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**BOARD OF TRUSTEES
VILLAGE OF CHESTNUT RIDGE**

NARRATIVE SUMMARY

**THE WELLINGTON EDUCATIONAL INITIATIVE
Tax Lots 68.05-1-12, 13, 14 and 22**

The Wellington Educational Initiative (“WEI”) has been formed to provide a proper campus for the education of Jewish children. WEI has acquired a parcel at the corner of Summit and Red Schoolhouse Roads in the Village for that purpose. This parcel is of sufficient size, and has appropriate access, to host two school divisions in a setting similar to that of typical suburban schools.

The parcel consists of four existing tax lots that will be merged. Previously, the parcel had been proposed for further subdivision into single family lots. That project never reached fruition, and the parcel has stood vacant for many years.

The parcel has a total gross lot area of 23.8 acres (23.04 acres, net). It is in an R-25 zoning district, which allows schools by special permit of the Board of Trustees.

The site is bounded by Red Schoolhouse Road on the East, De Salvo Court and single-family residences on the South, Fleetwood Elementary School on the West, and Summit Road on the North. Red Schoolhouse Road is a County highway (Route 41). Summit Road is an east-west thoroughfare. An interchange with the southbound Garden State Parkway extension of the New York State Thruway is directly opposite the site, having a signalized intersection with Red Schoolhouse Road.

Transport of Rockland bus route 92 passes directly in front of the site on Red Schoolhouse Road. There are no sidewalks in the area, other than an older, overgrown sidewalk along portions of Summit Road.

The surrounding area is mixed. There are residences to the North, Northwest, and Southwest. Fleetwood Elementary School abuts the site to the West, and The Promenade, an assisted living facility, is across Red Schoolhouse Road. Also across Red Schoolhouse Road is a multi-tenanted office building. Light industrial uses are to be found further north and further south on Red Schoolhouse Road. Chestnut Ridge Middle School is nearby, north of Summit Road.

WEI proposes a campus for two schools: a girls' elementary school and a boys' secondary school. The girls' school will be a preK-8 day school with up to 1,000 students. The boys' school will be a residential secondary and post-secondary school (hereafter referred to as the secondary school) for up to 328 students. Dormitories will be provided.¹ Parking appropriate to the size and use of the schools is proposed.

The proposed site plan provides for an integrated internal road network for safe passage, as well as for emergency access. However, the two divisions will be separately administered. Little to no day-to-day interaction between the two divisions is expected, although the schools will coordinate activities to assure that no conflicts arise. Operational narratives for each of the schools have been provided to the Planning Board.

The building sites and configurations have been designed to blend into and to take advantage of the site topography. The site generally slopes upward away from Red Schoolhouse Road to the West. School buildings and parking area have been located in areas of more gentle slopes. Buildings take advantage of the slopes by having exterior entrances on either side. Site improvements are set well back from the respective roadways in order to provide privacy to the students and to minimize adverse visual impacts on the streetscape.

Traffic Impacts

The applicant submitted a traffic impact study prepared by Provident Design Engineering, dated August 15, 2019, to the Planning Board. Subsequently, the applicant joined with other stakeholder/developers on Red Schoolhouse Road to commission a corridor-long traffic impact study of the road, which was conducted on behalf of the Village by Maser Consulting (now Colliers Engineering). The Maser Study built on the applicant's traffic study, and provided its own, independent, review.

The Maser Study laid out a master plan for addressing traffic congestion issues along the corridor, running from Williams Road to the New Jersey border. It included recommendations to be implemented by individual sponsoring stakeholders as well as longer-term, regional projects. In this way, the Maser Study sought to assure that improvements made for individual projects would foster, or at least not interfere with, longer-term solutions.

The applicant participated fully in the preparation of the Maser Study. It has agreed to adopt and implement those portions of the Study that showed traffic generation impacts from the WEI project, and also to provide land to widen the Red Schoolhouse Road right of way to accommodate future road improvements by others.

¹ Dormitories are expressly permitted as accessory uses to schools of general instruction, as here. Zoning Code, Art. XII, § 2.

Among the road improvements to be undertaken by WEI are:

- widening of Red Schoolhouse Road to allow construction of left turn lanes at the intersection of the elementary school driveway and Red Schoolhouse Road;
- construction of shoulders on both sides of Red Schoolhouse Road between Summit Road and the Garden State Parkway exit ramp; and
- installation of a multi-use (pedestrian and bicycle) path on the West side of Red Schoolhouse Road.

In addition, WEI will agree to provide land along its entire Red Schoolhouse Road frontage, from Summit Road to DeSalvo Court, to accommodate a potential future traffic signal at the intersection with Summit Road and potential future improvements to the Garden State Parkway exit ramp. These improvements are not needed to accommodate WEI's traffic, and will be built by others. The land dedication will significantly help those improvements become reality.

Separate from the Maser Study, WEI has also agreed to replace the existing sidewalk along its frontage on Summit Road.

More details of the improvements are shown on the plans submitted herewith.

The author of the Maser Study, Phillip Grealy, Ph.D., P.E., has approved WEI's plans, as set forth in a letter to the Planning Board, submitted herewith.

WEI's plans received preliminary site plan approval from the Planning Board on August 5, 2021.

Subdivision

The parcel currently consists of four tax lots. These tax lots will be consolidated into one as part of the site plan proposal. An application for "re-subdivision" has been made to the Planning Board

GML and SEQR Status

The site is located adjacent to County Highway 41 (Red Schoolhouse Road) and the Garden State Parkway extension of the New York State Thruway. The project must therefore be referred to the Rockland County Planning Department for review for its regional and county-wide impacts, if any. No other referral features are implicated.

The project is a Type I action under SEQR, as it proposes a total of approximately 203,028sf of new floor area.² The Planning Board, as lead agency, has conducted a thorough environmental review based on a Full Environmental Assessment Form. At its meeting of August 5, 2021, it issued a negative declaration.

² 6 N.Y.C.R.R. § 617.4(b)(6)(v).

Variances Required

The following required variances have been identified by the applicant:

<u>Dimension</u>	<u>Required</u>	<u>Proposed</u>
Front Yard	100 ft	38.0 ft (Elementary Parking vs East front lot line)
Side Yard	100 ft	71.6 ft (Parking vs South lot line)
Rear Yard	100 ft	48.2 ft (Parking vs Southwest lot line)
Height (Dormitory) ³	2 stories	3 stories
Parking spaces @ 1/300sf	547	213
Loading berths	6	4

Parking in required front, side and rear yards

Special Permits

Both the school and the dormitory require special permits from the Board of Trustees. A special permit, or special use permit, is defined as,

an authorization of a particular land use which is permitted in a zoning ordinance or local law, subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met.⁴

Uses that are allowed under a special permit

have been determined to be compatible with the allowed uses in the district, but to ensure that the character of the community and other public health, safety and welfare concerns are protected, permits relating to those uses are not automatic, but are rather subject to review by a designated municipal board [citations omitted].⁵

Unlike a use variance, a special permit use is “tantamount to a legislative finding that the permitted use is in harmony with the zoning and will not adversely affect the neighborhood.”⁶ As such, “it must be granted where the articulated conditions have been met unless there exists a reasonable ground for denial supported by substantial evidence.”⁷

The need for area variances does not constitute non-compliance with the “articulated conditions”:

³ Zoning Code Art. XII, § 2.D.

⁴ Town L. § 274-b.1.

⁵ 2 Salkin, *New York Zoning Law and Practice* (4th ed.), § 30:1.

⁶ *Id.* at § 30:2.

⁷ *Id.*

Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the zoning board of appeals for an area variance pursuant to section two hundred sixty-seven-b of this article, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.⁸

Special permits run with the land, and are not limited to the individual applicant or property owner.⁹

School uses must comply with the general special permit conditions of § 290-64. Dormitories must comply with these general conditions, plus special conditions described in § 290-65.

General Conditions (§ 290-64):

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.

Complies. The proposed use is for a school campus serving both elementary and secondary students. The immediately surrounding area consists of a mix of single-family homes, an assisted living facility, an office building, the Garden State Parkway, Chestnut Ridge Middle School, and a large public elementary school (Fleetwood School). Fleetwood School has approximately 596 students on its 11.1 acre campus, a ratio of 53.7 students per acre.¹⁰ The proposed school buildings are on a 23.76 acre campus with a total of 1,332 students, or 56.06 students per acre. Chestnut Ridge Middle School has almost no screening along one of its access roads, Ferruzza Drive, and is clearly visible from homes across the street. Its baseball field has no or minimal buffers against residences along Garrett Ct. (According to Rockland County GIS mapping, any buffers are maintained by individual homeowners, not by the school.)

A recent decision by the New York State Appellate Division, Third Department, provides that uses identified as uses of right and by special permit, are already deemed to be in harmony with the character of the area:

As a starting point, it is well settled that the inclusion of a permitted use in a zoning law "is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the local community" (*Matter of WEOK Broadcasting Corp. v Planning Bd. of Town of Lloyd*, 79 NY2d 373, 383 [1992]; see *RPM Motors v Gulotta*, 88 AD2d 658, 658 [1982]). The same is true of a permitted use that is subject to a special use permit (see *Matter of Retail Prop. Trust v*

⁸ Town L. § 274-b.3.

⁹ *St. Onge v. Donovan*, 71 N.Y.2d 507, 527 N.Y.S.2d 721 (1988).

¹⁰ Source: N.Y.S. Education Dept, (data.nysed.gov) 2019-2020 school year (latest available).

Board of Zoning Appeals of Town of Hempstead, 98 NY2d 190, 195 [2002], *Matter of Blanchfield v Town of Hoosick*, 149 AD3d 1380, 1383 [2017]. Indeed, in terms of the project's harmony with the general zoning plan, a use subject to a special use permit is a permitted use, except that the applicant must "demonstrate compliance with the conditions legislatively imposed upon the permitted use" (*Matter of Troy Sand & Gravel Co., Inc. v Fleming*, 156 AD3d 1295, 1299 [2017] [internal quotation marks and citation omitted; emphasis added], lv denied 31 NY3d 913 [2018]). Thus, although the project requires a special use permit, [fn omitted] the proposed use is still one that is permitted and this, indeed, is "tantamount" to a finding of compatibility with Local Law No. 4 (*see Matter of Blanchfield v Town of Hoosick*, 149 AD3d at 1383).¹¹

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.

Complies. The applicant submitted a traffic impact study prepared by Provident Design Engineering, dated August 15, 2019, to the Planning Board. Subsequently, the applicant joined with other stakeholder/developers on Red Schoolhouse Road to commission a corridor-long traffic impact study of the road, which was conducted on behalf of the Village by Maser Consulting (now Colliers Engineering). The Maser Study built on the applicant's traffic study, and provided its own, independent, review.

The Maser Study laid out a master plan for addressing traffic congestion issues along the corridor, running from Summit Road to the New Jersey border. It included recommendations to be implemented by individual sponsoring stakeholders as well as longer-term, regional projects. In this way, the Maser Study sought to assure that improvements made for individual projects would foster, or at least not interfere with, longer-term solutions.

The applicant participated fully in the preparation of the Maser Study. It has agreed to adopt and implement those portions of the Study that showed traffic generation impacts from the WEI project, and also to provide land to widen the Red Schoolhouse Road right of way to accommodate future road improvements by others.

Among the road improvements to be undertaken by WEI are:

- widening of Red Schoolhouse Road to allow construction of left turn lanes at the intersection of the elementary school driveway and Red Schoolhouse Road;
- construction of shoulders on both sides of Red Schoolhouse Road between Summit Road and the Garden State Parkway exit ramp; and
- installation of a multi-use (pedestrian and bicycle) path on the West side of Red Schoolhouse Road.

¹¹ *Matter of Hart v. Town of Guilderland*, 2021 N.Y. App. Div. LEXIS 4367, *12; 2021 NY Slip Op 04273

In addition, WEI will agree to provide land along its entire Red Schoolhouse Road frontage, from Summit Road to DeSalvo Court, to accommodate a potential future traffic signal at the intersection with Summit Road and potential future improvements to the Garden State Parkway exit ramp. These improvements are not needed to accommodate WEI's traffic, and will be built by others. The land dedication will significantly help those improvements become reality.

More details of the improvements are shown on the plans submitted herewith.

The author of the Maser Study, Phillip Grealy, Ph.D., P.E., has approved WEI's plans, as set forth in a letter to the Planning Board, submitted herewith.

Beyond the improvements related to the Maser Study, WEI has also located its two entrances on Summit Road so as to maximize sight distances and safety. It has also committed to improve the existing sidewalk along its Summit Road frontage.

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.

Complies. The design of the site is dictated by its topography. There is a significant amount of grade change (75 feet +/-) on the property, as the topography slopes from northwest to southeast. There are several areas of slopes of 15% or greater. The proposed buildings are located, as much as possible, in the flatter areas to minimize impacts to steep slopes and to work with the sloping topography. The buildings are designed so that the finished floor elevations on the west side of the buildings are set one floor higher than the east side. This significantly reduces the amount of retaining walls and grading.

The immediately surrounding area consists of a mix of single-family homes, an assisted living facility, an office building, the Garden State Parkway, Chestnut Ridge Middle School, and a large public elementary school (Fleetwood School). Fleetwood School has approximately 596 students on its 11.1 acre campus, a ratio of 53.7 students per acre.¹² The proposed school buildings are on a 23.76 acre campus with a total of 1,332 students, or 56.06 students per acre. Chestnut Ridge Middle School has almost no screening along one of its access roads, Ferruzza Drive, and is clearly visible from homes across the street. Its baseball field has no or minimal buffers against residences along Garrett Ct. (According to Rockland County GIS mapping, any buffers are maintained by individual homeowners, not by the school.)

By contrast, the proposed school has extensive landscape screening along all lot lines. The project was modified at an early stage to remove a parking area that had been proposed near residences to the West. In the two locations where the proposed campus abuts an established residential area (at the northwest and southwest corners of the site), the site is designed to maximize distance and screening from the existing dwellings. Great care has been taken to reduce the visual impact of the school buildings so that they do not adversely impact the architectural scale and character of the surrounding area.

¹² Source: N.Y.S. Education Dept, (data.nysed.gov) 2019-2020 school year (latest available).

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.

Complies. The proposed schools are consistent with other uses in the area, including two other public schools and an assisted living facility. The proposed schools will have their own security programs.

During the environmental review conducted under SEQRA, the various emergency services providers were contacted for comment. None objected. To the extent that plan changes were requested to accommodate emergency services providers needs, they have been made.

The schools will provide their own carting and their own maintenance of the internal road system. They will not rely on public providers.

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.

Noted.

F. As a condition of all special permits and conditional use permits for projects located in the NS, PO, PO-R, LO, PI and RS Districts, 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.

Not applicable.

G. As a condition of all special permits and conditional use permits for projects located in the RR-50, R-40, R-35, R-25, R-15, and RSH Districts, the special permit or conditional use permit shall remain in effect for two years from the date of issuance of the building permit to commence construction, and shall thereafter expire unless the following renewal procedure is followed:

(1) The Village shall notify the permit holder of the impending expiration 90 days prior to any expiration date. No more than 30 days prior to the expiration of the special permit or conditional use permit, the permittee shall submit an application for a certificate of compliance from the Building Inspector, who shall inspect the special permit use within 14 days to ensure compliance with the conditions of the special permit or conditional use permit. If all of the conditions of the special permit or conditional use permit have been met, the certificate of compliance shall be issued by the Building Inspector and the Building Inspector shall then extend the term of the special permit or conditional use permit for five years. After the first renewal, subsequent renewals shall be required every five years under the same procedure as the initial renewal. Applications for renewal shall be made prior to expiration, and no renewal shall be made nunc pro tunc.

(2) In the event the Building Inspector denies the certificate of compliance, the applicant may submit an application for renewal of the special permit or conditional use permit to the Planning Board or Village Board pursuant to the procedures and standards of this article governing a new special permit or conditional use permit within 60 days of the notice of denial. The original conditional use or special permit shall expire at the time that the

Planning Board or Village Board renders its decision on the application for conditional use or special permit renewal. In the event the Planning Board or Village Board approves the application for conditional use or special permit renewal, the renewed permit will be considered as a new permit and will be subject to an initial two-year term as required by Subsection G above. In the event the application for a conditional use or special permit renewal is denied, the original conditional use or special permit shall expire.

(3) Special permits and conditional use permits shall expire after the time periods indicated, regardless of whether expiration notices have been sent by the Village or received by the permit holder. If any conditional use or special permit expires, the permittee may reapply for a new permit to the Planning Board or Village Board, pursuant to the procedures and standards of this article.

Noted.

H. 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 chapter.

Noted.

Special Conditions (Dormitory) (§ 290-65):

Dormitories are permitted only as accessory uses to schools of general instruction, subject to the following supplemental requirements.

Complies. The proposed dormitory will serve as an accessory use to a proposed secondary school. The proposed secondary school meets the definition of “school of general instruction”.

A. There shall be a minimum lot area of 1,800 square feet provided per dormitory bed, exclusive of the lot area allocated and devoted to the principal and other accessory buildings on any site, including the required yards and/or setbacks, buffers and parking facilities for said buildings.

Complies. The site has a lot area of 23.76 acres. The Zoning Code requires a minimum of 10 acres for a school, leaving 13.76 acres attributable to dormitory use. 332 dormitory beds (328 for students, 4 for adult resident advisors) are proposed. At 1,800 square feet for each dormitory bed, 597,600 square feet, or 13.72 acres, is required.

B. The minimum distance between a dormitory and any other building on the lot shall be 50 feet.

Complies.

C. The minimum distance between any dormitory and any interior driveway shall be 25 feet.

Complies.

D. The maximum height of any dormitory shall be two stories or 25 feet, whichever is less.

The dormitories comply with the maximum height of 25 feet, but require a variance for a third story, much of which is below grade.

E. No dormitory room or dwelling unit shall be permitted in any cellar.

Complies. All dormitory rooms/dwelling units will be above ground, and not in any cellar.

F. All dormitories shall be equipped with sprinkler and fire alarm systems in accordance with the New York State Uniform Fire Prevention and Building Code.

Agreed.

Based on the foregoing, the applicant has complied with the general and special conditions required for both school and dormitory uses.

Dated: August 13, 2021
New City, New York

EMANUEL LAW P.C.


By: _____
Ira M. Emanuel
Attorneys for applicant