Unit as my/our principal residence.

7. I/We have applied for a mortgage loan from the following lender:

Name: _____

Street address: _____

City, State, Zip Code: _____

8. I/We hereby authorize the Zoning Enforcement Officer to furnish a copy of this Affidavit to my/our proposed lender,

9. Attached to this Affidavit are copies of the following documents:

a. Contract between the seller and purchaser;
b. Proposed Deed; and
c. Copies of signed 1040 return(s) filed for the preceding tax year.

10. I/We acknowledge and understand that any resale price will be calculated in accordance with the formula contained in Schedule D of a Contract between Senuna Realty, LLC and the City of Danbury recorded in Volume _____ at Page _____ of the Danbury Land Records and that the sales price may or may not be increased upon the resale of this unit. I/We also understand that the resale index is based upon HUD median income calculations which may or may not increase from year to year.

I/We make this Affidavit under penalty of perjury.

7-11

_____
Purchaser

_____
Purchaser

Subscribed and sworn to, before me, this day of , 2014.

_____
Commissioner of the Superior Court
Notary Public
My Commission Expires

7-12

SCHEDULE B -1

AFFIDAVIT OF LESSEE

HATTERS DALE CONDOMINIUMS

CONFIDENTIAL - NOT SUBJECT TO DISCLOSURE UNDER
THE CONNECTICUT FREEDOM OF INFORMATION ACT

DATE:_____

TO: Zoning Enforcement Officer and the Health and Human Services Department or its agent, of the City of Danbury

FROM: Unit #_____, Hatter's Dale, Danbury, Connecticut property

Proposed Commencement of Lease:_____ _____
(Must be at least 35 days after submission of this Affidavit)

I/We hereby attest to the following:

I/We intend to lease an "Affordable Housing Unit" as defined in Connecticut General Statutes Section 8-39a.

I/We understand that there are certain restrictions governing the lease, sale and resale of such Affordable Housing Unit, including income limits.

1. The monthly rent for the property is $_____

2. The area median income of the City of Danbury is $_____
(Verification Attached)

3. I/We hereby certify to the City of Danbury that our income of $ _____ is equal to or less than the area median income for the City of Danbury (as determined by the U.S. Department of Housing and Urban Development). "Income" shall mean "adjusted gross income, as defined for purposes of reporting under. Internal Revenue Service (IRS) Form 1040 for individual Federal annual income tax purposes." I/We agree to provide verification of income by providing complete signed copies of the form 1040 Federal Income Return filed for the tax year preceding the date of this affidavit to the City of Danbury Health and Human Services Department or its agent I/We agree to file copies of additional 1040 returns and back up documentation if requested by the City of Danbury Health and Human Services Department

4. The following is a listing of the anticipated annual housing expenses for the property:

Rent payments *	$
Electricity (estimate)**	$
Heat (estimate) **	$
Sewer and Water Use charges	$
Total: (Must not exceed 30% of the amount on line #4 above)	$

* Monthly rent payments do not include utilities.

** TO BE BASED ON HUD FIGURES AVAILABLE FROM THE CITY OF DANBURY HEALTH AND HUMAN SERVICES DEPARTMENT.

5. I/We intend to occupy the Affordable Housing Unit as my/our principal residence.

6. Attached to this Affidavit are copies of the following documents:

a. Proposed Lease/sublease or assignment of lease; and
b. Copies of signed 1040 return(s) filed for the preceding tax year.

7. I/WE ACKNOWLEDGE AND AGREE THAT IF THE AFFORDABLE HOUSING UNIT BEING LEASED, SUBLEASED OR IF SUCH LEASE HAS BEEN ASSIGNED, THAT THE LESSEE/SUBLESSEE OR ASSIGNEE SHALL PROVIDE DOCUMENTATION OF THE ANNUAL INCOME OF THE PERSON OR FAMILY WHO WILL OCCUPY THE UNIT AND OF COMPLIANCE WITH APPLICABLE RENT LIMITATIONS TO THE CITY OF DANBURY HEALTH AND HUMAN SERVICES DEPARTMENT OR ITS AGENT NO LATER THAN JANUARY 31ST OF EACH CALENDAR YEAR. I/WE ARGEE THAT AS LESSEES OF AN AFFORDABLE HOUSING UNIT, I/WE SHALL NOT EXECUTE A SUBLEASE OR ASSIGMENT OF LEASE PRIOR TO ANY NEW LESSEE RECEIVING VERIFICATION OF ELIGIBILITY TO LEASE SAID AFFORDABLE HOUSING UNIT FROM THE CITY OF DANBURY.

I/We make this Affidavit under penalty of perjury.

_____
Lessee

_____
Lessee

7-14

Subscribed and sworn to, before me, this day of , 2014.

Commissioner of the Superior Court
Notary Public
My Commission Expires

7-15

SCHEDULE C
PLANNING COMMISSION APPROVAL

CITY OF DANBURY

155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

PLANNING COMMISSION
(203) 797-4525
(203) 797-4586 (FAX)

RESOLUTION OF APPROVAL WITH CONDITIONS

Dated November 3, 2014
Approved on November 5, 2014

PETITION FOR GRANT OF SPECIAL EXCEPTION & APPLICATION FOR SITE PLAN APPROVAL

Hatter's Dale Condominiums
36 Triangle Street (Tax Assessor Lot # J15032) and
38 Triangle Street (Tax Assessor Lot # J15239)
PLANNING CODE SE 738

WHEREAS, on June 4, 2014, the City of Danbury Planning Commission received applications from Artel Engineering Group, LLC, agent for the property owner, Senuna Realty, LLC, hereinafter referred to as the "Applicant", for approval of a Grant of Special Exception and an Application for Site Plan approval and accompanying maps, plans, and documents referenced in Exhibit A, to permit the construction of an 8-unit multi-family development on properties located at 36 and 38 Triangle Street (Tax Assessor Lot #'s J15032 and J15239); and

WHEREAS, the subject properties total approximately 26,184 square feet (sq. ft.) of land in the RMF-4 Zoning District; and

WHEREAS, in accordance with Section 4.B.2.b(3) of the Zoning Regulations, the Applicant is requesting approval to construct an affordable housing project utilizing the Housing Incentive Option, which is allowed as a Special Exception upon approval by the Planning Commission affirming that the provisions of the Zoning Regulations have been met; and

WHEREAS, Section 4.B.7 of the Zoning Regulations allows developers of property in the RMF-4 Zoning District to exceed density limits in exchange for the set aside of units in a development as affordable housing units; and

WHEREAS, in accordance with the provisions of Section 4.B.7 of the Zoning Regulations, two (2) additional units are permitted to be constructed if the Applicant designates one (1) unit as affordable pursuant to both statutory requirements and the provisions of Section 4.B.7 and 10.E. of the Zoning Regulations, and

WHEREAS, the proposed project involves the construction of eight (8) dwelling units, of which, one of the units is designated as affordable; and

WHEREAS, the project involves the construction of two buildings, of which, the first building consists of a 3,840 sq. ft. addition to the existing single-family dwelling to allow for the construction of a three-family structure along the front of the property and a 5-unit row house is proposed to be constructed towards the rear of the property; and

WHEREAS, additional site improvements include the construction of a 24-foot wide paved driveway, associated parking, landscaping, the installation of a storm water management system and the construction of four parking spaces to serve 34 Triangle Street; and

WHEREAS, as shown on the plans referenced in Exhibit A, the proposed development is to be constructed in two phases, Phase A includes the construction of the three-family structure, the driveway, and the associated parking and Phase B includes the construction of the 5-unit row house building; and

WHEREAS, the Applicant, in compliance with the requirements of Sections 4.B.7 and 10.E of the Zoning Regulations, has submitted a proposed Contract for an Affordable Housing Application between Senuna Realty, LLC and the City of Danbury; and

WHEREAS, the project has been designed in accordance with the additional requirements of Sections 4.B.7 and 4.G.3 of the Zoning Regulations; and

WHEREAS, the maps, plans and documents submitted by the Applicant, as noted in Exhibit A, constitute the "Application" for the proposed project; and

WHEREAS, in accordance with Section 8-7d of the Connecticut General Statutes ("C.G.S."), the Planning Commission conducted a duly advertised Public Hearing that opened on September 17, 2014 and closed on October 15, 2014; and

WHEREAS, in addition to the Application, the record also includes testimony, approved minutes of the Planning Commission and related correspondence and staff reports on file in the Department of Planning and Zoning; and

WHEREAS, the Application has been reviewed by the City of Danbury Department of Planning and Zoning, the Engineering Division of the Public Works Department ("Engineering Division"), the Office of the Fire Marshal, the Construction Services Division of the Public Works Department, the City Traffic Engineer and Traffic Authority; and

WHEREAS, all materials, plans and documents submitted by the Applicant in support of the Application and reviews conducted or permits issued by the aforementioned City departments or Commissions are incorporated into the record of this Application and have been reviewed and considered by the Planning Commission and found to be credible and reliable.

NOW THEREFORE BE IT RESOLVED, the City of Danbury Planning Commission has determined that, based on evidence in the record, and its knowledge and experience of conditions in the area, and subject to compliance with the conditions set forth below, the petition for said Grant of Special Exception is in compliance with Section 10.C.4 of the Zoning Regulations and finds that the proposed project:

(1) will not emit noise, smoke, glare, odor, or vibration or other conditions which will create a nuisance having a detrimental effect on adjacent properties;
(2) is designed in a manner which is compatible with the character of the neighborhood;
(3) will not create conditions adversely affecting traffic safety or which will cause undue traffic congestion; and,
(4) will not create conditions harmful to the natural environment or which will jeopardize public health and safety; and

BE IT FURTHER RESOLVED, that the City of Danbury Planning Commission, after review of said Application, materials, receipt of Staff comments and consideration of all information incorporated into the record, hereby **approves with conditions** said Petition for a Grant of Special Exception and Application for Site Plan Approval, SE 738 (Tax Assessor Lot #'s J15032 and J15239); and

BE IT FURTHER RESOLVED, the conditions of said approval are as follows.

1. The project shall be developed in accordance with the maps, plans and documents, as listed in ***Exhibit A***.

2. The Applicant shall file the Grant of Special Exception on the City of Danbury Land Records within 60 days pursuant to Section 10.C.3.d of the City of Danbury Zoning Regulations. Upon recording, the Applicant shall provide a copy of the receipt, including volume and page number, to the Department of Planning and Zoning. The Department shall then provide evidence to the Zoning Enforcement Officer ("ZEO") that the Grant of Special Exception has been duly recorded.

3. The Applicant shall prepare a Contract for an Affordable Housing Application pursuant to the provisions of Sections 4.B.7 and 10.E of the Zoning Regulations. The Contract shall be reviewed by the Department of Planning and Zoning and the Office of the Corporation Counsel. Upon approval by the Department and the Office of the Corporation Counsel, the Applicant shall be responsible for obtaining City Council approval authorizing the Mayor to execute same. Subsequent thereto, the Applicant shall record the fully executed contract on the City of Danbury Land Records and provide a copy of the filed contract to the Department of Planning and Zoning.

4. The Applicant shall comply with all terms and conditions contained in the Contract for an Affordable Housing Application between Senuna Realty, LLC and the City of Danbury. In accordance with said contract, one (1) dwelling unit shall be conveyed by deeds or leased with contractual provisions containing covenants or restrictions requiring said unit to be sold or rented at, or below, prices which will preserve the units as affordable housing.

5. Unit 6, located in the 5-unit row house, shall be designated as affordable and shall be completed and certified as ready for occupancy simultaneously with the market-rate units.

6. The on site storm drainage system shall remain private and regular maintenance is crucial for the system to continue to function as intended.

7. Bulk trash containers, dumpsters, receptacles and collection containers used for refuse collection and/or recyclables as required by Section 22a.207 et. seq. of the C.G.S., as amended, shall meet all applicable requirements of the City of Danbury Zoning Regulations.

The following actions shall be taken prior to any land disturbance or alteration related to site improvements shown on the approved plans and issuance of any permits.

8. The ZEO shall verify that development of the site as proposed and approved and shown on the site plans comply with City of Danbury Zoning Regulations.

9. The ZEO shall verify that the Grant of the Special Exception has been filed on the City of Danbury Land Records.

10. The ZEO shall verify that the Contract for an Affordable Housing Application has been filed on the City of Danbury Land Records.

11. For the purpose of combining Tax Assessor Lot #'s J15032 and J15239 into one lot, the Applicant shall deliver to the Department of Planning and Zoning a mylar and three paper copies illustrating said lot combination. The Department of Planning and Zoning shall affix its approval on said map for recording on the City of Danbury Land Records. Upon recording of the mylar, the Applicant shall provide a copy of the recording receipt to the Department of Planning and Zoning. The Department shall then provide evidence to the ZEO that the lot combination has been duly recorded.

The following actions shall be taken prior to the issuance of a Certificate of Zoning Compliance by the ZEO for any unit(s) during Phase A.

12. All work within the City of Danbury road right-of-way shall be coordinated and completed to the satisfaction of the Department of Public Works, including but not limited to the installation of the concrete driveway apron, the concrete sidewalk, and concrete curbing along Triangle Street. Permanent roadway repairs/overlays shall be determined in the field by the Public Services Division of the Department of Public Work, in its sole discretion.

13. The front yard landscaping, as shown on the approved plans referenced below, shall be planted under the supervision of a State of Connecticut licensed landscape architect who shall certify in writing to the ZEO, after its completion, that the landscaping was planted in accordance with said approved plan.

14. In accordance with Section 10.D.9 of the Zoning Regulations, the proposed storm drainage system shall be installed under the supervision of a State of Connecticut licensed professional engineer who shall certify in writing to the ZEO, after completion of construction, that the storm drainage system was installed and grading undertaken in accordance with the approved site plan, and is in good working condition.

The following actions shall be taken prior to the issuance of a Certificate of Zoning Compliance by the ZEO for any unit(s) during Phase B.

15. The ZEO shall verify that affordable housing unit #6 was constructed in accordance with the terms and conditions outlined in the contract between Senuna Realty, LLC and the City of Danbury.

Additional General Comments:

16. Approval of this Special Exception application does not waive any other requirements for additional approvals or permits that may be required from other City, State or Federal departments or agencies, including but not limited to, and permits for on-site signage.

17. The approval of the Site Plan shall be void and be of no effect unless construction of the proposed buildings and/or structures is completed within five (5) years of the effective date of said approval. The Planning Commission may grant an extension of said five (5) year period of not more than five (5) years provided it finds that owing to conditions affecting such project, the application of such five (5) year completion would result in exceptional difficulty and further provided that such extension ensures the protection of the public health, safety, convenience, and property values.

CC: Sean Hearty, Zoning Enforcement Officer
George Gleason, Permit Center
Robin Edwards, Esq., Corporation Counsel (via email)
Farid Khouri, P.E., City Engineer
Kelly Green, P.E., Engineering Department (via email)
Abdul Mohammed, Traffic Engineer (via email)
David Newland, Building Official
James Russell, Fire Marshal
Dan Reisert, Construction Services Department (via email)
Robin Kahn, Esq., Attorney for Applicant (via email)
Dainius Virbickas, P.E., Civil Engineer for Applicant (via email)

EXHIBIT A
MAPS, PLANS, AND DOCUMENTS APPROVED BY PLANNING COMMISSION
FOR HATTER'S DALE CONDOMINIUMS
PLANNING CODE # SE 738

1. Maps under the general title "Hatter's Dale Condominiums, Danbury, Connecticut", prepared by Artel Engineering Group, LLC:
   A. Subtitled 'Cover Sheet', dated April 2, 2014-revised 9/5/14;
   B. Subtitled 'Site Plan', dated April 2, 2014-revised through 9/25/14;
   C. Subtitled 'Grading and Utility Plan', dated April 2, 2014-revised through 9/25/14;
   D. Subtitled 'Sediment & Erosion Control Plan', dated April 2, 2014-revised through 9/25/14;
   E. Subtitled 'Sediment and Erosion Control Notes', dated April 2, 2014;
   F. Subtitled 'Details I', dated April 2, 2014-revised 9/5/14;
   G. Subtitled 'Details II', dated April 2, 2014-revised 9/25/14 and
   H. Subtitled 'Phasing Plan', dated April 2, 2014.

2. Plans under the general title "Senuna Realty, LLC, 34-38 Triangle Street, Danbury, Connecticut", Subtitled 'Architectural Elevation', Sheets A-201-A206, prepared by Joseph Melo Nunes, dated October 7, 2014.

3. Maps under the general title "Hatter's Dale Condominiums, 36-38 Triangle Street, Danbury, Connecticut", Subtitled 'Planting Plan', Sheets L1.0 and L1.1, prepared by Didona Associated Landscape Architects, LLC, dated July 15, 2014-revised through 10/14/14.

4. Map titled "Topographic Survey Prepared for Senuna Realty, LLC", prepared by Sydney A. Rapp Land Surveying, P.C., dated June 2, 2014.

5. Site Engineering Report Prepared For Hatter's Dale Condominiums, 36-38 Triangle Street, Danbury, Connecticut", prepared by Artel Engineering Group, LLC, dated May 2014.

SCHEDULE D
MAXIMUM SALES PRICE/MAXIMUM MONTHLY RENT

The maximum sales price of the Affordable Housing Unit shall not exceed $452,567.00 (the "Initial Sales Price") and the maximum monthly rent of the Affordable Housing Unit shall not exceed $2,403.00 per month (the "Initial Rent"), provided that the maximum sales price or maximum monthly rent may be reasonably periodically increased as follows:

(1) The Initial Sales Price or the Initial Rent of the Affordable Housing Unit shall be adjusted by the resale index (Index"). The Index shall mean the calculated percentage of change in the Danbury median income using the income guidelines as published by HUD. Said measure shall be calculated from the time of the initial sale or rental of the Affordable Housing Unit to the time of the resale or new rental. The initial Sales Price or the Initial Rent shall be multiplied by the resale index to establish the new maximum resale price or new rent amount.

(2) The City, by approval of the Common Council, in its discretion, after recommendation and review by the Health and Human Services Department or its agent, may revise the method of determining the maximum resale price or the maximum rent as set forth herein if, due to any substantial changes by HUD to the methodology used in determining the Danbury median income, the Council finds that comparison over time is not accurate or meaningful.

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SCHEDULE E
PROPOSED AFFORDABLE HOUSING WARRANTY DEED

Senuna Realty, LLC a limited liability company organized and existing under the laws of the State of Connecticut, acting herein by Antonio J. Nunes, its sole Member duly authorized, for consideration paid, grants to , of
AS JOINT TENANTS,

with Warranty Covenants

Said premises are also conveyed subject to the following:

1. The terms and conditions of Contract between Senuna Realty, LLC and the City of Danbury which contract is recorded in Volume at Page of the Danbury Land Records, and which contract requires that the premises be sold or rented at or below prices which will preserve the premises as affordable housing as defined in C.G.S. Sec. 8-39a, as the same shall be amended from time to time for a period of forty (40) years after the issuance of a Certificate of Zoning Compliance for the premises.

2. Any and **all provisions of any zoning,** planning or other ordinance, municipal regulation or public or private law.

3. **Taxes of the City of Danbury hereinafter** due and payable which taxes the grantee assumes and agrees to pay.

Signed and dated at Danbury, Connecticut, this ____ day of _____, 201__ .

Witnessed By:

SENUNA REALTY, LLC

_____

By:_____

_____

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STATE OF CONNECTICUT)
) ss: Danbury
COUNTY OF FAIRFIELD)

The foregoing instrument was acknowledged before me this_____ day of _____, 201_, by Antonio J. Nunes, sole member of Senuna Realty, LLC, a Connecticut limited liability company, on behalf of the limited liability company.

_____
Commissioner of Superior Court-
Notary Public
My Commission Expires: