

October 1, 2007

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TOWN OF CORNWALL

PLANNING BOARD

OCTOBER 1, 2007

MEMBERS PRESENT: NEIL NOVESKY, CHAIRMAN
JANE DEANS
KENNETH BRODMERKEL
WYNN GOLD
LED KLOSKY
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: DEKE HAZIRJIAN

REGULAR_MEETING _____

MR. NOVESKY: I'd like to call the meeting to order at 7:31. Everybody is here except Deke Hazirjian who is absent for excusable reasons, he's in New York City with his wife in the hospital. Everybody else is here.

CORRESPONDENCE _____

MR. NOVESKY: Correspondence, I have some, I'll toss over to you.

APPROVAL_OF_MINUTES _____

MR. NOVESKY: Approval of the minutes. Everybody get the minutes?

MR. KLOSKY: I move we accept.

MRS. DEANS: Second it.

ROLL CALL

MR. BRODMERKEL	ABSTAIN
MR. GOLD	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. NOVESKY	AYE

RESOLUTIONS: _____

MR. NOVESKY: Resolution adopting a negative dec for site plan special use permit for Woodbury Verizon Wireless co-location.

MR. BRODMERKEL: Make a motion we adopt resolution.

MR. GOLD: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. NOVESKY	AYE

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MR. NOVESKY: We have a motion on the floor, I have a second, resolution granting site plan approval for special use sperm permit for Verizon Wireless co-location.

MR. GOLD: So moved.

MR. BRODMERKEL: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. NOVESKY	AYE

CORNWALL_HOSPITAL_CANCER_TREATMENT_CENTER_-_PUBLIC_

HEARING_CONTINUATION_#2007-05

MR. NOVESKY: At 7:34 we're continuing the public hearing begun a month ago and ending tonight. Anyone from the public wishing to comment, please do so by introducing yourself with a name and address and please limit your comments.

MR. BRODMERKEL: Is the hospital going to make a presentation first?

MR. NOVESKY: I will ask Dominic if they should make a presentation but before that public wishing to make comments keep their comments to three minutes and then we'll sit them down, if there's nobody else to comment we'll let you come back up, do a brief presentation.

MR. CORDISCO: Certainly, also they submitted some additional information, they should be able to make a presentation based on that information.

MR. ROSS: Robert Ross, Vice President with St. Luke's Cornwall Hospital. I wanted to briefly respond to some of the issues that came up at last month's meeting, what we did to address them first and foremost some question as to whether there was accuracy or integrity in the renderings that we presented, I want to bring forth that every project starting with the emergency department medical office building have been built exactly as we proposed and as this planning board approved. The helicopter of course or another issue, to date we're now October 1st, six helicopters have landed on the campus at St. Luke's Cornwall at the Cornwall campus. There are currently no plans for a helicopter pad. However, I know that the fire chief has some concerns. We can discuss it. We don't believe there's a necessity for a helicopter pad because helicopters are landing on a basis we think is acceptable but we're open to discuss that further. The

cancer center itself has no impact on the number of helicopter landings on the campus. What does impact it most is motor vehicle accidents, other traumas. The cancer center is strictly outpatient and no further helicopter landings are related to the cancer treatment center at all. As far as the renderings, comments made from June meeting, August meeting that we have continued to address the comments from various consultants that you have as well as the comments from the planning board itself. We have revised the renderings as suggested by several members here. They were submitted to the town two weeks ago, Tim?

MR. MC LOUGHLIN: Yes.

MR. ROSS: Two weeks ago, copy went to the town, copy was hand delivered to the library as well as on the hospital's web site. So they have been available for viewing for at least two weeks. The renderings that are here are the exact same ones we submitted. A question came up about rateables. When we reviewed that and asked for some legal counsel, part of the building is a joint venture, a for profit joint venture, therefore, we believe a portion will be ratable. That's a discussion that has to occur with the tax assessor to determine how that's done. We believe a portion would therefore be ratable. Parking has come up as an issue, I think we have adequate parking here. Parking on the 9W side of the campus has also been brought up as an issue. We will work with the fire chief. We have already done that on a very proactive basis. Lastly, a reminder the purpose of the building is to house a comprehensive cancer program to treat cancer patients within the community and support all the modalities for outpatient cancer services that are currently not available now. That's the reason for it. Any questions I will be available to answer.

MR. NOVESKY: Thank you very much. Any member of the general public wishing to make comments? State your

name, step forward and your address.

MS. HAGGARTY: My name is Tricia Haggarty, I live at 40 Duncan Avenue, Cornwall. I'm here to support this cancer treatment center. I think it's an absolutely wonderful thing for our community to provide a comprehensive holistic approach to cancer right here in our community. All of us will be touched by cancer whether it's ourselves or a family member. To imagine having to get up at 5 in the morning on a winter day in February and drive someplace far away or have the option right here in our community to be treated. As you have seen in the past, what St. Luke's has done with their capital buildouts are all beautifully done, only improved what the hospital has looked like. I just think it's something that we all as a community need to support and gather around because it benefits us and the members of the community, not because it benefits St. Luke's Hospital, because it's doing something that can make a difference in the lives of the people that live in this community. Thank you.

MR. NOVESKY: Thank you.

MR. FARKAS: Bob Farkas, 16 Laurel Avenue, Cornwall, New York. I'm not against the cancer center by any means but I am against what it's doing to the parking area and what it's going to look like from the Laurel Avenue side of Cornwall, the residents, and no one has done a rendering from our side looking out on the parking lots. And all we're trying to do is be able to work with you and be able to have our houses be accepted as part of the community and the Cornwall Hospital has not even addressed us. And the helipad, let's say, I'm not saying the helipad but there should be a specific area where that helicopter comes in that's away from Laurel Avenue residents. Right now, it drops right down on the parking lot right in front of John Westbrook's house, you can't even sit on the porch while it's there because the sand and grit is

blowing into your face. So if they can move it over back over towards the tree line that could be acceptable. And I don't know there hasn't been a traffic study done that I know of yet. We're getting a light on 9W and we got a light on Quaker and that really needs to be addressed and I have a little rendering here of the way I think it should be addressed, the exit should not go out on Laurel, it should go out on Elm cause Elm is more of a common area. In fact, the parking lot over toward the tree line you could actually do a double level parking lot and create twice as much parking spaces as you would have and leave a lot of green area which would make it look a lot betterment, okay, and that's, you know, that's basically what I'm concerned about, it's not the, it's not the cancer center and it's just taking care of the residents that live on Laurel Avenue. Thank you.

MR. BRODMERKEL: Rob, are you going to leave that with us to look at? You had a parking lot arrangement.

MR. FARKAS: Yes.

MR. NOVESKY: Any other member of the public?

DR. MISHRA: I'm Shanti Mishra, I'm a microphysicist, I work on 9W in the cancer treatment center for the last 14 years. And I was surprised when there was a comment in the paper about the patients which was very erroneous and I think the public is being misled. If it's going to be an outpatient facility, the outpatient care is only available in Cornwall and Dr. Diamond they are on Willow Avenue and we're right up the road so that is not a real reason. Again, since it's going to be semi private, this is where we feel that Cornwall Hospital is assisting another third party to come and compete in our back yard. That's only my comment.

MR. CLARK: Randy Clark, 64 Maple Street, Cornwall.

Good evening everyone, hi, I just wanted to follow up on Robert's statements that were made at the previous meeting. We were told that the new ambulatory surgical center is full, it's not. When it was told it's going to be opened two weeks ago and the parking was fine, it's not open yet. I doubt it's going to be open any time soon. I would like the planning board to have a walk-through and see the shape of the current Cornwall St. Luke's Hospital. You're probably going to find a lot of rooms that you can consider putting a cancer center inside the old building and rehabbing that building. There's a third floor which is not being used, second floor which is not in use, use what's already there instead of plopping up another newer building blocking the historic landmark. There's a lot of room in that old building, yes, it's expensive to rehab, it's always cheaper to build new, but you do keep the aesthetics and the community in mind. Again, probably wouldn't be here tonight if they just would have contacted the local residents and had a sit down, say hey, this is what we're thinking about doing, not here it is, take it. In my, on the last year on the board we have been told it's a ratable. Two or three weeks ago we were told it's not a ratable. Now we're being told it might be a ratable, that's an issue that needs to be solved long before they get approval. We have some good ratable businesses in town that we're in the process of probably harming them by doing this. Were they consulted? They probably weren't. So why lose good commercial rateables by having this happen. Mr. Wilkinson wrote a very good letter, I don't know if it's in your minutes, it was in other periodicals and publications, there are alternatives to cancer centers very close to us. Yes, if you take the winter snow storm that you have to go, yeah, there are exceptions to the rules, but I don't think the cancer center is that needed in this community, especially at a loss to the community, the local residents and the expense that it's going to cost. Six helicopter, I have to go check that one cause I live right there and I've heard more

than six helicopters landing in the past year, don't know what the actual numbers is but it's got to be more than six. And that's really what the planning board needs to take heed of this process, take a walk see through the hospital, see what's actually happened in the past few years of the development and chopping up that piece of property is not an answer to the Cornwall community. Thanks.

MR. NOVESKY: Thank you, Mr. Clark. Anyone else wishing to make comment on this project?

MR. ROSITER: My name is Kent Rositer (phonetic), I'm a resident at 230 Main Street, Apartment 1 here in the Town of Cornwall and been pleased to live here, I believe seven years by way of background. I guess just at the beginning there's much I could say but the essence of what I wish to convey to you is my thanks for this hearing being held, my thanks to each of you for serving on the planning board because I would think it's a pretty difficult task given all that's before you and for the support staff and having attended the last hearing I would also wish to thank the neighbors both who spoke for and against essentially the proposed building. In particular, if I may, I wish having over the last seven years attended a few of these meetings in particular single out Mr. Klosky by way of commendation because in the few times that I have been here I have been most impressed with your integrity and concern and as little as I know about the technical stuff that you people, that's considered here, your competency and I thank you as but one member of the public. Having said all that, I guess but one other thing by way of introduction the last hearing I was also very impressed and really sorrowed by the president, by the chairman of the hospital that his family too had been very directly afflicted by cancer as our mediate family has. And I say all that to say this that I think in principal the idea of a concentrated cancer center for the treatment of the

people of Cornwall and environs is a wonderful thing and a very good idea but I wholeheartedly support the thought that Randy expressed in that it seems to me and maybe I'm just one who's in a sense uniquely ill-informed, although I don't think that's the case, that there isn't a need for a greater communication particularly on the part of the hospital directly with the residents as to what their hopes are and I do commend them, I forgot that, and I'm remiss in having done that, you know, the leadership that you folks are seeking to provide insofar as the future in medical care. But I would hope personally God willing that in time hospitals will no longer be needed but right now they are, no question about it. So I would just simply say in summary that I think the idea of a hospital intensifying their cancer care is a wonderful thing. One question that I have as an example is I see before the agenda here--

MR. BRODMERKEL: You've got 30 seconds left.

MR. ROSITER: --is an expansion of oncology care in the local neighborhood but I would just hope that somehow a team could be put together of the residents and the hospital to just kind of consider how to proceed and I because I think there's room there that I would hope there's room there that the need could be met without destroying more open space. Thank you for the time.

MR. NOVESKY: Thank you, Mr. Rositer. Any other member wishing to make comment on this? Hearing and seeing none--

MR. BRODMERKEL: Make a motion we close the meeting.

MRS. DEANS: Second it.

ROLL CALL

MR. BRODMERKEL AYE

MR. GOLD	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. NOVESKY	AYE

MR. NOVESKY: Thank you very much, at 7:49 it's closed. As a matter of record, I think that we should put on the table exactly what the role of the planning board is in matters such as this rather than get into debate about public concerns related to economic impact and so forth, I have to put on the record that that's out of the purview of the planning board. Purpose of the planning board is to assess a project and determine whether it's consistent with the existing Town Code just as a matter of record.

MR. BRODMERKEL: I'd like to address the hospital group that's here. I have some questions for them first before we move on. Is there an enforcement agreement between the hospital and the town police department?

MR. ROSS: There's nothing in writing but there's a cooperative arrangement as far as that we're more than willing to have an agreement, we have called the police department, they have helped us when there's been issues with people parking in fire lanes and other areas.

MR. BRODMERKEL: But there's nothing written.

MR. ROSS: No, we're more than willing.

MR. KLOSKY: Are they aware of the recent communication from the fire chief?

MR. ROSS: Yes, I just received it today.

MR. KLOSKY: That's a great concern to us because it has something to do with what was done in the last

plan.

MR. BRODMERKEL: I want to second what the chairman said whether something is ratable or is not, is not within our purview. Obviously as citizens of this town we'd rather have rateables than not rateables, that determination whether something is ratable or not is not ours to make and is not yours to judge upon.

MR. GRABE: Who says so?

MR. BRODMERKEL: Your lawyer.

MR. GRABE: I asked that question last month and he didn't advise me of that.

MR. BRODMERKEL: Did I state something incorrectly?

MR. CORDISCO: That's correct.

MR. GRABE: You're saying the board can't ask if it's a ratable or not a ratable.

MR. CORDISCO: It's not part of your site plan review, it's not something that the code requires that they tell you and it's not something that you can take into account in granting or denying site plan application.

MR. GRABE: Well, you can ask the question.

MR. CORDISCO: Certainly.

MR. BRODMERKEL: But we can't enforce anything, that was my point.

MR. CORDISCO: Right.

MR. BRODMERKEL: Bob, you said that the cancer center doesn't affect the parking or excuse me the helicopter landing, in fact, it does in a roundabout way, it

actually is true. You're utilizing more of the area that was being used for the helicopter, you're paving and calling that parking, therefore, a specific location for the helicopter to land that has been taken away.

MR. ROSS: My comment wasn't related to the parking, my comment was the number of flights would not change the cancer center is not affecting that because they are not being lifted out. As far as the parking area, the helicopter lands in the parking lot now and my feeling is they will continue to do so as we work with Staff Flight and the fire department.

MR. BRODMERKEL: But there's an affect that we were talking about before this, there's an affect.

MR. ROSS: My comment was solely the number of flights.

MR. BRODMERKEL: That problem will not change. There was some numerous things mentioned at previous the meeting as I was going through the minutes regarding sidewalks and litter, to put it I think categorically, I think the hospital as a good neighbor might want to try to do something along those lines of finishing the sidewalk up to 9W and possibly some dispensing devices for cigarettes cause I think the Town Board member who was here indicated that the Town Board is not inclined to pass a zoning or whatever law to prohibit the parking or smoking around the area. That was my indication and what I read, Randy, so if you did those that might help the area quite a bit aesthetically in keeping people where they should be and giving them someplace to dispose of some of the problem. I know it seems to work across the street where I'm at. That's all I wanted to ask.

MR. GOLD: This is actually more a question for our consultants. I've heard that a traffic study has been done, I'd like to see it.

MS. DOTSON: There was no traffic study done for this component, the traffic study was done for the MOB.

MR. ROSS: That's not true, no, we submitted one.

MS. DOTSON: For this one?

MR. MC LOUGHLIN: Yes, I have a copy of it in my car.

MR. GOLD: Have we seen a copy of it?

MR. VINSON: I did not see one.

MR. GOLD: I'd like to see a copy.

M.R VINSON: I don't have one.

MR. MC LOUGHLIN: It was done in April or May of this year.

MR. GOLD: Does that take into consideration the light that's going to be installed at the corner of Laurel and 9W?

MR. MC LOUGHLIN: That I can't answer, I don't know, I will have to check, it was done by the same engineer, John Collins, that did the medical office building.

MR. EDSALL: Perhaps since the board is just going to have the opportunity to look at it now, it would make sense to ask Mr. Greely to update the evaluation and take into account the traffic signal so that it is a hundred percent up to date.

MR. KLOSKY: No, I was just thinking, Mark, probably would be wise if the traffic study considered both current condition and the possibility of a light because we don't really know which state it's going to be in at the time the cancer center opens, the state

hasn't put it on the books, they have promised multiple times.

MR. EDSALL: The poles are up, it may have not be the preferred layout, it's going in.

MR. KLOSKY: If you're confident, I'm confident.

MR. EDSALL: I'll bet it's going to be up before they put the building up.

MR. BRODMERKEL: One more thought along with an access egress.

MR. NOVESKY: Are you done?

MR. KLOSKY: I just was talking on the traffic thing, I have my usual list, if Ken wants to say something about traffic.

MR. BRODMERKEL: It was brought up the other entrance might be from Elm, I think when the aisleway or whatever drive was removed on the other side of the hospital that was removed for safety reasons intersecting with the new intersection and it would have been a safety problem because it didn't come in in the right manner, it didn't have the ability to do that, it would have intersected just off a little bit and it would have created a definite safety problem so that was a good reason. With the parking lot coming down as close to Elm as it is an entrance there I don't know if engineering wise we can consider that or the hospital could consider it.

MR. EDSALL: I was just indicating following up maybe what we can do is Mr. Farkas had a proposal and we have had other comments from the public during the first night's public hearing to consider that we could possibly arrange for Mr. Greely to speak with me and I can have him look at an alternative for a drive out

onto Elm. But clearly as I stated last month the access drive off of Quaker which I think people misinterpreted as being a full access drive it's an entrance only was dangerous, it came in where vehicles that would enter the driveway would have to cross on an obtuse angle, the intersection with Elm Street and there was so many near misses, we don't want to mention all those, so that driveway was removed after strong urging from the town because it was unsafe and conflicted with the proposed traffic signal rearrangement. If any new drive was added it would have to be down towards Laurel somewhat so it would not interfere with that intersection but we can have Mr. Greely look at that as well.

MR. NOVESKY: Thank you, Mark.

MR. KLOSKY: My main concern is that I believe that we should now formalize the landing of the helicopter, the informal arrangements worked well when there was a lot of green space available for overflow landing, now we're proposing these parking spaces are for parking for the cancer center not for parking of the helicopter, when, I don't know when it's going to come in whether or not the spaces are going to be occupied, if you want to put aside that parking as not being included in the count, I'm fine with that. But if the parking counts then there's cars in it so if there's cars in it can't land a helicopter so either you need to say you're not landing helicopters there anymore or need to make a formal provision for the safe landing entrance and egress of helicopters. To me that has to be the way it goes, it's a huge safety issue and the closer we push them to the corner of Elm and Laurel the more that we put the residents at risk. So I'd just like to see some sort of formal arrangement with the landing and take off of helicopters, it doesn't seem reasonable if you're going to bring those in as a regular way, that you have a regular way of handling it, whether that's on top of the cancer center or on

some pad you pour, I don't know, we have to figure out something formal to bring those in and out in a safe fashion or need to say they're going to land someplace else one or the other. So that's one thing. The second is I'd like to see pedestrian access enhanced to the greatest extent possible so the pedestrian traffic generated by St. Luke's especially the people leaving the facility to go smoke are using your pedestrian ways rather than the ones in the adjacent neighborhood. Whatever you can, anything which can be done to push parking away from the Quaker Meeting House I'm in favor of, that's the historic structure which is our main concern, we're allowed to think about the look of the place because of the adjacent historic structure. So again, I will note and if you want to turn to the last month's minutes on page 44 you'll see that for the second time I said that we need to look at the project in the context of the Cornwall Meeting House, right, of the Quaker Meeting House next door because that's the main SEQRA concern. And again, I don't see the Quaker Meeting House appear anywhere on any of these sheets, there's no overhead view, there's no views from it, there's no discreet statement of what it's going to look like looking from there. I know that the impacts are going to be small but it's our main SEQRA requirement so the documents need to reflect it. This is not an open comment period, this is the part where you listen. So the next piece is that I see that I thought some of the architectural features mentioned by a guy at last month's public hearing, I think some of the architectural features still fail to reflect the existing building. I'm now okay with the flat roof, I guess after discussions and thought I guess the flat roof is going to be okay with me, however, I see no reason whatsoever that the window hardware and the windows themselves can't accurately reflect what's on the existing hospital. There's an attempt to sort of look a little bit like it, I don't like it looking a little bit like it, I'd like it to look a lot like it. There's a lot of railings shown and those railings

should match the railings on the existing structure, right, so that those architectural impacts are as small as possible. I also think that some sort of connection onto Elm Street is a good idea to help with the flow through the site that should include a careful thought of how pedestrians are going to get around that area. That's the extent of what I have to say about that.

MR. NOVESKY: Thank you, Led. Jane?

MRS. DEANS: I have one question that hasn't come up about the parking yet. I sort of get the idea that you're going to go to valet parking, I mean, I can't see anyone coming from the bottom of that parking lot all the way up without valet parking, somebody old or in a wheelchair or something to go all the way. Do you intend to go to valet parking?

MR. ROSS: Can I speak?

MRS. DEANS: Can I ask them that?

MR. NOVESKY: Yes.

MR. ROSS: Actually, the issue of valet parking we actually are looking at it for the medical office building as well and the issue as far as handicapped people in the front most of the space is right at the typically handicapped as well as the reason for the ramp, right now we don't have a plan for valet parking for the front of the building, something we don't believe it's necessary but predominant amount of parking up front on the top in front of the hospital and the cancer center is handicapped.

MR. GRABE: I just have a question about the smokers, cancer and the smoking, but in the July meeting there was a gentleman here from the hospital that wanted us to persuade the town to make it not to be able to smoke on the, on Laurel Avenue, if my memory serves me

correctly, then last month Randy made a point that the hospital's problem shouldn't be the town's problem but it is the town's problem because the hospital, I don't smoke anymore, but there's a lot of smokers going to that hospital. So now Randy mentioned that you were going to make another ashtray on Laurel Avenue but there's a lot of people living on Laurel Avenue and for them to come up and see a bunch of people out there smoking is not a nice sight either. So I was wondering why the hospital can't have a small spot for the smokers instead of having the neighborhood tolerate the transient people that you have coming to the hospitals that smoke or your employees as well. It's just a question.

MR. GRABE: You can answer that if you'd like.

MR. ROSS: In most hospitals throughout the country actually not a week goes by that I don't see an article about the community hospital banning smoking on its campus, the joint commission which is the agency that accredits hospitals throughout the nation recommends that hospital campuses are smoke free both to reduce secondhand smoke and set an example of health in the community. I sympathize with the fact that there are smokers on the street and Ken's idea of receptacles, as soon as I get back in the office they'll be ordered and in place as soon as possible. I'm willing to work with the town on that issue, however, smoking on hospital campuses is something that's becoming a universal standard of being unacceptable.

MR. GRABE: So if you live on Laurel Avenue your children are watching T.V. or playing in the front yard you wouldn't have any objections of somebody smoking on the street right in front of your house? That's just another question.

MR. ROSS: I am sympathetic to that, willing to work with the town and the residents to see if they can

alleviate that issue.

MR. CLARK: The answer is yes.

MR. NOVESKY: I think the point has been made.

MR. ROSS: I didn't say yes.

MR. NOVESKY: Any other board members wishing to make comments?

MR. GOLD: Yeah, just Led brought up an interesting point with the helicopter and I hadn't considered it and if you're going to designate a specific helicopter landing area I think you should take into consideration the concerns of the residents of Laurel and try and find a way to mitigate that with its placement.

MR. ROSS: I agree, what we'll have to do just like we did on the Newburgh campus the most important person to ask that question for the residents is the helicopter pilot and we'll go ahead and do that.

MR. KLOSKY: I have a question for Dominic. I know that it's not that we're not allowed to consider the, whether or not the structure's ratable, that's not part of the impact statement, but there are obvious impacts on our volunteer ambulance corps and the police and fire come along with this sort of thing, are we allowed to consider that as part of our environmental impact?

MR. CORDISCO: Well, you have gotten comments from the fire chief regarding his concerns, police I can perhaps understand ambulance, I'm not exactly sure how that would fit into this equation because it's supposed to be outpatient care facility, as I understand it primarily, and of course if someone needed more serious care while they were there the hospital's right there. So I'm not sure that there would be an impact on the ambulance.

MR. KLOSKY: I'd like to hear from the experts in town about those issues, I'd like to hear them say they're not worried about it.

MR. BRODMERKEL: What's your question?

MR. KLOSKY: I guess my question is that if ratable or not ratable I'm not allowed to ask that, okay, but still there may be impacts of this facility on the ability of our existing town infrastructure to respond to whatever issues might come up, fire, whatever.

MR. CORDISCO: Just for the clarification on the issues regarding the rateables not so much that you can't ask just that the answer can't be factored into your decision. And, for instance, to boil it down to its most base level if it's not ratable and that was something that was important to you, it's just not something that you could use to decide to say no.

MR. KLOSKY: But we can consider impacts on town infrastructure, water, sewer, fire, police.

MR. CORDISCO: Certainly.

MR. KLOSKY: That's all I was asking.

MR. NOVESKY: Okay, no other questions I gather for now?

MR. ROSS: Just a point of process.

MR. NOVESKY: No more comments.

MR. ROSS: It's not a comment.

MR. CORDISCO: Well, at this point we did receive comments from the fire chief, as I said, there's also some comments from the board's consultants, I would

think that the applicant would want to take those and consider whether or not they want to make any changes to the plans and then reappear. The board does have a 90 daytime frame from the close of the public hearing to make a decision. That would run on December 30 so at the December meeting at the very latest we would need to be either looking at making a decision or asking the applicant to waive that requirement so more time could be spent but we're not at that juncture yet.

MR. KLOSKY: The decision we'd be facing is a negative or positive dec.

MR. CORDISCO: And site plan approval.

MR. KLOSKY: Right, but we still have not made a negative declaration environmental impact.

MR. CORDISCO: No.

MR. KLOSKY: So it's still possible we would find that it is necessary to make a positive dec.

MR. NOVESKY: Okay, thank you.

BROTHERS_BAR-BER-QUE_#2007-09

MR. NOVESKY: I apologize to Brothers Bar-ber-que.

MR. STEDGE: I'm Donald Stedge, surveyor for the project.

MR. RALPH-FARELLA: And my name is Gavin Ralph-Farella, 5 Shaw Road in Mountainville, New York.

MR. STEDGE: He will be one of the owners.

MR. RALPH-FARELLA: Donald's my surveyor and so he did the site plan for us, me and my brother, we're two brothers who are planning to open up the barbecue place.

MR. STEDGE: Basically, what we have is a property which is 228 feet south of Cedar Avenue on the east side of Route 32. There's an existing, one existing building on there that--

MR. NOVESKY: Jane?

MRS. DEANS: You must of used an old map because Cedar Avenue is now Jacqueline Street so that's what we have now.

MR. STEDGE: Well, I had this site plan for years ago and it fell through so okay, Jacqueline, okay, all right, 282 feet south of Jacqueline on the east side of Route 32. There's an existing building right now that is vacant, has been for some time. There's also an existing cottage on there which is basically an accessory apartment. And what these gentlemen propose to do is to take that property, take that building, convert it into a, you know, a restaurant, take out establishment, a sit down, take out establishment, I guess with barbecues, right? We're proposing the lots at the time I saw the site plan it says 15 seats, you

want, I thought we talked about 18 seats, 18 seats, we provided 9 parking spaces, one handicapped spot, one of these when you say handicapped spot one is employee parking and two for the residents. And it's an existing, there's no, we're not doing anything to the footprint of the property as far as putting any addition on the property or any major impervious area except I was just informed that in talking to Gary about putting a concrete pad for the trash so putting a concrete pad for the trash for the recycling, that's basically it.

MR. NOVESKY: Thank you. Leslie?

MS. DOTSON: The comment 1 just mentions this is a site plan approval to make use of the existing building. He's correct, everything's basically existing, pavement, everything exists. This is a permitted use in the district subject to site plan approval. Public hearing is optional for uses requiring only site plan approval. I note that that requires referral to the County Planning Department. We referred it, we actually heard back from them, they recommended local determination, they didn't identify any problems so you could decide whether or not you want to waive the hearing. Comment 4 just notes this does show sufficient parking. He's a little tight in the aisle widths, again, this is all existing, there's nothing you can do, but I think that you have made the most that you can out of this in terms of designating the residents' section and employee parking in the tighter end of this, so that the customers have the most room that they have to come and go. The dumpster comment is my next one, you have basically already addressed that, access to that is kind of limited. I figured you'd probably also want some kind of a waste cooking oil container.

MR. RALPH-FARELLA: Yeah, grease trap.

MS. DOTSON: You'd probably have to show that.

MR. RALPH-FARELLA: It's only a five gallon drum so--

MS. DOTSON: At the September workshop we talked about possibility of some outside seasonal seating, wasn't sure if you were planning on doing that.

MR. RALPH-FARELLA: I would hope to but I'm trying to move it along.

MS. DOTSON: He were trying to save you a--

MR. CORDISCO: If you decide to add it later, it will trigger a site plan amendment, meaning that you will have to come back to the board, so it's something that you could identify now and as part of this approval it's something that you have to put in, but in the future you don't have to put it in but in the future if you decide to put it in, you can always come back.

MR. RALPH-FARELLA: We had spoken at the workshop about possibly putting, they said that it would be okay, okay if you had eight to ten seats, two picnic tables, there's grass right out the front door, they said I wouldn't have to provide any extra parking spots right to the right of the door here. If it was possible seasonal seating, you know.

MR. BRODMERKEL: Would that affect his parking requirements?

MR. EDSALL: No. Historically the board on previous similar conditions always said as long as the outside seating is 50%, 60% of what's inside they recommend that it's going to be seasonal, if the weather's poor they'll go inside.

MS. DOTSON: It's not going to increase the number of people who come here because if it's great weather

you're going to gravitate outside.

MR. BRODMERKEL: Designate that on the plan.

MR. EDSALL: Canterbury Brook this board took the same approach.

MS. DOTSON: The other thing we talked about at the September technical workshop is about where the smoker would be placed, I see there's barbecue grills, I wasn't sure.

MR. STEDGE: That's right, it does say it is the neighbor's barbecue grill to the north there, they didn't know where the property is, that's not part of the application.

MS. DOTSON: I felt better.

MR. NOVESKY: It's not part?

MR. STEDGE: No.

MR. RALPH-FARELLA: The storage shed we're going to refinish it, it has a concrete floor, we have two smokers which are going to be which are made for indoor use which provide a third of the amount of smoke than a regular smoker does.

MR. STEDGE: It's northeast, little jog out there.

MS. DOTSON: That's good, so that addresses that question. I feel better. Just final comment just noting the plan should note that the site's served by existing public water and sewer, even if it is not possible to show you the location of the connecting lines, if you can, that's great, again, I realize you're working on a tight deadline on an existing site.

MR. EDSALL: First comment is just noting relative to

the layout the existing buildings and the constraints that come with the fact that it is an existing site but really the footprint as they said does not change. They have taken those parking spaces that are most constrained and don't exactly meet the current town ordinance and they reserve those for employee parking and two residents parking which means that the most convenient spaces are for the customers, it's a great approach and I don't really think there's any way to make it better than what they're proposing. Second comment is noting two suggestions, one is that for the dumpster enclosure, the recycling enclosure that they have some type of enclosure around the dumpsters, they could do that in the area that they create the pad just so that it contains that debris and such related to the--

MR. STEDGE: Typical like a stockade fence?

MR. EDSALL: Well, they're only looking at something that's finished to look like an outbuilding, if it's finished to match the building it would look most appropriate. Something that we run into a lot is the proper delineation of the handicapped parking gets done to add that detail so when it's striped the striper doesn't mess it up which seems to be the case more than it's not. Comment 3 I'm raising the issue of two referrals, one's County Planning which Leslie took care of, the other is State, I personally don't think there's any need to refer it because it has had other retail uses, they are proposing absolutely no change as to the curb cut and I don't believe the intensity of that use will be more than some of the previous uses. But I want the record to reflect that you considered it, I would suggest that there's no reason to send it there and candidly I don't know what else you can do with it if they can't change anything, curb cuts have all been approved as existing. My last comment where any additional areas of concern I will comment on the seasonal outside seating, I do believe it's to the

applicant's advantage to show that so that they don't have to burden this board with another appearance or their wallet with another application fee if they can resolve it now. I would think that if they just show proposed location of two picnic tables, seating not to exceed 10, it's something Gary can work out and as long as it's in the general area it leaves flexibility for the operation as you have done with all the other applications. That's it.

MR. NOVESKY: Thank you, Mark.

MR. KLOSKY: I see no reason not to waive the public hearing and go forward with, I suggest waiving the public hearing and approving this conditional on them modifying the plans to show Cedar becomes Jacqueline and the addressing the outside seating and leave it to your discretion.

MR. EDSALL: Dumpster enclosure.

MR. KLOSKY: The comments are minor and I don't think the board has to see it a second time.

MRS. DEANS: No. My only comment, the trouble getting in and out but there's nothing you can do about it, it's going to be the same the whole place over there you have to wait a while to get out of there as you do on Jacqueline.

MR. GRABE: I agree with that.

MR. GOLD: Having been chairman of the Economic Development Committee before being on this board, I'm very excited about the fact that a new business is coming to town. I like barbecue too.

MR. BRODMERKEL: My only question would be regarding the assumption of barbecue, there's a lot of smoke, how is that handled?

MR. RALPH-FARELLA: Since we're just using smokers made for indoor use, they actually use only a cup and a half of wood per every 45 minutes, it's not where we're going to be going for coal and throwing big logs of hickory, just a cup and a half of wood for every 45 minutes so the smoking is pretty nominal, it's not heavy smoke.

MR. NOVESKY: What kind of meat is the barbecue? Just the debate we had before the meeting.

MR. RALPH-FARELLA: It all depends, my family, we've lived in Cornwall for 25 years, my whole live, we are originally from North Carolina, so we were going to do Carolina barbecue, which is going to be pork with the vinegar, we're going to smoke the ribs Texas style, which is brisket, we're also going to have chicken and we have a few tricks up our sleeves coming up so--

MR. NOVESKY: Well, Led mentioned the, did you make that in the form of a motion?

MR. KLOSKY: I move we waive the public hearing.

MR. GOLD: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. NOVESKY	AYE

MR. CORDISCO: You could also if I may at this point because we all understand I think the revisions that need to be made to the plan and since it's fairly straightforward the board could grant or excuse me

adopt a negative dec and grant site plan approval and authorize the chairman to sign the resolutions. So that way as soon as that work is done that really depends on me those resolutions could be signed, they could go in and get a building permit without another need to come back here in November.

MR. GOLD: What he said.

MR. NOVESKY: We have a motion. Is that for the negative dec?

MR. CORDISCO: For adopting a negative dec granting site plan approval and authorizing the chairman to sign those resolutions.

MR. GOLD: So moved.

MR. BRODMERKEL: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. NOVESKY	AYE

D_&_M_PROPERTIES,_LLC_#2007-10

MR. NOVESKY: D & M Properties.

Michele Babcock, Esq. appeared before the board for this proposal.

MS. BABCOCK: Good evening. My name is Michele Babcock from Jacobowitz & Gubits here on behalf of the applicant, D & M Properties. Is it okay if I hold this here or like me--

MR. NOVESKY: Hold it.

MR. KLOSKY: We have copies.

MS. BABCOCK: I'm here tonight to present an application for subdivision and site plan approval for property located at 245 Main Street, the property is located in the GC zoning district in the town. The property currently contains an existing three-family dwelling and the applicant is seeking to subdivide this property into one additional lot and to build a two-family dwelling with a commercial use that's a permitted use as of right in the GC zoning district. Currently, proposed lot number 2 contains access through the property and access is through Clinton Street. This layout is not, we're not looking to change that layout and we would provide an easement through the proposed lot number 1 to the benefit of proposed lot number 2. Currently, proposed lot number 2 contains three parking spaces and based on the comments that we received at the planning board work session, we have revised the parking layout and have included one additional parking space on that property. As far as proposed lot number 1, the two-family dwelling unit requires four parking spaces, two outside and two inside and we have provided those as well as for the professional office it requires one space for every 200 square feet, we're proposing approximately

100.6 square feet of professional office space so one space would be provided. As you can see from the plan the fifth space is proposed in somewhat of a turnaround on the front property because it's the intention that one of the residents of the proposed two family would actually use this space like a home professional office. So really that front parking space would be used by someone that was coming to that office. Otherwise, all of the zoning bulk requirements will be met by the proposed subdivision, basically, we're here tonight to answer any questions the board may have and to request that the board set a public hearing on the subdivision and site plan application.

MR. NOVESKY: Thank you, Michele. Mark?

MR. EDSALL: I just want to ask Michele a question before we get into the comments. Michele, for the office you said there was a space and one for clients, is there a separate--

MS. BABCOCK: No, what we're looking to do is propose these for spaces for the residents, this one space here in the front we're looking to use for the professional office. And based on the reading of the code it says that for two-family dwellings, the driveway in the front yard is permitted to be a parking space. The way that we have set up this looped road we did have several alternatives but we thought this would really enhance the visual effects of the front of the house, really nice landscaping, by this design, of course we're open for suggestions, but we thought that this could really enhance the visual effects of the house as well as the neighborhood.

MR. NOVESKY: Mark, why don't you go first?

MR. EDSALL: My comments are separated between the subdivision and the site plan. In effect, I indicated that on the subdivision I describe what the proposal

was and Michele has done that through her presentation. Indicated that my only comment on the subdivision was you shouldn't approve that until you've got all the layout issues resolved on the site plan. So speaking on the site plan application, I did have a concern about parking and now that I truly understand what the proposal is I'm concerned about the loop because if you're assuming that there's a professional that's going to be there and then a client could stop, it can't act as a loop unless every time the client wants to leave the business person goes out and moves his car in a circle. Otherwise, the person pulling in the loop would have to back out. So it would function better if there was a single space for the professionals and someplace for the clients to loop through otherwise they're going to be jockeying cars forever.

MS. BABCOCK: Mark, if I may, what the real intention is that this is going to be one space for the visitor to the property and that the person that's going to have this professional office is going to be a resident of the home so they would be utilizing the parking spaces behind the house.

MR. NOVESKY: Thank you, Michele. Mark?

MR. EDSALL: So with that being the point, I think maybe the board should be considering it as a home professional office which would restrict the office as only being a person who would have residence within the structure which would resolve that issue of where is the professional going to park, if they're a resident, they would park in the back.

MS. DOTSON: It's not clear as to whether this qualifies purely as a two-family dwelling, it's really a mixed use because we have a lot of these, for example, in the HC district where you have two apartments over a commercial use, I'm not sure if I would qualify that building as a two-family dwelling,

it's like a two-family dwelling, what I mean, Gary, that may be more of a building code issue but I'm going to at Section 158-16 (a) (2).

MR. CORDISCO: Regarding the parking.

MS. DOTSON: The areas computed as parking spaces and I did look at this, I didn't specifically put that in because it wasn't clear to me how much office space there was going to be, but talks about areas that may be computed as parking spaces, it says may include any private garage, carport or other area available for parking other than the street or driveway. However, a driveway within a required front yard for a one or two family residence counts as one parking space, other than on that portion of the corner lot which is subject to provisions of something. The bottom line is that I think that that's purely meant for residence and I'm not sure this qualifies as a residence solely and also parking in front yards in a residential zone for any permitted use not more than one parking space may be located in the front yard. But this is not a residential district, it's a commercial district. So that needs clarification.

MR. EDSALL: I'll finish up quickly and we're kind of overlapping because there are these basic issues. I'm just pointing out in comment 1 more to the town planner's benefit there's some numbers that the area of the proposed lot for development is subtracting out all the easements is reduced down to about 33, 37 square feet.

MS. DOTSON: Actually, I did check with that, the easements only if they existed beforehand, I looked at that and I, that's what I thought but then I read the definition I said whoops, can't do it.

MR. KLOSKY: As long as you're dealing with that.

MS. DOTSON: Yes.

MR. EDSALL: The other issue that would likely go away if this is a, somehow fit in as home professional office is that a likely requirement for a handicapped parking space very well would go away. I'm assuming if it was truly professional office it would need a handicapped parking space and it wasn't showing one again but again if it's reconstituted as a home professional office as part of the residence and I don't think that handicapped space requirement applies. Gary can kick me if I'm wrong.

MS. DOTSON: I'm not sure you can do a home professional office in this district.

MR. EDSALL: Maybe get an interpretation from the zoning board.

MR. NOVESKY: We need to get clarification.

MR. EDSALL: Point being they have to propose something and they have, we have to review it.

MS. BABCOCK: We're proposing what is a use permitted by right which is code specific states any permitted commercial use is what the code states. And of course at this time we don't know what that commercial use would be, but if all of this controversy is going to be raised over one parking space, we can put the space in the rear of the property, can move it to some other location in the front of the property.

MR. KLOSKY: ADA is going to kick in.

MR. EDSALL: Yes.

MS. DOTSON: You're going to have a problem in the back, you can't do stacked spaces if it's going to be residences versus professional.

MR. KLOSKY: One and two are blocked by three and four.

MS. BABCOCK: We need a handicapped parking space on this side.

MR. VINSON: Depends on the use, if it's a home occupation we talked to them about a hair salon now we're finding out that the person would have to live there, you couldn't rent it out.

MR. NOVESKY: We need to get some clarification.

MR. EDSALL: It's an issue. Once again, the use issue and the zoning compliance and handicapped parking is a whole other issue but once it's nailed down we need to have details of construction for the plan and I'm commenting clearly based on the size of the lot and the amount of disturbance, a SWPPP is not required, however, given the tight quarters that are involved and the proximity to the adjoining existing properties we need to have some information on topo and drainage so we don't create parking lots that then drain onto the neighbor's property and flood their basements as we have repetitively gotten complaints on Main Street so we have to deal with that.

MS. BABCOCK: May I ask a quick question just to clarify? Mark, when you're talking about details of construction, just typical notes?

MR. EDSALL: Paving, curbing, normal stuff. Once we've nailed down what it is I want to refer it over to the village water department in case they have to do something on the service location and also refer it to the town highway superintendent but it's too early for that since I'm thoroughly confused and I wouldn't know what to tell them.

MS. DOTSON: Just based on the discussion and looking

at the use table, I do understand that two dwelling units are permitted in a building containing any permitted commercial use. I'm still not sure that this counts as a full fledged unrestricted residence in the same manner as a single family detached dwelling. It is interesting to note that single family detached dwellings are permitted by right in that district but they require substantially more area, so I think that there's a real focus on that as being that these are intended to be along with a commercial use and not the equivalent of a full fledged detached accessory use that are allowed to have their own home professional offices and so forth. So that's a real question I have. I think that they do need to provide some additional information on these plans, the table of bulk requirements is incomplete, needs to be completed. I don't think they'll have a problem meeting the requirements but they still need to be listed, the location map could use some improvements, subdivision is going to require a public hearing. This has already been referred to Orange County Planning but I have not heard back yet. For the site plan component of this, again, the bulk requirements are incomplete, they did not include a parking compliance table. I'm worried we're now getting told that they are intending to have 106 square foot office space with one parking space. I feel that they need to show a little bit more off-site information in terms of adjoining driveways because these surrounding lots are very narrow, they need to show you where the existing curb cuts are to see how this all lines up. That's pretty much it. Well, no, the other question about the semicircular drive, I'm not sure that the town highway would permit them and it seemed to me somewhat complicated by the fact that the drive intersects with their access drive, I'm concerned about visibility.

MR. NOVESKY: Thank you, Leslie.

MR. KLOSKY: No. My only question I would like to see

exactly how many square feet of commercial is going to be in there and how it's laid out at 106 square feet, I'm very curious how that will work.

MS. BABCOCK: May I?

MR. KLOSKY: Yeah, sure. That's 10 feet by 10 feet, that's not very much.

MS. BABCOCK: I just have one, I apologize.

MR. NOVESKY: While Led's reviewing that, Jane, do you have any questions?

MRS. DEANS: No.

MR. GRABE: No.

MR. GOLD: No.

MR. BRODMERKEL: I have one. Is there some question as to whether this can be considered a home office or not?

MS. DOTSON: I have that question, if that's what they are presenting it as.

MR. CORDISCO: Not at this point but the applicant hasn't specified what they want to use it for, they're claiming it's a commercial use.

MR. BRODMERKEL: The question is whether it would qualify as a home office in this zoning or what.

MR. CORDISCO: Well, if you look at the zoning, the permitted uses it says that two dwellings in a building that has a permitted commercial use, of course those commercial uses are also spelled out such as dry cleaning, personal salons, things of that nature and those are the commercial uses and that's not technically home professional office.

MR. BRODMERKEL: We've got an apple or orange, we'd have to declare which one it is, right?

MS. DOTSON: It has to be a discreet bonafied commercial use in order to qualify as the commercial use to which these two residential units would be attached. A home professional office is really a completely separate critter in my view, it's specifically listed as such that's not the way it's listed in this district.

MR. BRODMERKEL: What are we advising the applicant to do then, to define a commercial use as a specific commercial use?

MS. DOTSON: Or define a category of potential uses and then we can either reject or accept them based on we think they're bonafied commercial uses or we think they're home occupation or home professional offices.

MR. CORDISCO: It's also going to affect the design.

MR. VINSON: When they tell us the use, we can question the square footage.

MR. KLOSKY: If it's a real commercial use, the bath, it has to have a bathroom and it has to count towards the use and the way it's counted the bathroom is not counted so I don't think that's permissible.

MR. NOVESKY: Lot of work, Michele, got it?

MR. BRODMERKEL: She doesn't agree.

MS. BABCOCK: The code says any permitted commercial use and that's what we intend to do is to provide a permitted commercial use. We can make all the guesses in the world but we're prepared to meet all of the requirements of the code for subdivision and site plan

approval and of course if there's additional issue that need to be dealt with at the time the building permit is issued we'd be willing to address those at that time.

MR. NOVESKY: I will ask for your opinion on Michelle's comments, they're arguing that it would be an allowable use.

MR. CORDISCO: Well, that's something we'll have to look into.

MS. DOTSON: She'll determine that at the time.

MR. CORDISCO: That gets back into Gary's comment regarding ADA compliance and at the time of the building permit it determines that you need a handicapped spot and one's not shown on the plan they're coming back.

MR. KLOSKY: I'd like to, I believe that the plan as currently stated does not show sufficient detail for us to make a judgment so I'd like the applicant to go back to the work session and resolve these zoning issues with our consultants.

MR. NOVESKY: How does the rest of the board feel?

MRS. DEANS: I think that's the solution.

MR. GRABE: Yes.

MR. GOLD: Yes.

MR. BRODMERKEL: Yes.

MR. NOVESKY: Thank you.

MS. BABCOCK: If I may, what we're looking for here tonight is a public hearing that would give the

opportunity to the public to comment on this application and maybe provide some beneficial comments and the revisions to this project.

MR. NOVESKY: I think Michele that the board has a history of not allowing projects to go before public hearing until we have a complete idea of what the project is. If the board's not satisfied with the project, I won't speak for the board, I'll pole the board.

MR. KLOSKY: I'm not satisfied.

MRS. DEANS: I'm not satisfied.

MR. GRABE: Well, I just had a question. Is it a home business or just a business inside a residence?

MS. BABCOCK: No, just being proposed as a commercial use, a commercial use. My conversation with Mark was just specifically the intention that we were looking to create a design of the property that would add to the features of the home and the neighborhood. That's why this looped road home and the neighborhood, that's why this looped road was created. If the board would like a normal parking space in the front of the property or to the rear of the property, we would have no problem with that. It's just one of our thoughts that most likely or possibly someone that currently lives in that residence would use that space as the office. So really that front space would just be used as a parking space and a pull out space and that was my only comment. We're not saying that we're a home professional office, if there was any confusion based on that I do apologize, we're just looking to propose the use that's permitted as of right under the existing code.

MR. EDSALL: Just a comment on the parking, I know that the code provides calculations based on square footage

and I believe the code, all codes that I have ever seen always said minimum the board's supposed to use some reasonable rational method of deciding a requirement if other than minimum, if this is not a situation where it would be a resident who has an apartment or is occupying one of the residential units and is running the business by mathematics it may be one parking space but I can't fathom how you can have a business and have one parking space unless you're assuming that either the professional or the business person is going to walk there or customers are going to walk there. Minimum I think you need is two no matter what, one for at least somebody that works there and one for at least one customer at the time, I can't fathom how you can have a business and have one parking space.

MR. NOVESKY: Is it assuming retail business or computer based business?

MR. EDSALL: I'm not assuming anything because they're not telling us anything.

MR. BRODMERKEL: They're providing that one for each apartment.

MR. EDSALL: But the loop is going to be a non-effective loop, you're still going to have to back out on the town road unless when a customer comes the professional moves.

MR. BRODMERKEL: There's two parking spaces.

MS. BABCOCK: Actually, there's four, the code requires that two spaces be provided inside so there's two garage spaces and two outdoor spaces.

MR. EDSALL: For the residential.

MS. BABCOCK: It's required by the code and then the--

MR. NOVESKY: We don't know if it's an owner occupied business.

MR. EDSALL: They're saying they don't want to restrict it to that, therefore, I'm going to assume worst case it's a non-resident running the business.

MS. BABCOCK: But what we have proposed does meet the requirements of your current code.

MR. NOVESKY: Well, this is a request for a public hearing, I will pole the board to see whether or not the board chooses to allow a public hearing.

MR. KLOSKY: No.

MR. BRODMERKEL: I think we gave you our answer.

MR. KLOSKY: That wasn't submitted as--

MR. NOVESKY: Hearing none, the board respectfully is denying the bringing it to a public hearing.

MS. BABCOCK: Very good, thank you. Is this something that the board would want copies of?

MR. KLOSKY: If it's a commercial use then we need to see how it's possible to have the office and the bathroom and have it all be ADA accessible so yeah, we're going to need to look at the interiors, I think Dominic unless I'm outside--

MR. CORDISCO: If there's going to be spaces designated for commercial use inside, we should understand what the square footage is and how that relates to the rest of the building.

MR. NOVESKY: Thank you, Michele.

MS. BABCOCK: If I may, can I ask one question of the

board? With respect to the parking is there any particular comments that you have as far as layout that you would like to see?

MR. BRODMERKEL: You said there was a garage?

MS. BABCOCK: Yes.

MR. BRODMERKEL: I'm confused, I don't see a garage.

MS. DOTSON: It says two spaces inside the building in the back.

MS. BABCOCK: If I may, just what we have here is you're going to pull back through, we have one space, two spaces, these are the garages three and four.

MR. BRODMERKEL: Garage is under the building?

MS. BABCOCK: Yes.

MR. NOVESKY: All right, thank you.

ORANGE_COUNTY_RADIATION_ONCOLOGY_#2007-11

MR. SULLIVAN: Evening members of the board, my name is Jim Sullivan, I'm with Tectonic Engineering and Consulting Engineers. Tonight I'm representing Orange County Radiation Oncology and their request to put an addition onto their existing building. The lot in question is section 14, block 1, lot 5.1. It's in the HC highway commercial zone, the owner an applicant is Dr. Mishra who's here tonight with his wife, he's the owner and operator of Orange County Oncology. The application is a revision of a request for a revision and an amendment to an existing site plan that was approved in June of 1993. At that time, the site was approved for this existing building one story medical office serviced by a subsurface sewer treatment system and private well, it had provisions for parking per Town Code and the present application is a request to construct an addition of 2,700 square feet of new office space. The existing square footage of the office is 3,470 square feet. Basically, the addition is broken up into two pieces, we have 1,040 square feet proposed in the front and 1,660 square feet proposed in the rear. In the front addition is needed to put in a new Linac (phonetic) radiation machine and the addition in the rear is to provide additional office space, it's also to provide an area to put a new CT scanning machine to be used in line with the radiation treatment that's currently provided in that medical office. The reason for this request essentially is that they have an existing radiation machine that's reaching its service life, it's come to a point where it needs to be replaced. And the way these machines operate is that in order to begin the operation of a new machine there is a certain period of time where the machine has to prime or boot up if you will, that time period is an extensive period of time and if the applicant were required to essentially stop that machine, the existing machine in order to bring in the new one, he would have his patients that would he would no longer be able to

see the patients during that period of time. So in order to keep his operation going, he needs this addition to put in the new machine, get that up and running, have the existing machine still running and servicing his existing clientele and once that machine, the new machine is operating, pull down the old machine and have the new one up and running. That's the intent here.

MR. NOVESKY: What would happen to the space where the old machine was located?

MR. SULLIVAN: It would be used for storage essentially, the intent is not to provide space for new employees, new patients, this is simply to expand a practice, i.e. the CT scan and to replace an existing machine that, you know, it's high technology, it has a period of time where it needs to again start up so that's the reason for a transition from one machine to another.

MR. KLOSKY: Would it be their intent to operate both machines at the same time?

MR. SULLIVAN: No, what would happen once the new machine is up and running the old machine would be terminated, would be removed from the building, they would still only have one Linac machine and again point to the same idea that they'd have the same number of patients that they have today.

MR. SULLIVAN: In addition to proposing--

DR. U. MISHRA: It depends on our patient level and again if we're going to get new technology we might be using both rooms because some of the new technology takes more time to treat the same patient, so we might be right now we're treating 25 patients a day. But if we treat 30 we might divide them up into two machines, get better use of each machine and spend more time

doing some things. We're not going to take it away, it's going to be because the life of this machine is almost coming to an end, it's almost 14 years now so it can die in time, if it dies, the transition time is close to six months during which and like happened in Newburgh Radiation Center they closed because they did not have a substitute machine. So we're going to have this but knowing this Cornwall town with the 12,000 population you're only going to generate 48 patients. That's why we're operating in that patient load so this machine is still fully functional but the new technology will be implemented in the other room. These are all high ceiling machines with 3 to 6 feet with steel plates so these new rooms if the machine goes it can be used, however, clarification on this the machine is still functional, it is still working. The other room will be additional machine but it will not have the use unless the other machine dies. And once we have this then we can substitute the other one. Because of the new modern technology, the new room will be used for the same exclusively so that's the purpose of this room. And because there is a long gap of six months period between one machine's demise to put the other one together the practice can cease, old machine, old technology. So that's why we have to have two rooms functional and these rooms are very expensive to build. And so going back to first the Town of Cornwall has only 40 patients, 48 patients per year so that's why I say what the hospital comes in the other gentleman, I don't know him, he said yes, the services are available and the proposal of adding a cancer center has to be looked into again, whether that's good for the town is going to serve the town, that's why I want to point it out at this time that this additional room will be only used for the same patients, same 20, 25 patients.

MR. NOVESKY: Thank you very much.

MR. SULLIVAN: And in addition we're proposing 11 new

parking spaces, 7 on the west side of the property and 4 on the east side of the property. We're requesting a 20 foot, approximately 20 foot rear yard setback variance, we're required to have 31 parking spaces, we're providing 29. So we're requesting a variance for two parking spaces which we both variances we need a referral to the zoning board of appeals which we're requesting this evening. It seems that we have submitted, if you look at your letter and you see what you have, you have a set of plans the a deed has been provided for the property, an application form has been completed, the short form environmental assessment form has been filled out, proxy has been filled out, application, fees have been paid. And if I might just discuss the existing septic system, I think it's been said by doctor essentially the number of clientele is not going to change and also the number of employees will not change. So what we have done is we have taken a look at how the system was designed back in June of '93 which was approved by the planning board, they opted to at that time take that approval onto their own as opposed to referring to Orange County. That assessment determined that it's designed to handle 350 gallons per minute or gallons per day rather, excuse me, and that basically equates out to 107 linear feet of septic trench, 210 was installed, they're able to provide for more loading than what they're required. The actual usage based on what they have today and what they'll have after the construction is completed with employees working, eight employees working that would be approximately 120 gallons per day. Presently, the machine that's being used has a certain amount of water that's being discharged, the septic system has a cooling portion to it, forgive me, I'm not very familiar with medical devices but that cooling water is discharged to the septic system on extremely hot days, anything greater than 90 degrees probably on the order of two to three days, maybe five in a given year in this area. So basically that will be an additional loading that will be going to the system. But again at

120 gallons per day, there's more than ample room for what was provided at 350 gallons per day, that's the present use. With the new machine there will be no discharge from this machine out into the septic system, cooling water basically stays within the machine itself, it's self-contained so there won't be any discharge to the septic system. I guess what I'm getting at is the system was being loaded less than what it was designed to be loaded to, it's been inspected, it's been looked at, its been deemed to be in good working order. So we have determined that it would be able to handle this addition with basically no additional loading, actually less load than what it is seeing today. Any changes that would be required in the system basically would be in the order of rerouting the septic line that comes out of the building today and goes to the septic tank that's out here, with the new addition there's a septic line that comes out, PVC pipe that would have, would be rerouted around the building. That's the only change that would happen to the septic and the well is operational and doesn't need to be modified. I have received comments from Garling Associates, I have had a chance to look at them, I don't know if Miss Dotson would prefer going through them.

MR. NOVESKY: We'll move to the comments then we can go back, you can respond to them because we do have one consideration that is a motion to pass this to the ZBA, we can address that and discuss it. Motion to refer.

MR. BRODMERKEL: It has to be done, I make a motion.

MR. KLOSKY: I believe that the applicant might be well served by not taking it to the Zoning Board until the parking issue is resolved, the parking spaces that are on the left and right immediately as you come in there are on a fairly severe slope.

MR. NOVESKY: You mentioned 15 degrees.

MR. KLOSKY: They might be making a mistake going to the ZBA before they have completed the site plan to include the proper parking.

MR. EDSALL: My only technical concern and I outline in my comments copy of which is here is the slope that as I understand the design is for the 7 spaces and the 4 spaces, for the 7 spaces on the south side it appears that the slope is just above 10%, for the 4 spaces running perpendicular it looks as if it's around a 12% slope and that's quite severe for parking area. I think they should look at that and consider alternatives to have a slope in the parking lot that would be more appropriate for parking.

MR. SULLIVAN: Might I ask what slope you prefer to see?

MR. EDSALL: Maximum slope is five to seven percent maximum for a parking lot, 12% slope, not being sarcastic is such a slope if you open the door you're liable to fall out of the car, you couldn't really control the door movement when you get up to anything over 10% it's very difficult for passengers in the vehicles to get in and out of the car safely, especially in winter conditions or if they're elderly or physically challenged. So that's a difficult situation 10 and 12%.

MR. SULLIVAN: If we were to tie it in at eight percent we'd be able to do it with keeping the layout as it is perhaps losing one space but I don't believe that would happen, I think we can possibly have a retaining wall with steps that would come up and then what Miss Dotson suggested bringing in a sidewalk that would connect that parking area to the building, the left side, those seven spaces are one percent and I looked at it at 10% just require an adjustment of four to five feet on these contours referring to the drainage utility plan

C104. To the right side those 4 spaces, yes, they're at 12%, again, adjusting it to eight percent would be another shift of about six to eight feet, both of which I think can be accommodated while tying it into that existing roadway without having to disturb that if I'm incorrect in saying that.

MR. EDSALL: No, I'm not going to design the plan here at the planning board meeting but again, I'm thinking that eight percent is pushing it. I said five percent is the normal, seven is the absolute maximum I think is reasonable, if you go to architectural standards see if there's any guidelines but I think they should look at a layout that fits better to the land.

MS. DOTSON: Can they tie in close to the building. Do they need a setback from the building? I'm just wondering if they can go sideways.

MR. EDSALL: I'm wondering if they can re-orient the parking and work off the plateau that exists rather than try to match the driveway slope which is constrained by the two fixed points. We're not going to change Route 9W and the entrance to the building so the answer is to work with the grades that you have and reorganize the parking and I prefer not to design here at the meeting but it doesn't work the way they're showing it, I'll put it that way.

DR. S. MISHRA: It's really a machine, should you include that as commercial? But it's really not a regular commercial building, it's just a one unit so shouldn't that get a little different consideration as part of the parking?

MR. EDSALL: No, I'd agree wholeheartedly if they're going to the ZBA they can make a case saying that the 1,036 square foot is a piece of equipment and has no parking demand and I think that's a very legitimate approach.

MR. KLOSKY: I might be better off just asking to eliminate the parking in consideration of the fact that the commercial space is not intended for a regular commercial use but instead a specific commercial use you have to spell out on the site plan what the commercial use is and that will make the space less variable. When you go to sell it, it might constrain you somewhat but it might allow you to put in the, you can ask the ZBA for relief on the parking.

DR. U. MISHRA: You have two units and that does not put an unusual burden on the parking per se.

MS. DOTSON: But to the extent that you would put initial parking it's well taken to think you might re-orient some of it so you might get a few additional spaces but maybe use that plateau. That would obviate most of my comments.

MR. SULLIVAN: Would the board be comfortable with a seven percent slope?

MR. EDSALL: When they go to the ZBA they may want to attempt to demonstrate that the use and the demand is not changing, many older codes we don't have now but the older code had the parking based on the number of practitioners and treatment rooms, here's the case where the practice is not really changing, just changing the technology, creating a storage area if the other unit dies.

MR. NOVESKY: I think we'll take a motion to refer to the Zoning Board of Appeals.

MR. EDSALL: Whatever parking they have I'm just concerned that they be safe.

MR. NOVESKY: Very legitimate argument.

MR. KLOSKY: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. NOVESKY	AYE

MR. GRABE: I just wanted to know what you provide that the Cornwall Hospital doesn't.

DR. U. MISHRA: I'm glad you asked that, I did not discuss that this time because I have been here for the last 21 years so I can't go into what they're doing but as I have been here for 21 years and so there's eight oncologists in the community, we provide medical oncology radiation oncology and surgical oncology, so it is not that anybody is going away outside in snow or rain out of this town. I'm glad you had an economic impact or face on this, this structure if it's absolutely necessary in the hospital can spend money and did whatever they want but these doctors eight of us are not going to go away because this thing came up, it's going to affect the hospital's occupancy as the gentleman already said. I'm glad that he knows more about Cornwall Hospital. The floors are empty, the patients are not there. So having the hospital doesn't add. We do provide same state of the art technology. Also my wife who designs, builds, plans everything for the care of the patients it's not that we're losing a lot of patients from the community but as you know there are some people who have some people have a few percentage of people that go away to Mt. Sinai because they have different kinds of things. I'm the cancer committee chair for the hospital. Yes, the hospital

has not brought any of us into their confidence when they're planning, that's besides the point. So I do provide radiation oncology which is the most expensive part of the cancer care and I do provide also people who are on Medicaid, those are the people who nobody sees them. Even today my wife gave a ride to somebody who didn't have a ride. That's not part of the process but we do that too because we live in this community for the last 21 years, 22 years now. So yes, I do provide same thing that they provide. I get a lot of patients back from Mt. Sinai, Cornell, Columbia and Sloan-Kettering, I'm glad you asked this question because I did not want to come up and say that all the economic impact is going to be different, but the hospital can lose money, we won't, and the process is to bring the same technology. Somebody asked when the place opened the newspaper why you open this in such a small town, why don't you do it in different places. I said well, these people deserve it too when they're 85 years old, where do they travel, who will help them travel. So I have been very pleased, this community has supported, the Town Hall has supported everything I asked for so I'm very much happy hoping that this will do well. I'm glad you came up with the idea two simple units only one patient goes in, comes out in 15 minutes of time, not like a hospital where people wait for hours. We have monitors everywhere, patient comes, waits, we see, somebody goes and picks up the patient 15 minutes and it's over. That's why our parking lots are fairly empty, unless it's a Tuesday when they do have to come and see me, we have a full staff, we're very professional, we have people, so I do provide the same care that anybody needs in this community.

MR. NOVESKY: Thank you. Any discussion? Motion to adjourn.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

October 1, 2007

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ROLL CALL

MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. NOVESKY	AYE

Respectfully Submitted By:

Frances Roth
Stenographer