

March 5, 2007

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TOWN OF CORNWALL

PLANNING BOARD

MARCH 5, 2007

MEMBERS PRESENT: NEIL NOVESKY, CHAIRMAN
KENNETH BRODMERKEL
WYNN GOLD
LED KLOSKY
DEKE HAZIRJIAN
WILLIAM GRABE

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

LESLIE DOTSON
PLANNING BOARD CONSULTANT

GARY VINSON
BUILDING INSPECTOR

ABSENT: JANE DEANS

REGULAR_MEETING

MR. NOVESKY: I'd like to call the March 5, 2007 meeting of the Cornwall Planning Board to order. We have a very limited agenda tonight and we will expedite it.

CORRESPONDENCE

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MR. NOVESKY: Fran, I have one piece of correspondence from Orange County Planning Department for you.

APPROVAL_OF_MINUTES

MR. NOVESKY: Approval of minutes dated February 5, 2007, I'll take a motion to approve. Everyone have a chance to see the last minutes?

MR. GOLD: So moved.

MR. HAZIRJIAN: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MR. HAZIRJIAN	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

RESOLUTIONS

MR. NOVESKY: We have no resolutions this evening?

MR. CORDISCO: No, sir.

MR. NOVESKY: So we're going to move into the regular agenda.

QUAKER_&_MAIN,_LLC_-_#2007-01

MR. NOVESKY: I will ask Mr. Hazirjian maybe to remove himself to the back of the room for the discussion on the Quaker and Main, LLC.

Mr. Joseph Minuta appeared before the board for this proposal.

MR. NOVESKY: Mr. Hazirjian's architect is here.

MR. MINUTA: Yes.

MR. CORDISCO: Make sure that the record reflects that Mr. Hazirjian has stepped down.

MR. NOVESKY: We'll ask for a brief presentation and move on to the consultants.

MR. MINUTA: My name is Joseph Minuta with Minuta Architecture representing Quaker and Main for the project Woody's All Natural Burgers and Fries which will have a secondary component being bagels. We have prepared a couple of elevations, perspectives of the exterior, what it might look like from Main Street and interior elevation what it might look like at the counter and rear elevation from the back side of the property. We're going for more of a '50s style very woodsy Woody's but woodsy as far as the type of construction that we'll be using. We have submitted the site plan although prior to doing that I did receive the comments, I'm in concurrence with quite a few of the comments, I'm sure we can work them all out. The plan with regard to the interior we put together and we're showing 72 seats, we have actually two different options that we're going around with as far as how we're going to make the rear entrance work but aside from that in both cases we still have 72 seats. We have also taken the front aerial and created that as a waiting area for patrons who are going to come in and

wait to be seated. With regard to site plan which you have all seen and I was here for the precursor, it's all been correctly addressed and we'll take care of the issues as far as the ingress egress and how we're going to put that together. We have met all the bulk requirements with the exception of the one, we're showing the setback to the garage and we'll show the setback to the main house and that's no issue. There's an existing site plan we have prepared, we have also updated that with the survey signed and sealed by Mr. Drabick, we have this as demolition plan. What we're planning on doing is taking this existing building, removing this one story component leaving the two story component and rebuilding around, also removing the frame garage and any other appurtenances on the front.

MR. NOVESKY: Removing the garage?

MR. MINUTA: Yes, removing the frame garage so we have a clean area in the back, this now becomes curb, we have a dumpster which is the same enclosure, we have our handicapped stall here, access with a ramp, not a ramp but a sidewalk coming up through the side of the building through the main entrance. You can also access it from the back side. That's pretty much it for the plans, various details that go along with that I won't bore you with.

MR. NOVESKY: Thank you. Any questions before we go to the consultants?

MR. BRODMERKEL: No.

MS. DOTSON: These are really very brief, I won't go into most of these details cause it's really more clean-up items, terminology issues, so they have the comments and they're certainly going to change those. Comment 4 just mentions that they do include a wooden fence detail for the six foot perimeter fence as we discussed in the pre-meeting, that's certainly not

necessary on the west side and I'd be happy to see it gotten rid of because Mark and I discussed that afterwards, I didn't make that comment.

MR. EDSALL: As Mr. Minuta indicated, there's a proposed modification to the configuration of the routing of traffic through the site, we were going to suggest that it be clockwise with a few curb cuts, one way straight in straight out, we're working with the applicant on that. Those suggestions were pursuant to a plan review and then a field review between myself and Bob Conley. Drainage they're working on in connecting into existing town system, those details as they find the connection point that it is available will be worked out. They have a sewer line to the west so that's an easy connection and water main will be upgraded. Site lighting we felt that the bollard lighting would be a difficulty given snow accumulation and plowing so we're suggesting that they keep to the pole approach. I'm suggesting that they have commercial grade residential style fixtures so that it fits into the neighborhood and they can be shielded so that they don't cause any spill or glare. One other note that's not in my comments and was discussed in the brief work session I'm going to be contacting Phil Greeley who is the traffic consultant who worked both at times for the town and for applicants dealing with the configuration of the roadway through Quaker Avenue because we're looking at some adjustments to the turn lane configuration and so that the ingress egress to the curb cuts will be enhanced also an improvement to open Quaker so we'll be coordinating all that with Bob Conley and the results of all our findings and will hopefully appear on the next plan that you see. That's it.

MR. NOVESKY: Thank you, mark. Dominic?

MR. CORDISCO: Procedurally just to reiterate the applicant has dropped down the number of seats to 72

which means it's compliant as far as parking at least it appears so thus no variances are needed, no referral to the ZBA is required.

MR. NOVESKY: Very good, thank you, Dominic. Led?

MR. KLOSKY: Mr. Edsall maybe you could comment a little bit on the record about the how well this site dovetails with sort of pedestrian flow plan along Main Street in that section, how it sort of fits in with the overall grades which are continuing since the hospital's construction.

MR. EDSALL: Well, the town has been discussing completing curbing and sidewalk all the way from the traffic circle up to the new Elm Street intersection with Quaker obviously a portion of the--

MR. KLOSKY: In front of CVS?

MR. EDSALL: Yes, a portion of the sidewalks immediately at that intersection were improved by the hospital as part of their project and there was sidewalks installed on Elm. This applicant has agreed that the sidewalk and curb directly in front of this project and to each side is needed for transition would be replaced, we're looking at two curb access curb cuts with elevated sidewalks that would effectively create an island as it may be between the two curb cuts of this project and with a totally reconstructed sidewalk so at minimum we'll get another piece of puzzle done, we'll continue to recommend to the Town Board that they look to fund the remaining portions but at minimum what we do here will be consistent with our long term goals.

MR. KLOSKY: Will the tie-ins to existing utilities you're confident that that can be accomplished?

MR. EDSALL: One way or another there's concerns such as if they tie into the storm drainage on the west side

of the sewer crossing you've got to make sure we don't have a grade conflict. If it's on the east side of the sewer line they have to obtain an easement from the neighbor so there's some open items but they're being worked on as I understand it.

MR. GRABE: Nothing.

MR. GOLD: Nothing.

MR. BRODMERKEL: Two questions, I think it was Leslie mentioned something about 72 seats but that's not impacted by walk-ins?

MS. DOTSON: In terms of the code, yes, that was in my comments that in other words if there are people who come in who want takeout that doesn't affect their requirement.

MR. BRODMERKEL: Takeout?

MS. DOTSON: Correct.

MR. BRODMERKEL: And the other question I had was on the western side of the property there's a bit of a dropoff and I assume there's some kind of a retaining wall or something but I couldn't see anything.

MR. MINUTA: That's correct, we propose a retaining wall on one side, we're working on other alternatives to a retaining wall and hopefully we'll have that addressed by the next workshop.

MR. BRODMERKEL: Okay.

MR. KLOSKY: Mr. Chairman, I think the plans are consistent with the level of detail necessary to set a public hearing and I move that we set a public hearing for our next meeting.

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MR. GOLD: Second it.

MR. NOVESKY: Motion on the floor to schedule a public hearing at the next meeting and we have a second. Any discussion? Roll call.

ROLL CALL

MR. KLOSKY	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MR. HAZIRJIAN	ABSTAIN
MR. GOLD	AYE
MR. NOVESKY	AYE

MR. NOVESKY: Dominic, you'll prepare the appropriate paperwork?

MR. CORDISCO: I will work with Diane at Gary's office to make sure that the public hearing notice goes out.

MR. MINUTA: Thank you very much.

MR. BRODMERKEL: You're going to prepare?

MR. CORDISCO: It's been my practice of late when it becomes more obvious to me that there are no outstanding issues to have a resolution prepared.

MR. NOVESKY: Thank you.

VAILS_GATE_BUSINESS_PARK_-_#2006-17

MR. NOVESKY: For the record, would you say that Mr. Hazirjian is now re-entering the board.

Mr. Tom DePuy appeared before the board for this proposal.

MR. DEPUY: Basically we're back in front of the board, we had resubmitted the site plan, we had some issues on parking which I think we resolved. Basically we have done a comparison of the prior approved use and a proposed use which basically says we have less demand and we're actually supplying additional parking over and above that previous approval. Also we have somebody from Clough Harbour that can update you on the remediation that's going on on the site so I know you had some particular question on that and I think that was the only site plan issue that we had, couple other minor details on striping which we had resolved.

MR. NOVESKY: Very good. Leslie?

MS. DOTSON: I looked at the remediation areas, we received a list of the remediation areas, I looked at them as they might potentially affect the plan and the implementation of the plan. So area 1 is former drum storage area that was shown outside the fenced area on the southwest portion of the site, this site is depicted to be within the bounds of DEC wetlands so it is outside of anything being disturbed as part of this plan, this report indicates that monitoring wells are in place and further investigation is to follow.

MR. KLOSKY: Can I ask a question? What are we monitoring for? What's the, I mean, I didn't see the principle contaminant of concern that drum.

MR. ZIOBRON: Keith Ziobron with Clough Harbour and Associates. Area 1 is a former drum storage area where

roughly 100 or so drums were known to have been stored at one time or another. The initial investigation was conducted back in the early late '80s and early '90s, for one reason or another the investigation was stopped by DEC during the course of a joint venture which occurred back about three years ago. We were hired to determine the current condition of the site, those wells were sampled, we didn't really find much. As a result of that, we went to DEC and asked that that area be officially closed out as a hazard area and basically they felt that the investigation that was done was generally sufficient, however, they want some more testing done as to the contaminants concerned, we're dealing with volatile organics and heavy metals.

MR. GOLD: Where are we going to find area 1 on this map, is it identified as area 1?

MS. DOTSON: Did you receive a copy of the report? The 8 1/2 by 11 map was a little hard to read. February 8, yes. If you look at the 8 1/2 by 11 map.

MS. BABCOCK: If I may just for a moment these were submitted with the application but if I may this might--you got it.

MR. GOLD: I got it.

MS. DOTSON: Area 1 is way up in the corner, it's kind of hard to read. My only concern is I think it's appropriate for the site plan to show the location of all monitoring wells that are existing or proposed just as a matter of point. Area 2 is identified as former drum storage area that remains identified, I'm sorry, investigated, this is actually building 3 which is proposed to be divided into light manufacturing and warehousing units. This is really because it's an existing building, this is really just a building inspector issue so that really doesn't have anything to do as far as I can determine with the site plan of the

planning board. Area 3 is just east of building 3, that's an area that's proposed in the site plan for some parking and circulation improvements and transformer pad that's just below building 3 that dark area. My only concern with that area is that in soil removal or cleanup happens to be needed prior to any pavement being installed it could affect the timing and the ability to complete the necessary site improvements and again I don't even know what the transformer pad is used for, it's also needed for more than just that building or something else.

MR. DEPUY: No, just building and that could be relocated, it's just--

MS. DOTSON: Yeah, I mean, I don't care, I'm just saying that that's a question. Area 4 was identified as a former gas tank, it may have been abandoned in place, it's at the northwestern corner of building 3, it's the same concerns with the previous one is that, you know, if any soil removal or excavation or cleanup is needed prior to pavement being installed this could affect the feasibility of that area being used for parking.

MR. KLOSKY: Leslie, what we're being asked to overlay this 8 1/2 by 11 sort of tiny map with everything else that's been submitted by the applicant, it's difficult to figure out.

MS. DOTSON: Well, that's why I tried to do that because it was difficult so I spent the time to go over it and to summarize where I thought it potentially conflicted. There was an area where it was a little hard to figure out which was area seven just because of some of the changes there but again, yeah, the top but again most of this is just they need to show the location of the monitoring wells, it's not that big a deal. They are really the only the areas where there's supposed to be pavement probably 3 and 4 are the

biggest concerns in terms of timing of the development plan, most of them don't interfere with the plan at all.

MR. BRODMERKEL: So the only ones that are going to affect the project from being completed 100 percent usable would be locations 3 and 4?

MS. DOTSON: Correct and by the way, Mark I think is correct in pointing out that we should be considering New Windsor, I also did look at the area in the Town of New Windsor, none of those affected the areas proposed for pavement or structures and it is correct for this board to look at a building that's going to be crossing the municipal line because if you can't get around the building if you're going to lose part of it that doesn't prove to be very good.

MR. GOLD: Area 3 and 4 of concern because they're going to be disturbed as part of plan and according to the report the status of those areas is listed as to be investigated.

MS. DOTSON: Correct.

MR. GOLD: Do we have--

MR. ZIOBRON: Just to shed some light on that back in June we prepared a work plan for the entire property to address all of these areas of concern that was submitted to DEC and to date we have got approval to move ahead with part of the investigation, we're anticipating receiving approval for the balance of the site within the next few weeks, so from a timing perspective we should be able to be in and out of here completing our investigation by say the end of April and then at that point we'll be able to determine whether or not remediation is required.

MR. GOLD: You answered my question before I asked it,

thank you.

MR. BRODMERKEL: Leslie, what's the impact along with what Dom and I were discussing earlier on the ability of this project to move ahead, are they going to lose 10 percent of the parking, 5 percent?

MS. DOTSON: No, I don't think at all, the areas that are of concern are flanking building 3 which is that smaller building on the south end of the site in Cornwall, reasonably we have to do a parking calculation to figure out exactly how much but I think it would only just affect that building.

MR. DEPUY: You're going to lose about seven or eight spots in the one area and three or four in the other so you're talking about ten parking spots.

MS. DOTSON: Simple solution would be to phase any approval.

MR. KLOSKY: I think I'm also hearing by the up end of April you'll know those areas which do and do not require remediation?

MR. ZIOBRON: Right, that's at least based on the schedule that DEC's given us relative to their view of the work.

MR. KLOSKY: It may significantly complicate everything to try and phase everything for what is about a 45 day wait.

MS. DOTSON: That's--

MR. CORDISCO: No, I'm just wondering for clarification when you talk about the end of April, are you talking about having reports submitted by you or having sign-off from Division of Environmental Remediation?

MR. ZIOBRON: I would say having reports submitted by us with the data.

MR. CORDISCO: Not necessarily signoff that the report and its conclusions are acceptable?

MR. ZIOBRON: Right, right, that could take a month or two beyond that or more.

MR. CORDISCO: Or more, you're talking to a former DEC employee so--

MR. EDSALL: A note regarding the parking spaces, if you take any consideration on the parking table, they have now demonstrated that there is prior to this application deficiency as it may be and they are improving the deficiency to the extent they are decreasing it but nonetheless, they have what might be considered some extra spaces because of that decrease in the non-conformance. Even if they didn't build those couple spaces, be it 7 or 10, they in all likelihood could eliminate them and still be in compliance from a parking standpoint. So those spaces aren't that critical, they've got 230 spaces provided.

MR. BRODMERKEL: Which is more than necessary.

MR. EDSALL: Which is a decrease in the non-conformity to what exists now from the prior use so those could be the last spaces, it could be really the extra spaces.

MR. BRODMERKEL: My understanding was when we're trying to determine use percentage of use to come up with how many spaces were needed.

MR. EDSALL: That was the approach until it became abundantly clear that that was a deficiency there now the way it was previously in existence so to save them the trip to the ZBA to explain that there's a deficiency and they're making the, they're decreasing

the deficiency, it's this board's position as long as you're taking a non-conformity and improving it making a better situation they'd have, they don't have to make a trip to the Zoning Board. So once all that information became available they have added it to the plan and they are moving forward so what I'm saying is that if you eliminate ten spaces, it's still a net improvement from what exists with Tarkett.

MR. BRODMERKEL: Can you help me understand that what was Tarkett's need and what were the spaces available?

MR. EDSALL: Tarkett had a demand based on square footage of over 600 parking spaces.

MR. BRODMERKEL: And the actual?

MS. DOTSON: The actual was upon shifts, the code actually requires based on the greater of two numbers so based on square footage which is what would apply that would be the greater than the shift number they would have had to have supplied about what?

MR. EDSALL: Well, the point being is that based on the same square footage that exhibits is cause they're not creating anymore building, it was 616 on the old use and it's 384 on the current use so this use has a significantly decreased demand.

MR. BRODMERKEL: And how many spaces were there when Tarkett was there?

MR. EDSALL: I believe the use has not changed.

MS. BABCOCK: 220.

MR. BRODMERKEL: There are still 220.

MS. DOTSON: They're proposing 230 so what he's saying--

MR. EDSALL: Eliminate the ten and just have the 220 and they're effectively cutting the demand back by at least a third or more so it's a net improvement.

MR. BRODMERKEL: What I'm trying to tell us is those last ten spaces could be the last ten built and really aren't mandatory, they're still making the situation better.

MS. DOTSON: Although I think from a practical standpoint the board recognizes that the ones closest to the building are the ones in highest demand but as a matter of just timing that's not critical.

MR. NOVESKY: Let's get back on track with Leslie's comments.

MS. DOTSON: Well, so the parking discussion we've had, that's my comment 2. Orange County Planning Department has responded, they recommended approval, they just, they noted the topographic error which you have already caught and corrected. Comment 4 just the applicant has hired a cultural resources consultant, we have actually received a preliminary report from that consultant and it was faxed to me today, we still don't really have any answers, notwithstanding what the cultural resource consultant concludes, I still think that the Planning Board's hands are really tied under SEQRA and the work needs to be completed in accordance with requirements in order to proceed with a SEQRA determination.

MR. CORDISCO: As far as the cultural resources?

MS. DOTSON: Correct.

MR. EDSALL: I won't talk about on-site parking anymore. Storm water they need to complete the SWPPP, it's been discussed, I understand that's in progress, improvements on 94 they have added all the information

that was discussed, the referral to the Department of Transportation Traffic and Safety was made by the Town of New Windsor with some very much appreciated assistance from Gary's office who had the latest plan, so that's out to DOT as we speak, copy of the letters attached to your comments, and the areas of concern we discussed at length and really don't need to add anymore unless you have a question. That's it.

MR. KLOSKY: I guess I'm just concerned about the sort of unknowns associated with the on-site contamination that's all whether there even is any or not, sounds like the studies have not been carried out yet that will tell you whether there is or isn't actual contamination on site so I'm a little hesitant to move forward strongly on that basis. However, Dominic, what's your opinion on our authority and how it, what's the Planning Board's obligations in terms of contamination on the site?

MR. CORDISCO: You want to ensure that the use of the site that you're authorizing as far as the site plan is concerned is not going to be impacted by the remediation that's ongoing. So in terms of areas that additional remediation is needed those areas are appropriate to evaluate whether or not there's going to be an interplay between the use itself and the remediation that's ongoing to any greater extent, you know, in terms of oversight of the remediation process itself well that's entirely within the jurisdiction of the New York State DEC.

MR. KLOSKY: I guess I would say then that I'm having a little trouble making that determination as you have just specified based on this 8 1/2 by 11 map in combination with some comments from Leslie and my somewhat imperfect knowledge of exactly what we're talking about with these little clouded areas that are on this page so, you know, I personally would feel more comfortable with more clarification on that issue but I

welcome comments of the rest of the board.

MR. GRABE: Well, I just, this is out of our bounds, it's more the DEC's hands, isn't it? At this point we're not the enforcers on this issues.

MR. CORDISCO: Right, the actual remediation is within the DEC's hands but if there's, if part of the parking lot remains to be seen whether or not it needs to be dug up and soil removed.

MR. GRABE: We don't need that part of the parking lot to approve this project.

MR. CORDISCO: You could approve it in phases.

MR. GRABE: What the problem is it's really not really our problem, it's our problem but it's not our responsibility, it's DEC's responsibility to see that everything has to be done.

MR. CORDISCO: That's correct.

MR. EDSALL: Just for clarification, it isn't necessarily that you have to phase the plans, the plaza next to CVS as they asked for C.O.s for different portions of the building Gary and I had to make sure that the related site improvements at least in percentages and completion were done. If only 50% of the building was to be occupied there could be some areas not finished, but as long as they didn't need it to occupy the first half, fine, that's something Gary and I do on all multi-family projects, we do it on all subdivisions, we do it on all site plans. So that isn't something that's inconsistent with what we deal with every day. The question comes down to is are the areas that are in question manageable in that form? If there was half the parking lot was in question, I'd say whoa, they can't use it but apparently there's a limited area that would be management for Gary and I to

deal with.

MR. CORDISCO: I wasn't suggesting by phases that there would be a need for a first phase and second phase to come back before the board.

MR. EDSALL: I just wanted the record to be clear that many times you have an actual phased plan.

MR. KLOSKY: I would just ask that I have another quick question which might help me to feel better. How are the extents shown on this map determined?

MR. EDSALL: I agree with you that it would be more functional for Gary and I to have those areas that are, we broke it into three groups, the areas outside the areas proposed for activity as part of this application, the areas within the building which Gary's going to take care of, first area being areas that are under consideration with your site plan that are areas of concern, they should be shown on the plan so that Gary and I clearly in the field know what areas need to be resolved before they can be used.

MR. GOLD: What would our next logical step be, what are they looking for tonight?

MS. DOTSON: Well, what they're looking for you to do and what you're able to grant is I think another question. I'm sure that they'd like you to proceed but unfortunately I don't think that I can--

MR. GOLD: I'm troubled by this, I understand what our limitations are, I also request that we get a life size version of this so I can actually read it, it's a little difficult and I do this for a living, it's a little difficult to translate this to this directly so I'm not really sure a hundred percent what these impacts are.

MR. EDSALL: Would it be adequate to take those ones that are on the site plan that I mentioned and have them on a full set of plans?

MR. GOLD: That's fine.

MR. EDSALL: The other two groups we can leave out.

MR. GOLD: I'm concerned about these areas that may require mitigation that are within the area that they're going to be working on.

MR. EDSALL: I think they should be shown on the plans, we'll need that during the construction phase as well.

MR. KLOSKY: But I guess Mark another concern I have is that what if the extent of the contamination shown on this map is incorrect?

MR. EDSALL: If for an example if the area was quadrupled and they lost enough parking spaces that it would prohibit use of a larger portion of the site just means they get less use of the site until it's resolved.

MR. ZIOBRON: If I may, the purpose of this map wasn't necessarily to show the extent of the contamination, just the location of the areas of concern, we won't know the extent of the contamination until the investigation is done.

MR. KLOSKY: Which will be the end of April?

MR. ZIOBRON: Hopefully as long as we get a proper approval.

MR. HAZIRJIAN: I agree we need a clearer idea of where these areas of contamination are on the map. Can we also have as per what Mark said is that something in terms of that those three divisions, the division of

where areas of contamination are, where the building areas are and what was the third area?

MR. EDSALL: Outside the application area.

MR. HAZIRJIAN: If we can have those three well defined it would be clearer and easier for us to understand if we have to juggle this what we're juggling. Cause I think at this point there's a lot going on and really not very clear about what it is I guess and I won't even get into the detail of it now, I'm not quite sure if there's a problem and around this building whatever this is 3 or whatever it is and there's only an issue back here and you get a C.O. for a certain area does that mean that nobody drives through this because it's being worked on? I'm not quite sure how that works and I guess until we see this laid out, I don't quite get how you're going to allow a part of a building to be occupied and still have it worked on. So I think we need to see that laid out in some comprehensive way.

MR. BRODMERKEL: If I can jump on what Deke is questioning, we have talked about contamination in the parking area, however, the report cites contamination inside the building and we seem to have ignored that.

MS. DOTSON: No, we said that's a building inspector issue.

MR. BRODMERKEL: Well, hello, I don't understand, there's contamination in the building and we're going to allow them to use the building but with contamination possibly outside but they can't use the parking lot.

MS. DOTSON: No, we aren't allowing them to use the building, we're approving a plan that controls the use of the building, just as with any other building if there's asbestos or whatever Gary's the one who ultimately says whether you're allowed to actually use

it, it sounds kind of silly but this planning board can approve plans that can't be built, if they can't meet architectural requirements, the building code requirements.

MR. BRODMERKEL: So?

MR. EDSALL: The asbestos analogy is a very good one, you can have a building that needs significant renovations, that needs mitigation for asbestos or any other contaminants, this board doesn't consider it, it becomes part of a building permit process.

MS. DOTSON: It's not saying it's not important, not saying that it's not.

MR. BRODMERKEL: What's the significance of the areas in black as opposed to not being black?

MR. ZIOBRON: That's just a graphic tool to show the limits of the former drum storage area, that's basically a carryover from the work plan that was submitted.

MR. BRODMERKEL: But there were drum storage areas inside the building that was a concern also.

MR. ZIOBRON: Right, that's actually going to be addressed as part of area 11 which includes the floor trenches.

MR. BRODMERKEL: I guess I've got a question for the panel of experts and that would be if we say to the folks that you can't pave over the areas that might be in the parking lot because there's a potential for a problem, I understand that, and we go ahead and approve things we then approve their plans, as I understand you're implying to us approve everything but they can't move in or do anything until Gary gives them approval through the DEC completing the study and saying things

are okay. Is that what you're saying the procedure is?

MS. DOTSON: Pretty much, yes.

MR. CORDISCO: Yes.

MR. EDSALL: One of the other reasons, Kenn, that I believe it would be beneficial for you to have some general idea where these contamination areas are outside is potentially you could have one that as an example could completely isolate a building or at least make fire access very difficult that's something you'd want to know too. As long as they're remote or don't cause a hardship and use of the site then I would have no problem having you say go ahead but you won't be able to make that determination until it's shown on the full scale drawings.

MR. HAZIRJIAN: That's our next step.

MR. NOVESKY: So what we're requiring is--

MS. DOTSON: I'm not as concerned as it may seem from some of the outside areas because most of these are proposed to be paved, pavement is typically something that would isolate and protect them. My concern is more for the remediation, you can't have pavement and then need to rip it up if you have to go take out the soil, it's more timing.

MR. CORDISCO: This is a very valid point and as part of the consideration here is the fact that this is not proposed to be a residential subdivision, you know, there's very I would say low risk at exposure to contamination, especially regarding off-site, I mean. I'm sure you would echo that as well. What you're talking about is an area that's going to be covered with an impervious surface and it's not, it's served by public water and sewer so there's very minor exposure potential as far as that's concerned.

MR. ZIOBRON: In fact the selected remedy for one or more of these areas of concern that are going to be investigated may be just to cover it either with asphalt or a foot or two of clean fill depending on what is the level of contamination.

MR. GOLD: I'm going to be a lot more comfortable with that after you're done investigating that right now.

MR. KLOSKY: Me too.

MR. NOVESKY: You're not recommending any action?

MR. CORDISCO: No, there's a couple missing pieces and I think that the plans do need to be updated as requested by members of the board to show the overlay of the Clough Harbour exhibit on top of the plans. The next step procedurally for the board to take action under SEQRA as part of that, a cultural resources study needs to be submitted for evaluation so that's a separate issue.

MR. EDSALL: And the SWPPP and DOT.

MR. KLOSKY: I'm going to feel more comfortable with that map showing the extent the areas of concern once the extent of the contamination are known and that will be from the consultants study. So while it may be tempting to go after the early April meeting I think if you show the areas of concern that's not the same as the areas of likely remediation and it's the areas of likely remediation that will impact construction so I'm not going to tell you to wait another month but I'm saying that I would be more comfortable once the consultant's study is complete.

MR. CORDISCO: You prefer to see not only the overlay but the analysis that's being done.

MR. KLOSKY: Because the overlay will only be the area where the contamination was possibly generated, whereas, the consultant's study will include information about the extent of that contamination which may be zero so many of our concerns may evaporate once the lab data is back.

MR. CORDISCO: Are you a principle or representative of the principle?

MR. KESSLER: Yes. Problem with waiting for all this--

MR. NOVESKY: Could you introduce yourself?

MR. KESSLER: Jeff Kessler, Vails Gate Business Center. Problem for waiting with all this is because we have some tenants lined up for potential occupancy somewhere in April, May and the other problem with this is we're not in control of the person that sold us the building to remediate the site. We're the purchaser, we're not the seller, the seller is, they're the, they did the contamination and responsible for remediating the site. Therefore, we have no control over them, how fast they operate, how fast they get these tests in to the DEC and Clough Harbour does these tests. So basically if you guys say wait till this is remediated, we know where the extent of the contamination is, it basically takes the site and puts it fallow and has it sit idle until this is done. You guys aren't that familiar with environmental issues and we have done sites like this and we're still treating sites ten years later where they're pumping ground water, filtering ground water and the sites have been used and occupied and there's jobs that are brought into the sites, people working on the sites, operating these sites with the known contamination and this is only one of the few sites which we have entered where this is an environmental issue and we just want to develop a site and bring in tenants and rent it out and go on to another site and if we wait for this it could be another year, there's

no saying that if they have no control over these guys to get a result in 30 days.

MR. BRODMERKEL: Clough Harbour was hired by the former owner?

MR. KESSLER: Yes, they posted a bond and they had a work plan submitted to DEC to give us a comfort issue and it's their responsibility to remediate the site, do whatever has to be done with that so by holding us back is--

MR. KLOSKY: But they can continue to use the site under its current use.

MR. KESSLER: There is no use.

MR. NOVESKY: You're suggesting that our hands are tied regardless, am I correct?

MR. CORDISCO: At least certainly until the cultural resources study comes back.

MR. EDSALL: And the SWPPP, this may happen to be resolved in similar timing, we've got three other issues.

MR. KLOSKY: Like I said again I'm not telling you how you have to time what you're doing I'm just saying what would make my level of comfort--

MR. BRODMERKEL: You can't tell them.

MR. NOVESKY: Nobody's telling anybody anything, there are limits to what we can do because we have to wait for the reports. So there's no action to be taken, there's no debate.

MR. DEPUY: Could we just clarify what you want on the plan?

MS. DOTSON: Do you want a separate sheet that overlays the site plan on the Clough Harbour plan, yeah, that shows the areas.

MR. DEPUY: So you'd want like a second sheet that would be Clough Harbour's plan overlaid on our proposed plan?

MS. DOTSON: Correct.

MR. DEPUY: And then you wanted the monitoring wells shown?

MS. DOTSON: Yes, please.

MR. DEPUY: What were the issues with DOT?

MR. EDSALL: Just be referred up to them, I don't know if they accept what's on the plans, they have a full set then we'll report that back to the both boards and move on.

MR. BRODMERKEL: They have been sent to the DEC already?

MR. EDSALL: DOT.

MR. BRODMERKEL: I'm sorry, DOT.

MR. GREELEY: Phillip Greeley, John Collins Engineering. I spoke with DOT today, they asked for another set of the plans because there's different people in DOT that are reviewing it, but they have the package, they have the traffic study so they said that they wouldn't have their final review until the highway work permit but I asked them to have a conceptual something to come back to the town so that you could move forward because that's typical that we don't get the permit until, you know, because we're proposing to

do some clearing and grading work within the state right-of-way to improve sight lines and some other items but at this time what we have asked them for is more of a conceptual review and they asked for another set of the site plans.

MR. EDSALL: You're taking care of that?

MR. GREELEY: Yes, I just talked to Tom before.

MR. DEPUY: Yes, I'm going to send another set of drawings.

MR. NOVESKY: Can we just have as much possible prepared for the next work session which is March 15 and then we'll see whether we can move forward in April? Okay, thank you.

MR. KLOSKY: Gary, we're saying that there's no existing C.O. for this property?

MR. VINSON: I never said that, it was built prior to.

MR. KLOSKY: So the building could currently be occupied?

MR. VINSON: Sure, why not.

MR. KLOSKY: So again there's nothing preventing the current owner from making--

MR. VINSON: Continuing with a title plan but everything is gone, if you went there, it's vacant from wall to wall, there's nothing in there.

MR. EDSALL: Could be light manufacturing.

MR. KLOSKY: There's a current C.O. so we're not removing his current use of the building.

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MS. DOTSON: On a practical basis.

MR. NOVESKY: Motion to adjourn?

MR. BRODMERKELL: So moved.

MR. GRABE: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MR. HAZIRJIAN	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

Respectfully Submitted By:

Frances Roth
Stenographer