

Barney Rush, *Mayor*
Joel Rubin, *Vice Mayor*
Irene Lane, *Treasurer*
Rich Brancato, *Secretary*
Joy White, *Community Liaison*

April 21, 2023

Re: Letter of Agreement re: LMA H-148

Dear Messrs. Epstein and Gary,

This Letter of Agreement confirms the understanding of the Town of Chevy Chase (the “Town”) and Corso DC, LLC (“Corso”), collectively the Parties, and serves as a formal agreement regarding certain actions to be taken by Corso in exchange for the Town’s support of application LMA H-148.

The Parties agree that Corso will execute, and the Town will record among the land records of Montgomery County, a declaration containing those covenants that benefit the Town, as set forth in the Binding Elements. Enclosed is the Town’s draft of the Declaration of Covenants (the “Declaration”). As you will note, it incorporates only those Binding Elements imposed as part of the LMA for which a declaration is needed. The selected Binding Elements are set forth verbatim from those imposed as part of the LMA, but the Town has made some partial redactions to remove language that is not needed in perpetuity. The Town has added some detail to one of the covenants, shown in italics.

Corso hereby agrees to execute the Declaration concurrent with approval of the Certified Site Plan (with appropriate and necessary mutually agreeable additional or modified terms that may emerge through the Preliminary Plan and Site Plan review processes) with Corso’s obligations under such declaration becoming effective upon Corso’s receipt of its building permit for the project. For the avoidance of doubt, the “senior residential care facility with related ancillary commercial uses and amenities” to be referenced in the declaration includes, but is not limited to, independent living, assisted living and memory care and the declaration will be revised prior to execution to clarify that those uses are specifically authorized.

Additionally, the Town requests and Corso hereby agrees to four additional items, at this time.

First, Corso agrees that the Town forester shall be included in the development and review of the overall Forest Conservation Plan, not just the creation and maintenance of the Category I Conservation Easement, as stated in the Binding Elements.

Second, Corso agrees that the garage space currently occupied by the Town, pursuant to the Ground Lease and Development Agreement dated April 23, 1993 (as amended, the “Ground

Lease”) shall remain in place until it becomes necessary to remove it to accommodate construction, at which time Corso will provide a temporary garage space during construction commensurate with that which currently is in use by the Town until such time as Corso constructs and the Town occupies a permanent garage space. Consistent with and implementing Binding Element No. 3 in the Declaration, Corso and the Town will enter into a new ground lease (or amend the existing Ground Lease) governing the Town’s permanent rights to garage space and use thereof. Corso and the Town agree to execute the new or amended ground lease prior to issuance by the County of any permit for the Corso property and/or the proposed redevelopment of the property,

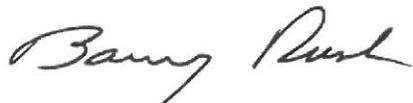
Third, Corso agrees to complete a Comprehensive Vehicular Site Access Study and a Parking-Demand Analysis Study before submission of the Preliminary Plan.

Fourth, Corso agrees to execute a Construction Management Agreement with the Town prior to issuance of Town building permits.

We appreciate the cordial and cooperative dialogue we have with you, and we look forward to working with you as you work your way through the remaining gates of the permitting process.

The Parties acknowledge and agree that this Letter of Agreement is a binding and legally enforceable contract. The parties agree that this Letter of Agreement constitutes the final, complete and exclusive agreement of the Parties with respect to the subject matter hereof and supersedes all prior understandings and agreements relating to such subject matter. This Letter of Agreement may be executed in two counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

Sincerely,



Barney Rush
Mayor

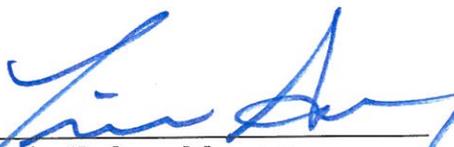
Acknowledged and Agreed, this 27th day of April 2023:

Declarant: Corso DC, LLC

Witness:

By: Galerie Manager LLC,



VP of Construction
Galerie

Timothy T. Gary, Manager

Property: 7100 Connecticut Avenue, Chevy Chase
Montgomery County, Maryland 20815
Parcel Id.: 07 – 00464946

Declaration of Covenants

This Declaration of Covenants (hereinafter called “Declaration”) is made this _____ day of 2023, by and between **Corso DC, LLC**, its successors and assigns (hereinafter called the “Declarant”) and the **Town of Chevy Chase**, a municipal corporation (hereinafter called the “Town”), its successors and assigns.

Witnesseth:

Whereas, the Declarant is the owner of the real property in the “Chevy Chase, Section 4” subdivision, being Parcel No. 1, Block 5, as shown on a 1969 record plat of subdivision recorded at Plat No. 9401 among the Land Records of Montgomery County, Maryland (the “Land Records”) and described in a Deed conveying the land to the Declarant dated December 16, 2021 and recorded among the Land Records in Book 65068 at Page 481, comprising approximately 12.28 acres, also known as 7100 Connecticut Avenue, Chevy Chase, Maryland 20815 (hereinafter called the “Property”); and

Whereas, the Declarant is developing the Property and pursuing Local Map Amendment LMA H-148 (the “LMA”) from the Montgomery County Council, sitting as the District Council for the Montgomery County portion of the Maryland-Washington Regional District (the “County Council”) in order to change the zoning and allowable uses of the Property from the R-60 (Single-family Residential) zone to the CRFN-1.5 C-0.25 R-1.25 H-70 (Commercial Residential Floating Neighborhood) zone so as to permit a senior residential care facility with related ancillary commercial uses and amenities (the “Project”); and

Whereas, the Property is located within the Town, and the Town has an interest in ensuring the appropriate and compatible development of the Property, and to maintain certain benefits the Town has received from the prior owner, all for the benefit and protection of the public health, safety, and welfare of its residents; and

Whereas, the Town holds in trust for the benefit of the public the rights-of-way within the Town, including some of those abutting the Property; and

Whereas, the Property is subject to a Declaration of Covenants dated April 5, 1968, and recorded among the Land Records in Liber 3745 at folio 138, benefitting the Town and its residents (the “1968 Declaration”), and this Declaration is not intended to and does not supersede, replace, or modify the 1968 Declaration, which remains in full force and effect; and

Whereas, as part of the LMA, Declarant is committing to a set of Binding Elements that relate to the Property and the Project, which Binding Elements will be covenants running with the Property (binding upon Declarant, successors and assigns) that are attached to and made a part of the rezoning of the Property to the CRFN zone (the “Binding Elements,” some of which are set

forth herein as identified below, and all of which shall be recorded in a separate Declaration of Covenants to be enforced by the Montgomery County Planning Board); and

Whereas, certain other binding elements specifically benefitting Town residents are either beyond the scope of the Binding Elements (not readily enforceable by appropriate governmental agencies) and/or have been identified as necessary and appropriate subsequent to the LMA that need to become additional binding elements enforceable by the Town through this Declaration; and

Whereas, in exchange for the execution and recording of this Declaration prior to approval of the Certified Site Plan for the Property, which execution and recordation was committed to in a binding written instrument by Declarant during the LMA process and made part of the public record for the LMA, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town shall agree to support the request for the LMA.

Now, therefore, Declarant does hereby covenant and agree on behalf of itself, its successors and assigns, as follows:

1. Use of the Property will be limited to a residential care facility and ancillary commercial establishments. No more than 5,000 square feet of commercial use, with no single establishment larger than 2,500 square feet shall be permitted. Such commercial establishments shall be made available to the general public.
2. Vehicular access will be limited to Connecticut Avenue. Vehicular access to and from Thornapple Street, Woodside Place, and Meadow Lane and the Property must be prohibited.
3. The Declarant shall provide garage space and five (5) separate parking spaces for use by the Town.
 - a. *The garage space shall be at least 1,300 square feet. The garage space and five (5) separate parking spaces shall be provided to the Town at no cost to the Town and shall be accessible by the Town at all times.*
4. The Declarant shall place areas, as more accurately depicted on the Final Forest Conservation Plan, generally along the southern, western, and northern property lines, in a Category I Conservation Easement. The Town forester shall be included in proceedings regarding the creation and maintenance of the Category I Conservation Easement.
5. The Declarant shall construct new pathways connecting the existing sidewalk on Thornapple Street with Connecticut Avenue and connecting the Property with Woodside Place. No pedestrian pathway shall directly connect between Woodside Place and Connecticut Avenue. A public walking path through the proposed Category I Conservation Easement, as applicable, generally located along the western property boundary, shall be prohibited.

6. The Declarant shall maintain minimum building setbacks as shown on the Floating Zone Plan, including a maximum building height of sixty feet (60') for a distance of eighty feet (80') from Connecticut Avenue.
7. The Declarant shall comply with all applicable stormwater management regulations.
8. The Declarant shall locate and/or screen refuse storage and collection areas and loading and service areas so as to minimize the view and noise from adjacent property boundaries.
9. The Declarant shall install planting materials that are primarily native species. The Declarant will remove all invasive species on the Property, in accordance with the Final Forest Conservation Plan. The Declarant will provide sufficient planting depth above garage areas to support canopy and shade trees, where applicable.
10. The Declarant shall install a non-deciduous tree screen along the south property line outside of the Category I Conservation Easement. Foundation plantings shall be installed where garage walls extend above grade.
11. The Declarant shall provide exterior lighting according to applicable County regulations and coordinated so as minimize impact to adjacent properties.
12. Vinyl siding and EFIS are prohibited on all new buildings.
13. The outward-facing architectural facades along all sides of the Property will be designed to read as four (4) stories plus roof, with the exception of the northwest corner of the Property, which shall be designed to read as three (3) stories on top of the garage plus roof. Additionally, these outward-facing facades must adhere to a maximum height, as observed from the established measuring point, of 55 feet with the exception of the northwest corner of the property, which shall adhere to a maximum height of 50 feet.

And it is further expressly understood and agreed that the above enumerated covenants which are derived from the Binding Elements imposed as part of the LMA shall be construed to require Declarant's perpetual adherence to and maintenance thereof, in addition to the initial installation or establishment.

Declarant, by the execution of this Declaration, does hereby covenant and agree, on behalf of itself, its successors and assigns, to abide by and respect each and every reservation, restriction, condition, covenant and control set forth in this Declaration, which the parties acknowledge were part of the consideration described above and this resulting instrument, it being the intention hereof to perpetuate all of the rights and privileges, covenants and restrictions in this herein Declaration to and for the benefit of the Property and for each owner thereof for the benefit of the Town, its agents, successors, and assigns, and its residents and sojourners therein. This Declaration will be recorded among the Land Records. It is expressly understood and agreed that these covenants

shall run with and bind the Property herein described and shall be binding upon Declarant, its successors and assigns, forever, and the Property shall be held, sold and conveyed subject to the covenants and restrictions contained in this herein Declaration; and any sale, conveyance, lease, or mortgage made in violation of the terms hereof shall be null and void.

Declarant, by the execution of this Declaration, does hereby expressly vest in the Town, its agents, successors, and assigns, the right and power to bring all actions against the owner of the premises hereby conveyed or any part thereof for the enforcement of the restrictive covenants herein contained.

It is further expressly understood and agreed that this Declaration cannot be modified, released, or terminated without the prior written agreement of the Declarant and the Town.

In witness whereof, the Declarant and the Town have hereunto set their hands and seals the day and year first above written.

Declarant: **Corso DC, LLC**

Witness:

By:

Name, Managing Member

Town of Chevy Chase

Witness:

By:

Name, Mayor

STATE OF MARYLAND :

: ss.:

COUNTY OF MONTGOMERY :

I HEREBY CERTIFY that on this ____ day of _____ 2023, before the subscriber, a Notary Public of the State and County aforesaid, personally appeared _____, in the capacity as principal and managing member of Corso DC, LLC, and that the foregoing was acknowledged to be an authorized act of the company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Name, Notary Public

MY COMMISSION EXPIRES:

STATE OF MARYLAND :
: ss.:
COUNTY OF MONTGOMERY :

I HEREBY CERTIFY that on this _____ day of _____ 2023, before the subscriber, a Notary Public of the State and County aforesaid, personally appeared Barney Rush, in the capacity as Mayor of the Town of Chevy Chase, and that the foregoing was acknowledged to be an official act.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Name, Notary Public

MY COMMISSION EXPIRES:

Attorney's Certificate

In accordance with Maryland Code, Real Property Article, Section 3-104(f), I hereby certify that I am an attorney admitted to practice before the Court of Appeals of Maryland and that this instrument was prepared either by me or under my supervision.

Ronald M. Bolt, Esq.