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VILLAGE OF CHESTNUT RIDGE BOARD OF TRUSTEES PLANNING BOARD

OMNIBUS NARRATIVE SUMMARY Revised 3/30/2016

ARTIS SENIOR LIVING SITE PLAN AND SPECIAL PERMIT Tax Lots 62.15-1-34

This is an application for site plan and special permit approval for an assisted living facility, to be located at 801 Chestnut Ridge Road (NYS Route 45) in the Village.

Existing Conditions

The subject site is a vacant 5.45 acre parcel located on the West side of Chestnut Ridge Road (NYS Route 45), just South of its intersection with Red Schoolhouse Road. The parcel is located in two zoning districts: the front half is in an NS district, while the rear half is in an R-40 district. The district lines are reinforced by a Declaration of Covenants that appears to reflect a prior attempt to develop the property in 1985. The Declaration of Covenants effectively prohibits commercial development on the R-40 portion of the lot.

The entire property is wooded, and the rear of the parcel includes wetlands and a 100 year floodplain associated with Pine Brook, which runs through the rear of the property. The front of the property is at a higher elevation than the rear, with a grade differential of approximately 40-45 feet (depending on where one measures).

The property fronts on Chestnut Ridge Road, also known as NYS Route 45. The road is a major north-south thoroughfare in Rockland County. Just to the North is the signalized intersection with Red Schoolhouse Road, a collector road for the Village, which also provides access to the New York State Thruway and the Garden State Parkway.

The intersection of Chestnut Ridge and Red Schoolhouse Roads forms the center of the Village's NS zoning district. This is one of two retail zoning districts in the Village, and forms its commercial center. To the North of the NS district are various office, industrial and warehouse uses. To the South, the area is generally residential.

As noted above, the rear of the property is zoned R-40. The rear lot line of the subject effectively traces the channel of the Pine Brook, a NYSDEC-regulated stream, beyond which is existing residential development along Janna Court.

Recent Changes to the Zoning Code

The Village of Chestnut Ridge Zoning Code was recently amended by a Local Law¹ which added a new use to the NS zoning district, designated "Assisted Living Residence". The new use was adopted as a Special Permit use under the jurisdiction of the Village Board. The applicant proposes to develop the site for use as a memory-care assisted living facility in full compliance with the newly adopted "Assisted Living Residence" use, and without any variances.

Proposed Development

Artis Senior Living, LLC, is a Virginia-based company whose mission is to develop high quality general assisted living and memory care assisted living facilities that serve individuals suffering from Alzheimer's disease and other forms of memory loss and dementia. The proposed facility will serve 64 individuals, and all of the residents will be ambulatory but may have varying levels of memory impairment. The facility will require a Certificate of Need as an assisted living facility from the New York State Department of Health.

The proposed one-story 32,000± sf building has been specifically designed to provide the highest possible level of care for the memory-impaired residents. The interior will be divided into four distinct "neighborhoods" surrounding a central core, and will provide security and privacy for the residents. Each neighborhood has a distinct name and theme to aid in identification, and each will contain a front porch, central hallway, individual bedrooms, a common family room, dining room, and pantry. The central core will provide a variety of services for the residents, including a beauty salon, barber shop and an apothecary. The central core will also include the offices, main kitchen, a community room, and an arts and crafts area.

Within the enclosure of secure property fencing, residents will have access to walking paths and sitting areas that will allow a level of independence, but within a safe and controlled environment.

The building and parking area will be confined to the NS portion of the parcel. Some grading, retaining walls, walking paths and fencing will extend approximately 25 feet into the R-40 portion, but the remainder of the R-40 portion will be left in its natural state.²

The architectural features of the proposed building, including the scale, bulk, height, materials, and textures, were all designed and selected with the goal of ensuring its compatibility with the adjacent residential community. The facade of the one-story building will be distinctly residential in nature and constructed using stone, brick, and siding. An attractive privacy fence will screen the activity and also serve as a security enclosure to the property. Lighting will be

¹ Local Law No. 1 of 2015

² A request to amend the Declaration in order to clarify its application to this proposal is included in this application, and will be discussed in more detail below.

limited to downward directional lights that will be shielded from the adjacent properties by the privacy fence and landscaping around the perimeter of the property.

A parking lot with 32 parking spaces is proposed in front of the building. Based upon previous experience and industry standards for facilities of this kind, the proposed parking will adequately serve the employee and visitor needs of the facility. Parking studies prepared for the applicant and reviewed by the Planning Board have confirmed that the parking ratio is appropriate. However, pursuant to discussions had with the Planning Board, overflow parking for 11 cars is provided on grass with a prepared subsurface in the southerly “panhandle” portion of the site.³

The applicant has had consultations with Village Fire Inspector Adam Peltz and Chief Vincent Curcio of the South Spring Valley Fire Department with respect to the site's Fire Code compliance. The building will be fully sprinklered, and the site will meet the fire code and the Department's needs.

The New York State Department of Transportation (“DOT”), which has sole jurisdiction over entry/exit drives onto Route 45, has approved the current site plan.

Water, sewer, gas and electric service are available in Chestnut Ridge Road. Sanitary sewer service is also available at the sewer interceptor in the rear of the property. Stormwater management and water quality will be handled with the installation of underground infiltration and detention systems.

Special Permit Requirements

The Zoning Code provides for general and particular special permit requirements. These are set forth in Article XII. The requirements, and the applicant's response to the requirements, follow.

General Conditions (Art. XII, sec. 1).

A. The proposed use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and not be detrimental to the site or adjacent properties in accordance with the zoning classification of such properties.

The proposed use is essentially residential in nature. It will be the home to 64 individuals who are in need of around the clock care. Because the use will also be staffed by professionals and other caregivers, it is also a workplace. Thus, it fits well in the NS district and also as a transition to the surrounding residential areas.

B. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous.

³ Sheet 9, “Optional Auxiliary Parking Plan”.

The building and most of the site work are confined to the front portion of the property, leaving the rear half undeveloped. All required parking will be provided on-site. Parking studies prepared in connection with the zoning amendment and updated in connection with the site plan review found that the site plan proposes somewhat more parking than is needed, even at peak visitation periods. The additional eleven proposed overflow parking spaces insure that there will be adequate on-site parking.

The vehicular entry/exit has been located and configured to conform to DOT requirements and has been approved by DOT. The use is a low-traffic generator. The parking and traffic study found that it will have little to no impact on the existing signalized intersection of Chestnut Ridge Road and Red Schoolhouse Road. Additional overflow parking has been provided on-site.

Sidewalks will be provided both on-site and along Chestnut Ridge Road as appropriate.

C. The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the development and use of adjacent land and buildings.

All surrounding parcels are fully developed. The layout of the site confines the building and most site work to the front, NS portion of the site. The rear of the site, approximately 2.76 acres in size, will remain undisturbed and will provide more than adequate screening to the residences along Janna Court and beyond.

D. The proposed use will not require such additional public facilities or services, or create such fiscal burdens upon the Village greater than those which characterize uses permitted by right.

Currently, the parcel is vacant and generating little tax revenue. Upon opening, the use will be a commercial venture and will be taxed accordingly.

Residents at the facility will have impaired memories, but will otherwise be physically and mentally healthy. The facility is an assisted living facility, and not a nursing home or hospital. Thus, the need for ambulance or other medical emergency calls is not expected to be higher than normal for a cohort of 64 elderly people. It is unlikely that there will be a need for unusual police services.

Because the use is highly regulated by the NYS Department of Health and by the institutional use provisions of the Building Code and the Fire Code, it will be fully sprinklered and alarmed.

E. As a condition of all special permits and conditional use permits, right of entry for inspection with reasonable notice shall be provided for to determine compliance with the conditions of said permit.

Acknowledged.

F. As a condition of all special permit and conditional use permits, a limitation may be imposed upon the time period for which the permit is valid, or upon the transfer of the permit from one owner or user to another.

The applicant believes that, due to the special nature of the use, and the special nature of the architecture needed to provide the use, no such time limit should be imposed. The building simply cannot be used for any other purpose without major renovation.

G. In addition to the general standards for conditional uses and special permits as set forth above, the approving board may, as a condition of approval of any such use, establish any other additional standards, conditions and requirements, including a limitation on hours or days of operation, as it may deem necessary or appropriate to promote the public health, safety and welfare and to otherwise implement the intent of this local law.

The proposed use is essentially residential in nature. It provides around the clock care to patients who have impaired memories and cannot fend for themselves. A limitation on hours or days of operation would endanger the residents, be contrary to any certificate of need that would be issued by the State of New York, and make it impossible for the facility to operate.

Assisted Living Residences (ALR) (Art.XII, sec. 16)

A. There shall be a minimum lot area of 75,000 square feet in the NS zoned portion of the property.

The NS portion of the property contains 117,382 square feet (2.69 acres) of land.

B. No dwelling units shall be allowed in a basement.

No dwelling units are proposed in the basement.

C. Assisted Living Units shall not contain cooking facilities. Units shall not be used as apartments for transient tenants; units shall not contain more than 2 bedrooms, a separate living area and bathroom and shall not be connected by interior doors in groups of more than two (2). No unit shall contain more than 2 bedrooms.

The Assisted Living Units (ALUs) will comply with this requirement. As proposed, each ALU contains only one bedroom.

D. All Assisted Living units shall have access through interior corridor only.

Complies.

E. An ALR shall not exceed a height of twenty-five 25 feet or two (2) stories whichever is less.

The proposed height is less than 25 feet.

F. Bath facilities, which include a shower or bath and one (1) toilet may be shared by no more than two (2) assisted living units.

As proposed, each ALU will have its own full bath.

G. The ALR shall provide a main kitchen, dining, recreational/exercise, therapeutics and personal care areas. Any outdoor sitting areas or walking paths shall be well defined by walls, fences, hedges or planting designed to impart a sense of containment or security and to provide group privacy.

Complies.

H. A small staff kitchen/dining area is permitted.

Noted. A small staff kitchen/dining area is provided.

I. The minimum distance from the facility to any interior driveway/parking area shall be fifteen (15) feet from an Assisted Living Unit bedroom.

Complies.

J. Parking standards shall conform to General Use Table.

Complies. The required parking standard is ½ parking space for each Assisted Living Unit. 64 ALUs are proposed; 32 parking spaces are provided.

K. The number of assisted living units shall not exceed thirty (30) per acre of the NS zoned land.

There are 64 ALUs proposed on 2.69 acres of NS zoned land, yielding a density of 23.8 ALU/ac. (The total area is 5.45 acres.)

L. Within the facility, certain accessory uses are permitted such as laundry, medical infirmary only to the extent that they meet the needs of the residents of the facility.

Complies.

M. The residence shall provide adequate lighted driveways and parking and said lighting shall not be directed on adjacent streets or properties.

Noted. A lighting plan will be approved by the Planning Board.

N. Parking and driveways shall be landscaped with suitable screening.

Noted. A landscaping plan will be approved by the Planning Board.

O. The front yard depth may be reduced by the Planning Board upon site development plan approval where local conditions warrant.

Noted. As proposed, the front yard conforms to the bulk requirements of the Zoning Code for this use.

P. Small pantry areas with a sink, microwave oven and refrigerator are permitted in the common areas for use by residents and guests.

Noted. Small pantry areas are provided within each of the four common areas.

Q. Loading facilities shall be determined by the Planning Board.

Noted. Loading facilities will be approved by the Planning Board.

R. Walking paths may be permitted in required side and rear yards; sitting areas may be permitted in required side and rear setbacks.

Noted. Walking paths and sitting areas are provided within the enclosed resident access areas.

Declaration Amendment

As noted above, the site affected by a Declaration of Covenants that had been entered into by a prior owner who sought to develop the parcel as a restaurant.⁴ The Declaration includes a covenant that reads:

5. The Owners acknowledge that Final Approval of the Site Plan was predicated on the understanding that a portion of their property lying immediately west of the Restaurant site, presently zoned "R-40," more particularly described in Schedule "A" attached hereto, shall be restricted from any kind of commercial or residential development of any kind or nature whatsoever.

The Declaration further provides:

7. The Declaration of Covenants set forth herein may be modified or cancelled only by written agreement signed by the Owner and by the Town of Ramapo, pursuant to a resolution duly signed by the Town Board.⁵

At the time the Village Board was considering the amendment to the Zoning Code, Artis advised the Board that it would need to conduct some construction activities within the area contemplated by the Declaration. These activities included the construction of a retaining wall and the introduction or connection of infrastructure facilities.

Since the adoption of the amendment, the nature and extent of these activities has become more defined. Submitted herewith is a proposed grading plan for Artis's project. The plan currently shows the following proposed incursions into the R-40 portion of the site:

- a three-tiered retaining wall along the rear of the building, rising a total of 24 feet, with landscaping atop each tier, approximately 340 feet long and extending approximately 25 feet into the R-40 portion;
- along the top of the retaining wall, portions of a walkway around the building, along with landscaping and underground drainage pipes;
- a sanitary sewer service connection along the northerly side lot line, requiring clearing along its length, connecting to an existing sanitary sewer main at an existing manhole located within the R-40 portion; and
- an 18" underground drainage pipe daylighting to a headwall with riprap-lined outlet along the southerly wall of the proposed building and extending approximately 47 feet into the R-40 portion.

⁴ **Error! Main Document Only.** The Declaration was recorded in the Rockland County Clerk's Office in Liber 139 of land records at page 1141. A copy is attached as Exhibit 1.

⁵ The Village is the successor in interest to the Town of Ramapo.

It should be understood that the foregoing is based on the initial plans submitted to the Planning Board. They are subject to change by that Board and by other agencies having jurisdiction (such as the Town of Ramapo Department of Public Works).

The area in question is heavily wooded. The bottom of the tiered retaining wall is approximately 130 feet from the rear lot line. The existing sanitary sewer manhole is approximately 53 feet from the rear lot line. The riprap-lined outlet from the drainage system is approximately 240 feet from the rear lot line. The nearest home, at 6 Janna Court (tax lot 62.16-1-33), is approximately 75 feet from the joint rear lot line. As the site plan is developed, Artis will work with the Planning Board to insure that there is appropriate landscape screening from residential properties to the West of the site.

The language of the restrictive covenant is unclear. While it prohibits “commercial or residential development”, it is not clear whether infrastructure construction is similarly prohibited. For example, the sewer main to which Artis proposes a connection was in existence at the time of the Declaration⁶, and a connection to it was contemplated. In addition, the work proposed by Artis is, in itself, neither commercial nor residential, but accessory infrastructure. The building, parking areas and driveways for the facility will all be contained in the NS portion.

Pursuant to discussions had with the Village Attorney, we have prepared an amendment to the Declaration that will clarify the covenant and will allow Artis’s proposal to move forward. The proposed amendment is attached as Exhibit 2. It is based on the conservation easement model used by the Town of Clarkstown. It defines what activities may and may not occur in the affected area, and also provides that the Planning Board may authorize activities otherwise prohibited.⁷ This formula provides clear direction to the property owner and the Village, but also allows limited flexibility to address unforeseen situations.

Relief Requested

The applicant asks for approval of its site plan and the granting of a special permit for a 64 bed Assisted Living Facility, and approval of the amended declaration.

Dated: March 30, 2016
New City, New York



Ira M. Emanuel, P.C.
Attorney for Applicant

⁶ The sewer easement was created by a deed recorded March 13, 1972 in book 905 of land records at page 556, fourteen years before the Declaration was recorded.

⁷ The Clarkstown model vests this authorization in its Director of Environmental Control.

DECL

OFFER OF DEDICATION
AND
DECLARATION OF COVENANTS

INDENTURE, made this day of August, 1985, by:

SIMON ELIAS, residing at 80 Park Avenue, New York, New York,
as to a Fifty (50) percent interest Tenant-in-Common, and

ROBERT J. DIEM and MARY DIEM, his wife, residing at
South Lake Place, Tuxedo Park, New York, together as
Tenants-by-the-Entirety, as to a Fifty (50) percent
interest as Tenants-in-Common

(hereinafter jointly referred to as "Owner")

to

TOWN OF RAMAPO, a municipal corporation organized and
existing under the laws of the State of New York,
having an office at (no number) Route 59, Tallman, New York,

(hereinafter referred to as "Town").

WITNESSETH:

WHEREAS, the Planning Board of the Town of Ramapo (hereinafter "Planning Board")
granted Final Approval to a Site Plan entitled "PAMELA", dated // - 21 - 1985,
made by William Youngblood P. E.; and

WHEREAS, said Site Plan designates certain public improvements, including a
proposed widening strip along New York State Highway Route 45, which is to be gratuitously
conveyed to the Town for general municipal purposes, if the Town elects to accept such
Offer of Dedication, pursuant to the regulations and requirements of the Town; and

WHEREAS, the Planning Board required that the Owner agree to certain conditions, to
be imposed as covenants running with the land;

Now, therefore, in consideration of the sum of \$1.00, lawful money of the United
States, paid by the Town to the Owner, and other good and valuable considerations:

1. The Owner hereby delivers to the Town a Deed of Conveyance for the widening strip along NYS Highway Route 45, as shown and designated on the Site Plan entitled "PAMELA", said delivery being a formal Offer of Dedication to the Town, to be held by the Town until the acceptance or rejection of such Offer of Dedication by the Town.

2. The Owner agrees that said formal Offer of Dedication is Irrevocable and may be accepted by the Town at any time.

3. The Owner agrees to complete the widening of NYS Highway Route 45 in accordance with the requirements of the New York State Department of Transportation, as set forth on the Site Plan.

4. The Owner agrees to furnish to the Town a Policy of Title Insurance issued by a Title Company licensed and authorized to do business in the State of New York, in a minimum amount of \$5,000.00, certifying that the premises described in the Deed of Conveyance are free and clear of all liens and encumbrances, and the Owner shall furnish to the Town a check for the fee to record said Deed of Conveyance in the Office of the Clerk of the County of Rockland, State of New York.

5. The Owners acknowledge that Final Approval of the Site Plan was predicated on the understanding that a portion of their property lying immediately west of the Restaurant site, presently zoned "R-40", more particularly described in Schedule "A" attached hereto, shall be restricted from any kind of commercial or residential development of any kind or nature whatsoever.

6. This Irrevocable Offer of Dedication and Declaration of Covenants shall run with the land and shall be binding on the Owner, and its heirs, executors, administrators, successors and/or assigns.

7. The Declaration of Covenants set forth herein may be modified or cancelled only by written agreement signed by the Owner and by the Town of Ramapo, pursuant to Resolution duly adopted by the Town Board.

IN WITNESS WHEREOF, THE Owner has signed this Declaration of Covenants the day and year first above written.

[Signature]
Simon Elias

[Signature]
Robert J. Diem

[Signature]
Mary Diem

STATE OF NEW YORK
COUNTY OF ROCKLAND

) ss.1

On the *6th* day of August, 1985, before me came SIMON ELIAS, ROBERT J. DIEM and MARY DIEM, to me known to be the individuals described in, and who executed the foregoing instrument, and acknowledged that they executed the same.

[Signature]

ROBERT R. GRANIE
NOTARY PUBLIC, State of New York
Residing in Rockland County
Commission Expires March 01, 1986

UNOFFICIAL

WILLIAM YOUNGBLOOD ASSOCIATES
 ENGINEERS - SURVEYORS - LAND PLANNERS
 ENVIRONMENTAL DESIGNERS
 244 ROUTE 99
 MONSEY, NEW YORK 10982
 (914) 387-8188

**METES AND BOUNDS DESCRIPTION -
 AREA TO BE COVENANTED AGAINST FUTURE DEVELOPMENT
 PAMKIA**

All that certain piece or parcel of land situated, lying and being in the Town of Ramapo, County of Rockland, State of New York, being more particularly bounded and described as follows:

BEGINNING at a point located the following three (3) courses and distances along lands N/F of Kuperman Associates Ltd. from a N.Y.S. Monument being located at the southeast corner of lands N/F Kuperman Associates Ltd. and the southwest corner of lands N/F Jones:

- (a) North 24°-08'-46" East, 188.86 feet to a point; thence
- (b) South 65°-51'-14" East, 190.40 feet to a point; thence
- (c) North 19°-51'-20" West, 65.00 feet to the point or place of beginning; thence

- (1) turning and running along lands N/F of County of Rockland, North 19°-51'-20" West, 290.06 feet; thence
- (2) turning and running through a stream and lands N/F of Jones the following eight (8) courses and distances:

North 54°-20'-02" East, 147.76 feet to a point; thence
 North 77°-18'-47" East, 43.00 feet to a point; thence
 South 77°-27'-11" East, 138.22 feet to a point; thence
 North 69°-56'-09" East, 75.80 feet to a point; thence
 North 49°-58'-49" East, 69.77 feet to a point; thence
 North 69°-58'-26" East, 39.32 feet to a point; thence
 South 59°-21'-25" East, 49.52 feet to a point; thence
 North 75°-29'-23" East, 55.96 feet to a point; thence
 South 26°-52'-13" East, 93.16 feet through lands N/F Jones to a point on the northerly bounds of lands N/F Truffa; thence

- (3) South 57°-11'-27" West, 50.00 feet along said lands N/F Truffa to a point; thence
- (4) South 56°-25'-45" West, 547.63 feet through lands N/F Jones to the point or place of beginning.

Said parcel containing 2.786 acres of land more or less.

Revised : 11-21-85

BOOK 0139 PAGE 1144

ROCKLAND COUNTY CLERK
LAND RECORDS DIVISION
RECORDING PAGE

2020: - -

NUMBER OF INSTRUMENTS: _____
TOTAL AMT. RECEIVED: \$ _____

TRANSFER TAX \$ _____

RECEIVED FROM:
AMERICAN
CARMEN
~~LOAN~~
DIFFY
ELLNER
ENOS
FIRST ABSTRACT
HERITAGE
HV ABSTRACT
JADE
LYNCH (BILL)
MC CALL
MONTE
RAMAPO ABSTRACT
RECORD DATA
ROCKWEST
SELICK
STATE ABSTRACT
TICOR
U.S. LIFE
WESTSHORE ABST (DON LYNCH)
OTHER: _____

RECEIVED
REAL ESTATE
TRANSFER TAX
ROCKLAND
COUNTY

Serial No. CC _____ Date _____
RECEIVED TAX ON ABOVE MORTGAGES:
BASIS \$ _____
SPECIAL \$ _____
ADDL. \$ _____
TOTAL \$ _____

Joseph R. Holland
JOSEPH R. HOLLAND, COUNTY CLERK
ROCKLAND COUNTY

TYPE OF INSTRUMENT: _____

RECORDING FEE: \$ 20.00
AFFIDAVIT: \$ _____
EA FORM: \$ _____
TRANSFER TAX: \$ _____
MORTGAGE TAX: \$ _____

RECORD & RETURN TO:

Tier

ENVELOPE SUBMITTED

TOTAL MTG TAX \$ _____
CASH -- CHECK -- CHARGE
NO FEE--EXEMPT

AMT. OF MORTGAGE: \$ _____

MORTGAGE TYPE:
A---B---C---D

- 01 CLARKSTOWN
- 02 HAVERSTRAW
- 03 ORANGETOWN
- 04 RAMAPO
- 05 STONY POINT
- 06 OTHER
- 09 UNKNOWN

I HEREBY CERTIFY THAT THE WITHIN
AND FOREGOING WAS RECORDED IN THE
CLERK'S OFFICE FOR ROCKLAND CO., N.Y.
MAR 21 1986 AT 3:19
IN LIBER 139 PAGE 1141 OF
LAND RECORDS.

Joseph R. Holland
Rockland County Clerk

BOOK 0139 PAGE 1145

AMENDED DECLARATION OF COVENANTS

Declaration, made this ___ day of April, 2016, by

ARTIS SENIOR LIVING OF CHESTNUT RIDGE, LLC, a limited liability company, as successor in title to Simon Elias, a Fifty (50) percent interest Tenant-in-Common, and Robert J. Diem and Mary Diem, his wife, together as Tenants-by-the-Entirety, as to a Fifty (50) percent interest as Tenants-in-Common, having an office at 1651 Old Meadow Road, Suite 100, McLean Virginia 22102 (“Owner”)

And

VILLAGE OF CHESTNUT RIDGE, a municipal corporation, successor to Town of Ramapo, having an office at 277 Old Nyack Turnpike, Chestnut Ridge, New York 10977 (“Village”).

WHEREAS, Owner’s predecessors and Village’s predecessor have heretofore entered into an Offer of Dedication and Declaration of Covenants dated August, 1985, and recorded in the Office of the Rockland County Clerk in Book 139 of land records at page 1141, and as Instrument No. LA99-01368714, (“Declaration”) affecting premises described therein and known as 801 Chestnut Ridge Road, Chestnut Ridge, New York (“Premises”), which Declaration, by its terms, runs with the land; and

WHEREAS, pursuant to paragraph 5 of the Declaration, the Owner’s predecessor agreed:

5. The Owners acknowledge that Final Approval of the Site Plan was predicated on the understanding that a portion of their property lying immediately west of the Restaurant site, presently zoned “R-40”, more particularly described in Schedule “A” attached hereto, shall be restricted from any kind of commercial or residential development of any kind or nature whatsoever.

; and

WHEREAS, pursuant to paragraph 7 of the Declaration, the terms thereof may be modified or cancelled by a written agreement signed by Owner and by the Town of Ramapo pursuant to a resolution of the Town Board; and

WHEREAS, Village is the successor by incorporation to the rights and obligations of the Town Board within the boundaries of the Village; and

WHEREAS, the Owner and the Village wish to clarify and adjust the terms of paragraph 5 of the Declaration to allow for more appropriate development of that portion of the Premises not subject to the restrictions of the Declaration.

NOW, THEREFORE, it is hereby Declared, by the Declarants, for themselves, their successors and assigns:

1. Paragraph 5 of the Declaration be and hereby is deleted in its entirety and is replaced with the following:

5. The Owner agrees that within that portion of the Premises described in Schedule "A" hereto, neither it nor anyone claiming authority under it shall perform or permit to be performed any of the following acts without the express approval of the Planning Board of the Village, which approval may be set forth in an approved site plan or by a separate resolution of the said Planning Board:

a. No building, outdoor advertising display, swimming pool, tennis court, mobile home, storage shed, utility, or other temporary or permanent structure, wheeled vehicle with or without a motor, or boat shall be constructed, placed, or permitted to remain on said parcel.

b. No soil, sand, gravel, rock or mineral substance, refuse, trash, rubbish, debris, junk, waste, or offensive or unsightly material will be placed, stored or dumped.

c. No soil, sand, gravel, rock or other mineral resources or natural deposits shall be excavated, extracted, moved, or removed.

d. No trees or shrubs shall be removed except when diseased or dead.

2. This Amended Declaration shall run with the land and shall be binding on the Owner, its successors and assigns.

3. This Amended Declaration may be modified or cancelled only by written agreement signed by the Owner and by the Village, pursuant to a resolution duly adopted by the Village Board.

IN WITNESS WHEREOF, the Owner and Village have signed this Amended Declaration on the day and year first set forth above.

[Signatures and acknowledgments on following page]

ARTIS SENIOR LIVING OF
CHESTNUT RIDGE, LLC

By: _____
Max Ferentinos, Vice President

VILLAGE OF CHESTNUT RIDGE

By: _____
Rosario Presti, Jr., Mayor

STATE OF VIRGINIA)
) ss.:
COUNTY OF FAIRFAX)

On the __ day of April, 2016, before me, the undersigned, a notary public in and for said state, personally appeared MAX FERENTINOS, personally known to me, or proved to me on the basis of satisfactory evidence, to be the individual(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual(s) made such appearance before the undersigned in McLean, Virginia.

Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF ROCKLAND)

On the __ day of April, 2016, before me, the undersigned, a notary public in and for said state, personally appeared ROSARIO PRESTI, JR., personally known to me, or proved to me on the basis of satisfactory evidence, to be the individual(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public