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Via electronic transmission

October 10, 2007

Downtown Commission
c/o Alan Glines, Urban Planner
The City of Asheville
P. O. Box 7148
Asheville, NC 28802

Re: ParkSide Condominiums

Dear Commission Members:

As you may be aware, our firm represents Black Dog Realty, LLC and Swag Holdings, LLC, who own two properties located along Marjorie Street and Spruce Street in Asheville, North Carolina, which will be developed as a mixed use project by ParkSide Condominium, LLC. We understand that you will be reviewing this project at your meeting on Friday, October 12, 2007.

We understand that the staff report for your review of this project includes a reference to and comments on the "Pack Square Design Guidelines", along with the Downtown Design Review Guidelines. While we recognize the authority of the Downtown Commission to conduct mandatory review, with voluntary compliance, under the Downtown Design Review Guidelines, it is our opinion that the project is not subject to the Pack Square Agreement and not subject to review by the Pack Square Conservancy Board or any other board under the "Pack Square Design Guidelines."

Our opinion is based upon our review of the document known as the "Pack Square Agreement" dated August 14, 2001, by and between the City of Asheville, the County of Buncombe and Pack Square Conservancy, Inc. We have also reviewed the area described as the "Pack Square Renaissance Area." Based upon our review, it is clear that the property known as the Hayes & Hobson Building, being PIN 9649.18-40-9331, was never included within the Pack Square Renaissance Area and is not subject to the Pack Square Agreement. The Old County Jail property, being PIN 9649.19-50-0341, was formerly owned by Buncombe County and was conveyed to Black Dog Realty, LLC, on November 22, 2006. It is now privately owned and is no longer publicly owned property. It is our opinion that privately owned property is not now nor could it ever be subject to the Pack Square Agreement without the owner's consent. Further, both the County and the City retained the absolute right to convey their property to others and no right, title or interest in County or City owned properties was ever conveyed to the

Conservancy. As a result, the properties owned by Black Dog Realty, LLC and Swag Holdings, LLC are not subject to the Pack Square Agreement and not subject to any review under the Pack Square Design Guidelines.

Due to the proximity of these properties to the Pack Square Renaissance Area, however, our clients have offered an invitation to the Pack Square Conservancy for their comments on the design. The design was formally presented to the Pack Square Conservancy Board at its meeting on October 3, 2007. We anticipate receiving their comments in the next few weeks.

Our client looks forward to meeting with you to consider the project at your meeting on October 12, 2007. We respectfully maintain that the Pack Square Design Guidelines should not be considered.

Very truly yours,



Patsy Brison

SPB/gtp

cc: Alan Glines, Urban Planner, City of Asheville

Robert W. Oast, Jr., City Attorney

ParkSide Condominium, LLC