

May 3, 2010

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TOWN OF CORNWALL

PLANNING BOARD

MAY 3, 2010

MEMBERS PRESENT: NEIL NOVESKY, CHAIRMAN
KENNETH BRODMERKEL
WYNN GOLD
LED KLOSKY
WILLIAM GRABE
HELEN BUNT
MICHAEL LOBLANCO

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

LESLIE DOTSON
PLANNING BOARD CONSULTANT

GARY VINSON
BUILDING INSPECTOR

REGULAR_MEETING

MR. NOVESKY: I'd like to call to order the meeting,
all members present.

CORRESPONDENCE

MR. NOVESKY: Correspondence, Fran, I'll forward that
stuff to you from Lanc & Tully, I've got it here, this

is stuff from Gary. And this is a copy of something else.

APPROVAL_OF_MINUTES_DATED_4/5/10

MR. NOVESKY: The minutes, everybody get their minutes? Motion to accept them if you find them acceptable.

MR. GOLD: So moved.

MR. LOBLANCO: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MS. BUNT	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

DISCUSSION_-_CANTERBURY_FIRE_DISTRICT

MR. NOVESKY: Okay, we have Dominic, I'm going to suggest that we bring the firehouse issue up right now since we have a resolution in place and if the board has a comment or anybody wants to object, we can do that right now.

MR. CORDISCO: Sure. You should have a copy of a plan in front of you on behalf of Canterbury Fire District, it's quite a simple site plan amendment that they're seeking. They want to put up an elevator so that they can get to the second floor using the elevator and it's a slight addition onto the existing building and they have sent this into the board. Now historically governmental agencies typically were exempt from zoning requirements but then there was a court of appeals case in New York that says that's not entirely true. The

board that oversees this case, this planning board has to decide whether or not it's in the public interest to require a full site plan review, no site plan review or something in between. Given the fact that this is a rather minor extension or addition onto the building, it doesn't appear to affect any traffic or parking concerns for that matter, it would be my recommendation to the board that you consider basically granting an amended site plan approval without requiring a formal application or public hearing.

MR. NOVESKY: Your suggestion is that it's within the purview of existing statute that we can do that?

MR. CORDISCO: That's correct.

MR. BRODMERKEL: Make a motion then. Dom, should we make a motion to that extent?

MR. CORDISCO: Yes, you can make a motion to that extent. I have prepared a resolution.

MR. BRODMERKEL: So moved.

MR. LOBLANCO: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MS. BUNT	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

CORRESPONDENCE

MR. NOVESKY: We should just mention this correspondence.

MS. DOTSON: The planning board received correspondence from EBI Consulting regarding the National Historic Preservation Act and they are making inquiry into a proposed telecommunications facility at 2375 Route 32. They are only asking for input on the historical potential impacts. This was discussed beforehand in the pre-meeting meeting and the board has concluded that we'll write them a letter saying please make an application and yes, there are resources of historical interest in the area.

MR. NOVESKY: Period.

MS. DOTSON: Period.

MR. NOVESKY: Any objection?

MR. KLOSKY: We haven't actually heard anything formal in terms of an application on this project.

MS. DOTSON: No, and we only have 30 days in which to respond and this is date dated the 17, I'm sorry, the 19th.

MR. NOVESKY: They gave us 30 days?

MS. DOTSON: It's sort of like the 239 reviews, there's a window in which they insist that you respond.

MR. NOVESKY: How would they have a right to give us 30 days to act?

MS. DOTSON: It's under the National Historic Preservation Act, it's comparable in that they want you to respond promptly.

MR. NOVESKY: You'll respond to that Leslie?

MS. DOTSON: Yes.

NYMA/RAY_YANNONE_#2009-04

MR. NOVESKY: NYMA is here, Ray Yannone is here. We can be very simple about this, I do believe everyone is quite familiar with the project. Are you, Helen?

MS. BUNT: Yes.

Mr. Raymond Yannone and Mr. Richard DeKay appeared before the board for this proposal.

MR. DEKAY: We were here several months and it's all approved but we revised the map, sheet one there's three sheets, sheet one there's no change, that shows the existing lots, sheet two shows the property lines and we added a note on that if you want to look at it that the Donaldson House will be converted to a residence. This eliminates the site plan we did and we worked out a few months ago.

MR. NOVESKY: You worked it out with the work session with Mark and Leslie?

MR. DEKAY: Right. Now sheet three is the important one that shows the driveway, it shows a new driveway coming into the where the Donaldson House would be, a residence off of Military Drive, Military Lane, it also shows the mitigation of the drainage here, the sump pump so there won't be any additional water going out on 218. Everything else is pretty much the same. We have changed some notes here, we did make the driveway have a gutter.

MR. NOVESKY: One question about the crosswalk Led you asked that a long time ago?

MR. KLOSKY: I suppose that the property is being separated?

MR. BRODMERKEL: It's irrelevant.

MR. YANNONE: We did, the neighbors requested we did put a fence up, a decorative fence on the property line, we did retain that as part of the plan too.

MR. BRODMERKEL: Ray, you weren't going to purchase that before.

MR. YANNONE: I am now, yes.

MR. NOVESKY: Any questions? Leslie? Ray, you want to put your arm down?

MS. DOTSON: Comment 1 just explains what it is that he's doing, it's an improvement, the previously proposed driveway and the fence are still part of the application. They're keeping the easement for the water line, they're eliminating impervious area and the concern about the pedestrian crossing because there's no association with NYMA. Comment two just notes the previous plan had involved a need for variances that were granted, lot 4 needed a variance because of the setback from the proposed new private road and lot 5 for Donaldson Hall did, because lot 5 now reverts to the use group C requirements and the front yard private road setback does not meet the setback requirements it doesn't matter. The shortfalling is still less than what was the subject of the variance so you don't need to go back to the Zoning Board. I've checked with Dominic. The current proposal is less than the one that was already granted.

MR. YANNONE: It wasn't totally used, right.

MS. DOTSON: So you just need to make one, this is for you, you just need to make one little correction on the bulk table on lot 5 you need a star to indicate that a variance was granted for the 11 foot front yard setback for lot 5 from the proposed road. Cause you eliminated

that reference and it still needs it. Comment 3 just noting I don't believe that this less intensive modification of the plan requires a second referral to the county planning office. I don't believe that it requires a rehearing unless you deem it's necessary as a board and if you're ready to act, we have prepared and attached a modification of the previous negative declaration. So the plans can be modified and make any other changes that the engineer and attorney requires.

MR. NOVESKY: Does that mean we'll have a resolution for another negative dec, correct?

MS. DOTSON: Yes because it's a modification.

MR. CORDISCO: I've prepared both of those.

MR. NOVESKY: Thank you, Leslie. Mark?

MR. EDSALL: Leslie used the term that this is a simpler application, I would very much agree with the site plan being removed and the driveway being moved, we're down now to the single fact of the private road now serving one additional lot, that being the stone building becoming a residence. So in my comments under 2 are bullets that are merely identical to those from the original plan which are the private road maintenance declaration, the completion guarantee making sure all the easements through the lots are properly prepared and submitted that they obviously need DOT permit before any construction work can start. And I'm not quite sure if Gary approved the road name yet, so Gary tells me the last bullet is taken care of so it's a simpler application. I have no new issues or any issues with the plan as submitted.

MR. NOVESKY: Thank you. Dominic?

MR. CORDISCO: As I mentioned previously, we have prepared resolutions for the amended negative dec and

also for the revision to the approval. We have included the suggested conditions that were outlined by Mark in his review comments and the board would be in a position to act. I mean, as the applicant has mentioned to the board, they have think I was about three months ago that they received conditional final approval so that approval remains valid and what they are doing is they are amending basically that final approval to eliminate the site plan for Donaldson Hall and convert that into a residence and make this even a less intensive use than what was previously proposed.

MR. EDSALL: One additional item Gary and I received in the mail today from Sibby Zachariah Carbone from DOT who I believe is desirous of getting the latest full set of plans and she had pretty much said that she was not going to issue a new approval until she has the full set. Just for the record, maybe Ray could put in the minutes has the access for the private road changed at all?

MR. YANNONE: No, it hasn't.

MR. EDSALL: So what the board has to consider is that do you really want to wait to have a new writeoff from DOT when in fact the private road itself is identical, is what the applicant's telling us and is identical to what was already improved, in fact eliminating an access, they'll need to get a permit, that's one of the conditions Dom has in the resolution and part of my recommendations and Sibby rightfully says that no work can be performed until the proper permits are obtained.

MR. BRODMERKEL: Everything is simpler and better.

MR. CORDISCO: We always include as a condition of the approval that they and the applicant has to obtain any outside agency approvals and DOT has already seen the former version of this plan, I think all they want to

do now is see the full set of the revised plan.

MR. NOVESKY: So any approvals will be conditioned on final approval.

MR. EDSALL: I would be uncomfortable if we didn't share with you that Sibby has a desire to see the latest plans.

MR. NOVESKY: And she'll get them.

MR. YANNONE: I did meet with her and I brought these but I think there was some misunderstanding, she looked at them, I told her we're eliminating this, so maybe on my part some miscommunication but I'm going to drop off this set again tomorrow and probably start the application process.

MR. CORDISCO: Fine.

MR. EDSALL: It's probably better, it may take--

MR. VINSON: She's waiting for the plan.

MR. EDSALL: It's going to coordinate, I think it's better that it come directly from the planning board, my suggestion is since it's identical, I wouldn't hold the applicant up, it's already in the conditions of approval.

MR. CORDISCO: And the burden would be on them to satisfy the condition.

MR. YANNONE: Yes.

MR. BRODMERKEL: Dominic, would it be proper to make a motion to declare a negative declaration?

MR. CORDISCO: Yes, it would.

MR. BRODMERKEL: To comply with the new--

MR. DEKAY: That roadway's been there for 78 years.

MR. BRODMERKEL: Dick, we're prepared to go ahead.

MR. DEKAY: So there may not be paperwork.

MR. NOVESKY: We have one question, go ahead.

MR. KLOSKY: My question I guess previously Donaldson Brown Center was remaining part of the NYMA property and thus was maintaining its traditional use. I'm not adverse to NYMA being used as a residence, I mean the Donaldson Brown Center being used as a residence. However, I'm concerned that it's a historic resource for the town potentially and I'm not sure that we fully explored that possibility, I mean, it's as unique as, it's an architecturally unique structure, it had been present there for a significant period of time and thus maybe now that doesn't preclude its use as a residence. But I believe and Leslie correct me if I'm wrong that under this current subdivision plan that once the plan is approved if the new owner wished to put aluminum siding up all over the south side of the existing Donaldson Brown Center that would be an allowable improvement. And I'm just, we're pretty used to seeing it there and I'm not, I'm asking our consultants what that process looks like and whether that's something we're allowed to think about or whether I'm just, you know, I'm hoping for something that doesn't exist in terms of the law.

MS. DOTSON: It's awkward because even if something is actually designated on the historic register there's nothing that prevents you from demolishing it, it's still private property. So I don't know if that helps you any other than to say that we have alerted them to the fact that any use of that house is going to require a building permit, you know, whatever changes they're

going to be making and they have to work through Gary and we can't guarantee how--

MR. NOVESKY: There's historic tax credits for renovations so it may be in the best interest of the developer to consider the tax credits that might be available for that too, so on the upside.

MS. DOTSON: Yeah, and there are a lot of historic buildings on the NYMA property, on the NYMA campus so I think that that's going to have to be an individual choice. I would hope that someone isn't just going to rip down the exterior just to put up aluminum siding just because I don't think it's terrifically practical and it would actually cost more money.

MR. BRODMERKEL: Historical site laws protect.

MR. KLOSKY: I don't think it currently has any historic designation.

MS. DOTSON: No, it does not.

MR. CORDISCO: Even if it did, it wouldn't preclude what they're trying to do there, just requires consultation. If it was on the list, then it would require consultation with State Historic Preservation Office in which case they'd make recommendations but it wouldn't be binding upon the board nor upon the applicant.

MR. KLOSKY: Okay.

MR. CORDISCO: If this was in perhaps like a scenic corridor overlay district like you have ridge preservation overlay districts then that would be a different matter but right now, it's not protected under your existing zoning.

MR. NOVESKY: That's good, thanks, Dominic. Kenn?

MR. BRODMERKEL: I'd like to make a motion we declare negative dec on this submission with the new submission.

MR. LOBLANCO: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MS. BUNT	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

MR. BRODMERKEL: Dominic, something else we need to do?

MR. CORDISCO: Yes, there's a resolution for an amended approval.

MR. NOVESKY: Actually, there's two more resolutions pertaining to this.

MR. CORDISCO: There should only be one so if you have two--

MR. NOVESKY: You're right, there's only one, there's a resolution granting preliminary and final subdivision approval for a four lot residential subdivision and a lot line change for an adjoining parcel.

MR. BRODMERKEL: Like to make a motion we accept the resolution declaring full and final approval.

MR. GOLD: Second it.

ROLL CALL

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MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MS. BUNT	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

DAN_POLICH_#2010-05

MR. NOVESKY: Next is Mr. Polich.

MR. SMITH: This is Dick Polich, I'm Peter Smith, I'm his architect and Dick bought a house at the top of Mine Hill Road and we discovered that it's in the preservation ridge line overlay district and we're making some changes. You have some of the information there. I brought my camera so you can see the house in color if you care to and we're here for I guess your approval of the modifications to the existing house.

MR. NOVESKY: Thank you. Why don't we listen to your comments, Leslie.

MS. DOTSON: I did ask Peter to bring some additional material. He submitted a, he's taken some photos of the site from various vantage points that are required in the code that were distributed, were reproduced in black and white so that it's way up, it's a little, yeah, a little farther up you can see the house from Angola Road, it does break the top of the ridge. So depending on the vantage point that you're looking at you can see it. Of course it's also an existing house, it's also partially screened by intervening vegetation, in any case, it's the roof line of the existing house is what breaks the ridge, that's what's visible. The proposed change is to demolish the large deck that's shown in the closeup photo that's part of your package and to replace it with two smaller decks so the replacement decks won't be visible because of the angle that they're going to be in and the height that they're going to be relatively speaking. So their low elevation, the orientation will prevent them from being seen from state, county and interstate highways. He's also mentioned the intention to stain the existing house a darker gray that will improve the structure's ability to blend into the landscape and is consistent with the code. I asked him to bring a color chip so

the board would have an idea of what's being proposed and Gary will have something in the file and they mentioned some windows being replaced even though the cover letter didn't mention any, my understanding from speaking with the architect is that any windows being replaced are going to use non-reflective glass that complies with the requirements of the code. I just mentioned the code allows you to waive any requirements including the hearing requirements if you believe that you have determined they are relevant to the review of the new structure and you determine that it is not going to be visible. So I believe that once the architect explains what it is that he proposes to do that that should be not a problem. And finally I didn't believe that it required referral to the County Planning Department so you could act and I did create a negative declaration for you.

MR. NOVESKY: Thank you, Leslie. Mark?

MR. EDSALL: I'll be very short. I described the application in greater detail and there are no engineering or technical issues, it's fine.

MR. NOVESKY: Very good report. Dominic?

MR. CORDISCO: At this point, we have prepared resolutions that would adopt a negative declaration and grant special use permit and site plan approval subject to the board's comments.

MR. NOVESKY: Okay, board, Led?

MR. KLOSKY: No problems.

MR. LOBLANCO: Nothing.

MR. GRABE: No.

MR. GOLD: I'm not sure who to direct this at. I live

at Angola Road so I was able to look at it, I would hope that we'd encourage applicants in the future to bring something far superior to this please. I'm familiar with the area but if I wasn't I'm not happy with the fact that I can't tell anything from these xeroxed copies.

MS. DOTSON: We saw it in color and it was visible in color but you're right that was why I said what I did and he actually brought his video camera.

MR. GOLD: I don't want to look at it on a 2 x 2 inch screen on a video camera, this is not adequate.

MS. DOTSON: Yes, it does need to be in the town's files in a way that shows compliance, I do get that.

MR. GOLD: I like the fact what he's doing is an improvement so that's a separate comment.

MS. DOTSON: No, I do agree.

MS. BUNT: I'm fine.

MR. BRODMERKEL: New deck is the same height as the old deck?

MR. SMITH: Yes.

MR. NOVESKY: It's lower, actually.

MR. BRODMERKEL: Gentlemen?

MR. SMITH: Couple steps but more or less the same.

MR. NOVESKY: So less. Okay, that's it, okay.

MR. GOLD: Motion to approve the negative declaration.

MR. BRODMERKEL: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MS. BUNT	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

MR. NOVESKY: We need a resolution adopting a site plan and special permit for deck demolition and replacing of lands located inside the ridge preservation overlay.

MR. GRABE: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MS. BUNT	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

NEW_CINGULAR_WIRELESS_(AT&T)_#2010-06

MR. KLOSKY: New Cingular Wireless, AT&T.

MR. FURST: Good evening.

MR. NOVESKY: We're pretty familiar with this so no extensive discussions, thank you very much.

MR. BRODMERKEL: That was a suggestion to be brief.

MR. FURST: I'll just go quickly through the application, very briefly. John Furst, attorney with Cutty & Feder, we represent New Cingular Wireless also known as AT&T and AT&T recently acquired the assets of Cell One which is in Orange County and all of its affiliates. Cell One had an existing site at the mountain at the 28 Industry Drive site, a tower in Mountainville, AT&T acquired Cell One, therefore they now operate at this site. There's three whip antennas at the top of the tower that AT&T is currently utilizing, the tower's 140 feet, there's an existing equipment shelter at the base of the tower that houses AT&T's equipment. T-Mobile, Sprint and Verizon currently operate at the site and the board may remember that MetroPCS was recently approved about two months ago. All AT&T's doing is removing the three existing whip antennas at the top and putting six panel antennas at the center line height of 140 feet. There's a new equipment cabinet but it's going inside the shelter so there's not going to be any work done on the ground, no disturbance to the ground really only change is going from three whip antennas to six panel antennas. Not changing the height of the tower, we're not doing anything else, that's it in a nutshell.

MR. NOVESKY: Thank you. Leslie?

MS. DOTSON: I think we can skip most of what I actually put in my review. Bottom line that John's

been through this recently, he knows the drill, he's basically going through the same steps, only this time he prepared a full EAF because he knows that it's Type I referred to Orange County Planning Department. They responded today with a local determination so you're able to act tonight. This submittal didn't include photosimulations, I mean clearly this is going to be somewhat more visible than what was there previously because there are more of them and they're a little bit more substantial in dimension but they're still relatively speaking not that large and it's in a spot where it's supposed to be. And I don't see anything that would be inconsistent with your previous findings. The other big question was what additional engineering demands this would put on the tower itself and they've submitted a study that shows that the tower can support this so we submitted a negative declaration and recommend you waive the hearing.

MR. NOVESKY: Do we have a resolution for negative dec?

MS. DOTSON: You do, you should.

MR. CORDISCO: Yes, you do.

MR. NOVESKY: Okay, Leslie, thank you. Mark?

MR. EDSALL: Very short, I repeat comment one that is the change from three whip to six panel. Comment two notwithstanding the apparent minor nature of the change the applicant has completed a structural analysis of the tower that was included in the package prepared a by New York State licensed professional engineer so that issue is addressed. No other issues once that issue is taken care of.

MR. NOVESKY: Dominic?

MR. CORDISCO: Nothing.

MR. BRODMERKEL: I make a motion to declare a negative dec.

MR. NOVESKY: Board, anybody have a comment or question? Okay, Mr. Brodmerkel?

MR. BRODMERKEL: So moved, made my motion, sir.

MR. LOBLANCO: Second it.

MR. NOVESKY: Okay, any questions, discussion? All in favor?

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MS. BUNT	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

MR. NOVESKY: We have a resolution granting site plan approval and special use permit for a modification to an existing wireless cell communications tower.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MS. BUNT	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

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MR. NOVESKY: Thank you, gentlemen.

MR. FURST: Thank you. Have a good evening.

MR. NOVESKY: Any comments or questions by anyone at all?

MR. BRODMERKEL: motion to adjourn.

MR. LOBLANCO: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MS. BUNT	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

Respectfully Submitted By:

Frances Roth
Stenographer