



County of Fairfax, Virginia

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Department of Planning & Zoning

JUN 27 2016

Zoning Evaluation Division

June 23, 2016

**2016 Planning
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Assistant Director

John W. Cooper
Clerk to the Commission

G. Evan Pritchard
Walsh, Colucci, Lubeley & Walsh, P.C.
2200 Clarendon Boulevard, Suite 1300
Arlington, VA 22201

**Re: SE 2015-MV-032/RZ 2016-MV-011 – Artis Senior Living, LLC
Mount Vernon District**

Dear Ms. Pritchard:

At its June 16, 2016 meeting, the Planning Commission voted 10-0 (Commissioners Hedetniemi and Lawrence were absent from the meeting) to **RECOMMEND APPROVAL** of the above referenced applications to the Board of Supervisors. A copy of the verbatim transcript is attached.

As a follow on motion, the Planning Commission voted 10-0 (Commissioners Hedetniemi and Lawrence were absent from the meeting) to **RECOMMEND APPROVAL** of the following waivers and modifications of the Zoning Ordinance to the Board of Supervisors:

- Waiver of Section 9-308 (3) for the provision of a site or rear serve entrance for service vehicles;
- Waiver of Section 9-308 (4) for direct access from an arterial street;
- Modification of Section 9-308 (5) to run a medical care building 61.6 feet from the north property line;
- Modification of Section 10-104 to increase the maximum permitted fence site;
- Modification of Section 13-303 and 13-304 for the transitional screening and barrier requirements in favor of the landscaping shown on the GDP/SE plat;
- Waiver of Section 11-203 for loading space requirement.

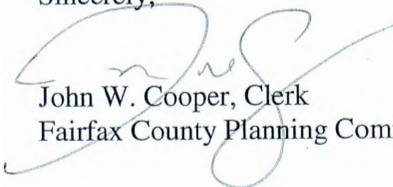
This letter serves as a record of the Planning Commission's recommendation to the Board of Supervisors and not as the final approval. The application is still subject to the final decision by the Board of Supervisors.

(Continued on the next page)



This action does not constitute exemption from the various requirements of this county and state. The applicant is responsible for ascertaining if permits are required and for obtaining the necessary permits.

Sincerely,



John W. Cooper, Clerk
Fairfax County Planning Commission

Attachments (a/s)

cc: Daniel Storck, Supervisor, Mount Vernon District
Earl Flanagan, Planning Commissioner, Mount Vernon District
Catherine A. Chianese, Assistant County Executive, Clerk to the Board of
Supervisors, County Executive Office
Laura Arseneau, ZED, DPZ
Robert Harrison, ZED, DPZ
June 16, 2016 date file

 To request special accommodations, call the Planning Commission office at 703-324-2865, TTY 703-324-7951. Please allow seven working days to make the appropriate arrangements.





SE 2015-MV-032/RZ 2016-MV-011 – ARTIS SENIOR LIVING, LLC

After Close of the Public Hearing

Commissioner Flanagan: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF THE SUPERVISORS APPROVE OF RZ 2016-MV-011 AND A GENERALIZED DEVELOPMENT PLAN SUBJECT TO THE EXECUTION OF PROFFERED CONDITIONS CONSISTENT WITH THOSE DATED MAY 16, 2016 AND APPROVAL OF SE 2015-MV-033 (SIC) SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 1, 2016.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor... Oh, Mr. Ulfelder.

Commissioner Ulfelder: Yes, how does – where do we fit in my suggestion for...

Commissioner Flanagan: That's going to come up. I have another motion on that that takes into consideration that, the easement.

Commissioner Ulfelder: Okay, we're not going to amend the development conditions to include it as a condition?

Commissioner Flanagan: Well, I'm just going to ask for a waiver of the construction the lieu of. I thought I would ask for a waiver of the construction in lieu of.

Commissioner Ulfelder: In lieu of, pardon?

Commissioner Flanagan: An easement.

Commissioner Ulfelder: In – in – in lieu of... In other words, you're going to – you're going to condition the waiver on a – on an easement for the service drive.

Commissioner Flanagan: Right.

Commissioner Ulfelder: Okay.

Commissioner Flanagan: In my motion I had a waiver of the service drive requirement totally but I'm going to modify that too just excuse the – the construction adjustment for the easement.

Commissioner de la Fe: Mr. Chairman, a point of clarification.

Chairman Murphy: Yeah.

Commissioner de la Fe: You read the SE as MV-033, I think, rather than 32.

Commissioner Flanagan: Yes. Oh, 33. You're right, it is 32.

Commissioner de la Fe: Okay, thank you.

Commissioner Flanagan: It was a typo. Thank you, staff.

Chairman Murphy: All right. Ms. Strandlie, did you have a question?

Commissioner Strandlie: Yes. On the affordable bed issue. I do see it on – in the healthcare advisory document that they have confirmed their commitment to provide four percent and it is mentioned in the staff report. But I thought it needed to be someplace else. Sorry?

Cathy Lewis, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ): It's development condition number 4.

Commissioner Strandlie: Development Condition number 4. Perhaps, I'm not looking at or having the right version cause I work through it.

Laura Arseneau, ZED, DPZ: There is – the development condition are in Appendix 2 of the staff report and most recent proffers were handed to you last week.

Commissioner Strandlie: Okay, then I have not that document. Thank you.

Ms. Arseneau: Okay.

Commissioner Strandlie: But it is in there?

Ms. Arseneau: It's – it's – it's in the staff report.

Commissioner Strandlie: It's in the staff report. Okay, thank you.

Ms. Arseneau: Yeah.

Commissioner Hart: Mr. Chairman.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Question. And I'm sorry to do this during the verbatim but if we – if we want to accomplish Mr. Ulfelder's objective of the easement. Is Mr. Flanagan's suggestion of heading it as part of the waiver instead of a development condition, the appropriate methodology to do that?

Ms. Lewis: I think it would be better to be in the development conditions but we could put it into the development conditions or the proffers between, you know, ask the applicant to proffer to that between now and the Board.

Commissioner Hart: Between now and the Board. It seemed a little awkward and I don't – I think we weren't get in right even if we...

June 16, 2016

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Ms. Lewis: I – I think yeah, it would be cleaner to do it that way but ...

Commissioner Hart: Rather...

Ms. Lewis: We can accomplish that the other way as well.

Commissioner Hart: Rush through it tonight.

Chairman Murphy: All right. Mr. Pritchard, can you come up and declare you agreement with that?

Evan Pritchard, Walsh, Colucci, Lubeley & Walsh, P.C.: Yes, we will work with staff to come up with the development condition requiring the easement but not the construction for the service drive.

Chairman Murphy: Bless you. Further discussion of the motions? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2016-MV-011 and SE 2015-MV-032, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Flanagan: I some additional...

Chairman Murphy: Yeah, please.

Commissioner Flanagan: I have several waivers to. I guess – I think I'll do them an omnibus. Okay?

Chairman Murphy: Please, I encourage it.

Commissioner Flanagan: I further MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE APPROVAL OF THE WAIVER OF SECTION 9-308 (3) FOR THE PROVISION OF A SITE OR REAR SERVE ENTRANCE FOR SERVICE VEHICLES; A WAIVER OF THE SECTION 9-308 (4) OF THE ZONING ORDINANCE FOR DIRECT ACCESS FROM AN ARTERIAL STREET; AND MODIFICATION OF THE SECTION 9-308 (5) OF THE ZONING ORDINANCE TO RUN A MEDICAL CARE BUILDING 61.6 FEET FROM THE NORTH PROPERTY LINE; AND MODIFICATION OF THE SECTION 10-104 TO INCREASE THE MAXIMUM PERMITTED FENCE SITE, TO HATE PETE; MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS OF THE SECTION 13-303 AND 13-304 OF THE ZONING ORDINANCE IN FAVOR OF THE LANDSCAPING SHOWN ON THE GDP/SE PLAT; AND, LASTLY, WAIVER OF THE LOADING SPACE REQUIREMENT OF SECTION 11-203 OF THE ZONING ORDINANCE.

Commissioner Sargeant: Second.

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Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor of those motions, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

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(Each motion carried by a vote of 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

IK

PROPOSED DEVELOPMENT CONDITIONS**SE 2015-MV-032****June 1, 2016**

If it is the intent of the Board of Supervisors to approve SE 2015-MV-032 for a medical care facility located at 106-2 ((1)) 8, pursuant to Sect. 3-104 and 9-308 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Exception Plat approved with the application, as qualified by these development conditions.
3. This Special Exception is subject to the provisions of Article 17 of the Zoning Ordinance, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any site plan submitted pursuant to this Special Exception shall be in substantial conformance with the approved General Development Plan/Special Exception Plat titled "Artis Senior Living of Lorton, Medical Care Facility" prepared by Freeland Engineering, PC, dated February 10, 2016, as revised through May 16, 2016 and these conditions. Minor modifications to the approved Special Exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.
4. The Applicant shall maintain at least four percent of the beds for residents who are eligible for the Virginia Department for Aging and Rehabilitative Services' Auxiliary Grant Program.
5. A noise study, including any necessary mitigation measures shall be approved by the Environment and Development Review Branch (EDRB) of the Department of Planning and Zoning and DPWES prior to submission of the building plans to demonstrate that interior noise will not exceed a level of approximately DNL 45 dBA.
6. The architectural design of the proposed facility shall generally conform to the character and quality of the illustrative elevation included as Attachment 1 to these conditions. The building materials shall be predominantly brick and masonry stone.
7. The applicant will include, as part of the site plan submission and building plan submission, a list of specific credits within the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design—New Construction (LEED®-NC) rating system, LEED for Healthcare, or other

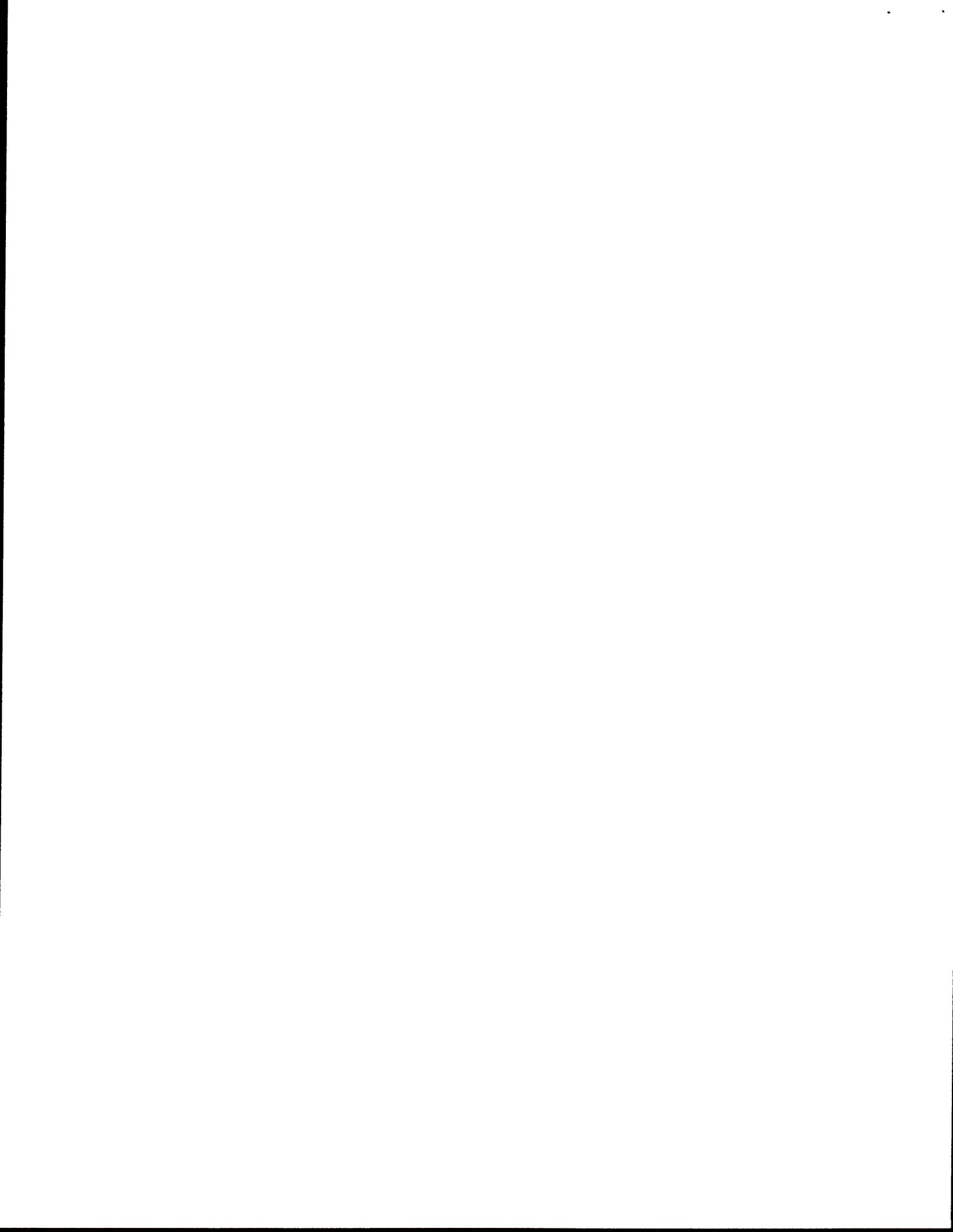
LEED rating system determined to be applicable to the building(s) by the U.S. Green Building Council (USGBC), that the applicant anticipates attaining. A LEED-accredited professional (LEED-AP) who is also a professional engineer or licensed architect will provide certification statements at both the time of site plan review and the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED certification of the project.

8. In addition, prior to site plan approval, the applicant will designate the Chief of the Environment and Development Review Branch of the Department of Planning and Zoning as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.
9. Prior to the building plan approval, the applicant will submit documentation, to the Environment and Development Review Branch of DPZ, regarding the U.S. Green Building Council's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED Certified certification. Prior to release of the bond for the project, the applicant shall provide documentation to the Environment and Development Review Branch of DPZ demonstrating the status of attainment of LEED certification from the U.S. Green Building Council for the building.
10. As an alternative to the actions outlined in the above paragraphs, or if the U.S. Green Building Council review of design-oriented credits indicates that the project is not anticipated to attain a sufficient number of design-related credits to support attainment of LEED Certified certification, the applicant will post, a "green building escrow," in the form of cash or a letter of credit from a financial institution acceptable to DPWES as defined in the Public Facilities Manual, in the amount of (\$2/square foot). This escrow will be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED Certified certification or higher level of certification, by the U.S. Green Building Council, under the most current version of the LEED-NC, LEED for Healthcare rating system or other LEED rating system determined, by the U.S. Green Building Council. The provision to the Environment and Development Review Branch of DPZ of documentation from the U.S. Green Building Council that the building has attained LEED certification will be sufficient to satisfy this commitment. At the time LEED certification is demonstrated to the EDRB, the escrowed funds and/or letter(s) of credit shall be released to the Applicant.
11. If prior to bond extension, reduction or final bond release for the building site,

whichever occurs first, the Applicant provides to EDRB documentation demonstrating that LEED Certified certification for the building has not been attained but that the building has been determined by the USGBC to fall within three (3) points of attainment of LEED certification, 50% of the green building escrow will be released to the Applicant; the other 50% will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of county environmental initiatives. If the certification is still in progress at the time of application for the bond extension or reduction, the time frame for the provision of the documentation described above shall be automatically extended to the time of the next bond extension or extension. However, the documentation must be provided prior to the final bond release for the building site.

12. If prior to the bond extension, reduction or final bond release for the building site, whichever occurs first, the Applicant fails to provide documentation to EDRB demonstrating attainment of LEED Certified certification or demonstrating that the building has fallen short of LEED Certified certification by three (3) points or less, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives. If the certification is still in progress at the time of application for bond extension or reduction, the time frame for the provision of the documentation described above shall be automatically extended to the time of the next bond extension or reduction. However, the documentation must be provided prior to the final bond release for the building site.
13. If the Applicant provides documentation from the USGBC demonstrating, to the satisfaction of the Environment and Development Review Branch of DPZ, that USGBC completion of the review of the LEED certification application has been delayed through no fault of the Applicant, the Applicant's contractors or subcontractors, the time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during the extension.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.





County of Fairfax, Virginia

MEMORANDUM

DATE: June 6, 2016

TO: Planning Commission

FROM: Laura Arseneau, AICP, Staff Coordinator
Zoning Evaluation Division, Department of Planning and Zoning

SUBJECT: Revised Proffers dated May 16, 2016 and revised affidavits
RZ 2016-MV-011 concurrent with SE 2015-MV-032

The above referenced application is scheduled for public hearing on June 16, 2016. A hard copy of the revised proffers dated May 16, 2016 and the affidavits for both the RZ and the SE are attached.

There changes to the proffers are as follows:

- Proffer 2, Paragraph K- changed the bond payment from 50% to 25% of the appraisal value of the trees
- Proffer 3- Replaced Hunter Mill District to the Mount Vernon District
- Proffer 5- Added Proffer 5 for construction of the 6 foot wide sidewalk connection to the existing asphalt trail along Ox Road

Please contact me with any questions at 703-324-1209.

Attachment: A/S

RZ 2016-MV-011

PROFFERS
Artis Senior Living, LLC

RZ 2016-MV-0011

May 16, 2016

Pursuant to Section 15.2-2303 (A) of the Code of Virginia (1950, as amended), Artis Senior Living, LLC, and the property owner, for themselves and their successors and/or assigns, hereby proffer that the development of the property identified as Fairfax County 2016 tax map reference 106-2 ((1)) 8 (the "Application Property") shall be in accordance with the following conditions if, and only if, the Board of Supervisors approves this rezoning application and related special exception application, SE 2016-MV-032.

1. GENERALIZED DEVELOPMENT PLAN –

- A. Development of the Application Property shall be in substantial conformance with the Generalized Development Plan/Special Exception Plat entitled "Artis Senior Living of Lorton" consisting of seven (7) sheets prepared by Freeland Engineering, PC, dated February 10, 2016, as revised through April 7, 2016 (the "GDP").
- B. Pursuant to Paragraph 5 of Section 18-204 of the Fairfax County Zoning Ordinance, minor modifications to the GDP may be permitted as determined by the Zoning Administrator.

2. ENVIRONMENT-

- A. **Tree Inventory and Condition Analysis:** The Applicant shall submit a Tree Inventory and Condition Analysis as part of the first and all subsequent plan submissions. The Tree Inventory and Condition Analysis shall be prepared by a Certified Arborist or Registered Consulting Arborist, and shall include elements of PFM (Public Facilities Manual) 12-0507 deemed appropriate to the project site as determined by Urban Forestry Management Division.
- B. **Tree Preservation Plan:** The Applicant shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent plan submissions. The Tree Preservation Plan and Narrative shall be prepared by a Certified Arborist or Registered Consulting Arborist, and shall include elements of PFM 12-0509 deemed appropriate to the project site as determined by UFM/D.
- C. **Project Arborist/Pre-construction Meeting:** Prior to the pre-construction meeting the Applicant shall have the approved limits of clearing and grading flagged with a continuous line of flagging. The Applicant shall retain the services of a Certified

Arborist or Registered Consulting Arborist (Project Arborist) to attend the pre-construction meeting to review the limits of clearing and grading with an UFMD representative to determine where adjustments to the clearing limits can be made to increase the area of the tree preservation and/or to increase the survivability of trees at the limits of clearing and grading, and such adjustments shall be implemented.

- D. **Tree Protection Fencing:** The Applicant shall provide appropriate tree protection devices, based on site conditions and proposed construction activities as reviewed and approved by UFMD. Tree protection fence shall consist of four-foot high welded wire attached to six-foot steel posts driven 18 inches into the ground and space no further than 10 feet apart; or super silt fence.
- E. **Tree Preservation Measures:** Tree preservation measures shall be clearly identified, labeled, and detailed on the Erosion and Sediment Control Plan sheets and Tree Preservation Plan. Tree preservation measures may include, but are not limited to the following: root pruning, crown pruning, mulching, watering, etc. Specifications shall be provided on the plan detailing how preservation measures shall be implemented. Tree preservation activities shall be completed during implementation of Phase 1 of the Erosion and Sediment Control Plan.
- F. **Demolition:** The demolition of all existing structures and site features within or adjacent to tree preservation areas shall be accomplished in the least disruptive manner practical as reviewed and approved by UFMD. All tree protection fencing shall be in place and verified by a County representative prior to commencement of demolition activities.
- G. **Site Monitoring:** The Applicant's Project Arborist shall be present on site during implementation of the Phase 1 Erosion and Sediment Control Plan and monitor any construction activities conducted within or adjacent to areas of trees to be preserved. Construction activities include, but may not be limited to clearing, root pruning, tree protection fence installation, vegetation/tree removal, and demolition activities. During implementation of Phase 2 Erosion and Sediment Control Plan, the Project Arborist shall visit the site on a regular basis to continue monitoring tree preservation measures and ensure that all activities are conducted as identified in the Tree Preservation Plan and approved by UFMD. Written reports shall be submitted to UFMD and SDID site inspector detailing site visits. A monitoring schedule and Project Arborist reports shall be described and detailed in the Tree Preservation Plan.
- H. **Landscape Planting Pre-installation Meeting.** Prior to installation of any plants to meet the requirements of the approved landscape planting plan, the contractor/developer shall coordinate a pre-installation meeting on the site with the landscape contractor, UFMD staff, and any additional appropriate parties. Any proposed changes to planting locations, tree/shrub planting sizes, and species

substitutions shown on the approved plan shall be reviewed and must be approved by UFMD staff prior to planting. The installation of plants not approved by UFMD may require the submission of a revision to the landscape plan or removal and replacement with approved trees/shrubs prior to bond release

- I. **Landscape Planting Plan.** As part of the first and all subsequent plan submissions, the Applicant shall include a landscape planting plan and specifications for review and approval by UFMD. The landscape planting plan and specifications shall incorporate sustainable landscape planting techniques designed to reduce maintenance requirements; and contribute to a cleaner and healthier environment with improved air quality stormwater management, and resource conservation capabilities that can be provided by trees and other desirable vegetation.
- J. **Soil Remediation.** Soil in planting areas that contain construction debris and rubble, are compacted or are unsuitable for the establishment and long-term survival of landscape plants, shall be the subject of remedial action to restore planting areas to satisfy cultural requirements of trees, shrubs and groundcovers specified in the landscape planting plan. The applicant shall provide notes and details specifying how the soil will be restored for the establishment and long-term survival of landscape plants.
- K. **Tree Appraisal and Bond.** The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the appraisal value of all trees 12 inches in diameter or greater designated to be preserved in the Tree Inventory and Condition Analysis and located on the Property such that limits of clearing and grading intersect the critical root zone of the tree. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first and all subsequent submissions of the site plan. The appraised value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, subject to review and approval by UFMD. The Location Factor of the Trunk Formula Method shall be based on projected post-development Contribution and Placements ratings. The Site Rating component shall be equal to at least 80%.

At the time of the respective subdivision/site plan approvals and prior to the pre-construction meeting, the Applicant shall post a bond or letter of credit payable to the County of Fairfax equal to 25% of the appraisal value of the trees for which a value has been determined in the Tree Appraisal (the "Bonded Trees"). Bonded Trees that die or are dying due to unauthorized construction activities, as determined by UFMD staff, shall be replaced. The replacement trees shall be of equivalent canopy area based on projected 10-yr. canopy area as specified in Public Facilities Manual Table 12.17 and approved by UFMD. For any Bonded Tree that is dead, dying or removed without approval, the Applicant shall also make a payment equal to the appraised value of the Bonded Tree to a fund

established by the County for furtherance of tree preservation and planting objectives (the Tree Preservation and Planting Fund). At the time of approval of the final RUP/Non-RUP for the project, the Applicant shall be entitled to request a reduction in the letter of credit to an amount up to 20% of the total amounts originally committed. Any cash or funds remaining in the Tree Bond shall be released at the time of the project's final bond-release upon approval in writing by UFMD, DPWES.

PUBLIC FACILITIES

3. Prior to site plan approval, the Applicant shall contribute \$10,000 to the Capital Project titled "Traffic Light Signals – FRD Proffers in Fund 300-C30070, Public Safety Construction" for use in the installation of preemptive signal devices on traffic signals within the Mount Vernon District as determined by the Fire and Rescue Department. The Applicant shall have no responsibility for the installation or maintenance of the devices.
4. A Phase I archaeological study shall be conducted at least 30 days prior to any land disturbing activities on the subject property for the areas of the property that are to undergo ground disturbing activities and previously were unsurveyed. If significant sites are found, a Phase II study shall be undertaken to determine eligibility for inclusion into the National Register of Historic Places. If sites are found eligible, avoidance or a Phase III data recovery shall be undertaken. The results of the Phase I study shall be provided to the Cultural Resources Management and Protection Section of the Fairfax County Park Authority (CRMP) for review and approval. If CRMP has not responded in writing within thirty (30) days of submission, the Phase I archaeological study shall be deemed approved. The study shall be conducted by a qualified archaeological professional. No land disturbance activities shall be conducted until this study is submitted to CRMP.

OFF-SITE IMPROVEMENTS

5. The Applicant shall construct the six (6) foot wide sidewalk connection to the existing asphalt trail and off-site landscaping as shown on the GDI' prior to issuance of the final RUP/Non-RUP for the project.

[SIGNATURES ON THE FOLLOWING PAGE]

RZ 2016-MV-011

APPLICANT/CONTRACT PURCHASER:

ARTIS SENIOR LIVING, LLC

By: _____

Its: _____

RZ 2016-MV-011

TITLE OWNER:

Leonel J. Bertrand

[SIGNATURES END]