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April 23, 2019

Via Federal Express

Thomas F. Wood, Esq., Town Attorney
Mr. Martin Rogers, Director of Code Enforcement
Town of Cortlandt
1 Heady Street
Cortlandt Manor, NY 10567

Re: Hudson Education and Wellness Center

Dear Messrs. Wood and Rogers:

Enclosed is our letter in response to the "zoning opinion" rendered by Mr. Rogers on March 21, 2019, as requested by the Planning Board at its February 5th meeting. This letter summarizes our comprehensive detailed response.

In sum, Mr. Rogers' "zoning opinion", rendered some four years after the subject application was formally submitted, that the proposed specialty hospital is not actually a "hospital", and therefore, not a "hospital or nursing home" specially permitted under the Zoning Ordinance, is incorrect for numerous reasons.

Mr. Rogers' opinion is premised on his incorrect characterization that the primary purpose of the proposed hospital use is merely "custodial care", to which any medical care or treatment is only "incidental". **To the contrary, the medical care and treatment for those suffering from the disease of alcohol or drug addiction is the major component of the proposed specialty hospital.** (See attached letter, pp. 7-15, and the expert reports annexed thereto as Exhibits 2 and 3.)

Respectfully, Mr. Rogers overlooks or misstates the actual hospital operations and the applicable laws and regulations.

In particular, Mr. Rogers fails to take into account or misstates:

- The actual level and nature of medical care and treatment to be offered at the proposed specialty hospital for those suffering from the disease of addiction.

- The Zoning Board proceedings, litigation, and Court Decision in this matter to date, which are binding on Mr. Rogers, and which expressly have recognized the permitted hospital use as such.

- A prior relevant Zoning Board proceeding and litigation involving a previously approved hospital use of the property.

- The binding approvals of the Westchester County Health Department of the Applicant's flow calculations for what the Health Department has expressly designated as **"an addiction recovery hospital**, and of its public water system for such designated use, respectively.

- The fundamental standard of zoning law interpretation that zoning laws must be strictly construed in favor of the property owner and against the municipality, with any municipality resolved in favor of the property owner.

- The Federal law applicable to the protected class to be served by the specialty hospital, which requires "accommodations" and "modifications" with respect to the Town Zoning Code.

- The pertinent provisions of the U.S. Standard Industrial Classification (SIC) Manual, which, as required by the Town Zoning Code, govern the definition of "hospital" under the Zoning Code, and which expressly define the proposed use as a "specialty hospital", **thereby mandating that it is a permissible "hospital or nursing home" use under the Zoning Code.**

- The Webster's Dictionary definition of "hospital" – which the Zoning Code also cites as a reference for undefined terms, along with the Black's Law Dictionary definition, both of which encompass the proposed use.

- The relevant State statutory definitions and licensing provisions governing the medical care and treatment of those suffering from the disease of chemical dependency at the proposed specialty hospital, as set forth in the State Public Health Law and Mental Hygiene Law and the applicable State Regulations thereunder – all

of which mandate that the proposed specialty hospital is a permitted "hospital" use under the Zoning Code.

- The Building Code classification of the main hospital building on the property as Occupancy Classification I-2, which Mr. Rogers misstates due to his reliance on an outdated engineering report, which has long since been revised, which classification includes such hospital use, and the various Building Code definitions which support the permissibility of the proposed hospital,

There is no dispute as to the second question raised, but not discussed, in Mr. Rogers' opinion: That the proposed hospital use is subject to the Applicant obtaining from the Zoning Board an area variance from the subject State road frontage requirement. Its application for that variance has been pending before the Zoning Board since September 2016, while awaiting the required Planning Board SEQRA determination pursuant to the coordinated SEQRA review of the application.

For any and all of the foregoing dispositive reasons, we respectfully request that Mr. Rogers, in consultation with the Town Attorney and his colleagues in the Department of Technical Services, who have reviewed this matter at length for years, modify his "zoning opinion" on the basis of the comprehensive materials submitted herewith and to date, to correctly find that the proposed specialty hospital is a specially permitted "hospital or nursing home" use under the Zoning Code, subject to obtaining the one area variance.

Thank you for your consideration.

Very truly yours,

Robert F. Davis

RFD:dds
Enclosures

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1 Heady Street
Cortlandt Manor, NY 10567.

Re: Hudson Education and Wellness Center

Dear Messrs. Wood and Rogers:

This letter is in response to the "zoning opinion" memorandum rendered by Director of Code Enforcement Rogers, dated March 21, 2019, which he states was requested by the Planning Board at its meeting of February 5, 2019. (A copy of Mr. Rogers' memorandum is annexed hereto as **Exhibit 1.**)

Mr. Rogers states in his "zoning opinion" that the Board asked him to address "two threshold issues: Is it [the Hudson Education and Wellness Center] a "hospital" and if it is a hospital does it require frontage on a "main road". Mr. Rogers' memorandum addresses only the first such issue. The Planning Board's February 5th request for an interpretation as to the permissibility of the proposed specialty hospital use was precipitated by the February 1st letter of Zarin & Steinmetz, the opposition group's counsel, which raised this issue for the very first time, after some **four years** of extensive proceedings before the Town, based on spurious reasons other than those set forth by Mr. Rogers in his memorandum.

In an effort to avoid a formal appeal of Mr. Rogers' patently erroneous "zoning opinion" to the Zoning Board, we submit this letter in the hope that in consultation with Town Attorney Wood and his colleagues in the Department of Technical Services, Mr. Rogers can apprise himself of the applicable law and the actual facts of this matter and reconsider his "zoning opinion" that the proposed specialty hospital is not, in fact, a permitted "hospital" use under the Town Zoning Code.

Mr. Rogers' opinion is premised solely on his demonstrably incorrect finding that the primary purpose of the proposed specialty hospital is merely "custodial care" rather than "medical care". In making such error, Mr. Rogers disregards or overlooks the pertinent facts in the record and misstates and/or fails to address the applicable laws and regulations. Mr. Rogers' fundamentally false premise as to purported merely "incidental" medical care to be provided is

easily debunked by the Applicant's experts on the extensive treatment of addiction which will *actually* take place at the hospital. (See pp. 7-15 below and **Exhibits 2** and **3** hereto.) Respectfully, Mr. Rogers' erroneous opinion simply may not be permitted to stand.

Initially, putting aside for a moment Mr. Rogers' erroneous findings, it is absolutely outrageous that such an opinion even would be requested and presented at this late juncture, almost **four years** after the Applicant submitted its initial application to the Planning Board in **July 2015** for a special permit for the hospital use under §307-59 of the Zoning Code, supported by its initial Comprehensive Expanded Environmental Assessment volume, which described the proposed hospital use in great detail, and after having spent hundreds of thousands of dollars in presenting its application to the Town, in diligently addressing all public comment, and in accommodating all requests and requirements of the Town and its consultants.

In fact, the Applicant's counsel and other consultants first met informally with Town legal and professional staff, **including Mr. Rogers**, on September 25, 2014, to discuss the proposed use and whether it was permitted. The Staff affirmed that the use as described, i.e., treatment of those suffering from alcohol and drug dependency, subsequent to undergoing initial detoxification, was a permitted hospital use, subject to a variance from the 2004 State road frontage requirement.

Almost immediately upon the Applicant's formal submission in July 2015, in September 2015, the Town Board, in response to public opposition to the application, enacted a Moratorium with respect to hospital special permits and commenced consideration of the establishment of a Medical-Oriented District (MOD), which it ultimately incorporated into its March 2016 Comprehensive Plan. The Applicant actively challenged the Moratorium with respect to the proposed hospital use and litigated with the Town in connection therewith.

When the Moratorium concluded on June 30, 2016, the Applicant immediately recommenced its application to the Planning Board, but was essentially directed in August 2016 by Mr. Rogers' superior, Mr. Preziosi, Director of the Department of Technical Services, and Mr. Kehoe, Deputy Director of Planning thereunder, to proceed to the Zoning Board, as they stated the Planning Board could not proceed because the hospital lacked the required State road frontage – **not** because it was not a "hospital". (A copy of the Preziosi/Kehoe Memorandum, of which Mr. Rogers received a copy, is annexed hereto as **Exhibit 4**.)

The Applicant proceeded before the Zoning Board from September 2016 through April 2017, at which time Town Attorney Wood directed that there should be a coordinated SEQRA review between the Zoning Board and the Planning Board and that the Applicant should proceed with the Planning Board again, commencing in May 2017.

Since May 2017, Applicant has actively pursued approval for its hospital use before the Planning Board, seeking in particular a Planning Board SEQRA determination, in its capacity as lead agency, before returning to the Zoning Board for the necessary frontage variance. During these proceedings, Mr. Rogers, with full knowledge of the intended hospital use, has rendered various permits for work at the premises, including new roofing, and heating and electrical repairs, noting only on such permits, solely because the Applicant had not yet received approval for the proposed use, that "no existing or proposed use is implied nor approved". (See, for example, **Exhibit 5** annexed hereto.)

THE PRIOR ZONING BOARD PROCEEDINGS GOVERN THIS MATTER

At the outset, prior to discussing the substance of his opinion, Mr. Rogers is apparently unaware that the Applicant has engaged in extensive proceedings before the Zoning Board, which have thus far involved one Zoning Board determination and one Decision and Order of the Supreme Court, Westchester County. Mr. Rogers is bound by those proceedings and determinations.

As referenced above, on August 12, 2016, Mr. Rogers' superior, Mr. Preziosi, Director of the Department of Technical Services and Mr. Kehoe, Deputy Director of the Department of Technical Services, Planning Division, issued a memorandum to the Planning Board and the Applicant, copied to Town Attorney Wood, which said Town staff members had determined – just as the Applicant had pointed out at the outset in July 2015 (and informally in September 2014) – that:

> The application seeks Site Plan approval and a Special Permit for a hospital as per §307-59 of the Town Zoning Code. Section 307-59(9) requires that hospitals are 'only permitted on a lot in residential zones which fronts on a state road'. Quaker Ridge Road is not a state road and therefore the application cannot be further processed by the Planning Board.
>
> (See **Exhibit 4** annexed hereto.)

Significantly, the Department of Technical Services, of which Mr. Rogers is a member, premised its memorandum on the fact that the proposed use *is* a special permit hospital use under the Zoning Code, which therefore, requires only an area variance from the State road frontage requirement, **not** a use variance, as would be required were it not such a hospital.

The Applicant subsequently engaged in a number of meetings with the Zoning Board from October 2017 through April 2017, including a public hearing in April 2017. The main focus of the Zoning Board proceedings up until the April 2017 public hearing was the false claim of the opposition group and its counsel that the State road frontage variance was not an area

variance, as stated by the Applicant, but a use variance. Tellingly, the opposition group and its counsel **did not claim** during the Zoning Board proceedings that this was not a hospital and therefore, required a use variance for that reason. They raised only the nature of the variance from the State road frontage requirement, and even sought to file their own request for an interpretation on that sole issue to the Zoning Board, which the Zoning Board properly determined was not in its jurisdiction to hear separately from the Applicant's appeal for the one variance.

However, as requested by the opponents, the Zoning Board did agree to render a determination on that "threshold" issue of the nature of the road frontage variance before proceeding to consider whether to grant the variance. Thus, on March 15, 2017, having heard several months of arguments and received voluminous submissions on that threshold issue, the Zoning Board rendered its Decision and Order, which determined that the variance sought by the Applicant from the State road frontage requirement is an area variance. (See **Exhibit 6** annexed hereto.)

Importantly, **the Zoning Board's entire Decision and Order was expressly premised upon the fact that the proposed use is a special permit hospital use under §307-59,** subject only to the necessity of an area variance from the State road frontage requirement. (See **Exhibit 6**.) The Zoning Board rendered its interim determination in accordance with the express demand of the opposition group and its counsel that it do so. The opposition group then brought an Article 78 proceeding against the Zoning Board to challenge its determination. Again, the opposition group **did not** challenge the determination on the basis that the proposed use was not a hospital and that therefore, the Applicant required a use variance. Their claim against the Zoning Board was premised on their claim that the variance from the State road frontage requirement ***required for hospitals*** should be deemed a use variance.

Just as importantly, the opposition group also claimed that were the Zoning Board to grant the requested variance from the State road frontage requirement permitting the hospital use, it would be contrary to the 2016 Comprehensive Plan's recommendations for the MOD District, where such a hospital should be located. Again, that claim was **premised on this being a hospital use.**

Finally, in their same "hybrid proceeding", the opposition group also concurrently sued the Town Board and the Town, seeking a declaratory judgment that permitting such a hospital in the residential zone would be contrary to the Comprehensive Plan's MOD recommendations. Again, **this claim was based on the proposed use being a hospital.**

Likewise, the answering papers filed by the separate outside counsel for the Zoning Board and for the Town and Town Board in the opposition group's proceeding **expressly recognized the use as a permitted hospital use.**

The Court dismissed the opposition group's claims against the Zoning Board as premature and otherwise dismissed the claims against the Town and Town Board as well. (See **Exhibit 7** annexed hereto.)

Again, the Court's Decision was **premised on the use being a hospital** providing treatment to those suffering from substance use disorder. Indeed, the Court's Decision and Order stated:

> **Specifically, the Wellness Center respondents are seeking to operate a new private specialty hospital upon the project site which would provide residential substance use disorder/chemical dependency treatment for a maximum of 92 patients.** In pursuit of the rehabilitation and development of the project site, the Wellness Center respondents sought site plan approval regarding same, but upon the submission of the most recent site plan application before the Planning Board of the Town of Cortlandt (hereinafter, Planning Board) in August of 2016, consideration of that application was held in abeyance at that time due to the location of the project site within an R-80 residential district with frontage exclusively upon Quaker Ridge Road, which is designated and mapped as a Town Road in the Town of Cortlandt. Specifically, the record reflects that the Planning Board withheld consideration of the Wellness Center respondents' site plan application unless and until they had obtained a variance from the requirements of §307-59(B)(9) of the Town of Cortlandt Zoning Code (hereinafter, the Code), which provides, in substance that any property located within a residential district which is **proposed for use as a hospital** must front upon a state road. (Emphasis added.)
>
> (See **Exhibit 7** hereto, pages 2-3.)

Mr. Rogers is bound by the Zoning Board proceedings and the litigation and Court Determination relating thereto recognizing the proposed hospital use as such. Further, the opposition group could have, and should have, raised any "threshold issue" of whether this is a permitted "hospital" in the proceedings they participated in before the Zoning Board and in connection with their demand, to which the Zoning Board acceded, that a threshold determination be made whether the variance sought from the State road frontage requirement is an area variance or a use variance. The opponents likewise failed to raise the issue before the Court. As they failed to do so, they should be deemed barred by the prior proceedings from

doing so now, under the legal principle of res judicata applicable to both the Zoning Board and Court determinations. Mr. Rogers should likewise be deemed barred by same, as well as by the contrary positions taken by the Zoning Board and the Town Board in those prior proceedings, of which he is apparently unaware.

Mr. Rogers is further bound by the 1989 Zoning Board Court-ordered determination in the matter of Sidney Berg, a matter with similar public opposition and litigation regarding Mr. Berg's proposed hospital use on **this very same property of the Applicant**, which likewise involved a determination as to whether the proposed use, designated as a "residential community re-entry facility" for people who had suffered traumatic brain injuries, constituted a permitted hospital use. The Court held that it *was* a permitted use and accordingly, the Zoning Board issued the special permit. That particular hospital use never commenced. (Copies of the Court and Zoning Board decisions therein are attached hereto as **Exhibit 8.)**

Presumably, Mr. Rogers is unaware of these prior ZBA and Court determinations, which alone, should be dispositive in inducing him to modify his "zoning opinion" with respect to the proposed specialty hospital, to find that it **is** a permitted hospital use, subject to the frontage variance. But there are ample other reasons for him to do so.

THE APPLICANT HAS BEEN COMPLETELY CONSISTENT IN IDENTIFYING ITS PROPOSED USE AS A HOSPITAL

Notwithstanding that the prior Zoning Board and Court proceedings should be dispositive on the matter of the hospital use and should alone mandate that the Code Enforcement Officer change his "opinion", in addressing the substance of his findings, it should be noted at the outset that Mr. Rogers is blatantly incorrect in stating in his "Introduction" that the "applicant has maintained, with some inconsistency, that the proposed use is a Hospital".

Emphatically, the Applicant has been completely consistent from the outset of its application in July 2015, and indeed, from its meeting with Mr. Rogers and staff in September 2014, that the proposed use is a specialty hospital.

The fact that the Applicant, in addressing potential environmental impacts, such as water usage, traffic and parking, and medical waste, has pointed out that the specialty hospital will be less impactful than the typical general hospital does not make its proposed use any less a hospital.

It appears that Mr. Rogers may be utilizing the "inconsistency" comment first raised by the opposition group's counsel, Zarin & Steinmetz, in its aforesaid letter of February 1, 2019, where as alluded to above, counsel first raised the issue of the permissibility of the hospital use.

As stated in our response letter of February 5, 2019, the Applicant has identified the use as a hospital from the outset, including in its July 20, 2015 Expanded Environmental Assessment. Our response to the opposition group's counsel is equally applicable to Mr. Rogers' "inconsistency" statement. See our response letter to the Planning Board of February 5, 2019 annexed hereto as **Exhibit 9**.

THE FATAL FUNDAMENTAL FLAW IN THE CODE ENFORCEMENT OFFICER'S OPINION – MEDICAL CARE *IS* A MAJOR COMPONENT OF THE PROPOSED SPECIALTY HOSPITAL USE, *NOT* MERELY "INCIDENTAL," TO "CUSTODIAL CARE", AS THE CODE ENFORCEMENT OFFICER INCORRECTLY OPINES

Mr. Rogers' entire opinion that the proposed use does not constitute a permissible hospital use is predicated on his erroneous finding that medical care is only an "incidental" part of the proposed use, when in fact, it is the primary component of the proposed specialty hospital. As his erroneous opinion about the operations of such a hospital, with respect to which Mr. Rogers presumably has no personal expertise, is the basic premise for all of his legal conclusions in his opinion, his opinion may not stand.

In sum, for some **4 years**, the Applicant has engaged in dozens of meetings and communications with the Department of Technical Services, including Mr. Rogers, the Town Attorney, the Planning and Zoning Boards, and the Town's professional consultants, all premised on the essential fact that the proposed use, the nature of which is set forth and reiterated in thousands of pages of written submissions to the Town,[1] is, in fact, a hospital use, permitted by special permit, subject to the necessity of obtaining an area variance from the 2004 State road frontage requirement.

Even the vocal neighborhood opposition group and its counsel **never** raised the question of whether this was a hospital use, until counsel's aforesaid letter of February 1, 2019, which precipitated this unfortunate situation. Obviously, the opposition group only raised this last gasp issue when it failed with its previous argument before the Zoning Board, as explained above, and when it saw that the Applicant has clearly demonstrated that there will be no significant adverse environmental impacts.

So now, this spurious issue is raised only after the Applicant has spent hundreds of thousands of dollars in the extensive proceedings before the Town, based on the fundamental, heretofore unanimously accepted fact that its application is one for a hospital. **The obvious reason that this issue has not been raised for four years is because it clearly *is* a hospital.**

[1] On March 29, 2019, as suggested by the Planning Board, the Applicant consolidated its thousands of pages of submissions into a massive encyclopedic, updated 4-volume submission, which presumably, Mr. Rogers has not yet reviewed.

We respectfully submit that Mr. Rogers' egregiously belated opinion either should be withdrawn and modified, based on the law and facts herein, or if necessary, overturned by the Zoning Board.

The Applicant has extensively set forth the predominant medical care and the treatment component of the proposed specialty hospital use in its "Project Narrative Description" prepared by its expert management consultant, Ross Calvin of Brown Consulting, Ltd., which was first presented to the Planning Board as Exhibit B to the Applicant's original Expanded Environmental Assessment, dated July 20, 2015, and likewise, as Exhibit B to its revised Expanded Environmental Assessment, dated October 6, 2016.

With respect to medical care and treatment at the proposed hospital in particular, the Narrative Report states in pertinent part, at length, as follows:

> "In August 2012, Hudson Education and Wellness Center engaged the services of Brown Consulting, Ltd., Toledo, Ohio to conduct a comprehensive study to determine the feasibility for the development of successful "high end" residential **addictions treatment programs** within the greater New York City and Westchester County market areas.
>
> The Feasibility Analysis concluded that a 92-bed capacity residential addictions program **providing treatment services** to affluent individuals and families experiencing **chemical dependency** can be successfully developed by Hudson Education and Wellness Center (HEWC). The HEWC's **residential addiction treatment model** will target affluent adults who have a **suspected substance use disorder** for admission and have the financial ability/means to self-pay or to use a combination of self-pay and/or private **insurance coverage** to cover the cost of services rendered. Properly designed and staffed, **the addictions residential program will serve to fill a need for chemically dependent persons** within the identified market area.
>
> The primary market area for Hudson Education and Wellness Center **addiction treatment services** is defined as the region around New York City. Individuals and families seeking/**requiring residential treatment** will travel from any point in the United States to a **treatment program** depending on the effectiveness, affordability and attractiveness of the program. HEWC plans to market to affluent individuals and families employed and living in New York City, the surrounding region and nationally.

* * *

After full rehabilitation, the Croton-on-Hudson property would compare very favorably with other "high-end" **addiction residential treatment programs** around the United States. The location, facilities and **planned clinical programming** will help attract competent personnel to the organization with a desirable work environment and the surrounding areas for personnel relocation.

RESIDENTIAL PROGRAM DESCRIPTION AND TREATMENT MODEL

HEWC is planning to establish a **short-term (28 to 45) day residential addictions treatment program similar to the Betty Ford Center in Rancho Mirage, CA.** The HEWC **addiction program philosophy and program model** will utilize the Twelve (12) Step – **Disease Concept model** of addictions, which is based on the principles of Alcoholics Anonymous and is abstinence based. The **residential addictions treatment model** includes, but isn't limited to **diagnostic assessment, person-centered treatment planning,** individual, group and family **counseling,** Twelve Step interventions, with flexible treatment goals, including daily AA meetings, a **strong emphasis on** the new client screening and intake/admission process, **the effective balance of medical care, psychosocial and psychological care,** and family involvement with monthly weekend family programs.

* * *

All new clients are screened for alcohol and drugs through **urinalysis testing** at admission to the program and on an ongoing random basis during their treatment stay to ensure ongoing compliance. . . .

. . . All client **treatment costs/fees** at HEWC are either self-paid directly by the individual, through their personal **private hospitalization insurance coverage** or a combination of self-pay and private insurance. . . . **The clients are commencing their initial formal addictions treatment,** having been "transferred" after completion of medical detoxification from alcohol and/or drugs, or else do not require medical detoxification, or have had a period of absence from prior formal treatment episode(s). **Post-detoxification clients admitted to HEWC are continuing their ongoing medical treatment process that began with their medical detoxification from alcohol and/or drugs and the others are undergoing appropriate medical treatment as well. Thus the HEWC facility is not considered sober/recovery housing.**

* * *

Program Philosophy

- **Disease model and abstinence focus;**
- Flexible goals and strengths and levels of care;
- Twelve Step Program connections and approaches, daily meetings;
- **Emphasis on the proper balance of medical care, psychosocial and psychological care;**
- Family Involvement – Organized Monthly Weekend Family Programs;
- Group, individual didactic, family, and Twelve Step interventions;
- **Minimized, but appropriate use of psycho-active medications;**
- Skills Building Training;
- Healthy Peer Dynamics and Confrontation;
- Organized Program Design;
- Client involvement in all **treatment plan** development
- Client involvement in length of stay decisions
- Addition of strong relaxations components (i.e. acupuncture, massage, yoga, meditations, exercise, etc.)

Clinical and Medical Services Provided

Clinical and Medical program services will include, but be limited to Diagnostic Assessment (approximately three to five days); Health and Physical examination, Residential Treatment (approximately 28 to 45 days total) including Individual, Group and Family Counseling, Case Management, Urine Drug Screening, Psychiatric Assessment, if available and indicated, and Psychiatric Medication Management, as indicated, Specialty Care services, Extended Care, Continuing Care and Transition/Discharge Planning.

Daily Client Schedule(s)

Organized client activities are scheduled 5 to 7 days per week, roughly 10 hours per day. . . .

* * *

With a projected initial average census of forty-two (42) residential clients (year one), 73 Full time Equivalents (FTE's) clinical and support staff complement is anticipated for the 24 hour/day, 7 day/week staffing pattern for clinically effective and safe staff coverage. The projected total of 73 FTE's would cover all 3 shifts during the first year with a projected average census of 42 during year 1. . . .

The HEWC staff FTE build-up will gradually increase as the client census increases up to an average of 92 clients at full capacity. At full capacity the staff to client ratio would be approximately .93 staff to one (1) client or approximately 86 staff to 92 clients. . . . .

* * *

. . . Estimated employee full time equivalent (FTE) coverage breakdown by shift **at start-up** is as follows:

Shift 1 (6:00am – 2:00pm)
7 Nurses
10 Social Workers/Counselors/Technicians
2 Security
19 Total FTE's

Shift 1A (9:00am – 5:00pm)
1 Physician/Advanced Practice Nurse
1 Psychologist
5 Support Staff – Admissions/Clerical/Dietary/Billing/Housekeeping
3 Administration/Regulatory and PI/Monitoring/Contingency
2 Executive
2 Marketing
2 Development
16 Total FTE's

Shift 2 (2:00pm – 10:00pm)
1 Physician/Advanced Practice Nurse
6 Nurses
1 Psychologist
10 Social Workers/Counselors/Technicians
5 Support Staff – Admissions/Clerical/Dietary/Billing/Housekeeping
2 Security
3 Administration/Regulatory and PI/Monitoring/Contingency
0 Executive
1 Marketing
0 Development
29 Total FTE's

Shift 3 (10:00pm – 6:00 am)
0 Physician/Advanced Practice Nurse
2 Nurses
0 Psychologist
3 Social Workers/Counselors/Technicians
1 Support Staff – Admissions/Clerical/Dietary/Billing/Housekeeping
1 Security
2 Support Staff – Administration/Regulatory and PI/Monitoring/Contingency
0 Executive
0 Marketing
0 Development
9 Total FTE's" (Emphasis added.)

Thus, it is abundantly clear from the Applicant's 2015 Narrative Report that the "medical care" and treatment of the disease of substance use disorder are the primary focus of the specialty hospital, as summarized at length above. Indeed there will be at least **2 physicians, 15 nurses, 2 psychologists, and 23 social workers/counselors/technicians – i.e. 42 medical and treatment professionals – to serve only 42 patients projected at "start-up" of the hospital alone. All of these medical and treatment professionals, and the ratio of 73 staff to 42 patients at start-up and ultimately 86 staff to 92 patients, can hardly be characterized as mere "custodial care" with only "incidental" medical care, as Mr. Rogers incorrectly opines.**

All of the patients staying at the proposed specialty hospital will be suffering from a disease, for which they will be receiving medical care and treatment at the hospital.

As explained by eminent addiction psychologist, Dr. Arnold M. Washton, who maintains offices in New York City, when he appeared on behalf of one of our firm's clients who was seeking an interpretation of the Yorktown Zoning Board that its proposed sober home (which is to be differentiated from the proposed specialty hospital, as set forth in the Narrative Report above, because it involves no on-site medical care), constituted a "convalescent home" for people recovering "from an infirmity, disease or ailment", as defined by the Yorktown Zoning Code: As stated by Dr. Washton in his May 15, 2014 report:

> **"Addiction is a Disease**
>
> **All occupants . . . will be . . . afflicted with the disease of addiction . . .** [an] often chronic potentially life threatening illness". The term "disease" as applied to addiction is not a metaphor; it is a medically accepted term. In 1956, the American Medical Association (AMA) formally classified alcoholism as a disease and more recently the American Society of Addiction Medicine (ASAM) and the National Institute on Drug Abuse (NIDA) expanded and refined this definition. Accordingly,

> addiction is now defined as a chronic, relapsing brain disease that is characterized by compulsive alcohol/drug seeking and use despite harmful consequences. It is considered a brain disease because alcohol and other drugs change the brain both structurally and functionally. Thus, individuals suffering with addiction are said to have an "addicted brain". As a chronic brain disorder, addiction is not merely a behavioral problem or simply the result of making maladaptive choices, according to ASAM. Moreover, addiction is now seen as a *primary disease* not a by-product of something else such as psychiatric or emotional problems, although these may co-exist and be intertwined with addiction. To successfully manage the disease of addiction – not unlike other chronic diseases such as diabetes, cancer or cardiovascular disease – treatment and follow up monitoring must be maintained over the long term and in some cases for the patient's lifetime. . . ."
>
> (A copy of Dr. Washton's curriculum vitae is annexed hereto as **Exhibit 10**).
>
> The Yorktown Zoning Board ruled in favor of the applicant's interpretation.

One need only read the daily newspaper or listen to the news on the radio to understand the opioid addiction crisis throughout the region, including Cortlandt, and the need for the medical treatment that the proposed specialty hospital will provide.

The fact that medical care is the primary focus and major component of the proposed specialty hospital, not merely "incidental" to "custodial care", as purported by Mr. Rogers, is further demonstrated by the reports in response to his opinion of the Applicant's experts. The reports of Ross Calvin LPCC-S, of Brown Consulting, Ltd., a national provider of training services for health care professionals and providers, who prepared the Applicant's above-referenced Narrative Report and who spoke at the April 2017 Zoning Board public hearing, and his colleague, Phil Kosanovich, and Frank Cicero, principal of Cicero Consulting Associates VCC, Inc., a hospital and health care provider consulting firm, are annexed hereto as **Exhibits 2** and **3**, respectively, along with their curricula vitae. These gentlemen and their firms are serving as consultants to the Applicant with respect to the State licensing, establishment and operation of the specialty hospital.

Presumably, Mr. Rogers has no personal expertise with respect to substance use disorder or its medical treatment, or with the operation of such specialty hospitals. Accordingly, he misplaces emphasis on the Applicant's use of the technical term "residential treatment program". That phrase characterizes the 28-45 day length of stay of the patients, it does not connote a residential dwelling use or even a sober home, where recovering addicts – who have already undergone medical treatment in such a specialty hospital – recover in a residential home setting, where there is typically no on-site medical care at all, while they "get back on their feet" in commencing their everyday lives.

Notwithstanding Mr. Rogers' misguided implication to the contrary, the fact the patients will undergo initial medical detoxification prior to entering the specialty hospital does not in any way diminish the nature and the extent of the medical care and treatment they must and will receive thereafter at the specialty hospital. If providing such initial detoxification services is all the Town will require for this to constitute a "hospital", the Applicant will be pleased to amend its application to provide same. The only reason it has not proposed to do so is in consideration of the perceptions of neighbors – however misplaced they may be – as to the possible concerns patients undergoing detox might raise. If providing the *additional* medical care of initial detoxification is what the Town believes would render this a "hospital" – although completely unnecessary in the Applicant's view – the Applicant is completely willing and able to do so.

Nor does the fact that the Applicant's counsel has referred to the specialty hospital as a "wellness center" – its name will be "Hudson Wellness Center" - mean medical care will be merely incidental there, as Mr. Rogers suggests – quite the contrary. As indicated in Mr. Rogers' quote from Applicant's counsel, the "wellness" characterization simply indicates that people are there to be treated for their illness in order to get well. The voluminous record clearly reflects that at no time has either "JMC" (the Applicant's consulting firm, John Meyer Consulting) or "Mr. Davis" (the Applicant's counsel) ever "noted the proposed use as a wellness center and health care is incidental", as falsely stated by Mr. Rogers on page 4 of his report. Northern Westchester Hospital in Mount Kisco operates the NWH Cancer Treatment and Wellness Center for the medical treatment of cancer patients. Certainly, no one would reasonably claim that its use of the word "wellness", intended to generate a positive atmosphere for the cancer patients, just as the Applicant seeks to do with its wellness center, would mean it is not a hospital use.

Nor, is the fact, as cited by Mr. Rogers, that there are "only" two nurses projected for the 10:00 p.m.- 6:00 a.m. shift at the specialty hospital, *when the patients are asleep*, in any way indicate that medical care is not the principal focus of the hospital. As noted in the Narrative Report excerpt above, there will initially be **42 health care practitioners on staff at the hospital to serve up to 42 patients** in the "start-up phase" during every 24 hour day. Active treatment simply is not taking place when the patients are asleep.

Notwithstanding, as referenced in the excerpt from the Narrative Report above, in addition to two nurses on the overnight shift, there will also be three social workers/counselors/ technicians. As indicated in the Narrative Report, total staff will increase from 73 to 86 as the hospital expands from 42 patients projected at start-off to 92 patients maximum, which will no doubt include additional medical and treatment professionals.

The Code Enforcement Officer's citation of the specialty hospital's low medical waste production likewise does not support his erroneous opinion that medical care is only incidental at the specialty hospital. Obviously, not all medical care, including this specialized care for those suffering with the disease of addiction, generates significant medical waste.

Mr. Rogers also purports that the fact that the Applicant's engineer, Ralph Mastromonaco, utilized the NYSDEC per bed sewage generation standard for group homes (as well as for assisted living facilities), to determine the daily water usage for the hospital, instead of the standard for a general hospital, means that this is not a hospital. The fact that the proposed specialty hospital will not generate as much water demand as a general hospital, because among other things, it has no emergency room or outpatient treatment, no surgery, no laundry service on site, and no irrigation system, clearly does not mean it is not a hospital. Generating less medical waste and water usage than a general hospital does not reflect a lack of medical care, but only a specialized type of medical care. As Mr. Rogers is a professional engineer, he well knows that the generic use categories used by DEC cannot possibly cover every specific use, - they are illustrative only – so project engineers like Mr. Mastromonaco endeavor to utilize in their professional expertise the category that best represents the particular use and its particular water demand.

Moreover, Mr. Rogers is apparently unaware that on December 14, 2017, the Westchester County Health Department, which has jurisdiction over the specialty hospital's public water system, approved Mr. Mastromonaco's referenced flow calculations as "acceptable based on NYSDEC standards" for purposes of what the Health Department designated as the "**addiction recovery hospital**" and approved the entire public water system based on that hospital calculation on January 25, 2019. **Mr. Rogers is bound by the Health Department's determinations.** (Copies of the two WCHD approvals are annexed as **Exhibit 11** hereto.)

The Narrative Report indicates that the specialty hospital will be modeled after such high-end treatment establishments as the Betty Ford Center in Ranch Hill Mirage, California, Father Martin's (Ashley Treatment Center) in Havre de Grace, Maryland, Silver Hill in New Canaan, Connecticut, High Watch in Kent, Connecticut and Caron Treatment Center in Wernersville, Pennsylvania. A review of the websites of all of these well-known specialty hospitals indicates their varying types and degrees of medical care, but in all events, as with the proposed hospital, demonstrates that medical care is the substantial component of the use, not merely "incidental".

Quite simply, Mr. Rogers' belief that medical care is only "incidental" to the proposed specialty hospital use is grossly misplaced. As it serves as the very premise of his analysis, on which his opinion is based, that opinion is inherently flawed. Accordingly, his opinion must either change or be rejected.

THE APPLICABLE LAW – ALL REQUIRED STANDARDS OF INTERPRETATION, APPLICABLE LAWS AND DEFINITIONS REQUIRE A DETERMINATION THAT THE PROPOSED SPECIALTY HOSPITAL IS, IN FACT, A HOSPITAL

A. The Legal Standards of Interpretation.

1. The Zoning Law Standard of Interpretation Requires an Interpretation in Favor of the Applicant–

It is a basic principle of zoning law, as held on numerous occasions by the Court of Appeals and Appellate Division, Second Department, that as zoning regulations are in derogation of common law property rights, they must be strictly construed in favor of the property owner and against the municipality, with any ambiguity resolved in favor of the property owner. See, Salkin, New York Zoning Law and Practice, 4th Edition, §38:1 The Language of Zoning; Strict Construction and see, e.g., *440 East 102nd Street Corp. v. Murdock*, 285 N.Y.298 (1941), *Hogg v. Ciaciulli*, 247 A.D.2d 474, 668 N.Y.S.2d 712 (2d Dep't 1998); *C. DeMasco Scrap Iron & Metal Corp. v. Zirk*, 62 A.D.2d 405 N.Y.S.2d 260 (2d Dep't 1978), aff'd 46 N.Y.S2d 864, 414 N.Y.S.2d 516 (1979).

Under this mandatory rule of Zoning Code interpretation, and all of the circumstances of this case, it is not legally possible to sustain Mr. Rogers' opinion that the proposed use does not constitute a permitted hospital.

2. Federal Law Further Mandates Upholding the Position of the Applicant that the Proposed Use is a Hospital.

As set forth in the Applicant's Memorandum of Law, dated September 28, 2016 and annexed as Appendix E to its October 6, 2016 Expanded Environmental Assessment, as prepared by the Applicant's zoning counsel, in conjunction with the Applicant's special counsel for Federal Law matters, Robert L. Schonfeld, Esq. and Randolph M. McLaughlin, Esq., the Applicant, on behalf of its federally protected patients, must be afforded reasonable "accommodations" and "modifications" with respect to the Town Zoning Code.

As discussed above and further discussed below, there can be no issue that addiction is a disease. As such, there can be no question that the Applicant's prospective patients constitute a protected class under the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§12101 et seq. and §504 of the Rehabilitation Act of 1973, 29 U.S.C. §794. Under the ADA, 42 U.S.C. §12132, "[s]ubject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

Furthermore, persons recovering from or receiving treatment for addiction to alcohol or drugs are disabled individuals for purposes of the ADA and §504 of the Rehabilitation Act. See, 42 U.S.C. §§12210(b) and (c). 28 C.F.R. §§35.104, 35.131 (ADA); 29 U.S.C. §§706(8)(B) and (C) (Rehabilitation Act).

The ADA and Rehabilitation Act have often been employed to challenge local zoning board decisions. For example, in the very relevant case of *Innovative Health Systems, Inc. v. City of White Plains*, 931 F.Supp. 222 (S.D.N.Y.), aff'd, except with respect to one individual plaintiff, 117 F.3rd 37 (2nd Cir. 1997), the District Court and Second Circuit Court of Appeals explained at length that local zoning decisions are within the scope of the ADA and thus, issued and upheld, respectively, an injunction to prevent the City of White Plains from interfering with the relocation of a substance abuse treatment center. The District Court also reversed the determination of the City Zoning Board of Appeals that the center was not a permitted use of the property and revoking the building permit the center had been issued by the City Commissioner of Buildings. As explained in *Innovative Health Systems*, the ADA and Rehabilitation Act require that "public entities and entities receiving federal financial assistance are required to make 'reasonable modifications', or 'reasonable accommodations' in their rules, policies and practices when necessary to avoid discrimination." See, e.g., 42 U.S.C. §12131(2); 45 C.F.R. §84.3(k).

As stated by the District Court in *Innovative Health Systems*:

> Under the ADA and Rehabilitation Act, public entities and entities receiving federal financial assistance are required to make 'reasonable modifications' or 'reasonable accommodations' in their rules, policies and practices when necessary to avoid discrimination. . . . An accommodation is reasonable if it does not cause any undue hardship or fiscal or administrative burdens on the municipality, or does not undermine the basic purpose that the zoning ordinance seeks to achieve . . .

931 F.Supp. 222, *supra*, at 239.

See, also, e.g., *Oxford House, Inc. v. Town of Babylon,* 819 F.Supp. 1179 (E.D.N.Y. 1993) (in which plaintiff was represented by one of the Applicant's co-counsel, Robert L. Schonfeld, Esq.) and *Shapiro v. Cadman Towers, Inc.*, 51 F.3d 328 (2d Cir. 1995), applying the analogous standards of the Federal Housing Act ("FHA").

In addition, the Second Circuit noted in *Innovative Health Systems*:

> . . . There is little evidence in the record to support the ZBA's decision on any ground other than the need to alleviate the intense political pressure from the surrounding community brought on by the prospect of drug - and alcohol - addicted neighbors. The public hearings and submitted letters were replete with discriminatory comments about drug - and alcohol - dependent persons based on stereotypes and general unsupported fears. . . . Although the City certainly may consider legitimate safety concerns in its zoning decisions, it may not base its decisions on the perceived harm from such stereotypes and generalized fears. As the district court found, a decision made in the context of strong, discriminatory opposition becomes tainted with discriminatory intent, even if the decision makers personally have no strong views on the matter. . . .
>
> We also find the ZBA's decision to be highly suspect in light of the requirements set forth in the zoning ordinance. . . . The lack of a credible justification for the zoning decisions raises an additional inference that the decision was based on impermissible factors, namely the chemical-dependent status of IHS's clients. Accordingly, we see no reason to disturb the district court's finding of likelihood of success on the merits.

117 F.3d at 49.

There is no question that, as held in *Innovative Health Systems*, the Applicant has standing to assert the protections afforded its prospective patients by the ADA and the Rehabilitation Act. See *Innovative Health Systems, supra*, 931 F.Supp. at 234-237.

Accordingly, in the above-referenced matter recently handled by the Applicant's counsel in the Town of Yorktown, regarding the issuance of a special permit for a sober home providing a temporary transitional residence for those having undergone treatment for addiction, the Town of Yorktown Zoning Board, in upholding against the appeal of neighbors the determination of the Town Building Inspector that the sober home was a permitted "convalescent home" in a residential zoning district, correctly noted that: "Individuals recovering from drug or alcohol addiction are also a protected class under the Federal Fair Housing Act and Americans with Disabilities Act." (See Yorktown Zoning Board of Appeals Determination, 7/24/14, French and Gironda Appeal No. 4/14, pertaining to 482 Underhill Avenue, Yorktown Height, New York.)

On the basis of the foregoing, the Applicant submits that the Town must afford the Applicant "reasonable accommodation" in the interpretation and application of its Zoning Code, including with respect to the determination of whether the proposed use is a permitted hospital. However, rather than affording any such accommodation, Mr. Rogers has gone in the opposite direction, seemingly bending over backwards to find that the proposed specialty hospital is not a permitted hospital use. Again, on this additional Federal Law basis, his opinion may not stand. Unfortunately, any action to the contrary is likely only to subject the responsible Town officials and the Town to a Federal lawsuit. Were such an erroneous determination preventing the use of the property for the specialty hospital to stand, the Applicant would simply be left with no other choice.

B. <u>The Zoning Code Definitional Sections Support the Applicant</u>

With respect to what constitutes a "hospital" for purposes of the Zoning Code, we look first to §307-4 of the Code **"Definitions"**, which states, as follows:

> For purposes of this chapter, certain words and terms used herein are defined as set forth below. Terms and words not defined herein, but defined in the New York State Uniform Fire Prevention and Building Code shall have the meanings given therein ***unless a contrary intention clearly appears***. Words not defined in either place shall have the meanings given in the most recent edition of Webster's Unabridged Dictionary. **Uses listed in the Table of Permitted Uses shall be further defined by the Standard Industrial Classification Manual, United States Office of Management and Budget".** (Emphasis added.)

Section 307-14, **"Content of Table of Permitted Uses",** modifies and augments §307-4 with respect to this particular use, by providing in Subsection D thereof that:

> Unless otherwise stated in this chapter, **non-residential uses** listed on the **Table of Permitted Uses shall be further defined by the Standard Industrial Classification Manual (SIC),** Executive Office of the President, Office of Management and Budget, 1987. (Emphasis added.)

The Table of Permitted Uses, provided under §§307-14 and 307-15 of the Zoning Code (the latter section containing notes to the Table), includes within its non-residential uses, under the grouping entitled, 'Health and Social Services', the following uses:

Hospital or Nursing Home

Offices of Doctors, Dentists or other Health Care Practitioners

Other Health (SIC Secs. 808-809) or Social Services (SIC Sec. 83) (Emphasis added.)

While in the Table, the first two listed uses, "hospitals" and "nursing homes", and "offices of doctors, dentists or other health care practitioners", are permitted by special permit in the residential districts, the latter uses, designated under the Standard Industrial Classification Manual §§808-809 or §83 Social Services are not allowed in residential districts.

The Applicant submits that when the foregoing sections of the Code, §§307-4 and 307-14(D), are read together, in context, notwithstanding that, as explained further below, it is an economic publication, not a zoning manual, the Standard Industrial Classification Manual, is the required principal source to look to for the definition of "hospital" for purposes of the Town Zoning Code.

While Mr. Rogers does not specifically reference the aforesaid definitional requirements under §§307-4 and 307-14(D), and albeit he comes to the wrong conclusion, he implicitly agrees in his "Analysis" and "Conclusion" in his "zoning opinion", with the Applicant's position that the SIC is the required principal, if not controlling, definitional source for the proposed hospital use, stating in his opinion as follows:

Analysis:

The applicant has presented that the proposed classification is a hospital. Specifically a specialty hospital under SIC 8069. Having reviewed Hudson Education and Wellness Center's submissions, I do not agree with this classification. Rather, the proposed use is appropriately classified in the Standard Industrial Classification Manual in Major Group 83.-Social Services; Industry Group No. 836 Residential Care. 8361 Residential Care includes Alcoholism rehabilitation centers, residential: with health care incidental and Drug Rehabilitation centers, residential: with health care incidental. As per §§307-14 and 305-15 Table of Permitted uses SIC Sec. 83 uses are **not permitted** in any residential (R) zone with the Town of Cortlandt. (**Ex. 1**, p. 2)

* * *

Conclusion:

Given the above, it is clear that the applicant would not be providing hospital services and that Hudson Education and Wellness Center is not a hospital, nor a specialty hospital. What is being proposed is a rehabilitation center which clearly falls under SIC Group 83. This Use is not permitted in the R-80 Zone per The Town of Cortlandt Table of Permitted Uses Health Care and Social Services, Other health (SIC Secs. 808-809) or social services (SIC Sec. 83). Furthermore, any determination regarding a hospital not being located upon a "main road" is not before me. (**Ex. 1**, p. 9)

Thus, Mr. Rogers incorrectly concluded that rather than constituting a specialty hospital under SIC Major Group 80 – "Health Services", Industry Group 8069, "Specialty Hospitals, except Psychiatric", which expressly includes hospitals for drug and alcohol rehabilitation, as consistently stated by the Applicant since 2014, the use falls instead under Major Group 83, "Social Services", §8361, "Residential Care", which includes "alcohol and drug rehabilitation centers, residential: with health care incidental".

Mr. Rogers' conclusion as to the SIC classification of the proposed use is premised primarily, if not solely, on his finding that medical care is only an "incidental" part of the proposed use, which as explained above, and in the reports of the Applicant's expert consultants annexed as **Exhibits 2** and **3,** is blatantly incorrect. This error is exacerbated by Mr. Rogers' truncated, and therefore, misleading discussion of the SIC provisions, as demonstrated below.

C. The Code Enforcement Officer Fails to Accurately Set Forth the Pertinent Provisions of the Standard Industrial Classification (SIC) Manual

Mr. Rogers' discussion of the Standard Industrial Classification Manual to support his incorrect opinion that the proposed specialty hospital falls under Major Group 83 – Social Services, rather than Major Group 80 – Health Services is extremely truncated and misleading and inaccurate as applied to the *actual* proposed use. A full reading of the pertinent provisions of the SIC clearly demonstrates that the proposed use falls under Major Group 80 – Health Services, **not** Major Group 83 – Social Services, as he opines.

Preliminarily, it should be noted that as stated in its "Preface", the Standard Industrial Classification (SIC) Manual is an economic document, not a zoning or land use document:

> The Standard Industrial Classification (SIC) is the statistical classification standard underlying all establishment-based Federal economic statistics classified by industry. The SIC is used to promote the comparability of establishment data describing various facets of the US economy. The classification covers the entire field of economic activities and defines industries in accordance with the composition and structure of the economy.

Notwithstanding, as the Town Zoning Code uses the SIC as the primary tool to define the proposed non-residential use, it is clear that the proposed use falls under Major Group 80 – Health Services, which states in pertinent part, as follows:

> **Major Group 80 – HEALTH SERVICES**
>
> *The Major Group as a Whole*
>
> **This major group includes establishments primarily engaged in furnishing medical, surgical, and other health services to persons.** Establishments of association or groups, such as Health Maintenance Organizations (HMOs) primarily engaged in providing medical or other health services to members are included, but those which limit their services to the provision of insurance against hospitalization or medical costs are classified in Insurance Major Group 63. Hospices are also included in this major group and are classified according to the primary service provided.
>
> Industry groups 801 through 804 include individual practitioners, group clinics in which a group of practitioners is associated for the purpose of carrying on their profession, and clinics which provide the same services through practitioners that are employees. (Emphasis added.)

Industry Group 806 under Major Group 80 comprises "Hospitals", which are broken down into General Medical and Surgical Hospitals (Industry No. 8062), Psychiatric Hospitals (Industry No. 8063), and Specialty Hospitals, except Psychiatric (Industry No. 8069). As stated by the Applicant, its proposed specialty hospital use falls under the latter Industry No. 8069, which is defined as:

> **Establishments primarily engaged in providing diagnostic services, treatment, and other specialized services for specialized categories of patients,** except mental. Psychiatric hospitals are classified in Industry No. 8063). (Emphasis added.)

A list of such specialty hospitals under Industry No. 8069 for Specialty Hospitals includes the following applicable categories:

> **alcohol rehabilitation hospitals**
>
> cancer hospitals
>
> children's hospitals
>
> **chronic disease hospitals**
>
> **drug addiction rehabilitation hospitals**
>
> eye, ear, nose and throat hospitals
>
> in-patient
>
> **hospitals, specialty: except psychiatric**
>
> maternity hospitals
>
> orthopedic hospitals
>
> **rehabilitation hospitals: drug addiction and alcoholism**
>
> tuberculosis and other respiratory illness hospitals

(A copy of the provisions of SIC Major Group 80 – Health Services is annexed hereto as **Exhibit 12.)**

Clearly, the proposed specialty hospital is "primarily engaged in providing diagnostic services, treatment, and other hospital services" for patients afflicted with alcoholism and/or drug addiction, and therefore, falls squarely under permitted Major Group 80, Industry Group 806, "Hospitals", Industry No. 8069 as a "specialty hospital". Accordingly, it is a permitted hospital use under the Town Zoning Code.

On the other hand, the proposed use clearly **does not** fall under Major Group 83 – Social Services, Industry Group No. 836, Industry No. 8361 "Residential Care", as opined by Mr. Rogers. The pertinent, **inapplicable** provisions for Major Group 83 – Social Services state as follows:

> **Major group 83 – SOCIAL SERVICES**
>
> *The Major Group as a Whole*
>
> This major group includes establishments providing social services and rehabilitation services to those persons with **social or personal problems** requiring special services and to the handicapped and the disadvantaged. Also included are organizations soliciting funds to be used directly for these and related services. **Establishments primarily engaged in providing health services are classified in major group 80;** those providing legal services are classified in industry 8111; those providing educational services are classified in major group 82. (Emphasis added.)

Obviously those who will be treated for drug and alcohol addiction at the proposed specialty hospital are primarily provided with "health services" under Major Group 80, **not** "social services and rehabilitation services" for people with "social or personal problems", rather than a disease such as addiction, under Major Group 83 as Mr. Rogers opines.

The **inapplicable** provisions for Industry Group No. 836 of Major Group 83, Industry Group 8361 "Residential Care", which Mr. Rogers expressly purports includes the proposed specialty hospital, state as follows:

> **Residential Care**
>
> Establishments primarily engaged in the provision of residential, social and personal care for children, the aged, and special categories of persons with some limits on ability for self-care, but **where medical care is not a major element,** included are establishments providing 24-hour year-round care for children. Boarding schools providing elementary and secondary education are classified in industry 8211. Establishments primarily engaged in providing nursing and health related personal care are classified in industry group 805. (Emphasis added.)

Respectfully, how Mr. Rogers can opine that medical care is "not a major element" of the proposed specialty hospital use is beyond comprehension.

The **inapplicable** uses listed under Industry Group 8361, "Residential Care" are the following:

> **Alcoholism rehabilitation centers, residential: with health care incidental**
>
> Boy's towns
>
> Children's boarding homes
>
> Children's homes
>
> Children's villages
>
> **Drug rehabilitation centers, residential: with health care incidental**
>
> Group foster homes
>
> Halfway homes for persons with social or personal problems
>
> Halfway homes for delinquents and offenders
>
> Homes for children, with health care incidental
>
> Homes for destitute men and women
>
> Homes for the aged, with health care incidental
>
> Homes for the deaf or blind, with health care incidental
>
> Homes for the emotionally disturbed, with health care incidental
>
> Homes for the mentally handicapped, with health care incidental
>
> Homes for the physically handicapped, with health care incidental
>
> (Emphasis added.)

Certainly, health care is not merely "incidental" at the proposed specialty hospital, which is not a use like the "home" type uses under Industry Group 8361 above. Mr. Rogers appears to confuse the proposed health service/hospital use under Major Group 80, which the proposed specialty hospital **is**, with a sober home, which would be covered under Major Group 83, Industry No. 8361 "Residential Care" above, where many patients might go after departing the specialty hospital, which the specialty hospital **is not**. (A copy of the **inapplicable** provisions of the SIC for Major Group 83 is annexed hereto as **Exhibit 13**.)

Clearly, Mr. Rogers has misapplied the SIC designations to the facts of this matter, purely because he incorrectly opines that "health care" is "incidental" to the proposed specialty hospital use. Based on the extensive "health services" which it will provide, the proposed specialty hospital falls squarely within the SIC Major Group 83 – Health Services, **not** Major Group 83 – Social Services. Therefore, it is a permitted special permit hospital use under the Town Zoning Code.

D. <u>Webster's Dictionary/Black's Law Dictionary</u>

While the SIC Manual classifications are the predominant, if not sole authority, for determining the definition of the proposed non-residential use under §§307-4 and 307-14(D) of the Zoning Code, it bears noting that §307-4 also references the Webster's Dictionary definition as a source for determining the definition of words not defined in the Zoning Code. Mr. Rogers has failed to cite this Webster's definition, which states in pertinent part as follows:

> An institution where the sick or injured are given medical or surgical care.

As the proposed specialty hospital is an institution which provides medical care to the sick, it also meets the Webster's Dictionary definition of 'hospital'.

It also bears noting that Black's Law Dictionary, which is often used as a source of definitions in legal matters such as this, defines "hospital" in pertinent part as:

> An institution for the treatment and care of sick, wounded, infirm, or aged persons . . . Also, the building used for such purpose. Hospitals may be either public or private and may be limited in their functions or services; e.g., children's hospital.

Certainly, the proposed specialty hospital meets the Black's Law Dictionary definition as well.

E. The Applicable State Statutory Definitions

The State licensing requirements and their definitions to which the proposed specialty hospital is subject for licensure and on-going inspection further demonstrate that the proposed use constitutes a "specialty hospital " under SIC Major Group 80, Industry Group 8069 for Specialty Hospitals, as set forth above, as it is an establishment "primarily engaged in providing diagnostic services, treatment and other hospital services" relating to "alcohol rehabilitation" and "drug addiction rehabilitation".

As set forth in the letter of the Applicant's counsel to the Planning Board dated, February 5, 2019 **(Ex. 9)**, the proposed specialty hospital is regulated by Public Health Law, Article 28 and by Mental Hygiene Law, Articles 19 and 32, which certainly serves to indicate the primary medical care component of the proposed use. As it involves principally medical care, licensure for the hospital is required from the State Office of Alcoholism and Substance Abuse Services (OASAS) under MHL, Art. 32. On the other hand, as they do not involve any on-site medical care, sober homes do not require such State licensure.

For specific purposes of the use of the word in Article 28 of the Public Health Law, "Hospitals", "Hospital" is defined in §2801(1) of the PHL in pertinent part as follows:

> "Hospital" means a facility or institution engaged principally in providing services by or under the supervision of a physician . . . for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center . . . rehabilitation center . . . nursing home . . . chronic disease hospital . . . but the term hospital shall not include an institution, sanitarium or other facility engaged principally in providing services for prevention, diagnosis or treatment of mental disability and which is subject to the powers of visitation, examination, inspection and investigation of the department of mental hygiene except for those distinct parts of such a facility which provide hospital service.

Section 2801(4)(a) defines "hospital service" in pertinent part, as follows:

> "Hospital service" means the pre-admission . . . in-patient . . . care provided in or by a hospital, and such other items or services as are necessary for such care, which are provided by or under the supervision of a physician for the purpose of prevention, diagnosis or treatment of human disease, pain,

> injury, disability, deformity or physical condition, including, but not limited to, nursing service . . . medical social service, drugs . . . bed and board.

Thus, on the basis of the foregoing provisions of the Public Health Law, while the specialty hospital otherwise would clearly fall within the definitions for purposes of that Law of "hospital" and "hospital service", specifically because it *is* a special type of treatment facility, i.e., it is "a facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability" under §2801(1) – which "mental disability" is defined in the Mental Hygiene Law as including alcoholism and chemical dependency – it is specifically remitted by PHL §2801(1) to the regulating authority of the Office of Alcoholism and Substance Abuse Services (OASAS), under the Mental Hygiene Law. This serves only to further highlight that this is a specialty hospital, principally engaged in medical care and, therefore, falls under SIC Industry Group No. 8069, "Specialty Hospitals", thereby constituting a permitted hospital use under the Zoning Code.

The statutory and regulatory framework of Articles 19, 22 and 32 of the Mental Hygiene Law relating to certification of facilities such as the proposed specialty hospital treating those suffering from "substance use disorder" and their implementing Regulations set forth in 14 N.Y.C.R.R. Part 810, "Establishment, incorporation and certification of providers of substance use disorder services", amply describes the medical services which the proposed specialty hospital will be providing and the medical conditions which it will be treating, and for which it must seek licensure. The MHL serves to strongly buttress the fact that the proposed use constitutes a "specialty hospital" under SIC, Major Group 80, Industry Group No. 8069, which accordingly, requires that said use be deemed a permitted hospital use under the Zoning Code.

Article 19 of the Mental Hygiene Law, which establishes the State Office of Alcoholism and Substance Abuse Services (OASAS), which is the licensing and inspection authority for the proposed specialty hospital, in §19.01 "Declaration of policy", characterizes the focus of the proposed specialty hospital on medical care for those suffering from substance use disorder, in stating in pertinent part as follows:

> The legislature declares the following:
>
> Alcoholism, substance abuse and chemical dependence pose major health and social problems for individuals and their families when left untreated, including family devastation, homelessness, and unemployment. It has been proven that successful prevention and treatment can dramatically reduce costs to the health care, criminal justice and social welfare systems.

The tragic, cumulative and often fatal consequences of alcoholism and substance abuse are, however, preventable and treatable disabilities that require a coordinated and multi-faceted network of services. . . .

Substantial benefits can be gained through alcoholism and substance abuse treatment for both addicted individuals and their families. Positive treatment outcomes that may be generated through a complete continuum of care offer a cost effective and comprehensive approach to rehabilitating such individuals. The primary goals of the rehabilitation and recovery process are to restore social, family, lifestyle, vocational and economic supports by stabilizing an individual's physical and psychological functioning. The legislature recognizes the importance of varying treatment approaches and levels of care designed to meet each client's needs. . . .

The legislature also recognizes the importance of family support for individuals in alcohol or substance abuse treatment and recovery. Such family participation can provide lasting support to the recovering individual to prevent relapse and maintain recovery. The intergenerational cycle of chemical dependency within families can be intercepted through appropriate interventions.

The state of New York and its local governments have a responsibility in coordinating the delivery of alcoholism and substance abuse services, through the entire network of service providers. To accomplish these objectives, the legislature declares that the establishment of a single, unified office of alcoholism and substance abuse services will provide an integrated framework to plan, oversee and regulate the state's prevention and treatment network. In recognition of the growing trends and incidence of chemical dependency, this consolidation allows the state to respond to the changing profile of chemical dependency. The legislature recognizes that some distinctions exist between the alcoholism and substance abuse field and where appropriate, those distinctions

> may be preserved. Accordingly, it is the intent of the state to establish one office of alcoholism and substance abuse services in furtherance of a comprehensive service delivery system.

In sum, Article 19 of the Mental Hygiene Law, "Office of Alcoholism and Substance Abuse" establishes that State agency, and Article 32, "Regulation and Quality Control of Chemical Dependence Services and Compulsive Gambling Services" sets forth the required licensing of providers of such services, such as the specialty hospital.

Article 22 of the Mental Hygiene Law, "Chemical Dependence Programs, Treatment Facilities, and Services", §22.01, "Admission to chemical dependence programs, treatment facilities and services" provides as follows:

> Unless otherwise specifically provided for by statute, a person suffering from chemical abuse or dependence shall be admitted to a chemical dependence program, service, or treatment facility pursuant to the provisions of this article. For purposes of this article, the term "chemical dependence programs, treatment facilities and services" shall mean and include alcoholism and/or substance abuse programs, treatment facilities, and services.

The statutory scheme of the Mental Hygiene Law for substance use disorder treatment is summarized in its implementing State Regulations 14 N.Y.C.R.R., Part 810, "Establishment, incorporation and certification of providers of substance use disorder services", in §§810.1-810.3, in pertinent part, as follows:

> **Section 810.1 Background and intent.**
>
> An existing or prospective provider of substance use disorder services is required to obtain the prior approval of the Commissioner ("Commissioner") of the New York State Office of Alcoholism and Substance Abuse Services ("Office" or "OASAS") before establishing, incorporating and/or constructing a facility or offering a service. This Part prescribes the criteria and procedures applicable for obtaining such prior approval, as well as the procedural requirements for obtaining the required authorization to provide one or more services by either a prospective or existing provider.

810.2 Legal Base

(a) Section 19.07(c) of the Mental Hygiene Law (MHL) charges the Office with the responsibility to ensure that persons who abuse or are dependent on alcohol and/or substance and their families are provided with care and treatment that is effective and of high quality. . . .

(f) Section 19.21(b) of the MHL requires the Commissioner to establish and enforce regulations concerning the licensing, certification, and inspection of chemical dependence treatment services. . . .

(h) Section 19.40 of the MHL authorizes the Commissioner to issue operating certificates for the provision of chemical dependence treatment services. . . .

(j) Section 32.05 of the MHL provides that no substance use disorder services may be established without the approval of the Commissioner. . . .

(o) Section 32.31 of the MHL provides the process for the establishment or incorporation of the facilities for substance use disorder services. . . . .

810.3 Applicability

This Part applies to any existing or prospective provider of services which is required to obtain an operating certificate from the Commissioner in accordance with Articles 19 and 32 of the Mental Hygiene Law and which is proposing the establishment, incorporation, and/or construction of a facility to provide substance use disorder services.

The pertinent definitions set forth in Mental Hygiene Law §1.03 and/or in §810.4 of its Regulations, pertinent to the Applicant's proposed use, clearly indicate that, contrary to Mr. Rogers' initial opinion, the predominant focus of the specialty hospital will be medical care, **not** merely "custodial care" with "medical care merely incidental". Some of said definitions applicable to the proposed specialty hospital are, in pertinent part, as follows:

"Mental disability" means . . . alcoholism, substance dependence or chemical dependence . . .

"Provider of services" means an individual, association, corporation, partnership, public or private agency, other than an agency or department of the state, which provides substance use disorder services for persons with mental disability. . . . . (Section 810.4(l)

"Facility" means any place in which services for the mentally disabled are provided and includes but is not limited to a psychiatric center, developmental center, institute, clinic, ward, institution, or building, except that in the case of a hospital as defined in article twenty-eight of the public health law it shall mean only a ward, wing, unit, or part thereof which is operated for the purpose of providing services for the mentally disabled. It shall not include a place where the services rendered consist solely of non-residential services for the mentally disabled which are exempt from the requirement for an operating certificate under article sixteen, thirty-one or thirty-two of this chapter, nor shall it include domestic care and comfort to a person in the home.[2]

"Alcoholism" means a chronic illness in which the ingestion of alcohol usually results in further compulsive ingestion of alcohol beyond the control of the sick person to a degree which impairs normal functioning.

"Alcoholic" means any person who is afflicted with the illness of alcoholism.

"Chemical abuse" means the use of alcohol and/or one or more substances to the extent that there is an impairment of normal development or functioning due to such use in one or more of the major life areas, including but not limited to, the social, emotional, familial, educational, vocational or physical. The term "chemical abuse" shall mean and include alcohol and/or substance abuse.

[2] "The Public Health Law adopts a very broad definition of the term 'hospital' but the correspondingly broad term used in the Mental Hygiene Law is 'facility' . . ." 65A NY Jur2d, "Hospitals", §7.

> **"Chemical dependence" means the repeated use of alcohol and/or one or more substances to the extent that there is evidence of physical or psychological reliance on alcohol and/or substances, the existence of physical withdrawal symptoms from alcohol and/or one or more substances, a pattern of compulsive use, and impairment of normal development or functioning due to such use in one or more of the major life areas including, but not limited to, the social, emotional, familial, educational, vocational and physical. Unless otherwise provided, for purposes of this chapter, "chemical dependence" shall mean and include alcoholism and substance dependence.**
>
> "Chemical dependence services" shall mean examination, evaluation, diagnosis, care, treatment, rehabilitation or training of persons suffering from alcohol and/or substance abuse and/or dependence and significant others. Unless otherwise provided, for the purposes of this chapter, the term "chemical dependence services" shall mean and include alcoholism and/or substance abuse services.
>
> "Substance use disorder" means the misuse of, dependence on, or addiction to alcohol and/or legal or illegal drugs leading to effects that are detrimental to the individual's physical and mental health, or the welfare of others, and shall include alcoholism, alcohol abuse, substance abuse, substance dependence, chemical abuse, and/or chemical dependence.
>
> **"Substance use disorder services" shall mean and include examination, evaluation, diagnosis, care, treatment, rehabilitation, or training of persons with substance use disorders and their families or significant others.**
>
> **"Behavioral health services" means examination, diagnosis, care, treatment, rehabilitation or training for persons with . . . . substance use disorder . . .** (Emphasis added.)

The proposed specialty hospital will be treating persons described in the regulatory definitions above, for the illnesses described therein, with the services described therein. As such, the proposed specialty hospital falls squarely under SIC Major Group 80 – Health Services, §8069 Specialty Hospitals, as "an establishment primarily engaged in providing diagnostic

services, treatment, and other hospital services for specialized categories of patients", which includes "alcohol rehabilitation hospitals", "chronic disease hospitals", "drug addiction and rehabilitation hospitals", "rehabilitation hospitals: drug addiction and alcoholism", and "hospitals, specialty: except psychiatric." (For further discussion by the Applicant's consulting experts of the services and applicable Regulations, including 14 N.Y.C.R.R., Parts 800 and 820, which govern this facility, see **Exhibits 2** and **3** hereto.)

Accordingly, the proposed specialty hospital is a permitted hospital use under the Zoning Code.

F. <u>The Code Enforcement Officer's Flawed Use of the Fire and Building Code</u>.

Initially, as stated above, pursuant to a concurrent and contextual reading of Zoning Code definitional §§307-4 and 307-14(B), and as recognized by Mr. Rogers in his "Introduction" and "Analysis" sections of his zoning opinion, the SIC Manual is the principal, if not sole definitional source for the non-residential uses listed in the Table of Permitted Uses, such as the proposed specialty hospital use.

In addition, and in any event, §307-4 otherwise provides that definitions in the New York State Uniform Fire Prevention and Building Code will be used "unless a contrary intention clearly appears". Such "contrary intention" *does* "clearly appear" in this case. In that regard:

First, such "contrary intention" appears with respect to the Zoning Code's designated use of the SIC Manual for non-residential uses listed in the Table of Permitted Uses.

Second, as reflected in Mr. Rogers' discussion of the Building Code provisions, those provisions are aimed at building construction, design and fire protection for various types of occupants, such as those incapable of self-preservation, not zoning and land use issues, including what uses are permitted. Pursuant to §201.1 thereof, the definitions therein are for purposes of that Code, which governs the ultimate issuance of building permits for the specialty hospital.

However, whatever Building Code occupancy classification is used for the seven buildings comprising the hospital site, it does not detract from the clear inclusion of the ***use*** of the property under the SIC Industry Group 8069 for specialty hospitals, since that ***use*** is primarily focused on medical care for the patients.

Further, the main hospital building, designated in the Applicant's plans as Building 1, is physically configured as a hospital, not a residence, the very hospital purpose for which it was originally built and used from the 1920's through the 1940's, and for which, as set forth above, a special permit for another hospital use was issued by the Town in 1989.

Nor are the other buildings, other than the current caretaker's house, Building 6, internally configured for residential use.

While the Applicant's engineer determined that only Building 1, the main hospital building, need be sprinklered, at its meeting with Department of Technical Service's staff on May 29, 2018, the Applicant agreed that any building where patients would possibly stay would be sprinklered, which would be buildings designated on the Applicant's plans as Buildings 1, 4, 5 and 7. This is consistent with the requirement in Town Code Chapter 131, "Building Construction", §131-6 that "hospitals, infirmaries, and sanitariums", and "nursing homes" be sprinklered.

Moreover, Mr. Rogers is apparently not up-to-date on the revised building occupancy classifications presented by the Applicant's expert engineering consultant, OLA, as he cites their July 2, 2015 report (misdated, July 2, 2016), initially submitted as Exhibit L to the Applicant's original Expanded Environmental Assessment dated July 20, 2015, and other earlier architect's reports, (which architects are no longer retained by the Applicant), rather than citing OLA's superseding Building Code Analysis, first revised on August 25, 2015, and subsequently revised February 6, 2018, and submitted by John Meyer Consulting to the Planning Board as part of the Applicant's submission of February 22, 2018. (See **Exhibit 14** annexed hereto.)

The main point to note in the revised February 2018 OLA analysis, in a revision which was actually first made as part of OLA's revised August 25, 2015 analysis, is that Building 1, the main hospital building, is classified for Building Code purposes as Institutional Group – 2, i.e., I-2 occupancy – which includes hospital use, as explained on page 7 of Mr. Rogers' report, rather than the original designation as Group I-1, upon which Mr. Rogers relies and which he explains on page 5 of his opinion, includes "alcohol and drug centers", involving only "custodial care", as opposed to the nursing and medical care characterizing Institutional Group I-2, as the hospital building has been classified since August 2015.

Thus, Mr. Rogers' discussion of the Applicant's outdated Building Code analysis and Code provisions to support his analysis under the SIC Manual is misplaced. Accordingly, even if the provisions of the Building Code superseded the SIC Manual for the definition of the permitted use, which Mr. Rogers correctly does not contend, the main hospital building, Building 1, would fall under either of the two alternative "Occupancy Conditions" for institutional group I-2, which includes the concurrent permitted uses of "hospitals" and "nursing homes" as quoted by Mr. Rogers on pages 7 and 8 of his opinion, in pertinent part, as follows:

> Condition 1.
>
> This occupancy condition shall include facilities that provide nursing and medical care but do not provide emergency care, surgery, obstetrics, or inpatient stabilization units for psychiatric or detoxification, including, but not limited to, nursing homes . . .
>
> Condition 2.
>
> This occupancy condition shall include facilities that provide nursing and medical care and could provide emergency care, surgery, obstetrics, or inpatient stabilization units for psychiatric or detoxification, including, but not limited to, hospitals.

As stated above, the only reason the proposed specialty hospital does not currently propose initial detoxification was as a result of the Applicant's attempt to limit perceived impacts on the neighbors, however, misinformed those perceptions must be. However, the specialty hospital can certainly include such detoxification facilities if the Town desires same. In addition, the specialty hospital actually already meets the definition of "**detoxification facilities**" in the Building Code set forth on page 8 of Mr. Rogers' opinion as:

> Facilities that provide care or treatment for substance abuse, serving case recipients who are incapable of self-preservation or who are harmful to themselves or others.

Certainly, in any event, the proposed specialty hospital, for all the reasons set forth above, **does not** constitute mere "custodial care", the definition of which in the Building Code is quoted by Mr. Rogers on page 8 of his opinion, insofar as it is defined as "assistance with day-to-day living tasks, such as assistance with cooking, taking medication, bathing, using toilet facilities and other tasks of daily living". Rather, the proposed specialty hospital falls under the definition of "**hospitals**" under the Building Code, as set forth on page 8 of Mr. Rogers' report, which states in pertinent part:

> **Facilities that provide care or treatment for the medical . . . treatment of care recipients . . .** (Emphasis added.)

Mr. Rogers omits the Building Code definition of "**nursing home**", which the specialty hospital could also meet and which would still place it within the Zoning Code's permitted "hospital or nursing home" use:

> Facilities that provide care, including both intermediate care facilities and skilled nursing facilities . . .

The references in said Building Code definitions to the extent of which the patients have the ability to respond to emergency situations based on their capability for "self-preservation" are irrelevant to whether the use constitutes a hospital for zoning purposes under the SIC.

However, it is the Building Code definition of "**medical care**", which Mr. Rogers cites on page 8 of his opinion, which seems most relevant, i.e., **"care involving medical or surgical procedures, nursing or for psychiatric purposes".** (Emphasis added.)

Clearly, Mr. Rogers' statement on page 8 that, under the Building Code definitions, only "custodial care" is proposed, not "medical care", is not at all accurate – indeed, precisely the opposite is true. The engineering analysis of the Applicant's engineers, OLA, the revision of which since August 2015 was apparently overlooked by Mr. Rogers, which includes an I-2 designation for the main hospital building, only supports this conclusion.

As set forth above, the Building Code occupancy provisions, as effectively acknowledged by Mr. Rogers, are superseded by the SIC provisions for this particular analysis. However, they should have little relevance in any event to determining whether a *use* is permitted under the Zoning Code. In any case, when viewed in light of the long-revised OLA report, with its I-2 designation of the main hospital building, the provisions of the alternative "Occupancy Conditions" for I-2 occupancy, and the above-referenced Code definitions cited by Mr. Rogers, his discussion of the Building Code not only does not support his erroneous opinion, indeed, it supports the position of the Applicant that the proposed use is a permitted specialty hospital.

CONCLUSION

Given the overwhelming law and facts submitted herewith supporting the designation of the proposed specialty hospital as a permitted hospital use, Mr. Rogers' conclusion on page 9 of his report that "it is clear that the Applicant would not be providing hospital services and that Hudson Education and Wellness Center is not a hospital, nor a specialty hospital", as it "clearly falls under SIC Group 83" – Social Services, rather than Major Group 80 – Health Services, is blatantly incorrect.

Mr. Rogers' inaccurate conclusion that the specialty hospital is not a permitted hospital/nursing home use under the Zoning Code may be due to his being unaware of the proceedings before the Zoning Board and the Court in this matter, the 1989 hospital special permit, the actual operations of such a specialty hospital for the treatment of substance use disorder, the provisions of the Public Health Law and Mental Hygiene Law governing the licensure and operation of the proposed use, the revised OLA Building Code Analysis, the Westchester County Health Department approvals, and/or the various other information set forth in this submission and the record, all of which indicates clearly, beyond a shadow of a doubt, that the primary function of the proposed specialty hospital, is medical care and health treatment, in the nature of "hospital services", not mere "custodial care" of the patients.

Having now been apprised of all of this abundant additional information, we respectfully request and trust that Mr. Rogers will re-consider his stated "zoning opinion" to the Planning Board and revise same to find that the proposed specialty hospital *is* a use permitted by Special Permit under the Town Zoning Code, subject to the issuance of an area variance by the Zoning Board from the State road frontage requirement.

Thank you for your consideration.

Respectfully submitted,

Robert F. Davis

RFD:dds
Enclosures

Exhibit 1

TOWN OF CORTLANDT

DEPARTMENT OF TECHNICAL SERVICES

CODE ENFORCEMENT DIVISION

Michael Preziosi, P.E.
Director – D.O.T.S
Martin G. Rogers, P.E.
Director of Code Enforcement/D.O.T.S.
Ken Hoch
Assistant to the Director/D.O.T.S.

Town Hall, 1 Heady Street
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MAR 21 2019
DEPT. OF TECHNICAL SERVICES
PLANNING DIVISION

Town Supervisor
Linda D. Puglisi

Town Board
Richard H. Becker
Debra A. Costello
James F. Creighton
Francis X. Farrell

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....!.... DOTS Director
..... C.A.C.
..... A.R.C.
....!.... Applicant via e-mail
....!.... Robert Davis, Esq. via e-mail
....!.... JMC via e-mail
Sent 3/22/19
1 Ralph Mastromonaco, P.E. via e-mail

To: Town of Cortlandt Planning Board

Cc: Chris Kehoe, AICP (Deputy Director – Planning), Michael Preziosi, P.E. (Director, Deputy of Technical Services) & Thomas Wood, Esq. (Town Attorney)

From: Martin G. Rogers, P.E. – Director of Code Enforcement

Date: March 21, 2019

Re: Hudson Education and Wellness Center
2016 Quaker Ridge Road
Tax ID 79.11-1-18

Introduction:

This review was requested by the Town of Cortlandt Planning Board at their regular meeting held on February 5th, 2019, seeking a "zoning opinion on the two threshold issues: is it [The Hudson Education and Wellness Center] a hospital" and if it is a hospital does it require frontage on a "main road."

The applicant has maintained, with some inconsistency, that the proposed use is a Hospital. Specifically stating that it is a specialty hospital under SIC 8069. In the course of my review I noticed a number of ancillary issues that are inconsistent with this proposed use, however, for purposes of this review I will soley address matters related to Hudson Education and Wellness Center's purported status as a hospital and whether such a hospital in the Town of Cortlandt must be located on a "main road."

Applicable Codes and Regulations:

The following codes and regualtions are noted.

Code of the Town of Cortlandt

§ 307-59 Hospital or nursing home.

A. Purpose. The purpose of this section is to allow for the provision of hospital and nursing home facilities and accessory buildings and uses, including dwellings for staff members, to serve the needs for medical care of residents of the Town and to ensure that such facilities are provided in a manner that is not disruptive to surrounding property or the neighborhood.

B. Standards and conditions. Standards and conditions shall be as follows:

(9) Only to be permitted on a lot in residential zones which fronts on a state road.

§§ 307-14 and 307-15 Table of Permitted uses..

Health and Social Services
Hospital or nursing home
Offices of doctors, dentists or other health care practintioners
Other health (SIC Secs. 808-809) or social services (SIC Sec. 83)

The Table of Permitted Uses specifically states that SIC Sec. 83 uses are **not permitted** in residental (R) zones.

Standard Industrial Classification Manual (SIC):

SIC Code 8069 Specialty Hospitals, except Psychiatric

Establishments primarily engaged in providing diagnostic services, treatment, and other hospital services for specialized categories of patients, except mental.

SIC Code 8361 Residential Care

Establishments primarily engaged in the provision of residential social and personal care for children, the aged, and special categories of persons with some limits on ability for self-care, but where medical care is not a major element. Included are establishments providing 24-hour year-round care for children. Boarding schools providing elementary and secondary education are classified in Industry 8211. Establishments primarily engaged in providing nursing and health-related personal care are classified in Industry Group 805.

Alcoholism rehabilitation centers, residential: with health care incidental

Drug rehabilitation centers, residential: with health care incidental

New York State Uniform Fire Prevention and Building Code:

2015 International Building Code is the current applicable Code and is used for this memo. Per Chapter 3 the following uses apply:

Institutional Group I-1

Residential Group R-3 and R-4

It is noted the applicant has identified these as the proposed uses.

Analysis:

The applicant has presented that the proposed classification is a hospital. Specifically a specialty hospital under SIC 8069. Having reviewed Hudson Education and Wellness Center's submissions, I do not agree with this classifcation. Rather, the proposed use is appropriately classified in the Standard Industrial Classification Manual in Major Group 83.-Social Services; Industry Group No. 836 Residential Care. 8361 Residential Care includes Alcoholism rehabilitation centers, residential: with health care incidental and Drug rehabilitation centers, residential: with health care incidental. As per §§ 307-14 and 307-15 Table of Permitted uses SIC Sec. 83 uses are **not permitted** in any residental (R) zone within the Town of Cortlandt.

Many of the reasons for my determination are readily apparent from a cursory reading of Hudson Education and Wellness Center's own submissions. See, for example, the following:

Hudson Education and Wellness Center
2016 Quaker Ridge Road
Tax ID 79.11-1-18

Excerpts from the Environmental Impact Statement and included documents (with emphasis):

JMC Report and Correspondence

92-bed private residential treatment program for individuals who are recovering from chemical dependency.

Clinical and Medical program services will include, but not be limited to Diagnostic Assessment (approximately three to five days); Health and Physical Examination, Residential Treatment (approximately 28 to 45 days total), including Individual, Group and Family Counseling, Case Management, Urine Drug Screening, Psychiatric Assessment, if available and indicated, and Psychiatric Medication Management, as indicated, Specialty Care services, Extended Care, Continuing Care and Transition/Discharge Planning.

All HEWC clients have either completed detoxification elsewhere or do not require it. The clients are commencing their initial formal addictions treatment, having been "transferred" after completion of medical detoxification from alcohol and/or drugs, or else do not require medical detoxification, or have had a period of absence from prior formal treatment episode(s).

Shift 3 (10:00pm – 6:00am)

0 Physician / Advanced Practice Nurse

2 Nurses

With this type of level of care, the only medical waste generated by the program will be limited to medical "sharps" including needles for treatment of clients with diabetes and lancets to test client's blood sugar levels, when needed. Any other type of blood or other type of testing would be conducted off-site by a medical testing laboratory.

DeAngelis Architectural Services, LLC letter dated October 4, 2016

Fire sprinkler requirements for each building will depend on the use of the building and the extent of alterations to be done as determined by the Existing Building Code of New York State (EBCNYS). The most recent recorded use of the property appears to be the Hudson Institute, which is classified as a Business Use under the Building Code of New York State.

R-4 Occupancies shall comply with the Residential Code of NYS.

Sprinkler protection: Not required for R-3 occupancy less than three stories.

[It is noted the 2015 International Codes with NYS Supplements were adopted and went into effect October 3, 2016. 2015 IBC Section 308.3.4 requires a sprinkler system for the R-3 Occupancy proposed.]

OLA Letter regarding sprinkler requirements:

It should be noted that there was no indication of a change to the Certificates of Occupancy in the architectural analysis. Therefore, we have assumed the existing C of O will remain. If there is a change to any of the C of O, the project can no longer follow the Existing Building Code for fire protection, but must instead follow the Building Code. All buildings in Group I and R require sprinklers as per the new Building Code.

Domestic Well Water Report, By: Ralph G. Mastromonaco, PE

Hospital flow generation factors:

Hospital 92 full time patients = 92 beds

92 beds x 110 gpd

From NYS DEC Design Standards:

Group Home per bed 110/130/150 gpd

Hospital per bed 175 gpd

[It is noted the submission to the WCDOH was for flow rates for Group Home and not a Hospital.]

JMC Response to comments dated November 1, 2017:

The Specialty Hospital will have no in-house testing lab.

Zoning Board of Appeals Minutes October 19, 2016 which include Bob Davis, Esq written statement:

It's also important to note that all of the patients will either have undergone detox elsewhere before admission or won't require it.

In short, this will be a wellness center, intended to provide a very private, peaceful setting. There will be no disturbance, let alone danger, to the neighborhood, and the patients clearly won't want to draw attention to themselves. They will be there voluntary, to get well.

There'll be very minimal medical waste generated on this property, so little that it's only picked up a couple of times a year.

[The above repsonses and statements from JMC and Mr. Davis note the proposed use is a wellness center and health care is incidental.]

2015 International Building Code excerpts (with emphasis):

308.1 Institutional Group I.

Institutional Group I occupancy includes, among others, the use of a building or structure, or a portion thereof, in which care or supervision is provided to persons who are or are not capable of self-preservation without physical assistance or in which persons are detained for penal or correctional purposes or in which the liberty of the

occupants is restricted. Institutional occupancies shall be classified as Group I-1, I-2, I-3 or I-4.

308.2 Definitions.

The following terms are defined in Chapter 2:

24-HOUR BASIS.

CUSTODIAL CARE.

DETOXIFICATION FACILITIES.

FOSTER CARE FACILITIES.

HOSPITALS AND PSYCHIATRIC HOSPITALS.

INCAPABLE OF SELF-PRESERVATION.

MEDICAL CARE.

NURSING HOMES.

308.3 Institutional Group I-1.

[It is noted R-3 and R-4 applies based on the number of persons receiving custodial care. The uses in this Section are specifically for Custodial Care not Medical Care.]

Institutional Group I-1 occupancy shall include buildings, structures or portions thereof for more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised environment and receive custodial care. Buildings of Group I-1 shall be classified as one of the occupancy conditions specified in Section 308.3.1 or 308.3.2. This group shall include, but not be limited to, the following:

- *Alcohol and drug centers*
- *Assisted living facilities*
- *Congregate care facilities*
- *Group homes*
- *Halfway houses*
- *Residential board and care facilities*
- *Social rehabilitation facilities*

308.3.1 Condition 1.

This occupancy condition shall include buildings in which all persons receiving custodial care who, without any assistance, are capable of responding to an emergency situation to complete building evacuation.

308.3.2 Condition 2.

This occupancy condition shall include buildings in which there are any persons receiving custodial care who require limited verbal or physical assistance while responding to an emergency situation to complete building evacuation.

308.3.3 Six to 16 persons receiving custodial care.

A facility housing not fewer than six and not more than 16 persons receiving custodial care shall be classified as Group R-4.

308.3.4 Five or fewer persons receiving custodial care.

A facility with five or fewer persons receiving custodial care shall be classified as Group R-3 or shall comply with the International Residential Code provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or Section P2904 of the International Residential Code.

310.5 Residential Group R-3.

Residential Group R-3 occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:

- *Buildings that do not contain more than two dwelling units*
- *Boarding houses (nontransient) with 16 or fewer occupants*
- *Boarding houses (transient) with 10 or fewer occupants*
- *Care facilities that provide accommodations for five or fewer persons receiving care*
- *Congregate living facilities (nontransient) with 16 or fewer occupants*
- *Congregate living facilities (transient) with 10 or fewer occupants*
- *Lodging houses with five or fewer guest rooms*

310.5.1 Care facilities within a dwelling.

Care facilities for five or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the International Residential Code provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or Section P2904 of the International Residential Code.

310.5.2 Lodging houses.

Owner-occupied lodging houses with five or fewer guest rooms shall be permitted to be constructed in accordance with the International Residential Code.

310.6 Residential Group R-4.

Residential Group R-4 occupancy shall include buildings, structures or portions thereof for more than five but not more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised residential environment and receive custodial care. Buildings of Group R-4 shall be classified as one of the occupancy conditions specified in Section 310.6.1 or 310.6.2. This group shall include, but not be limited to, the following:

- *Alcohol and drug centers*
- *Assisted living facilities*

- *Congregate care facilities*
- *Group homes*
- *Halfway houses*
- *Residential board and care facilities*
- *Social rehabilitation facilities*

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in this code.

310.6.1 Condition 1.

This occupancy condition shall include buildings in which all persons receiving custodial care, without any assistance, are capable of responding to an emergency situation to complete building evacuation.

310.6.2 Condition 2.

This occupancy condition shall include buildings in which there are any persons receiving custodial care who require limited verbal or physical assistance while responding to an emergency situation to complete building evacuation.

308.4 Institutional Group I-2.

[I-2 is specifically for medical care. The applicant's representatives have noted detoxification has already occurred or is not required.]

Institutional Group I-2 occupancy shall include buildings and structures used for medical care on a 24-hour basis for more than five persons who are incapable of self-preservation. This group shall include, but not be limited to, the following:

- *Foster care facilities*
- *Detoxification facilities*
- *Hospitals*
- *Nursing homes*
- *Psychiatric hospitals*

308.4.1 Occupancy conditions.

Buildings of Group I-2 shall be classified as one of the occupancy conditions specified in Section 308.4.1.1 or 308.4.1.2.

308.4.1.1 Condition 1.

This occupancy condition shall include facilities that provide nursing and medical care but do not provide emergency care, surgery, obstetrics or in-patient stabilization units for psychiatric or detoxification, including but not limited to nursing homes and foster care facilities.

308.4.1.2 Condition 2.

This occupancy condition shall include facilities that provide nursing and medical care and could provide emergency care, surgery, obstetrics or in-patient stabilization units for psychiatric or detoxification, including but not limited to hospitals.

308.4.2 Five or fewer persons receiving medical care.

A facility with five or fewer persons receiving medical care shall be classified as Group R-3 or shall comply with the International Residential Code provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or Section P2904 of the International Residential Code.

Definitions, Chapter 2:

24-HOUR BASIS. The actual time that a person is an occupant within a facility for the purpose of receiving care. It shall not include a facility that is open for 24 hours and is capable of providing care to someone visiting the facility during any segment of the 24 hours.

CUSTODIAL CARE. Assistance with day-to-day living tasks; such as assistance with cooking, taking medication, bathing, using toilet facilities and other tasks of daily living. Custodial care includes persons receiving care who have the ability to respond to emergency situations and evacuate at a slower rate and/or who have mental and psychiatric complications.

DETOXIFICATION FACILITIES. Facilities that provide treatment for substance abuse, serving care recipients who are incapable of self-preservation or who are harmful to themselves or others.

HOSPITALS AND PSYCHIATRIC HOSPITALS. Facilities that provide care or treatment for the medical, psychiatric, obstetrical, or surgical treatment of care recipients who are incapable of self-preservation.

INCAPABLE OF SELF-PRESERVATION. Persons who, because of age, physical limitations, mental limitations, chemical dependency or medical treatment, cannot respond as an individual to an emergency situation.

MEDICAL CARE. Care involving medical or surgical procedures, nursing or for psychiatric purposes.

TRANSIENT. Occupancy of a dwelling unit or sleeping unit for not more than 30 days.

As stated above in comments and per the applicant's representatives Custodial Care is proposed, not Medical Care.

Furthermore, Building Permits and Certificate of Occupancies are required to be issued per the requirements of the New York State Uniform Fire Prevention and Building Code. The Use Classifications are located in IBC Chapter 3. The Use proposed is I-1, Alcohol and drug centers, (It is noted R-3 and R-4 also apply based on the number of persons receiving custodial care.) which has also been listed by the applicant. Hospital or "Specialty Hospital" would not be noted on Permits or Certificates of Occupancy, since those uses are classified in the IBC as I-2 uses.

The Planning Board also requested we determine if a hospital requires frontage on a "main road." Quaker Ridge Road is a not a "state road." However, the Town Code is clear that Hospitals are only a "permitted" use in "residential zones" on a lot that has frontage "on a state road." This would not be a permitted use.

Conclusion:

Given the above, it is clear that the applicant would not be providing hospital services and that Hudson Education and Wellness Center is not a hospital, nor a specialty hospital. What is being proposed is a rehabilitation center which clearly falls under SIC Group 83. This Use is not permitted in the R-80 Zone per The Town of Cortlandt Table of Permitted Uses Health Care and Social Services, Other health (SIC Secs. 808-809) or social services (SIC Sec. 83). Furthermore, any determination regarding a hospital not being located upon a "main road" is not before me.

Exhibit 2

BROWN CONSULTING
Behavioral Services

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www.danbrownconsulting.com

April 10, 2019

Mr. Steven Laker
c/o Hudson Education and Wellness Center
Briarcliff Manor, New York

Re: Town of Cortlandt Letter of March 21, 2019

The letter to the Town of Cortlandt Planning Board from M. Rogers, P.E. Director of Code Enforcement debates Hudson Education and Wellness Center's (HEWC) status as a hospital. Mr. Rogers states in his letter that because HEWC would not be providing hospital services and in particular provides medical care only as "incidental" to custodial care, it is therefore not a hospital nor a specialty hospital. In his view, he concludes that it is a social services provider under SIC Group 83 rather than a health service provider under Group 80.

This memorandum supports why Hudson Education and Wellness Center should be classified under Group 80 as a Specialty Hospital, and emphasizes the medical care HEWC will be providing by describing its proposed medical and behavioral services (as would be provided in specialty hospital), its treatment criteria, it's staffing plans, and HEWC's planned management of acute detox services, which are its primary focus, not merely incidental.

HEWC's position is that it's a hospital which falls under Group 80, and not SIC Group 83 as suggested by the Code Enforcement Officer. Group 80 classifications are numerous industry group numbers identifying types of establishments primarily engaged in furnishing medical, surgical and other health services to persons. Within Group 80, *Industry Group 8069 defines Specialty Hospitals (except Psychiatric). This is defined as 'Establishments primarily engaged in providing diagnostic services, treatment, and other hospital services for specialized categories of patients, except* mental'. *Within this category, Alcoholism Rehabilitation and Drug Addiction hospitals are listed.*

BROWN CONSULTING
Behavioral Services

Conversely, it is Mr. Roger's position that HEWC falls within the definition of proposed SIC Group 83, and specifically Industry Group 8361. We do not believe it does. Group 8361 references long term residential care such as residential care for children, battered persons homes, shelters for battered women, orphanages, juvenile retention centers as well as senior citizens housing.

Alcoholism rehabilitation centers and drug rehabilitation centers (*with health care incidental)* are also included, however we interpret those establishments to be longerterm 'sober-living' homes / communities' where individuals live *following short-term residential treatment as will be provided by the specialty hospital.* Sober homes generally do not involve any on-sight medical care, unlike the proposed specialty hospital. These sober homes provide a safe and sober environment where residents live in a peer supported community for periods of 3 months up to 3 years. HEWC is not that type of establishment, but rather *a short-term residential treatment center providing primary medical and behavioral health treatment for substance abuse treatment disorders (SUD).*

How does Hudson Education and Wellness Center fall within the classification of Group 80, Industry Group 8069 definition of an Alcoholism Rehabilitation and Drug Addiction hospital?

- HEWC will be a short-term residential drug alcohol addiction treatment center staffed with medical doctors, nurses, psychologists and credentialed addiction treatment counselors and therapists certified and credentialed by the State of New York. Services will be provided to persons suffering from substance use disorders and related co-occurring behavioral health issues. These persons require 24-hour health care supervision, treatment and care in a facility such as the 'Alcoholism rehabilitation and Drug addiction' hospitals listed under industry Group 8069 within Group 80.

- The HEWC treatment program will be a short-term alcohol and drug addiction treatment program (28 – 45 days), although the length of stay in HEWC will be determined by the patient's physical and mental health, and their progress toward achieving his or her treatment plan goals. HEWC anticipates that the majority of its clients will remain in the HEWC program for an average of 30-45 days.

- HEWC's Clinical & Medical Program services will include, but not be limited to Diagnostic Assessment (3-5 days), Health and Physical Examination, Residential Treatment (28 – 45 days total), Individual, Group and Family Counseling, Case Management, and Medical Assistance Treatment. *As is usual in many Alcohol and Drug Addiction Treatment Programs, patients/clients*

will either have already received acute detox medical care elsewhere, or not require this level of acute medical care prior to their admission, but this does not alter the primary focus of HEWC on continuing medical care thereafter.

- Hudson Education and Wellness Center (HEWC) will utilize the best practices of addiction treatment criteria from the American Society of Addiction Medicine and the Diagnostic & Statistical Manual of Mental Disorders-V (DSM-V) and will incorporate these criteria in all clinical and medical services provided to patients.

- *Clinical Staffing* coverage encompasses internal medicine, addictionology (as certified by the American Society of Addiction Medicine), psychology, and psychiatry as required. This clinical staffing plan includes but is not limited to: Physicians, Advanced Practice Nurses, Registered Nurses, Psychologists, Licensed Social Workers, Certified Addiction Counselors and Licensed Addiction Therapists.

HEWC's focus for its patients is to help them overcome the debilitating and deadly cycle of alcoholism and drug addiction. HEWC's clinical and medical treatment and its evidence-based practices is supported by a best of class medical and clinical team. *This focus and the clinical and medical team's proposed services contrast and differ from Mr. Rogers's memorandum which states "per the applicant's representatives Custodial Care is proposed, not Medical Care".* Custodial Care differs significantly from what HEWC does or proposes to do. Custodial care is nonmedical assistance for someone who is unable to fully perform the activities of daily life (such as eating, bathing, or using the toilet). These services can be performed by someone having no professional or medical skills, for patients whose needs for such care often arise from specific physical or chronic conditions, general frailty or mental incapacity such as Alzheimer's or other forms of dementia.

Differentially, HEWC is proposing to provide top-tier clinical and medical residential care for acute alcohol and drug addiction and other behavioral and process addictions treatment through a clinical and integrative community-driven model. HEWC will also provide ancillary services such as family therapy, individual therapy, and assessment. With these evidence-base services, HEWC hopes to bring about the transformational changes necessary to restore a sense of well-being and hope for a promising and productive future for the patients under its care.

Phillip Kasanovich

Phillip Kasanovich
Consultant
Brown Consulting, Ltd.

Ross P. Calvin

Ross P. Calvin
Vice President, Consulting Services
Brown Consulting, Ltd.

BROWN CONSULTING
Behavioral Services

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Perrysburg, Ohio 43551
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Behavioral Health Executive

Mental Health / Substance Abuse / Human Services
Leadership / Performance Improvement / Outcomes Management / Regulatory Compliance
Strategic Planning / Business Analysis and Development / Administration / Management

Summary of Qualifications

Demonstrated Senior Management experience in leadership, administration, strategic planning, start-ups, regulatory compliance, performance improvement, outcomes management and turnaround of behavioral healthcare practice organizations in the not-for-profit and for-profit business sectors. Demonstrated advances in clinical leadership, budget management, supervisory, service and product line development and implementation, market, business operation and operational / organizational analysis and development, human resources, regulatory compliance (Joint Commission / CARF / COA), EAP and contract services. Integrated and standardized operating, clinical and administrative system functions to deliver cost reductions and stabilization to several behavioral health organizations throughout the United States and internationally.

Professional Experience

Vice President, Consulting Services, Brown Consulting, Ltd., Toledo, Ohio	**2000 to Present**
Director of Clinical Services, Behavioral Connections, Bowling Green, Ohio	**1996 - 2000**
Contract Consultant, Brown Consulting, Ltd., Toledo, Ohio	**1997 – 2000**
Clinical Therapist, Behavioral Connections, Bowling Green, Ohio	**1987 – 1996**
Clinical Social Worker, Lutheran Social Services of NWO, Toledo, Ohio	**1981 – 1987**

Professional Licenses / Credentials

Licensed Professional Clinical Counselor (LPCC-S) with Clinical Supervisory Endorsement
Ohio – 1992 to Present – Active Status

Educational Degrees

Educational Specialist	**(Ed. S.)**	**Kent State University**	**Counseling Psychology**	**1981**
Master of Education	**(M. Ed.)**	**Kent State University**	**Counseling Psychology**	**1980**
Bachelor of Arts	**(BA)**	**Kent State University**	**Community Counseling**	**1978**

References

References are available upon request.

PHILLIP A. KOSANOVICH
pkosanovich@danbrownconsulting.com Cell: (708) 703-7828

Senior Executive with Global Start-Up Track Record

Senior leadership profile that spans from entrepreneurial ventures to multi-national corporations. Success track record of building high achieving sales and operational teams and delivering sustainable top-line growth and profits in publicly traded, private and private-equity held portfolio companies.

Global accomplishments include companywide P&L responsibilities in: Start-ups, Mergers, Acquisitions, Transitions, Turnarounds.

Deep strengths in visionary leadership, creating and maximizing stakeholder value, building sales focused service organizations, generating new revenues, customer and referent relationships, strategic partnering.

Business Start-Up & Growth Strategy Development and Execution P&L Accountability	Consultative Sales Strategic Alliance Building New Revenue Generation	Referent Development & Relations Organizational Development Customer & Partner Relationships

CAREER EXPERIENCE

Brown Consulting, Ltd., Toledo, Ohio **Consultant** 2018 - Present

THE Manor, Kettle Moraine Wisconsin **Executive Vice President & Chief Operating Officer** 2014 – 11/2017

With company's ownership conceived and executed business plan to create The Manor, an exclusive residential addiction treatment center with global reach.

- Led team through all organizational development stages from site selection, zoning approval, policy and procedure creation, hiring of clinical and operational teams and new business development / clinical outreach activities.
- As company's initial point person, led global outreach initiatives including introducing and representing company at regional, national and international addiction and behavioral health industry conferences.

PEAK CONSULTING PARTNERS, Denver Co **Partner** 2014 – 2015

The consulting firm specializes in the planning and expansion of behavioral healthcare and addiction treatment programs. Advisory services include strategic planning, financial services, marketing strategy, start-up planning and operational design.

- Represented private equity group to create new addiction treatment center in the Southeastern market of United States.
- Represented private equity group's purchase of two behavioral health counseling centers in the Midwest US market.

KIVA RECOVERY, Chicago IL **Chief Operating Officer**
2012 - 2014

As a co-founder conceived, created, partnered with private equity, and built new addiction treatment services company, Kiva Recovery. Led development and execution of company's start-up activities, including branding, marketing and sales initiatives. The flagship office and residential lodge were established in the North Shore suburbs of Chicago, IL.

- Led strategies and tactics through a 13-month NIMBY conflict, coordinating with company's legal team to address community and county concerns about the creation of a 120-bed residential addiction treatment center in Northern Illinois.

PK ASSOCIATES, Chicago IL **Managing Partner** 2006 -- Present

Multiple and continuing assignments in the private equity, addiction treatment / behavioral health, and privately held business sectors on corporate and business unit strategy, start-ups, M&A strategy options, top-line growth initiatives, and reframing cultures. Assignment portfolio includes:

- Led start-up and all development activities for multiple new addiction treatment and behavioral health treatment centers.
- Advisor to multi-site behavioral health group to redirect operational, marketing and sales strategies, streamline infrastructure, identify and obtain capital infusion for new acquisition.
- Led private investment group's search and due diligence efforts for the acquisition and national development of behavioral health and addiction medicine treatment center. Subsequent assignment included development of M&A / expansion strategy and execution of new top-line organizational growth initiatives, acquisition of competitor and launch of new company.
- Advisory services to newly formed Angel Investment Group for development of new investor and entrepreneur pipelines, marketing and sales strategy, and related execution plans.
- Led sales and service team expansion strategies for U.S commercial and mortgage bank as Division President; resulted in new strategic direction.
- Served as Senior Advisor to $60 million furniture rental industry leader with 400 staff members, and offices / distribution centers nationally. Created sales strategies and led sales team's initiatives to successful market penetration into the corporate and real estate relocation / global mobility related markets. Company now holds market leadership position in the sector. (2011 - 2016).

LANDAUER, INC. (now **Fortive Corp** (FTV.N), Chicago IL **Subsidiary President** 1994 -- 2006

Publicly traded $145 million global provider of analytical services to determine occupational and environmental radiation exposure. Assigned to manage multiple divisions and initiatives, holding senior level positions simultaneously as required.

- P&L accountability for Chinese subsidiary unit, **BEIJING-LANDAUER**. Realigned and led execution of its expansion strategy throughout China. Elected to Board of Directors. Recruited and restructured new management team in Beijing office. Sparked a 26% increase in revenues in the China market and increased income by 15%. Achieved first-ever profitable status in China market.

- Positioned joint venture negotiations with Sydney, Australia headquartered company resulting in creation of new subsidiary, **Landauer-Australasia** with projected new annual revenues of $4.6 million. Introduced marketing strategy for Perth distributor that increased revenues by 55%, leading to strategic merger with new Sydney based JV.

- Pioneered Landauer's marketing initiative to pursue opportunities within United States Defense and Homeland Security communities. Cultivated strategic corporate and university R&D partnerships resulting in submission of six working proposals with combined value of $112 million to Defense Advanced Research Project Agency (DARPA).

- Created new subsidiary in corporate human resource and real estate related service sector. Developed and led unit to # 1 leadership position in its U.S. marketplace. Now a 20-year-old subsidiary with annual revenues of +/- $2 million.

Prior Experience

THE TRAVELERS **(NYSE: TRV)**, Hartford, CT **Division President**

A 450-employee subsidiary of The Travelers Corporation offering financial, real estate, and human resource consulting services. Now operates as **CARTUS.** Grew $6 million company into $28 million industry leader. While managing company through multiple mergers and acquisitions, streamlined company, improved productivity and increased margins. Accountable for divisional and corporate wide P&L's. Led government lobbying efforts. Developed and led North American sales and client service organizations. Grew real estate and relocation services business unit from start-up corporate subsidiary into 3rd largest company in industry, building a national client portfolio of Fortune 500 organizations including Abbott, Accenture, AON, AT&T, BP, Chevron, Chrysler, CIGNA, Deere, Dow Chemical, Exxon Mobil, Ford, Grainger, Hormel, Kraft, OXY, Pepsi, Pillsbury, SC Johnson, Union Pacific, USG, 7-11, and many more.

CORPORATE TRANSFER SERVICE, INC. (now **SIRVA (NYSE: SIR)**, MINNEAPOLIS, MN **Executive Vice President**

NATIONAL RESIDENTIAL, INC., Chicago, IL **President / CEO**

CHICAGO TITLE AND TRUST COMPANY, Chicago, IL **Financial Services Officer**

Education & Academics

M.B.A, DePaul University, Chicago, IL.
B.S.B.A, Valparaiso University, Valparaiso, IN.

Civic & Volunteer Leadership

Commissioner, Chairman of Community Relations Commission, Village of Homewood; Homewood, Illinois	2008 - Present
Board of Directors, Recovering Communities of Step Ahead (RCOSA, a 501c3 Non-Profit), Chicago IL	2010 - Present
Eagle Scout Review Board, Boy Scouts of America	2013 - Present
Board Member, Addiction Studies and Behavioral Health Advisory Council, Governors State University	2017- Present
Service Board, Horizon Hospice & Palliative Care (now Journey Care); Chicago, Illinois	2001 - 2015

Association Management Leadership

Hall of Leaders, Worldwide ERC
Vice-Chairman, The Foundation for Global Workforce Mobility
Treasurer, Board of Directors, Worldwide ERC®

Chairman, Finance Committee, Worldwide ERC®
Chairman, Industry Practices Committee, Worldwide ERC®
Chairman, PTA Real Estate & Relocation Conference

Exhibit 3

Cicero Consulting Associates

VCC, Inc.

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(1941-2011)
Anthony J. Maddaloni
(1952-2014)

April 23, 2019

Mr. Thomas F. Wood, Esq., Town Attorney
Mr. Martin Rogers, Director of Code Enforcement
Town of Cortlandt
1 Heady Street
Cortlandt Manor, NY 10567

Re: Hudson Ridge Wellness Center

Dear Messrs. Wood and Rogers:

This letter is being submitted to you, on behalf of and at the request of my client, Hudson Ridge Wellness Center, in order to provide information about the nature of the Hudson Ridge Wellness Center's proposed Residential Substance Abuse Treatment Program. As background, my firm provides regulatory consulting services to entities licensed and seeking licensure under New York's Public Health Law and Mental Hygiene Law. We have served hospitals and other health care providers in New York State for nearly four (4) decades. My father, who founded the firm, was the first Director of New York State's Medicaid program. We include among our associates individuals with considerable experience working both for and before New York State's government on regulatory matters such as the one at issue in this case.

This letter will demonstrate that the proposed program does meet the definition of "Specialty Hospital" in the Town of Cortlandt land use regulations, based on New York State laws and regulations, as well as industry standards. The Standard Industrial Classification (SIC) definition of "Specialty Hospital" is "Establishments primarily engaged in providing diagnostic services, treatment and other hospital services for specialized categories of patients, except mental". The SIC code for "Specialty Hospital" is 8069. The extended code for Specialty Hospitals includes the following:

- 80690100 – Substance Abuse Hospitals
- 80690101 – Alcoholism Rehabilitation Hospital
- 80690102 - Drug Addiction Rehabilitation Hospital

Residential Substance Abuse Treatment Services are medical services available in New York State, which are covered under health insurance plans offering substance abuse treatment. This letter will demonstrate through citations of the New York State Mental Hygiene Law, the New York State Office of Alcoholism and Substance Abuse Services (OASAS) regulations, the American Society of Addiction Medicine Criteria, Third Edition and finally the Level of Care for Alcoholism and Drug Treatment Referral (LOCADTR) tool, that the proposed Residential Substance Abuse Treatment

Program of Hudson Ridge Wellness Center meets the definition of a specialty hospital as defined by the Town of Cortlandt regulations.

NEW YORK STATE MENTAL HYGIENE LAW

The proposed Chemical Dependence Residential Program is subject to licensure under Article 32 of the New York State Mental Hygiene Law.

32.05(a) of the Mental Hygiene Law states that, except as provided in subdivision (b) of this section no provider shall engage in any of the following activities without an operating certificate issued by the commissioner pursuant to this article:

> 1. operation of a residential program, including a community residence for the care, custody, or treatment of persons suffering from chemical abuse or dependence; provided, however, that giving domestic care and comfort to a person in the home shall not constitute such an operation;

The definition of chemical dependence from section 1.03(44) of the Mental Hygiene Law is "Chemical Dependence" means the repeated use of alcohol and/or one or more substances to the extent that there is evidence of physical or psychological reliance on alcohol and/or substances, the existence of physical withdrawal symptoms from alcohol and/or one or more substances, pattern of compulsive use, and impairment of normal development or functioning due to such use in one or more of the major life areas including but not limited to the social, emotional, familial, educational, vocational, and physical. Unless otherwise provided, for the purposes of this chapter, the term chemical dependence shall mean and include alcoholism and or substance dependence.

TITLE 14 NEW YORK STATE CODES RULES AND REGULATIONS (14 NYCRR) OF THE NEW YORK STATE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES

An OASAS licensed Residential Program is subject to Part 820 of the 14 New York Codes, Rules and Regulations (14 NYCRR) of the NYS Office of Alcoholism and Substance Abuse Services as well as Part 800.

820.1 Legal base

(a) Section 19.07(e) of the Mental Hygiene Law authorizes the Commissioner of the Office of Alcoholism and Substance Abuse Services to adopt standards including necessary rules and regulations pertaining to chemical dependence services.
(b) Section 19.09(b) of the Mental Hygiene Law authorizes the Commissioner of the Office of Alcoholism and Substance Abuse Services to adopt regulations necessary and proper to implement any matter under his or her jurisdiction.
(c) Section 19.40 of the Mental Hygiene Law authorizes the Commissioner of the Office of Alcoholism and Substance Abuse Services to issue operating certificates for the provision of chemical dependence services.

(d) Section 32.01 of the Mental Hygiene Law authorizes the Commissioner of the Office of Alcoholism and Substance Abuse Services to adopt any regulation reasonably necessary to implement and effectively exercise the powers and perform the duties conferred by Article 32 of the Mental Hygiene Law.

820.3 Definitions
Unless otherwise indicated, the following terms shall be applicable to all programs certified pursuant to this Part.

(a) **"Residential services"** are 24/7 structured treatment/recovery services in a residential setting provided by Office certified programs to persons recovering from substance use disorder. Services correspond to elements in the treatment/recovery process and are distinguished by the configuration of services, staffing patterns, degree of dysfunction of the individual served in each setting, and patient readiness to transition to a less restrictive program or element of treatment/recovery. Certified residential programs may provide residential services corresponding to one or more of the following elements of the treatment/recovery process:

(1) Stabilization;
(2) Rehabilitation;
(3) Reintegration in congregate or scatter-site settings.

(b) **"Stabilization"** provides a safe environment in which a person may stabilize withdrawal symptoms, severe cravings, psychiatric and medical symptoms before referral or transition to another program or element of structured treatment/recovery. Stabilization requires the supervision of a physician and clinical monitoring.
(c) **"Rehabilitation"** provides a structured environment for persons whose potential for independent living is seriously limited due to significant functional impairment including social, employment, cognitive and ability to follow social norms that requires restructuring social supports and behaviors in order to develop sufficient skills; these persons require a course of rehabilitative services in a structured environment with staffing to provide monitoring and support and case management.
(d) **"Reintegration"** provides a community living experience in either congregate or scatter-site settings with limited supervision and/or case management; persons appropriate for these services are transitioning to long term recovery from substance use disorder and independent living in the community.

Part 820.5 Services
(d) Medication assisted treatment. A provider of residential services may provide residential services to an individual who is on methadone or other approved opiate maintenance or is being detoxified from methadone. Opiate maintenance or detoxification services may be provided through a written agreement with an appropriately certified methadone/opiate provider in accordance with applicable federal and state requirements including, but not limited to, regulations of the federal Center for Substance Abuse Treatment, the United States Drug Enforcement Administration, the New York State Department of Health, and the Office, including but not limited to Part 822 of this Title.

(e) Services. All residential programs shall make available, either directly or through referral to appropriate agencies, the following services as clinically and programmatically indicated:

(1) Supportive services: availability of a range of support services appropriate to resident needs including legal, mental health, and social services, vocational assessment and counseling.

(2) Educational and child care services: availability of required educational and childcare services in each program which provides services to school-age children.

(3) Structured activity and recreation: opportunities for residents and family members, where appropriate, to participate in activities designed to foster effective use of leisure time, to improve social skills, develop self-esteem and encourage personal responsibility.

Residential Program Staffing

Part 800 Staffing Definition of Qualified Health Professional

"Qualified Health Professional" means any of the professionals listed below, who are in good standing with the appropriate licensing or certifying authority, as applicable, with a minimum of one year of experience or satisfactory completion of a training program in the treatment of substance use disorders:

(1) a credentialed alcoholism and substance abuse counselor (CASAC) who has a current valid credential issued by the Office, or a comparable credential, certificate or license from another recognized certifying body as determined by the Office;

(2) a counselor certified by and currently registered as such with the National Board for Certified Counselors;

(3) a rehabilitation counselor certified by the Commission of Rehabilitation Counselor Certification;

(4) a therapeutic recreation therapist certified by the National Council on Therapeutic Recreation or the American Therapeutic Recreation Association; or a person who holds a baccalaureate degree in a field allied to therapeutic recreation and, either before or after receiving such degree, has five years of full-time, paid work experience in an activities program in a health care setting;

(5) a professional licensed and currently registered as such by the New York State Education Department to include:

(i) a physician who has received the Doctor of Medicine (M.D.) or doctor of osteopathy (D.O.) degree;
(ii) a physician's assistant (PA);
(iii) a certified nurse practitioner;
(iv) a registered professional nurse (RN); (v) a psychologist;
(vi) an occupational therapist; (vii) a social worker (LMSW; LCSW), including an individual with a Limited Permit Licensed Master Social Worker (LP-LMSW) only if such person has

a permit which designates the OASAS-certified program as the employer and is under the general supervision of a LMSW or a LCSW; and (viii) a mental health practitioner including: a licensed mental health counselor (LMHC), a marriage and family therapist (LMFT), a creative arts therapist (LCAT), and licensed psychoanalyst; and any mental health practitioner with a Limited Permit.

820.6 Staffing

(a) Any residential program of 10 beds or more shall have a full-time Program Director who is a qualified health professional as defined in Part 800 of this Title. The Program Director shall have at least five years of full-time work experience in SUD, or related treatment field, prior to appointment as Program Director. A residential program with fewer than 10 beds shall have a similarly qualified Program Director who shall serve on at least a part-time basis.

(b) General and clinical staffing.

(1) General and clinical staffing shall be on-site or on-call sufficient to meet the emergent needs of the resident population receiving services in a particular treatment element. Staff may be either specifically assigned to the residential service or may be part of the staff of the facility or program within which the residential service is located. However, if the staff is part of the general facility or program staff, they must have specific training and experience in the treatment of chemical use, abuse and dependence specific to the services provided.

(2) Applicable only to stabilization and rehabilitation services, staff "sufficient to meet the emergent needs of the resident population" shall include:

(i) Registered nurse and weekend nursing staff sufficient to resident need, on-site daily and to supervise Licensed Practical Nurse (LPN);

(ii) LPN available on-site daily for support to residents and for oversight and documentation of self-medication;

(iii) Physician, nurse practitioner and or physician assistants to meet the medical assessment and treatment needs of each resident. Each service shall have identified a Medical Director whose qualifications and responsibilities are defined in Part 800 of this Title.

(iv) Psychiatrist and/or psychiatric nurse practitioner to evaluate all residents who have a history of mental health disorder or who are exhibiting symptoms of a mental health disorder.

(v) LMSW/LCSW/LMHC or Family therapist in sufficient numbers to provide psychotherapy to all residents who are in need of such services in a frequency sufficient to meet the assessed need; (vi) Clinical staff in sufficient numbers to serve as the primary counselors. Each resident shall be assigned a clinical staff member as his/her primary counselor to provide individual counseling and treatment/recovery plan preparation, monitoring and review;

(vii) CASACs, CASAC-T and other clinical and milieu staff in sufficient numbers to facilitate activities of daily living, community meetings, engagement, carry out of treatment planning in milieu; at least one CASAC available at all times to intervene to help provide therapeutic interactions to foster residents' social, cognitive and behavioral skill development. CASAC staff will provide supervision of milieu staff;

(viii) Milieu staff all shifts in sufficient numbers available within the community to model and provide pro-social behavioral interventions at all times. Milieu staff are included in the treatment planning process and are aware of the treatment goals of each resident; they will carry out activities that will support goal attainment through the natural interactions within the milieu.
(ix) At least two staff per overnight shift, one of which must be a clinical staff member;
(x) Vocational Counselor;
(xi) Case manager to develop the treatment/recovery plan and to meet regularly to identify needs and progress.

820.10 Additional requirements for stabilization in a residential setting
(a) Stabilization services are appropriate for residents who present with mild withdrawal or expected withdrawal and psychiatric symptoms that cause acute impairment; medical conditions, emotional or cognitive impairment that can be managed in a residential setting where medical staff are available on an on-call basis. Stabilization services may be provided by any certified provider of residential services designated by the Office to provide stabilization services.

(1) Residential providers will be required to have medication management protocols, approved by the OASAS Medical Director, to qualify to provide stabilization services.
(2) All programs offering stabilization services shall have ancillary withdrawal and addiction medication management available as clinically indicated.

(b) Staffing.

(1) In addition to staffing required of all residential services pursuant to section 820.6 of this Part, stabilization services approved by the Office must provide medical staff, as defined in Part 800 of this Title, on site or on-call, and staff available sufficient to meet the emergent needs of the resident population including any or all of the staff identified in 820.6(b)(2) of this Part. The percentage of time that each shared staff is assigned to the residential service must be documented.

(c) Services. In addition to the required services for all residential programs, stabilization services must include:

(1) Medical assessment of the SUD symptoms and medical treatment of mild to moderate withdrawal symptoms, urges and cravings using a protocol approved by the OASAS Medical Director.
(2) Medical assessment of physical and mental health conditions and medical treatment to stabilize these conditions.
(3) Psychiatric assessment and medication management of co-occurring psychiatric conditions which can be managed within the residential setting.
(4) Psych-social interventions which teach skills for coping with urges, craving, impulsive behavior and cognitive distortions in thinking, motivational interviewing techniques to engage the resident in treatment.

820.11 Additional requirements for rehabilitation services in a residential setting
(a) Rehabilitation services are appropriate for individuals who do not have significant withdrawal symptoms, are free of severe cravings to use substances and, if present, psychiatric and medical conditions are stable. Individuals have functional impairment in cognitive, emotional regulation, social and role functioning.
(b) Staffing. In addition to staffing required of all residential services pursuant to section 820.6 of this Part, rehabilitation services approved by the Office must provide medical staff, as defined in Part 800 of this Title, on site or on-call, and staff available sufficient to meet the emergent needs of the resident population including any or all of the staff identified in 820.6(b)(2) of this Part. The percentage of time that each shared staff is assigned to the residential service must be documented.
(c) Services. In addition to the services required of all residential programs, rehabilitation services must provide:

(1) individual, group and family counseling as appropriate to resident needs; provided by clinical staff as clinical staff are defined in Part 800 of this Title.

(i) A group therapy session shall contain no more than 15 persons;
(ii) Family counseling services include services to significant others;
(iii) Peer support may occur in a peer group setting where the group is facilitated by residents who have greater experience or seniority within the service. Such counseling must be directly supervised by a clinical staff member in attendance;
(iv) Multi-family group counseling and psycho-education.

(2) Medical assessment of physical and mental health conditions and medical treatment to enable the resident to manage chronic health and mental health conditions including treatment of physical health conditions that are routine:

(i) Psychiatric assessment and medication management of co-occurring psychiatric conditions which can be managed within the residential setting;
(ii) Psycho-social interventions which teach skills for coping with urges, craving, impulsive behavior and cognitive distortions in thinking, motivational interviewing techniques to engage the resident in treatment;
(iii) Planned interactions with residents within the milieu intended to build social, emotional, and behavioral functioning including: increased empathy, successful social interactions, increase in self-efficacy, confidence, control over impulses, managing of urges and cravings to use and the skill in use of social supports available within the community.

THE AMERICAN SOCIETY OF ADDICTION MEDICINE (ASAM) DEFINITIONS OF RESIDENTIAL LEVEL OF CARE

ASAM, founded in 1954, is a professional medical society representing over 6,000 physicians, clinicians and associated professionals in the field of addiction medicine. ASAM provides advocacy to increase access and to improve the quality of addiction treatment. It also is involved in educating physicians and the public, supporting research and prevention, and promoting the appropriate role of

physicians in the care of patients with addiction. The ASAM Criteria is recognized as the preeminent reference for substance abuse treatment professionals.

The American Society of Addiction Medicine (ASAM) Criteria, Third Edition defines the three categories of residential care:

- Level 3.1, Clinically Managed Low Intensity Residential Services
- Level 3.3, Clinically Managed Populations Specific Hi Intensity Residential Services
- Level 3.5, Clinically Managed High Intensity Residential Services

All of these levels of care are defined as an organized treatment service that features a planned and structured regimen of care in a 24-hour residential setting. All of these Level 3 program categories serve individuals who, because of the specific functional limitations, needs safe and stable living environment in 24-hour care. This is needed to develop, practice and/or demonstrate the recovery skills necessary so that patients do not immediately relapse or continue to use in an imminently dangerous manner upon transfer to a less intensive level of care.

Level 3.1 programs offer at least five hours per week of low intensity treatment of substance related disorders. Treatment is characterized by services such as individual, group, and family therapy; medication management; and psychoeducation. These services facilitate the application of recovery skills, relapse prevention, and emotional coping strategies. They promote personal responsibility and reintegration of the individual into the network systems of work, education, and family life. Mutual self-help meetings are available on-site or easily accessible in the local community. Level 3.1 programs also can meet the needs of individuals who may not yet acknowledge that they have a substance use or other addictive problem. Such individuals may be living in a recovery environment that is too toxic to permit treatment on an outpatient basis or to minimize their continued substance abuse behavior. Treatment at Level 3.1 sometimes is warranted as a substitute for or supplement to deficits in the patient's recovery environment, caretakers, or siblings; or a lack of structured daily activity. Level 3.1 is not intended to describe or include sober houses, boarding houses, or group homes where treatment services are not provided.

Level 3.3 programs provide a structured recovery environment in combination with high intensity clinical services provided in a manner to meet the functional limitations of patients to support recovery from substance related disorders. For the typical patient in a Level 3.3 program the effects of the substance use or other addictive disorder or co-occurring disorder resulting in cognitive impairment on the individual's life are so significant, and the resulting level of impairment so great, that outpatient motivational and or relapse prevention strategies are not feasible or effective. Where treatment staff have been specially trained and adequate nursing supervision is available, Level 3.3 programs are able to address the needs of patients with certain medical problems as well. These include patients whose biomedical conditions otherwise would meet medical necessity criteria for placement in nursing home or other medically staffed facility.

Level 3.5 programs are designed to serve individuals who, because of specific functional limitations, need safe and stable living environments in order to develop and/or demonstrate sufficient recovery skills so that they do not immediately relapse or continue to use in an immensely dangerous manner upon transfer to a less intensive level of care. Level 3.5 assists individuals whose addiction is currently so out-of-control that they need a 24-hour supportive treatment environment to initiate or continue a recovery process that has failed to progress. Many patients treated in Level 3.5 have significant social and psychological problems. For these patients, Level 3.5 programs are characterized by their reliance on the treatment community as a therapeutic agent.

LEVEL OF CARE FOR ALCOHOLISM AND DRUG TREATMENT REFERRAL (LOCADTR)

In New York State, decisions about admitting patients to the various levels of care in substance abuse treatment programs are made using the Level of Care for Alcohol and Drug Treatment Referral (LOCADTR) tool developed by the New York State Office of Alcoholism and Substance Abuse Services.

The following chart illustrates the various levels of care in New York State, including a crosswalk to the ASAM levels of care.

Appendix D - ASAM Crosswalk with OASAS Levels of Care

The standard instrument used in NYS is LOCADTR 3.0 which defines appropriate placement of clients into approved NYS Levels of Care. These Levels of Care are consistent with ASAM Levels of Care. However, there are New York State specific level of care attributes. Entities insuring patients in NYS will need to comply with NYS specific Levels of Care. This table provides a listing of OASAS certified programs; the applicable authorizing New York State program regulation; and where appropriate, a cross walk to an ASAM level of care.

OASAS Program Type	New York State Regulation	ASAM
Outpatient		
Outpatient Clinic	Title 14 NYCRR Part 822	**Level I**
Outpatient Day Rehabilitation	Title 14 NYCRR Part 822	**Level 2.5**
Intensive Outpatient	Title 14 NYCRR Part 822	**Level 2.I**
Opioid Treatment Programs	Title 14 NYCRR Part 822	**Level I**
Medically Supervised Outpatient Withdrawal	Title 14 NYCRR Part 822	**Level 2-WM**
Clinical Services in a Residential Setting		
Stabilization Services in a Residential Setting	Title 14 NYCRR Part 820	**Level 3.5**
Rehabilitation Services in a Residential Setting	Title 14 NYCRR Part 820	**Level 3.3**
Reintegration in a Residential Setting.	Title 14 NYCRR Part 820	**Level 3.1**

Inpatient		
Medically Managed Inpatient Detoxification	Title 14 NYCRR Part 816	**Level 4-WM**
Medically Supervised Inpatient Detoxification	Title 14 NYCRR Part 816	**Level 3.7-WM**
Inpatient Treatment and Residential Rehabilitation for Youth	Title 14 NYCRR Part 818	**Level 3.7**

CONCLUSION

The following tables present a side-by-side comparison of the proposed Hudson Ridge Wellness Center's program with the Standard Industrial Classification definition used by the Town of Cortlandt and with the following three (3) legal and professional sources:

- NYS Mental Hygiene Law
- 14 NYCRR – Part 820
- American Society of Addiction Medicine (ASAM) Criteria, Third Edition

HUDSON RIDGE WELLNESS CENTER PROPOSED RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM	TOWN OF CORTLANDT SPECIALTY HOSPITAL DEFNITION	NYS MENTAL HYGIENE LAW
Residential Substance Abuse Treatment Program – This is a 24/7 structured treatment/recovery service in a residential setting to be provided by Hudson Ridge Wellness Center to persons recovering from substance use disorder. Clinical and Medical program services will include, but not be limited to Diagnostic Assessment (approximately three to five days); Health and Physical examination, Residential Treatment (approximately 28 to 45	The Standard Industrial Classification (SIC) definition of "Specialty Hospital" is "Establishments primarily engaged in providing diagnostic services, treatment and other hospital services for specialized categories of patients, except mental". The SIC code for "Specialty Hospital" is 8069. The extended code for Specialty Hospitals includes the following: • 80690100 – Substance Abuse Hospitals	32.05(a) of the Mental Hygiene Law states that, except as provided in subdivision (b) of this section no provider shall engage in any of the following activities without an operating certificate issued by the commissioner pursuant to this article: 1. operation of a residential program, including a community residence for the care, custody, or treatment of persons suffering from chemical abuse or dependence; provided, however, that giving domestic care and comfort to a

days total) including Individual, Group and Family Counseling, Case Management, Urine Drug Screening, Psychiatric Assessment, if available and indicated, and Psychiatric Medication Management, as indicated, Specialty Care services, Extended Care, Continuing Care and Transition/Discharge Planning. Hudson Ridge Wellness Center will provide residential services corresponding to one or more of the following elements of the treatment/recovery process: (1) Stabilization; (2) Rehabilitation; (3) Reintegration	• 80690101 – Alcoholism Rehabilitation Hospital • 80690102 - Drug Addiction Rehabilitation Hospital	person in the home shall not constitute such an operation;

HUDSON RIDGE WELLNESS CENTER PROPOSED RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM	**TOWN OF CORTLANDT SPECIALTY HOSPITAL DEFNITION**	**TITLE 14 NEW YORK STATE CODES RULES AND REGULATIONS (14 NYCRR) OF THE NEW YORK STATE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES**
Residential Substance Abuse Treatment Program – This is a 24/7 structured treatment/recovery service in a residential setting to be provided by Hudson Ridge Wellness Center to persons recovering from substance use disorder. Clinical and Medical program services	The Standard Industrial Classification (SIC) definition of "Specialty Hospital" is "Establishments primarily engaged in providing diagnostic services, treatment and other hospital services for specialized categories of patients,	**820.3 Definitions** Unless otherwise indicated, the following terms shall be applicable to all programs certified pursuant to this Part. (a) **"Residential services"** are 24/7 structured treatment/recovery services in a residential setting provided by Office certified

will include, but not be limited to Diagnostic Assessment (approximately three to five days); Health and Physical examination, Residential Treatment (approximately 28 to 45 days total) including Medication Assisted Treatment, Individual, Group and Family Counseling, Psycho-social Interventions, Case Management, Urine Drug Screening, Psychiatric Assessment, if available and indicated, and Psychiatric Medication Management, as indicated, Specialty Care services, Extended Care, Continuing Care and Transition/Discharge Planning. Hudson Ridge Wellness Center will provide residential services corresponding to one or more of the following elements of the treatment/recovery process: (1) Stabilization; (2) Rehabilitation; (3) Reintegration	except mental". The SIC code for "Specialty Hospital" is 8069. The extended code for Specialty Hospitals includes the following: • 80690100 – Substance Abuse Hospitals • 80690101 – Alcoholism Rehabilitation Hospital • 80690102 - Drug Addiction Rehabilitation Hospital	programs to persons recovering from substance use disorder. Services correspond to elements in the treatment/recovery process and are distinguished by the configuration of services, staffing patterns, degree of dysfunction of the individual served in each setting, and patient readiness to transition to a less restrictive program or element of treatment/recovery. Certified residential programs may provide residential services corresponding to one or more of the following elements of the treatment/recovery process: (1) Stabilization; (2) Rehabilitation; (3) Reintegration in congregate or scatter-site settings.
Hudson Ridge Wellness Center will also provide Medication Assisted Treatment, Ancillary Stabilization and Withdrawal Services, Group and Individual Counseling, Supportive Services, Structured Activities and Recreational Activities.		**Part 820.5 Services** (d) Medication assisted treatment. A provider of residential services may provide residential services to an individual who is on methadone or other approved opiate maintenance or is being detoxified from methadone. Opiate maintenance or detoxification services may be provided through a written agreement with an

		appropriately certified methadone/opiate provider in accordance with applicable federal and state requirements including, but not limited to, regulations of the federal Center for Substance Abuse Treatment, the United States Drug Enforcement Administration, the New York State Department of Health, and the Office, including but not limited to Part 822 of this Title. (e) Services. All residential programs shall make available, either directly or through referral to appropriate agencies, the following services as clinically and programmatically indicated: (1) Supportive services: availability of a range of support services appropriate to resident needs including legal, mental health, and social services, vocational assessment and counseling. (2) Educational and child care services: availability of required educational and childcare services in each program which provides services to school-age children. (3) Structured activity and recreation: opportunities for residents and family members, where appropriate, to participate in activities designed to foster effective use of leisure time, to improve social skills, develop self-esteem and encourage personal responsibility.
The Hudson Ridge Wellness Center staffing will include		**820.10 Additional requirements for stabilization in a residential setting**

2 physicians, 15 nurses, 2 psychologists, and 23 social workers, counselors, technicians – i.e., 42 medical or treatment professionals – to serve only 42 patients projected at "start-up" of the program.		(a) Stabilization services are appropriate for residents who present with mild withdrawal or expected withdrawal and psychiatric symptoms that cause acute impairment; medical conditions, emotional or cognitive impairment that can be managed in a residential setting where medical staff are available on an on-call basis. Stabilization services may be provided by any certified provider of residential services designated by the Office to provide stabilization services. (1) Residential providers will be required to have medication management protocols, approved by the OASAS Medical Director, to qualify to provide stabilization services. (2) All programs offering stabilization services shall have ancillary withdrawal and addiction medication management available as clinically indicated. (b) Staffing. (1) In addition to staffing required of all residential services pursuant to section 820.6 of this Part, stabilization services approved by the Office must provide medical staff, as defined in Part 800 of this Title, on site or on-call, and staff available sufficient to meet the emergent needs of the resident population including any or all of the staff identified in 820.6(b)(2) of this Part. The percentage of time that each shared staff is assigned to

		the residential service must be documented. (c) Services. In addition to the required services for all residential programs, stabilization services must include: (1) Medical assessment of the SUD symptoms and medical treatment of mild to moderate withdrawal symptoms, urges and cravings using a protocol approved by the OASAS Medical Director. (2) Medical assessment of physical and mental health conditions and medical treatment to stabilize these conditions. (3) Psychiatric assessment and medication management of co-occurring psychiatric conditions which can be managed within the residential setting. (4) Psych-social interventions which teach skills for coping with urges, craving, impulsive behavior and cognitive distortions in thinking, motivational interviewing techniques to engage the resident in treatment.
		820.11 Additional requirements for rehabilitation services in a residential setting (a) Rehabilitation services are appropriate for individuals who do not have significant withdrawal symptoms, are free of severe cravings to use substances and, if present, psychiatric and medical conditions are stable. Individuals have functional impairment in cognitive,

		emotional regulation, social and role functioning. (b) Staffing. In addition to staffing required of all residential services pursuant to section 820.6 of this Part, rehabilitation services approved by the Office must provide medical staff, as defined in Part 800 of this Title, on site or on-call, and staff available sufficient to meet the emergent needs of the resident population including any or all of the staff identified in 820.6(b)(2) of this Part. The percentage of time that each shared staff is assigned to the residential service must be documented. (c) Services. In addition to the services required of all residential programs, rehabilitation services must provide: (1) individual, group and family counseling as appropriate to resident needs; provided by clinical staff as clinical staff are defined in Part 800 of this Title. (i) A group therapy session shall contain no more than 15 persons; (ii) Family counseling services include services to significant others; (iii) Peer support may occur in a peer group setting where the group is facilitated by residents who have greater experience or seniority within the service. Such counseling must be directly supervised by a clinical staff member in attendance; (iv) Multi-family group counseling and psycho-education.

		(2) Medical assessment of physical and mental health conditions and medical treatment to enable the resident to manage chronic health and mental health conditions including treatment of physical health conditions that are routine: (i) Psychiatric assessment and medication management of co-occurring psychiatric conditions which can be managed within the residential setting; (ii) Psycho-social interventions which teach skills for coping with urges, craving, impulsive behavior and cognitive distortions in thinking, motivational interviewing techniques to engage the resident in treatment; (iii) Planned interactions with residents within the milieu intended to build social, emotional, and behavioral functioning including: increased empathy, successful social interactions, increase in self-efficacy, confidence, control over impulses, managing of urges and cravings to use and the skill in use of social supports available within the community.

HUDSON RIDGE WELLNESS CENTER PROPOSED	**TOWN OF CORTLANDT SPECIALTY HOSPITAL DEFNITION**	**AMERICAN SOCIETY OF ADDICTION MEDICINE**

RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM		**(ASAM) CRITERIA, THIRD EDITION**
Residential Substance Abuse Treatment Program – This is a 24/7 structured treatment/recovery service in a residential setting provided by Hudson Ridge Wellness Center to persons recovering from substance use disorder. Clinical and Medical program services will include, but not be limited to Diagnostic Assessment (approximately three to five days); Health and Physical examination, Residential Treatment (approximately 28 to 45 days total) including Medication Assisted Treatment, Individual, Group and Family Counseling, Case Management, Urine Drug Screening, Psychiatric Assessment, if available and indicated, and Psychiatric Medication Management, as indicated, Specialty Care services, Extended Care, Continuing Care and Transition/Discharge Planning. Hudson Ridge Wellness Center will provide residential services corresponding to one or more of the following elements of the treatment/recovery process:	The Standard Industrial Classification (SIC) definition of "Specialty Hospital" is "Establishments primarily engaged in providing diagnostic services, treatment and other hospital services for specialized categories of patients, except mental". The SIC code for "Specialty Hospital" is 8069. The extended code for Specialty Hospitals includes the following: • 80690100 – Substance Abuse Hospital • 80690101 – Alcoholism Rehabilitation Hospital • 80690102 - Drug Addiction Rehabilitation Hospital	**Level 3.1 Clinically Managed Low-Intensity Residential** programs offer at least five hours per week of low intensity treatment of substance related disorders. Treatment is characterized by services such as individual, group, and family therapy; medication management; and psychoeducation. These services facilitate the application of recovery skills, relapse prevention, and emotional coping strategies. They promote personal responsibility and reintegration of the individual into the network systems of work, education, and family life. Mutual self-help meetings are available on-site or easily accessible in the local community. Level 3.1 programs also can meet the needs of individuals who may not yet acknowledge that they have a substance use or other addictive problem. Such individuals may be living in a recovery environment that is too toxic to permit treatment on an outpatient basis or to minimize their continued substance abuse behavior. Treatment at Level 3.1 sometimes is warranted as a substitute for or supplement to deficits in the patient's recovery environment, caretakers, or siblings; or a lack of structured daily activity. Level 3.1 is not intended to describe or include sober houses, boarding houses, or group homes where treatment services are not provided.

(1) Stabilization; (2) Rehabilitation; (3) Reintegration		**Level 3.3 Clinically Managed Population Specific High-Intensity Residential** programs provide a structured recovery environment in combination with high intensity clinical services provided in a manner to meet the functional limitations of patients to support recovery from substance related disorders. For the typical patient in a Level 3.3 program the effects of the substance use or other addictive disorder or co-occurring disorder resulting in cognitive impairment on the individual's life are so significant, and the resulting level of impairment so great, that outpatient motivational and or relapse prevention strategies are not feasible or effective. Where treatment staff have been specially trained and adequate nursing supervision is available, Level 3.3 programs are able to address the needs of patients with certain medical problems as well. These include patients whose biomedical conditions otherwise would meet medical necessity criteria for placement in nursing home or other medically staffed facility. **Level 3.5 Clinically Managed High-Intensity Residential** programs are designed to serve individuals who, because of specific functional limitations, need safe and stable living environments in order to develop and/or demonstrate sufficient recovery skills so that they do not immediately relapse or continue to use in an immensely dangerous manner upon transfer to a

		less intensive level of care. Level 3.5 assists individuals whose addiction is currently so out-of-control that they need a 24-hour supportive treatment environment to initiate or continue a recovery process that has failed to progress. Many patients treated in Level 3.5 program have significant social and psychological problems. For these patients, Level 3.5 programs are characterized by their reliance on the treatment community as a therapeutic agent.

The above citations and definitions from the New York State Mental Hygiene Law, the New York State Office of Alcoholism and Substance Abuse Services (OASAS) regulations, the American Society of Addiction Medicine Criteria, Third Edition and finally the Level of Care for Alcoholism and Drug Treatment Referral (LOCADTR) tool, clearly demonstrate that the proposed Residential Substance Abuse Treatment Program of Hudson Ridge Wellness Center is a program to treat the medical illness of alcoholism and substance abuse, using a staff of healthcare professionals and clinicians. The proposed program of medical services is not "incidental" to the residential component of the program; rather, the medical services are inherent, instrumental and indubitable as to their necessity in order to deliver the proposed program, and they will be delivered by people, including doctors and nurses, who have inhabited hospitals since the term "hospital" was first coined. In my opinion, and in the opinion of my firm, the proposed program of Hudson Ridge Wellness Center therefore meets the definition of a Specialty Hospital as defined by the Town of Cortlandt regulations.

Thank you for your consideration of this information.

Sincerely,

Frank M. Cicero

Cicero Consulting Associates

VCC, Inc.

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Michael P. Parker, Sr.
(1941-2011)
Anthony J. Maddaloni
(1952-2014)

BRIEF SUMMARY OF CAREER AND EXPERIENCES OF THE

PRESIDENT OF VCC, INC. D/B/A CICERO CONSULTING ASSOCIATES

FRANK M. CICERO

Frank M. Cicero is the president and majority owner of Cicero Consulting Associates and began his career in this field when he joined Cicero & Pastore Associates, Inc. in 1989. He is primarily responsible for coordinating the preparation and submission of all Certificate of Need and other applications/grant proposals, and monitoring submitted applications through the governmental review process. During the governmental review process, Mr. Cicero is responsible for coordinating the firm's interactions with the State Health Department and other local, State and regional agencies. This includes attending and presenting at public review meetings, submitting additional project information, and meeting with staff of review agencies relative to projects.

Mr. Cicero is a 1985 graduate of Dartmouth College and a 1993 graduate of the Harvard School of Public Health, where he received a M.S. degree in health policy and management. Subsequent to his graduation from the Harvard School of Public Health, Mr. Cicero worked for one year in the New York City Health and Hospitals Corporation's Capital Finance Department, prior to rejoining the Cicero Consulting firm.

Exhibit 4

TOWN OF CORTLANDT
DEPARTMENT OF TECHNICAL SERVICES
PLANNING DIVISION

Michael Preziosi, P.E.
Director – D.O.T.S

Chris Kehoe, AICP
Deputy Director – Planning

Planning Staff
Michelle Robbins, AICP
Rosemary Boyle-Lasher

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Town Supervisor
Linda D. Puglisi

Town Board
Richard Becker
Debra A. Costello
Francis X. Farrell
Seth M. Freach

MEMORANDUM

TO: Planning Board Members

FROM: Mike Preziosi, P.E., Director (MP)
Department of Technical Services

Chris Kehoe, AICP, Deputy Director CK
Department of Technical Services, Planning Division

SUBJECT: PB 6-15 Application of Hudson Ridge Wellness Center, Inc. for Site Development Plan approval and a Special Permit to reuse the seven existing buildings located at the former Hudson Institute property to provide a 92 bed private residential treatment program for individuals who are recovering from chemical dependency on a 20.83 acre property located at 2016 Quake Ridge Road as shown on a drawing entitled "Site Plan, Hudson Ridge Wellness Center" prepared by Ralph G. Mastromonaco, P.E. dated July 16, 2015. (see prior PB 49-86)

DATE: August 12, 2016

As you know this application was submitted in August 2015 and the applicant introduced the case to the Planning Board at the August 4, 2015 meeting. The application was referred back to staff for a review memo. Subsequent to that referral the Town Board adopted a moratorium regarding certain special permits, including hospitals, therefore the staff review of the application was put on hold during the moratorium. The moratorium expired on June 30, 2016.

The application seeks Site Plan approval and a Special Permit for a hospital as per Section 307-59 of the Town Zoning Code. Section 307-59 (9) requires that hospitals are "Only permitted on a lot in residential zones which fronts on a state road". Quaker Ridge Road is not a state road and therefore the application cannot be further processed by the Planning Board.

MP/CRK/crk
attachment

cc: Linda D. Puglisi, Town Supervisor
Richard H. Becker, Town Board Liaison
Tom Wood, Esq., Town Attorney
John Klarl, Esq. Deputy Town Attorney
Hudson Ridge Wellness Center, Inc.
Robert Davis, Esq.
Ralph G. Mastromonaco, P.E. ✓

Exhibit 5

Town of Cortlandt

1 Heady Street
Cortlandt Manor, NY 10567-1254
(914) 734-1010

BUILDING PERMIT

Building Permit #: 20160140 **Date: 3/7/2016**

This is to certify that permission is hereby granted for:
Building #4 replace existing equipment, repair existing systems, replace windows.

Conditions: Provide specification for fenestration U-values; Certification shall be submitted per Energy Code Section 103; Replacement fixtures shall not be relocated.

NO EXISTING OR PROPOSED USE IS IMPLIED NOR APPROVED.

Owner: HUDSON RIDGE WELLNESS
Located At: 2016 QUAKER RIDGE RD **Zone:** R-80
Owner Mailing Address:
HUDSON RIDGE WELLNESS
CENTER INC
72 NORTH STATE RD #502
BRIARCLIFF MANOR NY 10510

SBL #: 79.11-1-18
Permit Type: COMRE
Expiration Date: 3/7/2017
Owner Home Phone:

All work shall be executed in strict compliance with the permit application, the provisions of the Code of the Town of Cortlandt and approved plans, the NYS Uniform Fire Prevention and Building Codes, National Electric Code and all other laws, rules and regulations which apply. The building permit does not constitute authority to build in violation of any federal, state, local law or other rule or regulation.

IMPORTANT:

1. A permit under which no work has commenced within twelve (12) months after issuance, shall expire by limitation and a renewal or new permit must be secured before work can begin.
2. It is the responsibility of the owner and or/contractor to comply with all applicable Town and State ordinances and to call for the required inspections at least one day in advance. For a new building, trees to be removed must be tagged and inspected prior to cutting.
3. Occupancy or use of the work described above is prohibited until after final inspection and Certificate of Occupancy or Compliance has been issued.
4. Any change in construction or design of this project requires new plans submitted and approved by the Code Enforcement Division.

DIRECTOR OF CODE ENFORCEMENT

SIGNATURE OF OFFICIAL

STAMP

Not valid without an orginal signature and stamp.
The Town of Cortlandt reserves the right to make changes to conform to NYS Code.

Town of Cortlandt

1 Heady Street
Cortlandt Manor, NY 10567-1254

ELECTRICAL PERMIT

Permit #: 20160142 **Date: 3/7/2016**

This is to certify that permission is hereby granted for:
Building #4 repair existing electrical systems and replace devices. (BP #20160140).

Owner: HUDSON RIDGE WELLNESS
Located At: 2016 QUAKER RIDGE RD **Zone:**
Owner Mailing Address:
HUDSON RIDGE WELLNESS
CENTER INC
72 NORTH STATE RD #502
BRIARCLIFF MANOR NY 10510

SBL #: 79.11-1-18
Permit Type: ELCOP
Expiration Date: 3/7/2017

All work shall be executed in strict compliance with the permit application, the provisions of the Code of the Town of Cortlandt and approved plans, the NYS Uniform Fire Prevention and Building Codes, National Electric Code and all other laws, rules and regulations which apply. The building permit does not constitute authority to build in violation of any federal, state, local law or other rule or regulation.

It is the responsibility of the electrician to arrange an electrical inspection with one of the inspection agencies recognized by the Town and insure an electrical inspection report is received by Code Enforcement.

ELECTRICIAN
NORTH COUNTY ELECTRIC LLC
JOSEPH FESTO
156 TOMAHAWK ST
YORKTOWN HEIGHTS NY 10598

Tel # 914-248-5346 Lic # 518

1. All work shall be done to conform to the rules, regulations and ordinances of the Town of Cortlandt, State of New York, and in compliance with the requirements of the National Electrical Code governing such installations.
2. It is the responsibiltiy of the electrician to arrange an electrical inspection with one of the inspection agencies recognized by the Town and insure an electrical inspection report is received by Code Enforcement.

DIRECTOR OF CODE ENFORCEMENT

SIGNATURE OF OFFICIAL

STAMP

Not valid without an orginal signature and stamp.
The Town of Cortlandt reserves the right to make changes to conform to NYS Code.

RE: Permit #20160140 20160142
#20160141 20160145

The Applicant acknowledges and agrees the Building Permits being signed by the Town:

1. Do not permit any particular use and are to renovate/repair existing structures.
2. That the applicant will place no reliance upon the permit issuance for any reason or proceedings as to the property's prior or future use.
3. That the Applicant acknowledges that different uses, if permitted, may require different modifications to the buildings and thus the work is being conducted at their own risk.

Hudson Ridge Wellness Center, Inc.

By: Lisa C. Lee VP

Exhibit 6

ZONING BOARD OF APPEALS

Town of Cortlandt
Westchester County, New York

DECISION & ORDER

Name of Petitioner: Hudson Ridge Wellness Center, Inc. and Hudson Education and Wellness Center
Case No. 2016-24
Address: 72 North State Rd., Suite 502, Briarcliff Manor, NY 10510
Location of Property: 2016 Quaker Ridge Rd., Croton-on-Hudson, NY 10520
Tax Map Designation: Section 79.11 Block: 1 Lot: 18
Present Zoning: R-80
Nature of Petition:
[] Use Variance [X] Area Variande [] 280A Exception
[] Special Permit [] Interpretation

Describe Specific Request: Area Variance for the requirement that a hospital in a residential district must have frontage on a State road.

Board Members Present: David Douglas, Wai Man Chin, Charles Heady, Jr., Adrian C. Hunte, John Mattis, Ray Reber, James Seirmarco
Absent:

The above-referred to Petition, having been duly advertised in The Croton Cortlandt Gazette, the official newspaper of the Town of Cortlandt in the issue published on 10/12/16 Town Board Resolution No. 153-88 having been complied with and the matter having duly come to be heard before a duly convened meeting of the Board on the following dates 10/19/16, 11/16/16, 12/14/16, 1/18/17, 2/15/17, 3/15/17 at the Town Hall, 1 Heady Street, Cortlandt Manor, New York, and all of the facts, matters and evidence produced by the Petitioner, by the administrative official and by interested parties having been duly heard, received and considered, and a site inspection of the premises having been made, and due deliberation having been had, the following Decision and Order is hereby made:

This is an application by Hudson Ridge Wellness Center, Inc. and Hudson Education and Wellness Center ("HEWC") for an Area Variance from the requirement that a hospital in a Town residential zoning district must have frontage on a State Road, in this case, for the Applicants' property located at 2016 Quaker Ridge Road, Croton-on-Hudson, NY.

In their application to this Board in October 2016, the Applicants set forth their Project Description: "Specialty hospital serving patients with substance use disorder. Re-use of existing buildings previously used for similar hospital and other institutional use, requires variance from 2004 Amendment to Special Permit provisions requiring State road frontage."

An initial determination, one which will shape the course of this application and the factors, scope, and legal standards pertaining to it, concerns the issue of whether it is more appropriate to consider the application under the rubric of a request for an "Area Variance" (for which the Applicants have applied), or whether the application instead, more properly, should be categorized and treated as a request for a "Use Variance." Given the import of the resolution of that issue, this Board decided to request additional submissions and

presentations from the Applicants and any interested parties opposed to the application, limited to discussion of this specific issue. Furthermore, in addition to Public Hearings previously conducted on October 19, 2016 and November 16, 2016, the Board held Public Hearings limited to that issue on December 14, 2016 and January 18, 2017. After the Public Hearing held on January 18, 2017, the Board closed the Public Hearing only on the limited issue of "Area Variance" versus "Use Variance", and reserved decision on that issue. After adoption of this Decision and Order on the limited Area Variance/Use Variance issue, the Public Hearing on the Applicants' variance request will continue at future Public Hearings on this application.

The Board has received, reviewed, and considered substantial amounts of materials from each side. The Board also had the benefit of cogent, thorough, and skillful presentations by representatives of the Applicants and persons opposed to the application, which further substantially aided the ZBA in its consideration of the somewhat technical legal issue presented. All members of the public who wished to be heard on the "limited issue" were heard or given an opportunity to be heard.

Upon consideration of the evidence presented to the Board on the Area Variance versus Use Variance issue, and the Board's understanding of the statutory and case law pertinent to consideration of the issue, the Board concludes as follows:

1. Each of the relevant New York State statutes - including Town Law Section 267 (defining "area" and "use" variances), Town Law Section 274-b(3) (providing for area variances from Special Permit requirements), and Town Law Section 280-a (specifically providing for area variances from road frontage requirements for building permits, including State road frontage) - mandates that this application be treated as an application for an area variance. A frontage requirement, to use language from Section 267, is a "dimensional or physical requirement," determined by reference to rights of way and lot lines.

2. The decision of the New York Court of Appeals - the highest Court in this State - in Matter of Real Holding Corp. v. Lehigh, 2 N.Y.3d 297, 778 N.Y.S.2d 438 (2004) - likewise mandates that this application be treated as an application for an area variance.

3. Additional authorities buttress this conclusion, including, but not limited to the Second Department's decision in Sunrise Plaza Associates, L.P. v. Town Board of the Town of Babylon, 250 A.D.2d 690, 673 N.Y.S.2d 165 (2d Dept. 1998); N.Y. Jurisprudence, 2d ed., Vol. 12A, *Buildings, Zoning, and Land Controls* Section 364 ("an Area Variance involves matters such as. . . frontage requirements"); and N.Y Zoning Law and Practice, 4th ed., Sec. 29:5 ("Area variances involve matters such as. . . frontage requirements.")

Finally, and importantly, this Board emphasizes that this Decision and Order does not arrive at a final conclusion as to whether an Area Variance should or should not be granted by this Board, and nothing in this Decision and Order should be interpreted as in any way addressing that issue or expressing any views whatsoever on the ultimate underlying merits (or lack thereof) of the Applicants' application for an area variance. The Board will address and consider such matters only after additional public hearings are conducted on this application.

This limited issue of "Area Variance" versus "Use Variance" is a Type II Action under SEQRA as it consists of the interpretation of an existing Code or rule.

Adopted: Mar. 15, 2017
Cortlandt Manor, New York
Date filed: Mar. 20, 2017

Ken Hoch
Clerk, Zoning Board

David Douglas
Chairman, Zoning Board

RECEIVED
MAR 20 2017
TOWN CLERK

Exhibit 7

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

----------X

In the Matter of the Application of
CITIZENS FOR RESPONSIBLE HUDSON INSTITUTE SITE DEVELOPMENT INC., JILL GREENSTEIN, JOEL GREENSTEIN, LOIS GOLDSMITH, CHARLES GOLDSMITH, KAREN WELLS; THOMAS SECUNDA, MICHAEL G. SHANNON and CAROLYN F. SHANNON,

Petitioners/Plaintiffs,

For a Judgment Pursuant to Article 78 of the CPLR and for Declaratory Judgment Relief

- against -

THE ZONING BOARD OF APPEALS OF THE TOWN OF CORTLANDT, THE TOWN OF CORTLANDT, THE TOWN BOARD OF THE TOWN OF CORTLANDT,HUDSON RIDGE WELLNESS CENTER, INC., and HUDSON EDUCATION AND WELLNESS CENTER,

Respondents/Defendants.

----------X

DECISION & ORDER

Index Nos. 1749/17
59903/2017

CACACE, J.

The following papers, numbered one (1) through seven (7), were read on this petition for relief pursuant to articles 30 and 78 of the Civil Practice Law and Rules (CPLR):

Papers Numbered

Notice of Verified Petition - Verified Petition and Complaint with Exhibits 1
Memorandum of Law in Support 2
Notice of Motion to Dismiss - Affirmation in Support with Exhibits 3
Answer - Memorandum of Law with Exhibits 4
Affirmation in Opposition to Motion to Dismiss and in Support of Cross Motion for Stay - Notice of Cross Motion for Stay - Memorandum of Law 5
Reply Affirmation in Support of Motion to Dismiss - Memorandum of Law with Exhibits . . 6
Affidavit in Response to Motion to Dismiss and Cross-Motion for Stay with Exhibit 7

Upon the foregoing papers it is decided and ordered that this petition is disposed of as follows:

Factual Background/Procedural History

The record presented reflects that the events relevant to this proceeding began with the implementation of measures by the respondents Hudson Ridge Wellness Center, Inc., and Hudson Education and Wellness Center (hereinafter, referred to collectively as the Wellness Center respondents), to develop an approximately 20.8 acre lot located at 2016 Quaker Ridge Road, designated on the Town of Cortlandt Tax Map as Section 79.11, Block 1, Lot 18 (hereinafter, the project site), upon which improvements exist in the form of seven buildings previously associated with the original use of the property as a specialty hospital, denoted as a sanitarium in Town of Cortlandt property records, between approximately 1920 and 1948. Specifically, the Wellness Center respondents are seeking to operate a new private specialty hospital upon the project site which would provide residential substance use disorder/chemical dependency treatment for a maximum of 92 patients. In pursuit of their rehabilitation and development of the project site, the Wellness Center respondents sought site plan approval regarding same, but upon the submission of their most recent site plan application before the Planning Board of the Town of Cortlandt (hereinafter, Planning Board) in August of 2016, consideration of that application was held in abeyance at that time due to the location of the project site within an R-80 residential district with frontage exclusively upon Quaker Ridge

Road, which is designated and mapped as a Town Road in the Town of Cortlandt.[1] Specifically, the record reflects that the Planning Board withheld consideration of the Wellness Center respondents' site plan application unless and until they had obtained a variance from the requirements of § 307-59(B)(9) of the Town of Cortlandt Zoning Code (hereinafter, the Code) which provides, in substance, that any property located within a residential district which is proposed for use as a hospital must front upon a State road.

In response thereto, the Wellness Center respondents submitted an area variance application with the respondent Zoning Board of Appeals of the Town of Cortlandt (hereinafter, the ZBA) in October of 2016. The respondent ZBA conducted public hearings upon the area variance application on October 19, 2016, November 16, 2016, December 14, 2016, January 18, 2017, February 15, 2017 and March 15, 2017, and its members personally conducted a site inspection of the project site. The record reveals that opponents to the Wellness Center respondents' area variance application (hereinafter, the project opponents) attended these public hearings with legal counsel and collectively challenged the nature of the variance sought through argument that the necessary variance from the road frontage requirements of § 307-59(B)(9) of the Code is a "use" variance, rather than the "area" variance sought by the Wellness Center respondents. Specifically, the project opponents argued that since the project site is located within an R-80 residential district and fronts upon Quaker Ridge Road, which is designated and mapped as a Town Road in the Town of Cortlandt, the Planning Board had correctly determined that a variance was required from the Code, but the respondent ZBA had erroneously determined

[1]Notably, the parties do not challenge the status of Quaker Ridge Road as a Town Road, as it is mapped exclusively as a Town Road, leading the Court to conclude that it is not a State road and does fall within the ambit of § 307-59(B)(9) of the Town of Cortlandt Zoning Code.

that the required variance would properly be designated as an "area" variance, rather than a "use" variance.

Upon examining this procedural issue, the respondent ZBA focused upon this specific question during the public hearings conducted on December 14, 2016 and January 18, 2017, and accepted oral presentations and written submissions from both the Wellness Center respondents who argued that an area variance application was appropriate, as well as from the project opponents who argued that a use variance application was appropriate. In connection therewith, the respondent ZBA concluded that proper consideration of the Wellness Center respondents' area variance application required an initial determination regarding the propriety of that procedural vehicle which they chose to rely upon for the variance relief they sought from the road frontage requirements of § 307-59(B)(9) of the Code. Consistent with that conclusion, the respondent ZBA rendered a Decision and Order, filed with the Cortlandt Town Clerk on March 20, 2017, through which it addressed only what it characterized as the initial determination of the procedural vehicle question and thereupon held that an area variance, as opposed to a use variance, was the proper vehicle through which the Wellness Center respondents might obtain the relief they sought from the road frontage requirements of § 307-59(B)(9) of the Code (hereinafter, the challenged determination). In relevant part, the challenged determination reflects the respondent ZBA's initial finding that the proposed establishment of a specialty residential treatment hospital on the project site by respondent Hudson Ridge Wellness Center, Inc. (HRWC), requires an "area" variance, as opposed to a "use" variance, from the requirement of § 307-59(B)(9) of the Code which otherwise prohibits the use of property as a hospital if such property is located in a residential district and fronts on a State road. Notably, within the

challenged determination, the respondent ZBA specifically stated that although it had resolved the procedural vehicle question, it was deferring its determination of the merits of the Wellness Center respondent's area variance application until additional public hearings were conducted upon same.[2]

The instant litigation ensued, as the project opponents who had argued against the Wellness Center respondents' proposed operation of a private specialty hospital upon the project site, and who had also opposed the Wellness Center respondents' area variance application upon both procedural and substantive grounds during multiple public hearings before the respondent ZBA, now seek to challenge the respondent ZBA's self-characterized initial determination that an area variance was the proper procedural vehicle through which the Wellness Center respondents might obtain the variance relief they seek from the road frontage requirements of § 307-59(B)(9) of the Code. Specifically, the organizational petitioner, Citizens for Responsible Hudson Institute Site Development, Inc. (hereinafter, Citizens), as comprised of members including all of the individually named petitioners excepting Michael G. Shannon and Carolyn F. Shannon, and acting on behalf of all of the individually named petitioners, all of whom are presently the owners of real property which either adjoins or is sited in close proximity to the project site, have commenced the instant hybrid article 78 proceeding/declaratory judgment action in an effort to overturn the challenged determination made by the respondent ZBA.

Through this hybrid article 78 proceeding/declaratory judgment action, the petitioners seek an order of this Court: (1) annulling and setting aside the challenged determination upon

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[2]Specifically, the challenged determination provides, in relevant part, that "this Board emphasizes that this Decision and Order does not arrive at a final conclusion as to whether an Area Variance should or should not be granted by this Board."

allegations that it was rendered in violation of lawful procedure, was affected by an error of law, was against the substantial weight of the evidence in the record, was arbitrary and capricious, and constituted an abuse of discretion, (2) declaring that a use variance is the only lawful form of relief available from the respondent ZBA when the operation of a hospital is proposed on a site in a residential zoning district that does not front on a state road in violation of the requirements of § 307-59(B)(9) of the Code, (3) directing the respondent ZBA to issue a new Decision and Order at its next regularly scheduled meeting, determining that a use variance is required for the proposed operation of a hospital upon the project site, (4) enjoining the respondent ZBA from continuing to process the Wellness Center respondents' pending area variance application concerning the project site, and (5) declaring that § 307-59(B)(9) of the Code is inconsistent with the 2016 Sustainable Comprehensive Plan for the Town of Cortlandt (hereinafter, the Plan). The Wellness Center respondents and the respondent ZBA oppose the petitioners' present application seeking the issuance of a judgment and declaratory relief pursuant to Sections 103(c), 7801(1), 7804(f), 3001, 3211(a)(1), (2), (3), (5) and (7) of the CPLR, by raising objections in point of law, thereby arguing (1) that all causes of action raised through the instant petition are premature, are not ripe for judicial review and fail to raise a justiciable issue, (2) that the Court lacks subject matter jurisdiction over all causes of action raised through the instant petition, and (3) that the instant petition's fifth cause of action, as referenced and characterized by the Court above, is barred by the statute of limitations.

Discussion/Legal Analysis

Upon consideration of a motion to dismiss brought pursuant to CPLR 3211, it is well-settled that the pleadings are to be liberally construed by the reviewing court, that the alleged facts are to be accepted as true and every favorable inference possible must be afforded to the petitioner (*see Nonnon v City of New York*, 9 NY3d 825). Furthermore, in connection with the reviewing court's examination of the pleadings upon such a motion, the factual allegations raised therein must be accepted as true and must be viewed in the light most favorable to the petitioner (*see Lawrence v Miller*, 11 NY3d 588; *see also Leon v Martinez*, 84 NY2d 83, 87), as the court's sole inquiry shall concern whether the facts alleged fit within any cognizable legal theory, irrespective of the level of evidentiary support proffered (*see People v Coventry First LLC*, 13 NY3d 758).

Turning initially to consider the Wellness Center respondents' challenge to the first cause of action raised through the instant petition, that being the only application for relief raised pursuant to article 78 of the CPLR,[3] the Wellness Center respondents argue that this cause of action is premature and lacks ripeness for judicial review. In this regard, decisional authority makes clear that the concept of ripeness was devised to enable the courts to avoid the unnecessary and wasteful expenditure of judicial resources, and has been defined as "a justiciability doctrine designed 'to prevent the courts, through avoidance of premature

[3]Through which the petitioners seek to have the challenged determination annulled and set aside upon their argument that same was rendered in violation of lawful procedure, was affected by an error of law, was against the substantial weight of the evidence, was arbitrary and capricious, and constituted an abuse of discretion.

adjudication, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties'" (*National Park Hospitality Assn. v Department of the Interior*, 538 US 803, quoting *Abbott Laboratories v Gardner*, 387 US 136, 148-149). In this regard, for the reviewing court to determine whether a matter is ripe for judicial review, it must first "determine whether the issues tendered are appropriate for judicial resolution", and it must then "assess the hardship to the parties if judicial relief is denied" (*Matter of Town of Riverhead v Central Pine Barrens Joint Planning & Policy Commn.*, 71 AD3d 679, 681; *see Church of St. Paul and St. Andrew v Barwick*, 67 NY2d 510, 519; *see also Toilet Goods Assn v Gardner*, 387 US 158, 162). Moreover, "the concept of finality requires an examination of the completeness of the administrative action and a pragmatic evaluation of whether the 'decision maker has arrived at a definitive position on the issue that inflicts an actual, concrete injury'" (*Church of St. Paul and St. Andrew v Barwick*, 67 NY2d at 519, quoting *Williamson County Regional Planning Commn. v Hamilton Bank of Johnson City*, 473 US 172, 193).

With specific regard to the area of land use, it has been simply explained that "[a] final decision exists when a development plan has been submitted, considered and rejected by the governmental entity with the power to implement zoning regulations" (*S & R Dev. Estates, LLC v Bass*, 588 F. Supp.2d 452, 461; *see E. End Resources, LLC v Town of Southold Planning Bd.*, 135 AD3d 899, 900; *see also Waterways Dev. Corp. v Lavalle*, 28 AD3d 539, 540-541). As a corollary thereto, the Court is further mindful that "[t]he position taken by an agency is not definitive and the injury is not actual or concrete if the injury purportedly inflicted by the agency

could be prevented, significantly ameliorated, or rendered moot by further administrative action or by steps available to the complaining party" (*Matter of Patel v Board of Trustees of the Inc. Vil. of Muttontown*, 115 AD3d 862, 864; *see Stop-the-Barge v Cahill*, 1 NY3d 218, 223; *see also Matter of Essex County v Zagata*, 91 NY2d 447, 453-454; *Ranco Sand and Stone Corp. v Vecchio*, 124 AD3d 73, 75).

Here, the record reflects that the respondent ZBA was actively considering the Wellness Center respondents area variance application since it was filed in October of 2016, having conducted public hearings upon same over six consecutive ZBA public hearing sessions between October 19, 2016 and March 15, 2017, and by having its members personally conduct a site inspection of the project site. The record further reflects that several members of the local community who were opposed to the Wellness Center respondents' proposed development of the project site for use as a specialty hospital, had actively worked to persuade the respondent ZBA to deny the area variance application submitted by the Wellness Center respondents by raising a procedural challenge, in the midst of the public hearing process and prior to the respondent ZBA's consideration of the statutory factors prescribed under Town Law § 267-b(3)(b) for the issuance of an area variance, to the nature of the variance application which had been submitted. Specifically, the record reflects that these project opponents, through the written correspondence/legal memorandum submitted by their legal counsel on November 7, 2016, had specifically urged the respondent ZBA to refrain from making any final determination upon the Wellness Center respondents' then-pending area variance application until it had first addressed the project opponents' argument that the required variance from the road frontage requirements of § 307-59(B)(9) of the Code should be a "use" variance rather than the "area" variance which

had been sought/filed by the Wellness Center respondents.

In fact, the record reflects that the respondent ZBA followed the process urged by the project opponents, having focused upon this specific procedural issue during two consecutive public hearing sessions, and having considered the oral and written submissions of both the proponents and opponents of the Wellness Center's proposed development of the project site. Thereupon, acting with the benefit of all of the information provided through this inarguably full and fair opportunity for the parties on each side of this issue to provide a complete factual record and thoughtful legal briefs presenting argument from that record, the respondent ZBA rendered the challenged determination, therein addressing only the project opponents' procedural challenge regarding the nature of the required variance from the road frontage requirements of § 307-59(B)(9) of the Code as either a "use" variance or an "area" variance. Consistent therewith, the respondent ZBA undertook specific effort to craft its determination of this issue in a manner which left no doubt that it had intended to address therein only this limited procedural issue, specifically characterizing same therein as an "initial determination", by explicitly stating therein that "this Board emphasizes that this Decision and Order does not arrive at a final conclusion as to whether an Area Variance should or should not be granted", and by further stating that nothing therein "should be interpreted as . . . expressing any views whatsoever on the ultimate underlying merits (or lack thereof) of the Applicant's application for an area variance". In this regard, the respondent ZBA made the limited and preliminary nature of the challenged determination clear, by specifically stating therein that although it had resolved the procedural vehicle question regarding the nature of the variance which was required from the road frontage requirements of § 307-59(B)(9) of the Code, it was deferring its determination of the merits of the Wellness

Center respondent's area variance application until additional public hearings were conducted

In the context of land use applications, initial determinations such as those attendant to the issuance of a positive declaration pursuant to article 8 of the Environmental Conservation Law, commonly referred to as the State Environmental Quality Review Act (hereinafter, SEQRA), *inter alia*, must oftentimes be made prior to addressing and/or deciding the application for the ultimate land use relief sought. Noting that such SEQRA determinations are preliminary to the government's ultimate determination of the land use application under consideration, application of the ripeness rationale to the SEQRA process was clearly and succinctly summarized by the Appellate Division, Second Department in *Matter of Young v Bd. of Trustees of Vil. of Blasdell*, when it observed that the "SEQRA determination [has] usually [been] considered to be a preliminary step in the decision-making process and, therefore, . . . not ripe for judicial review until the decision-making process has been completed" (*Matter of Young v Bd. of Trustees of Vil. of Blasdell*, 221 AD2d 975, 977, *aff'd* 89 NY2d 846). In this regard, it is now well-settled that the government's issuance of a SEQRA findings statement during the pendency of an ultimate land use application, such as for a special use permit or site-plan approval, is not ripe for adjudication due to the absence of a resulting injury to the petitioner unless and until an adverse final determination upon that ultimate land use application is made (*see Matter of Patel v Board of Trustees of the Inc. Vil. of Muttontown*, 115 AD3d at 864; *see also Matter of Wallkill Cemetery Assn., Inc. v Town of Wallkill Planning Bd.*, 73 AD3d 1189, 1190; *Matter of Eadie v Town Bd. of Town of N. Greenbush*, 7 NY3d 306, 317; *Matter of Guido v Town of Ulster Town Bd.*, 74 AD3d 1536, 1537; *Matter of Southwest Ogden Neighborhood Assn v Town of Ogden Planning Bd.*, 43 AD3d 1374, 1374-1375).

Furthermore, contrary to the petitioners' argument, it is further noted that the application of this ripeness analysis is not limited to the SEQRA context, but rather has been applied in other land use matters where, as here, an initial determination is made by the government prior to its determination of the application for the ultimate relief sought (*see Thorne v Village of Millbrook Planning Bd.*, 83 AD3d 723, *lv. denied* 17 NY3d 711 [Planning Board's initial determination granting subdivision plat approval prior to determining ultimate land use application, does not constitute a final determination which is ripe for judicial review]; *see also Zupa v Zoning Bd. of Appeals of Town of Southold*, 64 AD3d 723 [Zoning Board's initial determination of procedural issue prior to determining ultimate land use application, does not constitute a final determination which is ripe for judicial review]; *Maor v Town of Ramapo Planning Bd.*, 43 AD3d 665 [Town Board's initial determination regarding standard to be applied upon consideration of site plan application was not a final determination which is ripe for judicial review]). Stated succinctly, an initial determination made by the government as a preliminary step along the pathway leading to the determination of an ultimate land use application will be considered final, and otherwise ripe for judicial review, when the government has "reached a definitive position on the issue that inflicts actual, concrete injury, and . . . the injury inflicted may not be prevented or significantly ameliorated by further administrative action or by steps available to the complaining party" (*Matter of Best Payphones, Inc., v Department of Info. Tech. & Telecom. of City of N.Y.*, 5 NY3d 30, 34).

Upon application of these well-settled ripeness principles to the present record, the Court first recognizes that the challenged determination addresses and resolves only the very limited question of whether or not the Wellness Center respondents' submission of an area variance

application was the proper procedural vehicle through which they might obtain the variance relief they are seeking seek from the road frontage requirements of § 307-59(B)(9) of the Code. Indeed, the limited interim nature of the challenged determination was made abundantly clear by the respondent ZBA through the express language contained therein, and there could be no doubt drawn therefrom that the ultimate determination of the merits of the Wellness Center respondents' area variance application was not addressed and remains subject to future public hearings, submissions from the area variance applications' proponents and opponents, and the deliberations of the respondent ZBA's members, all of which are yet to be conducted.

Consequently, as the petitioners remain fully capable and free to make every legally available effort to persuade the respondent ZBA to deny the still-pending and undecided Wellness Center respondents' area variance application through all of the above-referenced means, this Court does not find that the respondents ZBA's issuance of the challenged determination reflects an administrative action which constitutes a definitive position taken which inflicts an actual and/or concrete injury upon any of the petitioners (*see generally Church of St. Paul and St. Andrew v Barwick*, 67 NY2d at 519). Indeed, this Court's conclusion that the challenged determination does not constitute a final determination which is ripe for review is supported by recognition that the only injury purportedly inflicted upon the petitioners can still be prevented, significantly ameliorated and/or rendered moot if they should successfully persuade the respondent ZBA to deny the Wellness Center respondents' area variance application (*see generally Matter of Patel v Board of Trustees of the Inc. Vil. of Muttontown*, 115 AD3d at 864). Accordingly, the respondents' motion to dismiss the petitioners' first cause of action seeking a judgment annulling and setting aside the challenged determination is hereby granted, as the

petitioners have failure to show that the challenged determination is ripe for adjudication.

Turning next to consider the respondents' motion to dismiss the remaining causes of action for declaratory relief upon ripeness grounds, it bears noting that the courts are prohibited from rendering advisory opinions, as an action for a declaratory judgment must be supported by the existence of a justiciable controversy (*see Church of St. Paul and St. Andrew v Barwick*, 67 NY2d at 515; *see also Long Is. Light. Co. v Allianz Underwriters Ins. Co.*, 35 AD3d 253; *Comm. Housing Imp. Program, Inc. v New York State Division of Housing and Comm. Renewal*, 175 AD2d 905). By definition, an action for a declaratory judgment is one that seeks to have the court establish and promulgate the rights of the parties on a particular subject matter, and as it is remedial in nature, its primary purpose is to stabilize the legal relations that exist between the parties and to eliminate uncertainty as to the scope and content of both present and prospective legal obligations (*see Chanos v MADAC, LLC*, 74 AD3d 1007; *see also Goodman v Reisch*, 220 AD2d 383). Indeed, the courts are empowered to render a declaratory judgment only when there exists an actual justiciable controversy involving a legally protectible interest which is determined to be present and directly in issue (*see New York State Inspection v Cuomo*, 64 NY2d 233; *see also New York Public Interest Res. Group, Inc. v Carey*, 42 NY2d 527; *Enlarged City School Dist. of Middletown v City of Middletown*, 96 AD3d 840; *Long Island Lighting Co. v Allianz Underwriters Insurance Co.*, 35 AD3d at 253). Furthermore, a declaratory judgment requires an actual controversy between genuine disputants who share a stake in the outcome, and which has a direct and immediate effect upon the rights of the parties that is real, definite, substantial and sufficiently matured, as it cannot be hypothetical, contingent or advisory in nature (*Church of St. Paul and St. Andrew v Barwick*, 67 NY2d at 517; *Enlarged City School Dist. of*

Middletown v City of Middletown, 96 AD3d at 841; *Ashley Bldrs. Corp. v Town of Brookhaven*, 39 AD3d 442; *Long Island Lighting Co. v Allianz Underwriters Ins. Co.*, 35 AD3d at 254; *DiCanio v Incorporated Village of Nissequogue*, 189 AD2d 223; *Community Housing Imp. Program, Inc. v New York Div. of Housing and Comm. Renewal*, 175 AD2d at 905).

Upon the record presented, this Court again finds that the petitioners have failed to allege the existence of a justiciable controversy in this case, having relied instead upon argument raising a hypothetical injury which rests upon the occurrence of events which might or might not occur at some future point in time, as the alleged injury to the petitioners is contingent upon the respondent ZBA's ultimate determination of the Wellness Center respondents' area variance application (*see Premier Restorations of New York Corp. v New York State Dept. of Motor Vehicles*, 127 AD3d 1049; *see also Chanos v MADAC, LLC*, 74 AD3d at 1008). Accordingly, this Court finds that the remaining causes of action for declaratory relief do not raise a justiciable controversy which is ripe for judicial review and upon which this Court may render a declaratory judgment (*see Weingarten v Town of Lewisboro*, 77 NY2d 926; *see also Waterways Dev. Corp. v LaValle*, 28 AD3d at 540).

Based upon the foregoing, it is decided and ordered that the respondents' motion to dismiss this hybrid proceeding for a judgment pursuant to CPLR article 78 and declaratory relief pursuant to CPLR 3001 is hereby granted, and this proceeding is hereby dismissed.

The foregoing constitutes the Decision and Order of this Court.

Dated: White Plains, New York
October 6, 2017

Honorable Susan Cacace
Acting Justice of the Supreme Court

TO:

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Hodges, Walsh, Messemer & Moroknek, LLP
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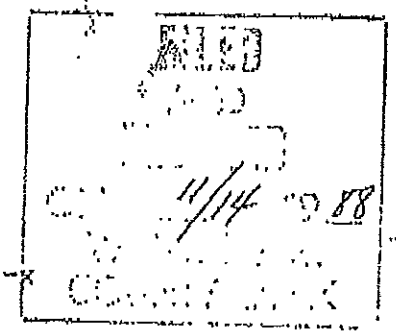
Exhibit 8

File Zon 17
88-49-5



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

In the Matter of the Application of SIDNEY BERG,

Petitioner,

-against-

ZONING BOARD OF APPEALS OF THE TOWN OF CORTLANDT,

Respondent,

FRED LIEBMANN, VIVIAN G. LIEBMANN, HARRIET SHAPIRO and SAUL SHAPIRO,

Intervenors-Respondents.

Index #12830/88

DECISION AND JUDGMENT ON ARTICLE 78 PETITION

RECEIVED
NOV 15 1988
TOWN OF CORTLANDT
DEPARTMENT OF PLANNING

ROSATO, J.

In its previous order dated December 18, 1987, this Court remitted the instant matter back to respondent in order to reopen the hearing to permit petitioner to introduce such expert psychiatric witnesses as they deemed appropriate. The Court further found that the sole substantive issue bearing on the ultimate question as to whether petitioner ought to be granted a special permit was whether or not the residents of petitioner's proposed "residential community re-entry facility" are suffering from some form of "mental disease," in which case denial of petitioner's application would be mandated under Town Ordinance

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..... Town Board
..... C.A.C.
..... Attorney
..... Engineer
..... All Department Heads

§88-36(B). (See this Court's previous decision and order herein at page 5.)

Pursuant to this Court's order, a reopened public hearing was held before respondent on March 16, 1988. At that time, petitioner presented both the testimony of, and a written affirmation from, Dr. Edward Gordon, M.D., F.A.P.A., as well as the testimony and written statement of Dr. Fred B. Charatan, M.D. and member of the A.P.A. Petitioner also submitted to the board a 102-page report dated May, 1986 and entitled "Head Injury in New York State - A Report to Gov. Cuomo and the Legislature" compiled by the New York State Department of Health, and Part 416 of Chapter 5, Title 10 of the New York Code of Rules and Regulations (10 NYCRR §416.11).

In response, the Board also took additional testimony from Dr. Laurence Loeb, M.D., who had previously testified before the Board in this matter on January 20, 1987. The Board also heard from Mona Shapiro, Esq., attorney for some fifty neighboring landowners, and from a Mr. Howard Slotnick, a neighbor, in opposition to petitioner's application, following which the hearing was closed.

Thereafter, on April 20, 1988, the Board once again resolved to deny petitioner's application for a Special Permit, finding essentially that

> ". . . for the Board, it became clear that while there were medical differences between brain damaged people and mentally diseased people, the behavioral patterns were very similar, if not identical, thus subjecting the surrounding community to the same risks against which the Code seeks to protect the community, only under a different name. Accordingly, the Board hereby denies the application for Special Permit." (See Board decision of April 20, 1988 at page 2, annexed to petition as Exhibit "M.").

The Board's decision was subsequently memorialized by way of a decision and order dated August 15, 1988 and later filed on August 25, 1988, in which decision the respondent concluded that

> "The proposed use as a Special Permit is denied in that the use is not, generally in harmony with the appropriate and orderly development of the district in which it is situated as well as catering to clientele which suffers from mental disease in violation of Section 88-36. The foregoing constitutes the Decision and Order of this Board." (See petitioner's Exhibit "N.")

By way of new notice of petition dated August 27, 1988, petitioner seeks to annul and vacate respondent's decision of August 25, 1988 and to be awarded a judgment directing respondent to grant petitioner's application for a special permit, with such conditions as the court may deem appropriate.

Respondent, by way of an answer dated October 12, 1988, opposes petitioner's application and seeks dismissal of the instant application. Intervenor-respondents Fred and Vivian

Liebmann and Harriet and Saul Shapiro, owners and occupants of real property in close proximity to the proposed facility, have also submitted a memorandum of law in opposition to the instant proceeding.

This Court is entirely familiar with the legal principle recited by the respondents, i.e., ". . . that a determination by a Zoning Board of Appeals that a particular use for which a permit is sought is not a permitted use will be upheld unless it is arbitrary or contrary to law." See Matter of Mercy Hosp. v. Bd. of Zoning Appeals, 129 Misc 2d 1063, Sup. Ct. Nassau Co., 1985, (Murphy J.), revd. at 127 AD 2d 659, 2nd D. (1987). The Court also recognizes that the respondent Zoning Board of Appeals is, of course, responsible for administering the Town's zoning ordinance and that its interpretation of the ordinance provision in question ". . . must therefore be 'given great weight and judicial deference, so long as the interpretation is neither irrational, unreasonable nor inconsistent with the governing statute.' " See Appelbaum v. Deutsch, 66 NY 2d 975 at pg. 977, citing Matter of Trump-Equitable Fifth Ave. Co. v. Gliedman, 62 NY 2d 539, 545. Here, however, on review of all the evidence submitted to the Board, it is readily apparent to this Court that the conclusion reached by respondent was in fact arbitrary and unreasonable and without a rational basis in the record. Bearing in mind once

again that the burden on one such as petitioner, who seeks a special use permit as opposed to a variance, is a relatively light one (see Matter of Carrol's Dev. Corp. v. Gibson, 53 NY 2d 813), the Court would grant petitioner's application in all respects.

In arriving at its decision, the Court has reviewed and examined the minutes of the reopened hearing held before the Board on March 16, 1988.* At that time, Dr. Gordon, testifying on behalf of petitioner, pointed out that those admitted to the facility would not be people who have previously been patients at state mental hospitals; rather, the residents of the facility would be drawn from a purely random cross-section of the general population, having but one common characteristic -- namely, that they each had suffered a debilitating head injury, typically the result of an auto or job-related accident. In Dr. Gordon's estimation, the percentage of those entering this facility with pre-existing mental illness would be little different than the percentage of the general population exhibiting mental illness.

Dr. Fred Charatan, also called on behalf of petitioner, not only joined in Dr. Gordon's opinion, but took it one step further. Referring to a recent study obtained from the Suffolk Academy of Medicine and entitled "Head Trauma and Psychosis," Dr. Charatan testified that there is no indication in the professional literature ". . . to suggest that there is any

*The Court has, of course, previously reviewed and considered the testimony, reports, and documentation previously submitted upon the earlier hearing.

causal relationship between head injury and the long-term development of psychosis, which is the synonym for mental disorder." (See petitioner's Exhibit "L," minutes of public hearing of March 16, 1988 at page 9.) Dr. Charatan stressed, as did Dr. Gordon, that over time the injured brain can heal and that a person so injured, depending on the extent of the injury, can in fact be retrained to function. The purpose of petitioner's facility, both doctors testified, is to provide just such an environment for retraining and relearning at that point in time when a brain-injured person no longer needs hospitalization. Both doctors agreed that the brain-injured certainly suffer symptoms associated with the loss of brain function. In the typical sequence, the brain-injured person is at his or her worst immediately after the accident. Such a person is often unconscious or comatose for a period of time. The ability to walk, talk, eat, see, and hear, or all such basic functions, may temporarily be lost. Dr. Charatan testified that as the patient recovers, he or she may very well exhibit a range of "post-traumatic" symptoms or impairments which typically include impaired memory or speech, impaired attention span, and the like. Both of the doctors called by petitioner also conceded that some of these individuals may suffer mood changes as well as seizures. However, Dr. Charatan testified that when seizures do occur, they are "almost invariably controlled" by

anti-convulsants. (See petitioner's Exhibit "L," minutes of public hearing of March 16, 1988 at page 9.) However, and notwithstanding all these various behavioral impairments commonly suffered by the head injured, both Drs. Gordon and Charatan stressed that they are not to be confused with the mentally diseased and that, in fact, petitioner would actively seek to screen out and exclude from its program anyone who either presently exhibits a mental disease or who was found to have had a past history of same.

This Court has also sought to carefully weigh the opposing testimony offered on behalf of respondent by Dr. Laurence Loeb, testimony which respondent ultimately accepted. Dr. Loeb, as he had upon the earlier public hearing, again based his views largely upon his interpretation of the information presented by petitioner in its so-called "Client Outcome Fact Sheet." Dr. Loeb testified that eleven out of the twelve cases documented therein from petitioner's sister facility, the South Bay Community Re-entry Facility located at Hyannis, Massachusetts, ". . . showed behavioral disturbance." As reflected in the minutes of the public hearing of March 16, 1988, at page 12, (petitioner's Exhibit "L,"), "To Dr. Loeb that is mental disorder, mental distress, mental malfunction. Whatever you want to call it, something has to be done about it." (Emphasis added.) In short, dismissing any attempt to draw

distinctions as mere "semantics," Dr. Loeb simply equated "behavioral disturbance" with "mental disease," the conclusion ultimately adopted by the Board.

This Court, upon review of the entire record herein, is persuaded that the conclusion reached by Dr. Loeb and ultimately adopted by the Board is arbitrary, unreasonable, and without rational support. First of all, Dr. Loeb provides virtually no explanation to support his conclusion, nor does he in any way attempt to define just what he means by "behavioral disturbance." Perhaps equally revealing, and again as pointed out in this Court's earlier decision in this case, Dr. Loeb appears to focus quite selectively on the obvious array of problems exhibited by many, if not all, of the residents or "clients" prior to admission; he does not so much as acknowledge the considerable improvement exhibited by the residents at the point, months or years later, when they were deemed fit for discharge. In fact, the summary contained at the conclusion of petitioner's "outcome fact sheet," which was received as evidence before the Board (see Board's decision and order of August 15, 1988 annexed to petition as Exhibit "N"), shows that six out of twelve discharged residents returned to paid employment and that two others took up part-time volunteer work.

Finally, and aside from the fact that the Board's decision does little more than regurgitate the overly simplistic

and factually unsupported conclusions voiced by Dr. Loeb, it completely fails to acknowledge or address the May 1986 Report to the Governor and Legislature on "Head Injury" (hereinafter referred to as "The Report"), which report petitioner correctly points out was submitted to the Board upon the March 16, 1988 public hearing.* Had respondent addressed the findings of this report, a broad-based report undertaken in an effort to identify the needs of the head-injured and to measure the relative capabilities of existing institutions and systems within New York State to meet these needs, respondent would have been put on notice of the following:

> "Throughout this report, the terms head injury, traumatic brain injury and brain injury are used interchangeably. There is no agreement on the correct terminology, although a majority of the consultants to this project prefer traumatic brain injury since this term more precisely conveys the intended meaning. In each case that head injury is used in this report, it is presumed that there is accompanying brain damage." (See "The Report" at page 4, emphasis added.)

Perhaps even more significant in the context of the instant application, the authors of the above-noted report go on

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*Said report is not even noted among the list of items received as evidence, captioned "Testimony and Documents" in respondent's decision and order dated August 15, 1988 (petitioner's Exhibit "N"), despite the fact the submission of said report to the Board is duly memorialized at page 18 of the minutes of the March 16, 1988 public hearing. (See petitioner's Exhibit "L.")

to define head injury or traumatic brain injury:

> "A. To include:
> 1. Injury to the central nervous system from physical trauma;
> 2. Damage to the central nervous system from anoxic/hypoxic episodes;
> 3. Damage to the central nervous system from allergic conditions, toxic substances and other acute medical/clinical incidents.
>
> B. To exclude:
> 1. Strokes;
> 2. Spinal cord injuries in which there are no known or obvious injuries to the intracranial central nervous system;
> 3. The progressive dementias (Alzheimer's Disease, multi-infarct dementia and other related c.n.s. disorders) and other mentally impairing conditions;
> 4. Depression and psychiatric disorders in which there is no known or obvious central nervous system damage;
> 5. Mental retardation, developmental disabilities and birth defect related disorders of long standing;
> 6. Neurological degenerative, metabolic and other medical conditions of chronic, degenerative nature."

(See "The Report" at pages 3 and 4.) (Emphasis added.)

Finally, were there any remaining doubt, the authors of "The Report" conclude as follows:

> "In summary, the mass of public testimony shows the head injured are different from the retarded, developmentally disabled and mentally ill, and are not adequately served by programs developed for these categories. It is not enough to save the

> lives of the head injured, their permanently disabling brain injury necessitates development of services tailored to the needs of this growing population." (See "The Report," Appendix 6, at page 102, emphasis added.)

Petitioner, at that same March 16, 1988 public hearing, also brought to the Board's attention that subsequent to the issuance of the Report to the Governor in 1986, amendments had been enacted to Title 10 of the New York Court Rules and Regulations which also serve to distinguish those with head or brain injuries from those who, in addition, may require treatment for psychiatric disorders. (See minutes of public hearing of March 16, 1988 at page 19, petitioner's Exhibit "L.")

In the face of this considerable body of testimony, both testimonial and documentary, distinguishing the brain injured from the mentally ill, the Board's decision denying the permit can only be viewed as arbitrary and unreasonable and must be set aside.

Two final points must be made. As noted in his supplemental reply memorandum of law, petitioner quite correctly points out that the professional articles contained at Appendix "B" to intervenor-respondents' opposing memorandum were not made part of the record before the Board and are therefore not

properly cognizable in this proceeding.* See Matter of Fanelli v. N.Y.C. Conciliation and Appeals Bd., 90 AD 2d 756, 1st D. (1982), affd. at 58 NY 2d 952. Additionally, and as previously noted in this Court's prior order of December 18, 1987 at page 5, it is by now well-established that sheer community pressure in opposition affords respondent no basis upon which to deny a special permit. At the same time, petitioner, in an apparent showing of good faith and perhaps in an effort to minimize or dispel the fears and mistrust of the community, has volunteered to perform a psychiatric evaluation of all prospective residents as a condition of admission. Such a condition would, in the context of this particular case, appear to be both desirable and potentially helpful to both sides in this dispute and entirely consistent with the case law that has developed vis-a-vis special use permits. (And see cases cited at page 4 of this Court's previous decision and order herein dated December 18, 1987.)

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*In fairness to respondent, the first of the three articles contained at Intervenor-respondents' Appendix "B," entitled "Psychiatric Complications of Closed Head Trauma," by Drs. Kwentus, et al, appears to be the same article referred to by Dr. Charatan upon his testimony before the Board on March 16, 1988. Nonetheless, since there is no indication that the article prepared by Dr. Kwentus, et al, was actually received before the Board, it would be improper to consider it in the context of the instant proceeding. At the same time, however, to avoid even the appearance or perception that this Court is affording petitioner any unfair advantage in the use of this article, the Court, as should be absolutely clear from the foregoing, has striven to base its decision herein strictly on the testimony as was adduced, independent of the allusion to this particular article, and to those items of documentary evidence properly received before the Board.

Accordingly, petitioner's application to set aside and annul respondent's determination dated August 15, 1988 and thereafter filed on August 25, 1988 is hereby granted; in addition, the Court hereby grants petitioner a judgment whereby respondent is directed to grant petitioner's request for a special use permit to open and operate a Residential Community Re-entry Facility on the premises formerly occupied by the Hudson Institute, on condition that petitioner, at its own expense, conduct a pre-admission psychiatric screening of all prospective residents for the purpose of denying entrance to anyone found to have any present or past psychiatric disorder.

Such is the decision and judgment of this Court.

Dated: White Plains, New York
November 9, 1988

PETER P. ROSATO
J.S.C.

TO:

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(5)

This Decision supersedes the Decision adopted on February 23, 1987, issued on June 10, 1987; and the Decision adopted on August 17, 1988 following a rehearing held on March 16, 1988.

Z O N I N G B O A R D O F A P P E A L S

Town of Cortlandt

Westchester County, New York

D E C I S I O N & O R D E R

Case No. 170-86

Name of Petitioner: **Sidney Berg, Trustee by: William Cohen, Esq.**
Address: **PO Box 218 Croton-on-Hudson, NY 10520**

Location of Property: **Quaker Ridge Road** 79.11-1-18
Tax Map Designation: Section: **23** Block: **2** Lot: **11**
Present Zoning: **R-80**
Nature of Petition:
[ ]Use Variance[ ]Area Variance[X]Special Permit[ ]Interpretation
Describe Specific Request: **This application is made pursuant to Section 88-36 of the Town of Cortlandt Zoning Ordinance seeking a Special Permit for a hospital and/or nursing home type use referred to by applicant as a Residential Community Re-entry Facility for the above mentioned premises.**

Board Members
Present: **Charles Palombini, Thomas Bianchi, Rosemary Boyle, Charles P. Heady, Jr., Michael J. Palmietto, Jr., Dorothy Young** Absent: **John Russo**

Pursuant to the Decision and Judgment by Judge Peter P. Rosato J.S.C. on Article 78 Petition, Index #12830/88, dated November 9, 1988, the Town of Cortlandt Zoning Board of Appeals hereby GRANTS a Special Permit pursuant to Section 88-36B of the Town of Cortlandt Zoning Ordinance to open and operate a Residential Community Re-entry Facility on the above stated premises for persons who have suffered head injuries. Further, pursuant to Section 88-36B(2) of the Ordinance, the Board hereby waives the side yard requirements for the existing buildings.

The above Special Permit is conditioned upon the following:

(1) Petitioner, his successors or assigns, at their own expense, shall conduct a pre-admission screening of all prospective residents by a New York State licensed psychiatrist experienced in the evaluation of the brain-injured individual for the purpose of denying entrance to anyone found to have any present or past psychosis or other major mental disorder or who is deemed to be dangerous to self or others;

(2) No increase in the size of the present buildings;

(3) No new buildings shall be constructed;

(4) The hedge existing on Quaker Ridge Road shall be maintained in its existing condition, except for circumstances beyond the control of the property owner;

(continued on Page 2)

(5) The existing entrance and driveway shall not be relocated;

(6) The grounds, shrubs and trees shall be maintained in their existing condition, except for circumstances beyond the control of the property owner;

(7) Number of patients is limited to a maximum of 75;

(8) Total number of patients and employees is limited to 225;

(9) The Special Permit is subject to renewal five (5) years from the date of issuance of the Certificate of Zoning Compliance.

Conditions #2 through #6 shall be shown on an as-built survey to be completed within 120 days.

That the granting of this Petition is in harmony with the general purpose and intent of the Zoning Ordinance, as amended, will not be injurious to the neighborhood and will not change the character thereof, or otherwise be detrimental to the public welfare,

NOW THEREFORE, Petition is granted and it is further ordered that in all other respects Petitioner comply with all of the rules, regulations and ordinances of the Town of Cortlandt, the Planning Department, the Engineering Department, and all other agencies having jurisdiction.

Adopted: February 15, 1989
Croton-on-Hudson, New York
Dated: March 15, 1989

Hildegard Frey Edling
Clerk, Zoning Board

Charles Palombini
Chairman, Zoning Board

Exhibit 9

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February 5, 2019

Via E-Mail and Federal Express

Hon. Loretta Taylor, Chairperson and Members of the Board
Planning Board of the Town of Cortlandt
1 Heady Street
Cortlandt Manor, NY 10567

Re: Hudson Ridge Wellness Center, Inc.

Dear Chairperson Taylor and Members of the Board:

On behalf of the Applicant, this letter is in response to the letter of Zarin & Steinmetz, dated February 1, 2019, on behalf of the "Citizen Group". Once again, counsel have made their submission on the Friday afternoon preceding the following Tuesday's Planning Board meeting, thereby making it extremely difficult for Applicant's counsel and its consultants to respond prior to the meeting.

Frankly, what has become readily apparent, is that the more the Applicant demonstrates that its proposed use is a laudable and necessary one, and one which will not pose any significant adverse impacts, the closer the purported Citizen Group's counsel comes to the bottom of the barrel of obstructionist tactics. Ironically, the more counsel continues to falsely claim that the Applicant has misled the Board - which is beyond insulting to the integrity of the Applicant and its professionals - the clearer it becomes that they themselves are making every effort to do so, having lost all credibility in the process. In our view, their latest efforts are disingenuous and irrelevant at best, and shameful at worst.

I. The Specialty Hospital is a "Hospital" under the Town Zoning Code.

The primary basis on which the Citizen Group's counsel now claims the Applicant should be delayed is their absurd argument, some 3½ years since the application was submitted, that there is a question as to whether the proposed specialty hospital is a permitted special permit "hospital" use in the Town, even if the Applicant obtains the one necessary area variance from the State road frontage requirement from the Zoning Board. The Group's counsel seeks to confuse the Planning Board by claiming that the Applicant has "vacillated" as to whether the use is a hospital or not. This is simply a bold-faced misrepresentation. There has been no such vacillation. As stated from the onset:

> The proposed hospital use is permitted in the R-80 Single Family Residential District subject to the issuance of a Special Permit by the Planning Board. A "hospital" is not specifically defined in the Zoning Code, but §307-4 of the Code states that "words not defined . . . shall be further defined by the Standard Industrial Classification Manual, United States Office of Management and Budget". The Federal Manual specifies Standard Industry Group 806: "Hospitals", which contains the sub-group 8069 "Specialty Hospitals, Except Psychiatric" (Appendix D). Sub-group 8069 includes the following uses:
>
> - Alcohol rehabilitation hospitals;
> - Drug addiction rehabilitation hospitals;
> - Rehabilitation hospitals; drug addiction and alcoholism.
>
> (See July 20, 2015 Expanded Environmental Assessment.)

Therefore, it is clear that the proposed specialty hospital to serve individuals who are recovering from chemical dependency is defined by the Zoning Code as a hospital use which is permitted in the R-80 Single-Family District, subject to a special permit. The Applicant requires the one area variance from the special permit requirements for hospitals and nursing homes set forth in § 307-59 of the Zoning Code.

The Group's counsel then proceeds to mix the proverbial apples and oranges in their futile attempt to demonstrate their false contention that the Applicant has mislead the Town, by claiming that the Applicant took a contradictory positon with respect to State licensing, since the proposed facility is not regulated as a general hospital under Article 28 of the Public Health Law, but by New York State's Office of Alcoholism and Substance Abuse Services ("OASAS") pursuant to Article 32 of the Mental Hygiene Law. *The mechanism for State licensing of the proposed use has nothing to do with the Town's zoning classification.* Counsel tries to further muddy the waters in this regard by claiming that Board Member Kessler asked a question about licensing at the original Planning Board of August 4, 2015, but the Applicant never clarified its answer to his question. This is simply false as well. The Applicant clarified its answer to Mr. Kessler's question the very next day in my e-mail of August 5, 2015 to Messrs. Kehoe and Preziosi, which I asked be conveyed to the Board, a copy of which is enclosed.

Then counsel claims the Applicant argued its use is not a hospital when calculating the daily water demand – which figure, as the Board knows, was reviewed and approved by the Westchester County Health Department and by the Town's consulting hydrogeologist. The Applicant simply demonstrated that the water demand would not be that of a general hospital, because this is a *specialty* hospital, with lesser water needs. Again, *this has nothing to do with the zoning classification of the use.*

Finally, in making this ridiculously transparent argument, counsel seizes on the phrase in the prologue to the Zoning Code special permit sections for hospitals and nursing homes, § 307-59(A), that indicates that a purpose of the permit is to allow hospitals "to serve the needs for medical care of residents of the Town", contending vaguely that this means the *only* hospitals permitted are those which serve *only*

local residents. Even if such limitation were legal, this generic statement of *intended purpose*, not a requirement, is not intended to prohibit a proposed specialty hospital from serving any and *all* people, both residents and non-residents, alike, as this hospital will do. Further, the Applicant has stated to the Town from the outset that it will provide special consideration to Cortlandt residents, including by offering a reduced fee structure and "scholarships", and by its participation in local programs to combat the addiction crisis, which certainly affects Cortlandt residents, along with those of all of its neighboring municipalities.

Counsel's argument is a complete red herring and they surely know that. It is not incumbent upon the Applicant – or the Planning Board – to seek any such determination as to whether the hospital use proposed by the Applicant is permitted, particularly when it so clearly *is* permitted, subject only to the one area variance.

Notably, the Group failed in its attempt to have the Zoning Board determine that Applicant requires a use variance and in their attempt to have the Supreme Court, Westchester County overturn the Zoning Board. In the Sunshine Home case in New Castle, where overlapping opponents raised the same types of issues as the Citizens Group raises in this case, including the same use variance claim with respect to State road frontage, the Supreme Court, Westchester County likewise struck down their claims and determined that the State road frontage variance is an area variance. The Group's current claim that the hospital use must be restricted to Town residents is even more spurious and must be rejected by the Planning Board.

II. At the very least, the Application Warrants a Conditioned Negative Declaration.

Counsel for the Citizen Group's continued request for a Positive Declaration under SEQRA is fully addressed in our comprehensive, issue-by-issue response, of January 10, 2019 to their January 3, 2019 letter, and the Board is respectfully referred thereto. Tellingly, counsel does not – and cannot – rebut *any* of the factual analysis set forth in our January 10th letter, which included the traffic analysis we presented at the January meeting, and which completely supports the Board's rendering of a Negative Declaration, or at most, a Conditional Negative Declaration, as explained therein.

We note that in January, Zarin & Steinmetz circulated a "Bulletin" regarding the "New SEQRA Amendments" which notably pointed out that SEQRA has expanded its list of Type II actions, that is, those not subject to SEQRA, to include matters similar to this application, including designating as Type II actions the adaptive re-use of residential and/or commercial structures for uses permitted by zoning and lot line adjustments and variances.

In speaking to the new mandatory "scoping" when Environmental Impact Statements are required, counsel's Bulletin states that:

> It will be telling to see if this provision triggers any meaningful effort on the part of reviewing agencies to achieve DEC's stated objectives of avoiding EIS's that are "bloated" with irrelevant information, and reduce clutter in the EIS's to more focused and targeted documents." If this application is to have any meaning, reviewing agencies will need to make a genuine effort to avoid the encyclopedic EIS, which currently dominates the field. Indeed, the Court of Appeals has made clear that the SEQRA 'hard look' standard must be tempered by the 'rule of reason', which emphasizes that not every conceivable environmental impact and mitigation must be identified and addressed, depending upon the facts and circumstances of the particular matter. This precept needs to better inform the SEQRA mindset.

Counsel's Bulletin notes the objective of preventing reviewing agencies from "moving the regulatory goal post", which "often leads to unaccountability and interminable delays in the process" and the "current practice of protracted and indefinite . . . review. Counsel's Bulletin cautions applicants to take advantage of the amended regulations in order "to guard against the weaponization and stagnation that too often encumber the SEQRA process".

Obviously, counsel's Bulletin was written from the perspective of the developer clients they concurrently represent before the Board. We trust that they will endeavor to consistently apply the same "rule of reason" to this application with respect to SEQRA, particularly when the subject application, as stated by the Applicant from the outset, is afforded the protection of the American with Disabilities Act (A.D.A.), which requires that the Applicant be given all reasonable accommodations – not every conceivable impediment.

Notwithstanding the foregoing, as suggested by Board Members, we are preparing and will submit shortly, a comprehensive volume(s) containing our environmental and other submissions to the Board to date for the convenience of the Board and the public.

The Applicant's hydrogeologist will be addressing shortly under separate cover the letter of the Citizen Group's new hydrogeologist submitted by counsel, which essentially calls for further testing of the wells of the only two neighbors whose wells were affected at all – albeit quite insignificantly - by the Applicant's intensive well pump test, as explained in detail by the Applicant's hydrogeologist at the December Planning Board meeting. The comments of the Group's prior hydrogeologist were fully taken into account in the Applicant's well pump test protocol. Thus, it is curious that the Group has now retained a new hydrogeologist.

III. The Purchase of the Referenced Adjoining Residential Property by a Related Corporate Entity is Irrelevant to this Application

In another red herring, the Group's counsel attempts to create intrigue about the fact that over two years after the commencement of this application in 2015, a corporate entity purchased the adjoining residential parcel at 81 Quaker Hill Drive. The reason this purchase was not raised is because it was not made by the Applicant and more importantly, because it is irrelevant to the application. The sole principal of the new owner is the wife of one of the Applicant's investors, who purchased the property independently, as an investment in the community, having fallen in love with the Town and the neighborhood. She has no ownership interest in the Applicant. Neither the Applicant nor the owner have any plans that this property will be used for any business purposes, including any connected to the proposed specialty hospital, or for any purpose other than as a single-family residential home. The owner advises that it leases the house to residential tenants – a professional couple with a small child and dog, who wish to establish roots in the community. Thus, there are no underhanded, nefarious intentions for this property, as counsel falsely suggests.

With respect to the property of another affiliated entity, the ownership of the adjoining property in New Castle at 35 Quaker Ridge Road has been disclosed in the application materials from the onset, although it is not part of the application and will not be used for any hospital or other business purpose. The Applicant has not merely "claimed" that this property in New Castle "will not be developed as part of the proposed drug and alcohol rehabilitation facility", but has stipulated publicly from the outset that, as a condition of approval of its application, it will impose upon that property, in recordable form approved by the Town Attorney, a restrictive covenant that so long as the hospital property is used as such, the adjoining property in New Castle will remain undeveloped open space, except for the small, currently unused house thereon, which pre-dated its purchase. Again, there are no mysterious intentions regarding this property, as counsel seems to imply, but only the preservation of some 27 acres of open space for the benefit of the neighborhood and Town.

IV. OASAS Licensure

The Group's counsel attempts to create additional mystery and obfuscation with respect to OASAS licensure. The simple response to that matter, over which the Town has no jurisdiction, is that as the Applicant has stated from the outset as referenced above, the specialty hospital requires State licensure from OASAS. Accordingly, the Applicant has expressly recognized from the outset that such State licensure will be a condition of approval. As the OASAS process requires input from the municipality regarding its position with respect to the specialty hospital – the most relevant demonstration of which would be its granting of approvals for same – the Applicant's full engagement in the OASAS licensure process awaits Town action on the application.

Counsel's dredging up of neighbor Shannon's previous "investigative report" as to the background of one of the Applicant's investors, which is completely irrelevant to the application and beyond the purview of this Board, constitutes nothing more than a shameful attempt to obtain by character assassination that which cannot be obtained by legitimate means based on the relevant issues, i.e., the

prevention of the application from achieving fruition. As the Applicant has expressly stated from the outset, e.g., in its Addendum to its Expanded Environmental Assessment, dated April 10, 2017:

> We know of no other zoning application where there was a discussion of the Board of Directors or Officers of the corporate entity. Zoning Law focuses on the use, not the user. The issuance of an area variance [or site plan/special permit approval] has nothing to do with the internal business operation of the use, and that is not an appropriate topic within the jurisdiction of the Board in any event.
>
> The Applicant has represented from the outset that its principals owners/investors will not be operating the Specialty Hospital. Rather, the Hospital will be managed by a nationally recognized firm in the field, such as Brown Consulting, Ltd., with whom the Applicant has worked to date, or a firm of similar experience, reputation and stature. Steve Laker, a Principal and a Cortlandt resident, is a representative for the property's investors, and there will be a Board of Directors of suitable experience, a professional staff, and a 24/7 contact name in addition to Steve Laker. The use is regulated by the New York State Office of Alcoholism and Substance Abuse Services (OASAS), as well as the County Health Department. In this regard the identity of the Applicant is not relevant.

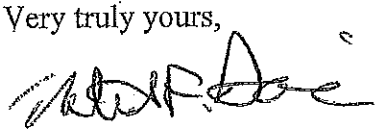
Respectfully, enough is enough with this line of personal attack! Putting aside its irrelevancy, we are blessed to reside in a country where those who have paid their debt to society are given the opportunity to turn their lives around. That is exactly the case of the one investor under attack by the Group and its counsel, who, like many in this field, draws on his own experience and is committed to devoting his life to helping others avoid similar mistakes. He should be lauded and encouraged for that, not publicly attacked.

Counsel and its Group then have the unmitigated audacity to raise unsubstantiated and baseless innuendo about "other individuals seemingly affiliated with the Applicant [which] will be provided during the Public Hearing", which "includes information about Mr. Steven Laker" who "has sat in the audience during several meetings". As again noted from the outset, Mr. Laker is a resident of the Town of Cortlandt, active with his family in Town programs, who serves as the Applicant's principal representative to the Town. Since 2015, he has attended virtually every public meeting and every staff meeting regarding this application. Counsel seems to indicate that there is some nefarious reason that Mr. Laker has not spoken at the public meetings. The simple reason is that he is represented by counsel and his professional consultants. He has not appeared incognito and he is not hiding anything. He has openly appeared and permitted his professionals to do that which they have been retained to do.

In view of counsel's threat to provide more scurrilous personal information at the public hearing on this application, we sincerely hope that in the interests of relevancy, not to mention decency, they will refrain from doing so. We ask that the Board inform them accordingly.

We look forward to moving forward with the review process before the Board. Thank you for your consideration.

Very truly yours,



Robert F. Davis

RFD:dds
Enclosure

c: Chris Kehoe, AICP (via e-mail)
Thomas F. Wood, Esq. (via e-mail)
Michael Preziosi, P.E. (via e-mail)
Zarin & Steinmetz (via e-mail)

Robert Davis

From: Robert Davis
Sent: Wednesday, August 05, 2015 2:53 PM
To: chrisk@townofcortlandt.com
Cc: Michael Preziosi (MichaelP@townofcortlandt.com)
Subject: Hudson Wellness

Chris-As you know and as I mentioned to the Board last night, not expecting the depth of discussion that ensued, I did not review again our entire submission before the meeting and therefore, I had to refresh my recollection as to our regulatory framework. Having now done so, please note that in speaking with Member Kessler, I inadvertently juxtaposed the State Public Health Law with the State Mental Hygiene Law. The specialty hospital is not regulated by Public Health Law, Article 28, but is in fact, strictly regulated by and requires State certification under the Mental Hygiene Law and the State Regulations promulgated thereunder and administered by the State Office of Alcoholism and Substance Abuse Services(OASAS). Please advise the Board accordingly. Thank you.

Robert F. Davis, Esq.
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Robert Davis

From:	Robert Davis
Sent:	Thursday, February 28, 2019 11:56 AM
To:	chrisk@townofcortlandt.com
Cc:	Cusack, Thomas; Michael Preziosi (MichaelP@townofcortlandt.com); bschwartz@zarin-steinmetz.com
Subject:	FW: Part of attachment to Feb. 5 letter-Hudson Wellness
Attachments:	20190228114410933.pdf

Chris-I noticed that the attached, which was originally submitted to the Planning Board on August 14, 2017, to address Member Kessler's question regarding State Licensure, was not included as part of the attachment to my February 5, 2017 letter to the Board, along with the one email attached thereto. Please attach this to my Feb. 5 letter as well or otherwise provide copies to the Board. In essence, the State statutory and regulatory scheme coordinates the State review process under the auspices of OASAS. Thank you.

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-----Original Message-----
From: Support
Sent: Thursday, February 28, 2019 11:44 AM
To: Robert Davis
Subject: Message from "RNP002673B92D4B"

This E-mail was sent from "RNP002673B92D4B" (MP C4503).

Scan Date: 02.28.2019 11:44:10 (-0500)
Queries to: Support@sdslawny.com

TMC
8/14/17 PB Submission

To reduce employee traffic trips by ride sharing, a portion of the employees will utilize a shuttle van for transport to and from the train station and/or will use a shuttle van to and from an off-site location controlled by the applicant.

Bicycle parking will be provided for the employees, and will be located near the Main Building #1 as will be depicted on the Site Plans to be further developed with the Planning Board.

B. Clarification to Our Response to Member Kessler at the 08/01/2017 Meeting

In terms of State regulation, the specialty hospital is regulated as a "hospital" under NYS Public Health Law, Art. 28, "Hospitals", including Section 2801-a(3), which includes its "public need" requirement, as well as by the Office of Alcohol and Substance Abuse Services(OASAS) under NYS Mental Hygiene Law, Art. 19, "Alcoholism and Substance Abuse Act", including Section 19.40(d), which incorporates by reference the certification requirements of Article 32, including the "public need" requirement of Section 32.09(a)(1), but not by NYS Mental Hygiene Law Article 41, "Local Services", including Section 41.34 relating to "site selection of community residential facilities", commonly known as the "Padavan Law".

C. Clarifications to "2nd Addendum to the Expanded Environmental Assessment Report", dated July 10, 2017

1. Response B1 on page 22 of the "2nd Addendum to the Expanded Environmental Assessment Report", dated July 10, 2017, stated:

> At this time, there is no groundwater withdrawal from the existing on-site wells. Therefore, any reported water shortages in the neighborhood are unrelated to the project. Based on the project water demands, the recharge to the site and the renovated septic system, the proposed HRWC project should not impact neighboring wells. Although groundwater recharge to the project site demonstrates that there is more than sufficient water available to meet the water demands of the proposed project, the applicant has proposed implementing a monitoring plan that would be initiated three to six months before project occupancy (before the project water supply is placed in service). Background water levels in the neighboring wells will be documented during this period and will be compared to post-development water levels to determine any potential water-level impacts to the offsite wells.

Revised text is as follows:

> At this time, there is very limited groundwater withdrawal from the existing on-site wells. For the past several years two people have resided in one of the buildings, which has a certificate of occupancy for a dwelling use, on average between 9 and 10 months per year. Based on an average use of 75 gallons per day per person, the daily usage at the residence is approximately 150 gpd. This daily use is indiscernible from the typical use of that of the neighboring properties and therefore, would not have an impact to the neighboring wells. The nearest neighboring well to the well currently being used is 380 feet distant and is uphill. Thus, any reported water shortages in the neighborhood

Exhibit 10

Curriculum Vitae
ARNOLD M. WASHTON

Office Addresses

New York Office
Compass Health Group
425 Madison Avenue, 15th Floor
New York, N.Y. 10017
(212) 944-8444; email: awashton@compasshealthgroup.com

Education

1968	B.A.	Psychology	New York University
1973	M.A.	Psychology	Queens College, The City University of New York
1978	Ph.D.	Psychology	Graduate School of The City University of NY

Post-Doctoral Training

1980-84	Post-Graduate Certification Program in Psychotherapy and Psychoanalysis: The Westchester Center for Study of Psychotherapy & Psychoanalysis, White Plains, N.Y.

Professional Licensure

1979	Licensed psychologist. State of New York. License No. 006178
1998	Licensed psychologist. State of New Jersey. License No. SI 03574.
1998	Licensed psychologist. State of Florida. License No. PY-0005912.

Additional Certifications

1984	Post-Doctoral Certificate in Psychotherapy and Psychoanalysis, Westchester Center for Psychotherapy and Psychoanalysis, White Plains, N.Y.
1995	Certificate of Proficiency in the Treatment of Alcohol and Other Psychoactive Substance Use Disorders. American Psychological Association, College of Professional Psychology, Washington, DC, Certification number AD001274.

Current Positions

2014-	Executive Director, Compass Health Group, New York, NY.

Previous Positions

1998-2014	Executive Director, Recovery Options, NY, NY
2011-2013	Executive Director, Washton-Lukens Institute, West Palm Beach, FL
2006-2008	Clinical Director, The Retreat at Princeton, Princeton House Behavioral Health, Princeton Health Care System, Princeton, NJ
1986-98	Founder and Executive Director, The Washton Institute, NY, NY
1983-86	Director, Outpatient Substance Abuse Treatment, The Regent Hospital, NY, NY

1982-83	Director, Division of Drug Abuse Research and Treatment, Department of Psychiatry, New York Medical College, New York, NY
1979-82	Associate Director, Division of Drug Abuse Research and Treatment, Department of Psychiatry, New York Medical College, New York, NY
1975-77	Staff Psychologist, Division of Drug Abuse Research and Treatment Department of Psychiatry, New York Medical College, New York, NY
1973-1975	Pre-Doctoral Psychology Trainee, FDR VA Hospital, Montrose, N.Y.

Past Academic and Hospital Appointments

1970-73	Lecturer, Department of Psychology, Queens College, The City University of NY
1972-73	Instructor, Department of Behavioral Sciences, Pace University, Pleasantville, NY.
1978-83	Assistant Professor of Psychiatry, New York Medical College, NY, NY
1983-84	Associate Professor of Psychiatry, New York Medical College, Valhalla, NY
1997-2000	Clinical Professor of Psychiatry, Department of Psychiatry, Division of Alcoholism and Substance Abuse New York University School of Medicine, New York, NY
1987-2006	Chief Consultant on Alcohol and Substance Abuse, Department of Psychiatry, Lenox Hill Hospital, New York, N.Y.

Awards and Honors

1967-68	Dean's List, New York University
1964-68	Schwed Foundation Scholarship, New York University
1970-73	Tuition Scholarship, Graduate School, The City University of New York
1987	Award for "Outstanding Accomplishments in the Field of Substance Abuse Research", South Oaks Research Foundation, Amityville, NY
1988	Ph.D. Alumni Achievement Award, Graduate School, The City University of New York
2007	Recognition Award for Outstanding Contributions to the Field of Addiction Psychology, New York State Psychological Association, Division on Addictions, April, 2007

Major Committee Assignments

1987-92	US Food and Drug Administration, Substance Abuse Advisory Committee
1988-92	New York Academy of Medicine, Subcommittee on Alcohol and Substance Abuse, Committee on Public Health
1991-93	New York State Psychological Association, Substance Abuse Advisory Committee
1991-pres	American Psychological Association, College of Professional Psychology, Experts Working Group on Alcohol and Substance Abuse

Professional Society Memberships

1977-pres	American Psychological Association
1979-pres	New York State Psychological Association
1997-pres	New Jersey Psychological Association
1998-pres	Florida Psychological Association
1999-pres	Mercer County Psychological Association

2013-pres American Society of Addiction Medicine (Associate Member)

Grants and Fellowship Awards

1978	NIMH Post-Doctoral Research Fellowship, Department of Psychology, University of Illinois, Champaign-Urbana, IL
1979-82	Principal Investigator, Efficacy of Clonidine and Naltrexone in the Treatment of Opiate Addiction, National Institute on Drug Abuse, Rockville, MD
1982-83	Principal Investigator, Efficacy of Clonidine Hydrochloride in Outpatient Detoxification from Opioids. Boehringer-Ingelheim, Ridgefield, CT
1981-82	Principal Investigator, Efficacy of Lofexidine Hydrochloride in Outpatient Opiate Withdrawal, Merrell-Dow Pharmaceuticals, Cincinnati, OH

Publications

Books

1. Washton AM, Gold MS. (Eds.) Cocaine: A clinician's handbook. New York: Guilford, 1987.
2. Washton, AM. Cocaine addiction: treatment, recovery, and relapse prevention. New York: Norton Professional Books, 1989.
3. Washton AM, Boundy D. Cocaine and crack: What you need to know. Hillside, New Jersey: Enslow Publishers, 1989.
4. Washton AM, Boundy D. Willpower's not enough: Recovering from addictions of every kind. New York: Harper-Row, 1989.
5. Washton AM. Quitting cocaine. Center City, MN: Hazelden, 1990.
6. Washton AM. Staying off cocaine. Center City, MN: Hazelden, 1990.
7. Washton AM Maintaining recovery. Center City, MN: Hazelden, 1990.
8. Washton AM, Stone-Washton, N. Step Zero: Getting to recovery. Center City, MN: Harper-Hazelden, 1991.
9. Washton AM (Ed.). Psychotherapy and substance abuse: A practitioner's handbook. New York: Guilford, 1995.
10. Washton AM, Zweben JE. Treating alcohol and drug problems in psychotherapy practice: doing what works. Guilford Press, 2006.
11. Washton, AM. Quitting cocaine: your personal recovery plan. Center City, MN: Hazelden, 2008.
12. Washton, AM, Zweben, JZ. Cocaine and methamphetamine addiction: treatment, recovery, and relapse prevention. New York: Norton Professional Books, 2009.

Book Chapters

1. Washton, A. M., Resnick, RB. The clinical use of clonidine in outpatient detoxification from opiates. Psychopharmacology of clonidine, In: H Lal, S. Fielding (Eds.), New York: Allen R. Liss, Inc., 277-284, 1981.
2. Washton AM, Zahm DL, Gold MS. Cocaine and Jews. In S. Levy & S. Blume (Eds.) Addiction in the Jewish community. NY: Fed of Jewish Philanthropy, 161-179, 1986.
3. Washton, A. M. Cocaine: Drug epidemic of the 1980's. In D. Allen (Ed.) The cocaine crisis. New York: Plenum, 1987.
4. Outpatient treatment techniques. In Washton, A. M., & Gold, M. S. (Eds.) Cocaine: A

clinician's handbook. New York: Guilford, pp. 106-117, 1987.

5. Washton, A. M., Gold, M. S. Recent trends in cocaine abuse as seen from the "800-COCAINE" hotline. In Washton, A. M., & Gold, M. S. (Eds.) Cocaine: a clinician's handbook. New York: Guilford, pp. 10-22, 1987.
6. Washton AM., Hendrickson EH., Stone N. Cocaine abuse. In: Donovan, D. M. & Marlatt, G. A. (Eds.), Assessment of addictive behaviors. NY: Guilford, pp. 364-389, 1988.
7. Washton, A. M. Structured outpatient treatment of alcohol vs. drug dependencies. In Galanter M (Ed.) Annual review of alcoholism, pp. 265-304, New York: Plenum, 1989.
8. Tatarsky A, Washton AM. Intensive outpatient treatment: a psychological perspective. In: B. Wallace (Ed.), The chemically dependent: phases of treatment and recovery. New York: Bruner-Mazel, pp. 28-38, 1992.
9. Washton AM. Structured outpatient group therapy for alcohol and substance abusers. In: JH Lowinson, P Ruiz, RB Millman (eds), Comprehensive textbook of substance abuse. New York: Williams & Willkins, pp. 508-519, 1992.
10. Washton AM. Clinical assessment of psychoactive substance use. In: AM Washton (Ed.). Psychotherapy and substance abuse: a practitioner's handbook. New York: Guilford, 1995, pp. 23-54.
11. Malik R, Washton AM, Stone-Washton NS. Structured outpatient treatment. In: AM Washton (Ed.): Psychotherapy and substance abuse: a practitioner's handbook. New York: Guilford, 1995, pp. 285-294.
12. Washton AM. Structured outpatient group therapy. In: JH Lowinson, P Ruiz, RB Millman, Langrod JG (eds), Comprehensive textbook of substance abuse. New York: Williams & Willkins, pp. 440-448, 1997
13. Washton AM. Evolution of intensive outpatient treatment (IOP) as a "legitimate" treatment modality for chemical dependency. In: E Gottheil, B. Stimmel (eds.). Intensive outpatient treatment for the addictions. New York: Haworth Press, 1997, pp. xix-xxv.
14. Washton AM, Rawson RA. Substance abuse treatment in the era of managed care. In: Galanter M, Kleber HD (Eds.). Textbook of substance abuse treatment. Washington DC: American Psychiatric Press, 1999, pp 545-552.
15. Washton AM. A Psychotherapeutic and skills-training approach to the treatment of drug addiction. In: K Carroll (ed.). Approaches to drug abuse counseling. Bethesda MD: National Institute on Drug Abuse, 2000, NIH Publication No. 00-4151, pp 121-129.
16. Washton AM. Group therapy for substance abuse: a clinician's guide to doing what works. In Coombs R (ed.). Addiction recovery tools. Thousand Oaks, CA: Sage Publications, 2001, pp 239-256.
17. Washton AM. Outpatient group therapy at different stages of substance abuse treatment: preparation, initial abstinence, and relapse prevention. In: Brook DW, Spitz HI (Eds.). Group psychotherapy of substance abuse. New York: Haworth Medical Press, 2002, pp. 99-119.
18. Washton, AM. Clinical aspects of cocaine and methamphetamine dependence. In: Brizer D, Castaneda R (Eds.). Clinical addiction psychiatry. Cambridge: Cambridge University Press, 2010, pp. 136-147.
19. Washton AM. Group therapy. In: Ruiz P, Strain E (Eds.). Substance abuse: A comprehensive textbook (Fifth Edition). . Phila: Lippincott, Williams, & Wilkins, 2011, pp. 575-583.

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1. Resnick, R. B., Kestenbaum, R. S., & Washton, A. M. & Poole, D. Naloxone precipitated withdrawal: a method for rapid detoxification from opiates. Clinical Pharmacology & Therapeutics, 21: 409-413, 1977.
2. Resnick, R. B., Washton, A. M., Verebey, K., & Mule, S. Increased serum methadone levels in

humans during naloxone-precipitated withdrawal. Psychopharmacology Bulletin, 15: 42-44, 1979.

3. Resnick, R. B., Schuyten-Resnick, E., & Washton, A. M. Assessment of narcotic antagonists in the treatment of opioid dependence: review and commentary. Comprehensive Psychiatry, 20 (2): 116-135, 1979.
4. Washton, A. M., Resnick, R. B., & Rawson, R. A. Clonidine hydrochloride: a non-opiate treatment for opiate withdrawal. Psychopharmacology Bulletin, 16 (2): 50-52, 1980.
5. Washton, A. M., Resnick, R. B., & Rawson, R. A. Clonidine for outpatient opiate detoxification. The Lancet, 1078-1079, 1980.
6. Washton, A. M., & Resnick, R. B. Clonidine for opiate detoxification: outpatient clinical trials. American Journal of Psychiatry, 137 (9): 1121-1122, 1980.
7. Washton, A. M., & Resnick, R. B. Clonidine versus methadone for opiate detoxification. Lancet, 2: 1297, 1980.
8. Washton, A. M., & Resnick, R. B., Perzel, J. F., Garwood, J. Lofexidine, a clonidine analogue effective in opiate withdrawal. Lancet, 1: 991-992, 1981.
9. Washton, A. M., Resnick, R. B. Clonidine in opiate withdrawal: Review and appraisal of clinical findings. Pharmacotherapy, Vol. 1, No. 2: 140-146, 1981.
10. Washton, A. M., Resnick, R. B. Clonidine vs. methadone for opiate detoxification. Psychopharmacology, 17 (3): 127, July 1981.
11. Washton, A. M. & Resnick, R. B. Outpatient opiate detoxification using clonidine. Journal of Clinical Psychiatry, 43: 39-41, 1982.
12. Washton, A. M., Gold, M. S., & Pottash, A. L. C. Intranasal cocaine addiction. Lancet, p. 1374, December 10, 1983 (letter).
13. Washton, A. M., Resnick, R. B., & Geyer, G. Opiate detoxification using lofexidine: a clonidine analogue with fewer side effects. J Clinical Psychiatry, 44: 333-337, 1983
14. Rawson, R. A., Washton, A. M., Resnick, R. B., Tennant, F. S. Clonidine hydrochloride detoxification from methadone treatment: the value of naltrexone aftercare. Advances in Alcohol and Substance Abuse. Vol. 3, No. 3: 41-49, 1984.
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16. Washton, A. M., & Stone, N. S. The human cost of chronic cocaine use. Medical Aspects of Human Sexuality, Vol. 18 (11): 122-130, 1984.
17. Gold, M. S., Dackis, C., & Washton, A. M. The sequential use of clonidine and naltrexone in the treatment of opiate addicts. Advances in Alcohol and Substance Abuse. Vol. 3, No. 3: 19-38, 1984.
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21. Washton, A. M. & Gold, M. S. Cocaine abuse; Evidence for adverse effects on health and functioning. Psychiatric Annals, 14: 177-190, 1984.
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30. Washton, A. M., Gold, M. S. Recent trends in cocaine abuse: a view from the national hotline, "800-COCAINE". Advances in Alcohol and Substance Abuse, 6: 31-47, 1987.
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35. Washton AM, Stone-Washton N. Intensive outpatient treatment of cocaine addiction: techniques to improve its effectiveness. International Journal of the Addictions, 25: 1421-1429, 1991.
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2. Resnick, R. B., Kestenbaum, R. S., & Washton, A. M. From opiate dependence to naltrexone: a new method. In Proceedings of the 38th Annual Scientific Meeting of the Committee on Problems of Drug Dependence, National Acad of Sciences,118-125, 1976.
3. Resnick, R. B., Washton, A. M., & LaPlaca, R. W. Lithium carbonate as a potential treatment for compulsive cocaine use: a preliminary report. In Proceedings of the 39th Annual. Scientific Meeting of the Committee on Problems of Drug Dependence, National Academy of Sciences, 125-130, 1977.
4. Kestenbaum, R. S., Resnick, R. B., & Washton, A. M., & Lipton, J. Cocaine effects on

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5. Resnick, R. B.,, & Washton, A. M., Thomas, M. A., & Kestenbaum, R. S. Naltrexone in the treatment of opiate dependence. In R. C. Peterson (Ed.), International Challenge of Drug Abuse. NIDA Research Monograph #19, Dept. of Health, Education & Welfare, Washington,D.C., 321-332, 1978.
6. Rawson, R. A., Resnick, R. B., Washton, A. M. & Tennant, F. S. Clonidine hydrochloride detoxification from methadone treatment: the value of naltrexone in aftercare. In L. S. Harris (Ed.) Problems of Drug Dependence, 1980, NIDA Research Monograph #34, Department of Health and Human Services, publication number (ADM) 81-1058, 101-108, 1981.
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15. Washton, A. M. & Tatarsky, A. Adverse effects of cocaine abuse. In L. S. Harris (Ed.), Problems of Drug Dependence. NIDA Res Monograph #44, US Gov't Printing Off, pp. 247-254, 1983.
16. Washton, A. M. Treatment of cocaine abuse. NIDA Research Monograph #67: Washington, D.C., U.S. Government Printing Office, Department of Health and Human Services publication number (ADM) 86-1448, pp. 263-270, 1985.
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Research Monograph #67: Washington, D.C., U.S. Government Printing Office, Department of Health and Human Services publication number (ADM) 86-1448,
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20. Gold, M. S., Washton, A. M. , Dackis, C. A. Cocaine Abuse: Neurochemistry, phenomenology and treatment. NIDA Monograph #61: 130-150, 1985.
21. Washton AM, Stone-Washton NS. Outpatient treatment of cocaine and crack addiction: a clinical perspective. In: FM Tims & CG Leukefeld (Eds.), Cocaine treatment: research and clinical perspectives. Washington, DC: US Government Printing Office, NIDA Research Monongraph #135, pp. 15-30, 1993. (NIH Publication No. 93-3639).

Reviews

Washton, A. M. Review of Marlatt and Gordon's "Relapse prevention: maintenance strategies in the treatment of addictive behaviors." Journal of Studies on Alcohol, 47: 260-261, 1986.

Invited Testimony

1. Testimony presented before: The New York State Senate, Committee on Investigations and Finance (Sen. Roy M. Goodman, Chairman), December 5, 1983, New York, NY. Subject: " Cocaine Abuse in the New York Tri-State Area".
2. Testimony presented before: The United States House of Representatives, Select Committee on Narcotics Abuse and Control (Rep. Charles B. Rangel, Chairman), June 20, 1983, Federal Court House, NY, NY. Subject: "The Cocaine Epidemic in the U.S."
3. Testimony presented before: The President's Commission on Organized Crime (Judge Irving Kaufman, Chairman), November 27, 1984, Washington, D.C.. Subject: "The Human Cost of Cocaine Abuse".
4. Testimony presented before: The American Bar Association, January 24, 1985, Princeton, NJ. Subject: "Adolescent Cocaine Abuse".
5. Testimony presented before: The United States House of Representatives, Select Committee on Narcotics Abuse and Control (Rep. Charles B. Rangel, Chairman), July 16, 1985, Washington, D.C.. Subject: "The Cocaine Abuse Problem in the United States".
6. Testimony presented before: The United States Senate, Drug Enforcement Caucus (Sen. Alfonse D'Amato, Chairman), August 20, 1985, Westchester County Court House, White Plains, NY. Subject: "Adolescent Cocaine Abuse".
7. Testimony presented before: The New York State Senate, Committee on Investigations and Finance, (Sen. Roy M. Goodman, Chair), May 8, 1986, New York, NY. Subject: "Crack Cocaine".
8. Testimony presented before: The City Council of New York, September 29, 1986, City Hall. Subject: "Crack Cocaine".
9. Testimony presented before: The New York State Senate, Committee on Investigations and Finance, (Sen. Roy M. Goodman, Chairman), October 9, 1996, NY, NY, "Increased Use of High-Purity Heroin: A Grave New Danger".

Exhibit 11

Westchester gov.com

Robert P. Astorino
County Executive

Sherlita Amler, M.D.
Commissioner of Health

December 14, 2017

Ralph G. Mastromonaco, P.E., P.C.
Consulting Engineers
13 Dove Court
Croton-on-Hudson, NY 10520

Re: Design Flow Confirmation
Hudson Ridge Wellness Center, Inc.
2016 Quaker Ridge Road
Cortlandt (T)

Dear Mr. Mastromonaco:

The Department has reviewed the Engineer's Report, Design Plans and details, dated December 5, 2017, submitted with respect to your application to the New York State Department of Environmental Conservation (NYSDEC) for a State Pollution Discharge Elimination System (SPDES) for an Onsite Wastewater Treatment System (OWTS) at the above referenced property.

GENERAL

The proposed design flow of 12,440 gallons per day is acceptable based on NYSDEC standards. The project consists of:

Addiction recovery hospital:	92 beds x 110 gallons per day (gpd)	=	10,120 gpd
Support staff and personnel:	86 staff x 15 gpd	=	1,290 gpd
Outbuilding 3, Garage storage/Office space:	400 sf x 0.1 gpd/sf	=	40 gpd
Outbuildings 4, 5, 7, Transient beds per cottage:	6 beds x 110 gpd	=	660 gpd
Outbuilding 6, Residence (3 bedrooms)	3 bedrooms x 110 gpd	=	330 gpd
	Total	=	12,440 gpd

SUB-SURFACE DISCHARGES

Based on our review of the site conditions and your submission, we believe that you have demonstrated that a disposal system can be constructed consistent with standards and should not contravene groundwater standards.

REDUCE REUSE RECYCLE

Department of Health
25 Moore Avenue
Mt. Kisco, New York 10549 Telephone: (914) 864-7333 Fax: (914) 864-7411

With all these items completed, you may proceed with the filing of a SPDES Permit application to:

Regional Permit Administrator
NYS Department of Environmental Conservation – Region III
21 South Putt Corners Road
New Paltz, NY 12561

Please include the following:

1. A completed application form "D" (original and one copy)
2. A completed Environmental Assessment Form (or other appropriate SEQRA documentation)
3. Two (2) copies of U.S.G.S, quadrangle map showing the property boundaries
4. Two (2) copies of this letter
5. Two (2) copies of the site plan for the project identifying the discharge locations and all other proposed site disturbances

A copy of the SPDES application (Item 1) should be sent to this office at the time of submission to the Regional Permit Administrator.

Please recognize that the Department of Environmental Conservation may have additional submission requirements relating to other regulatory programs under which your project may fall. You may wish to contact the Division of Environmental Permits at (845) 256-3054.

Please note that following issuance by the NYSDEC, detailed plans and specifications shall be submitted to this office for review and approval. Construction of the sanitary facilities is prohibited prior to this approval.

Should you have any questions concerning this matter, please feel free to contact this office.

Thank you for your cooperation.

Very truly yours,

Delroy Taylor, P.E.
Assistant Commissioner
Bureau of Environmental Quality

Cc: NYSDEC – Regional Permit Administrator
Hudson Ridge Wellness Center, Inc.
Meena George, P.E, - NYSDEC – White Plains
Martin Rogers – Code Enforcement – Town of Cortlandt
Zaw Thein – WCDOH
File

Westchester gov.com

George Latimer
County Executive

Sherlita Amler, M.D.
Commissioner of Health

January 25, 2019

OLA Consulting Engineers
50 Broadway
Hawthorne, NY 10532
Attn: Barbara Jill Walsh, P.E.

RE: File I.D. C17-064
Approval of Plans for
Well #1 & Well #2 Connection and
New Water Treatment Plant at
Hudson Ridge Wellness Center
Community Public Water Supply
2016 Quaker Ridge Road
Croton on Hudson (V)
PWS I.D: NY5930199

Dear Ms. Walsh:

Enclosed is an Approval of Plans for Public Water Supply Improvement issued this day and approved plans prepared by you consisting of ten (10) sheets, dated November 30, 2018 and prepared by Ralph G. Mastromonaco, P.E., P.C., consisting of three (3) sheets, dated January 8, 2018. This approval is issued pursuant to 10NYCRR Part 5, Subpart 5-1, Section 5-1.22 and Chapter 873, Article VII, Section 873.707.1, of the Laws of Westchester County.

The Approval of Plans for Public Water Supply Improvement and approved plans should be filed in the appropriate office of the applicant. The Applicant is obligated to comply with each of the conditions stipulated in this Approval of Plans for Public Water Supply Improvement.

Supervision of the construction by a licensed and registered professional engineer in the State of New York who will furnish a certificate of construction compliance to the Westchester County Department of Health is a responsibility of the Applicant.

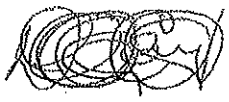
The certificate of construction compliance, including two (2) sets of As-Built plans and results of acceptable bacteriological analyses of water, and satisfactory pressure leakage test (see conditions of approval) must be forwarded promptly to this office after completion of construction. Please note that an Approval of Completed Works, issued by the Westchester County Department of Health, is required before this construction may be put into service.

REDUCE REUSE RECYCLE

Department of Health
25 Moore Avenue
Mount Kisco, New York 10549 Telephone: (914) 864-7332 Fax: (914) 813-4691

The approved plans call for the installation of one (1) 1 ½ HP Goulds model 10GS15 submersible pump at Well #1 (Pond Well), rated 10 gpm at 400 feet of total dynamic head (TDH), one (1) 1HP Goulds model 10GS10 submersible pump at Well #2 (Castle/Building Well), rated 10 gpm at 250 feet TDH, installation of approximately 900 linear feet of 2-inch diameter HDPE raw water pipe from Well #1 to treatment building, approximately 40 linear feet of 2-inch diameter HDPE raw water pipe from Well #2 to treatment building, a construction of a new water treatment plant, consisting of four (4) Harmsco model Muni 40MP filter housings, each equipped with Harmsco model HC/40-20 20-micron filter cartridges, two (2) Harmsco model Muni 40MP filter housings, each equipped with Harmsco HC/40-5 5-micron filter cartridges, two (2) Harmsco model Muni 40MP filter housings, each equipped with Harmsco HC/170-LT2 1 micron absolute rated filter cartridges, two (2) Neptune Benson/ETS UV model ECP-113-5 ultra violet disinfection units, each rated 50 gpm, two (2) Hungerford & Terry, Inc. model GSP36-X1 Greensand Plus system sand filters, rated 35 gpm, 200 linear feet of 8-inch diameter PVC C900-DR25 contact pipe, , four (4) LMI model PDx1 chemical metering pumps, each rated 0.25 GPH at 250 psi, two (2) LMI model 27400 chlorine crocks, each rated 35 gallon capacity, three (3) Modutank, Inc. model VT0305-3.5 galvanized steel water storage tanks, each rated 4,000 gallon capacity, equipped with NSF61 rated 40 mil Carlisle Reinforced Polypropylene Geomembrane liner, one (1) Canarlis model TM-90-55-3VS booster pump skid, equipped with three (3) 3HP, 10SV-3 variable frequency drive multi stage pumps, each rated 45 gpm at 127 feet TDH, one (1) Hach model TU5300SC continuous turbidity analyzer, one (1) Hach model CLF10SC reagentless continuous chlorine analyzer, two (2) Hach SC200 data recorders, one (1) 2,500 gallon waste holding tank, four (4) totalizer water meters, one (1) 500 kW diesel generator, approximately 600 linear feet of 3-inch diameter class 52 ductile iron pipe water main, two (2) blowoff units and related appurtenances at Hudson Ridge Wellness Center Community Public Water Supply, 2016 Quaker Ridge Road, Croton on Hudson (V).

Very truly yours,



Delroy Taylor, P.E.
Assistant Commissioner
Bureau of Environmental Quality

DT:ZT

Enclosure

cc: *Steven Laker, Hudson Ridge Wellness Center
Daniel O'Connor, P.E., Village Engineer, Croton on Hudson (V)
Andy Tse, NYSDOH
Frederick Beck, P.E., WCDOH
File

NEW YORK STATE DEPARTMENT OF HEALTH
APPROVAL OF PLANS
FOR PUBLIC WATER SUPPLY IMPROVEMENT

THIS APPROVAL IS ISSUED UNDER THE PROVISIONS OF 10 NYCRR, PART 5, SUBPART 5-1, SECTION 5-1.22 AND CHAPTER 873, ARTICLE VII, SECTION 873.707.1 OF THE WESTCHESTER COUNTY SANITARY CODE

1. APPLICANT	2. LOCATION OF WORKS	3. COUNTY	4. WATER DISTRICT
Hudson Ridge Wellness Center	Croton on Hudson (V)	Westchester	

5. TYPE OF PROJECT:

( ) 1 Source	(X) 3 Pumping Units	( ) 5 Fluoridation	(X) 7 Distribution
(X) 2 Transmission	(X) 4 Chlorination	(X) 6 Other Treatment – U.V.	(X) 8 Storage
			(X) 9 Other

REMARKS: The approved plans call for the installation of one (1) 1 ½ HP Goulds model 10GS15 submersible pump at Well #1 (Pond Well), rated 10 gpm at 400 feet of total dynamic head (TDH), one (1) 1HP Goulds model 10GS10 submersible pump at Well #2 (Castle/Building Well), rated 10 gpm at 250 feet TDH, installation of approximately 900 linear feet of 2-inch diameter HDPE raw water pipe from Well #1 to treatment building, approximately 40 linear feet of 2-inch diameter HDPE raw water pipe from Well #2 to treatment building, a construction of a new water treatment plant, consisting of four (4) Harmsco model Muni 40MP filter housings, each equipped with Harmsco model HC/40-20 20-micron filter cartridges, two (2) Harmsco model Muni 40MP filter housings, each equipped with Harmsco HC/40-5 5-micron filter cartridges, two (2) Harmsco model Muni 40MP filter housings, each equipped with Harmsco HC/170-LT2 1 micron absolute rated filter cartridges, two (2) Neptune Benson/ETS UV model ECP-113-5 ultra violet disinfection units, each rated 50 gpm, two (2) Hungerford & Terry, Inc. model GSP36-X1 Greensand Plus system sand filters, rated 35 gpm, 200 linear feet of 8-inch diameter PVC C900-DR25 contact pipe, , four (4) LMI model PDx1 chemical metering pumps, each rated 0.25 GPH at 250 psi, two (2) LMI model 27400 chlorine crocks, each rated 35 gallon capacity, three (3) Modutank, Inc. model VT0305-3.5 galvanized steel water storage tanks, each rated 4,000 gallon capacity, equipped with NSF61 rated 40 mil Carlisle Reinforced Polypropylene Geomembrane liner, one (1) Canariis model TM-90-55-3VS booster pump skid, equipped with three (3) 3HP, 10SV-3 variable frequency drive multi stage pumps, each rated 45 gpm at 127 feet TDH, one (1) Hach model TU5300SC continuous turbidity analyzer, one (1) Hach model CLF10SC reagentless continuous chlorine analyzer, two (2) Hach SC200 data recorders, one (1) 2,500 gallon waste holding tank, four (4) totalizer water meters, one (1) 500 kW diesel generator, approximately 600 linear feet of 3-inch diameter class 52 ductile iron pipe water main, two (2) blowoff units and related appurtenances at Hudson Ridge Wellness Center Community Public Water Supply, 2016 Quaker Ridge Road, Croton on Hudson (V).

By initiating improvement of the approved supply, the applicant accepts and agrees to abide by and conform with the following:

a. **THAT** the proposed work be constructed in complete conformity with the plans and specifications approved this day or approved amendments thereto.

b. **THAT** the proposed works not be placed into operation until such time as a Completed Works Approval is issued in accordance with Part 5 of the New York State Sanitary Code and Article VII, of the Westchester County Sanitary Code.

c. **THAT** the proposed water distribution lines be disinfected in accordance with the AWWA Standard C651-05 except for Section 4.4.2, for disinfecting water mains.

d. **THAT** upon completion of the proposed work, the tank is disinfected in accordance with AWWA Standard C652-05 except Section 4.3 or latest revision.

e. **THAT** two acceptable results of bacteriological analyses of samples of water collected from the new distribution system main after disinfection and before use of the mains at 24 hour intervals shall be submitted to the Westchester County Department of Health in accordance with Section 5.1 of the AWWA Standard C651-05.

f. **THAT** two acceptable results of bacteriological and organic analyses, EPA method 524.2 of water samples collected from the newly lined tank after disinfection and before use at 24 hour intervals be submitted to the Westchester County Department of Health.

g. **THAT** supervision of construction be by a licensed and registered professional engineer in the State of New York who shall furnish a certificate of construction compliance and two (2) sets of As-Built plans after completion of construction.

h. **THAT** the Department must be notified 48 hours prior to the Pressure Test in order for a representative to verify such test.

i. **THAT** this approval is valid for one (1) year.

j. **THAT** any temporary water mains installed during construction of the above mentioned water supply improvements shall not be placed into service until the temporary piping installed is disinfected in accordance with AWWA Standard C651-05 except Section 43.4.2, and until acceptable bacteriological test results are accepted by this Department.

k. **THAT** a request for an extension of the expiration date of this permit must be received by this Department before the permit's expiration date. Request received after the permit has expired will not be considered.

ISSUED FOR THE STATE COMMISSIONER OF HEALTH

January 25, 2019
DATE

P.E.
DESIGNATED REPRESENTATIVE
Delroy Taylor, P.E.
Assistant Commissioner
Bureau of Environmental Quality

GENERAL

6. Type of Ownership: Westchester County

( ) Municipal ( ) Commercial (X) 68 Private Other ( )1 Authority ( ) 30 Interstate
( ) Industrial Corp. ( ) Water Works ( ) Private Institutional ( ) 9 Federal ( ) 40 International Corp.
( ) 26 Board of Education ( ) 20 State ( )18 Indian Reservation

7. Estimated Total Cost	8. Population Served	9. Drainage Basin
$1,050,000.00	92	Croton

10. Federal Aid Involved?	11. WSA Project?
( ) YES (X) NO	( ) YES (X) NO

SOURCE

12.	13. Estimated Source Development Cost
SURFACE Name _____ Class _____	
GROUND Name _____ Class _____	

14. Safe Yield:	15. Description
GPD	

TREATMENT

16. Type of Treatment

( ) 1 Alteration ( ) 5 Clarifiers ( ) 9 Fluoridation
( ) 2 Microstrainers (X) 6 Filtration ( ) 10 Softening
( ) 3 Mixing (X) 7 Iron Removal ( ) 11 Corrosion Control
( ) 4 Sedimentation (X) 8 Chlorination (X) 12 Other U.V.

17. Name of Treatment Works	18. Max. Treat. Cap.	19. Grade of Plant Operator Req.	20. Est. Cost
Hudson Ridge Wellness Center	35 gpm	C	$200,000.00

21. Description:

See Item #5

DISTRIBUTION

22. Type of Project	23. Type of Storage	24. Est. Cost
( ) 1 Cross Connection (X) 3 Transmission ( ) 2 Interconnection ( ) 4 Fire Pump Chl.	Elevated _____ gal. Underground 12,000 gal.	Distribution $ 300,000.00

25. Anticipated Distribution	26. Designed For Fire Flow
System Demand: Avg. 0.012 MGD Max. 0.024 MGD	( ) YES (X) NO

27. Description:

See Item #5

Exhibit 12

Major Group 80.—HEALTH SERVICES

The Major Group as a Whole

This major group includes establishments primarily engaged in furnishing medical, surgical, and other health services to persons. Establishments of associations or groups, such as Health Maintenance Organizations (HMOs), primarily engaged in providing medical or other health services to members are included, but those which limit their services to the provision of insurance against hospitalization or medical costs are classified in Insurance, Major Group 63. Hospices are also included in this major group and are classified according to the primary service provided.

Industry groups 801 through 804 includes individual practitioners, group clinics in which a group of practitioners is associated for the purpose of carrying on their profession, and clinics which provide the same services through practitioners that are employees.

Industry Group No. | Industry No.

801 OFFICES AND CLINICS OF DOCTORS OF MEDICINE

8011 Offices and Clinics of Doctors of Medicine

Establishments of licensed practitioners having the degree of M.D. and engaged in the practice of general or specialized medicine and surgery. Establishments operating as clinics of physicians are included in this industry. Osteopathic physicians are classified in Industry 8031.

Ambulatory surgical centers
Anesthesiologists, offices of
Clinics of physicians (M.D.)
Dermatologists, offices of
Freestanding emergency medical (M.D.) centers
Gynecologists, offices of
Neurologists, offices of
Obstetricians, offices of
Oculists, offices of
Ophthalmologists, offices of
Orthopedic physicians, offices of
Pathologists (M.D.), offices of
Pediatricians, offices of
Physicians (M.D.), including specialists: offices and clinics of
Plastic surgeons, offices of
Primary care medical (M.D.) clinics
Psychiatrists, offices of
Psychoanalysts, offices of
Radiologists, offices of
Surgeons (M.D.), offices of
Urologists, offices of

802 OFFICES AND CLINICS OF DENTISTS

8021 Offices and Clinics of Dentists

Establishments of licensed practitioners having the degree of D.M.D. or D.D.S. (or D.D.Sc.) and engaged in the practice of general or specialized dentistry, including dental surgery. Establishments operating as clinics of dentists are included in this industry.

Clinics of dentists
Dental surgeons, offices of
Dentists, offices and clinics of
Endodontists, offices of
Oral pathologists, offices of
Orthodontists, offices of
Pathologists, oral: offices of
Periodontists, offices of
Prosthodontists, offices of

803 OFFICES AND CLINICS OF DOCTORS OF OSTEOPATHY

8031 Offices and Clinics of Doctors of Osteopathy

Establishments of licensed practitioners having the degree of D.O. and engaged in the practice of general or specialized osteopathic medicine and sur-

Industry Group No. | Industry No.

803 OFFICES AND CLINICS OF DOCTORS OF OSTEOPATHY—Con.

8031 Offices and Clinics of Doctors of Osteopathy—Con.

gery. Establishments operating as clinics of osteopathic physicians are included in this industry.

Osteopathic physicians, offices and clinics of

804 OFFICES AND CLINICS OF OTHER HEALTH PRACTITIONERS

8041 Offices and Clinics of Chiropractors

Establishments of licensed practitioners having the degree of D.C. and engaged in the practice of chiropractic medicine. Establishments operating as clinics of chiropractors are included in this industry.

Chiropractors, offices and clinics of
Clinics of chiropractors

8042 Offices and Clinics of Optometrists

Establishments of licensed practitioners having the degree of O.D. and engaged in the practice of optometry. Establishments operating as clinics of optometrists are included in this industry.

Optometrists, offices and clinics of

8043 Offices and Clinics of Podiatrists

Establishments of licensed practitioners having the degree of D.P. and engaged in the practice of podiatry. Establishments operating as clinics of podiatrists are included in this industry.

Podiatrists, offices and clinics of

8049 Offices and Clinics of Health Practitioners, Not Elsewhere Classified

Establishments of health practitioners engaged in the practice of health fields, not elsewhere classified. Practitioners may or may not be licensed or certified, depending on the State in which they practice. Establishments operating as clinics of health practitioners, not elsewhere classified, are included in this industry.

Acupuncturists, except M.D.: offices of
Audiologists, offices of
Christian Science practitioners, offices of
Dental hygienists, offices of
Dieticians, offices of
Hypnotists, offices of
Inhalation therapists, registered
Midwives, offices of
Naturopaths, offices of
Nurses, registered and practical: offices of, except home health care services
Nutritionists, offices of
Occupational therapists, offices of
Paramedics, offices of
Physical therapists, offices of
Physicians' assistants, offices of
Psychiatric social workers, offices of
Psychologists, clinical: offices of
Psychotherapists, except M.D.: offices of
Speech clinicians, offices of
Speech pathologists, offices of

805 NURSING AND PERSONAL CARE FACILITIES

This group includes establishments primarily engaged in providing inpatient nursing and health-related personal care. Establishments providing diagnostic, surgical, and extensive medical services are classified in Industry Group 806, and those providing residential care with incidental nursing or medical services are classified in Industry Group 836.

Industry Group No. | Industry No.

805 NURSING AND PERSONAL CARE FACILITIES—Con.

8051 Skilled Nursing Care Facilities

Establishments primarily engaged in providing inpatient nursing and rehabilitative services to patients who require continuous health care, but not hospital services. Care must be ordered by and under the direction of a physician. The staff must include a licensed nurse on duty continuously with a minimum of one full-time registered nurse on duty during each day shift. Included are establishments certified to deliver skilled nursing care under the Medicare and Medicaid programs.

Convalescent homes with continuous nursing care
Extended care facilities
Mental retardation hospitals
Nursing homes, skilled

8052 Intermediate Care Facilities

Establishments primarily engaged in providing inpatient nursing and rehabilitative services, but not on a continuous basis. Staffing must include 24-hour per day personnel with a licensed nurse on duty full-time during each day shift. At least once a week, consultation from a registered nurse on the delivery of care is required. Included are facilities certified to deliver intermediate care under the Medicaid program.

Intermediate care facilities
Nursing homes, intermediate care

8059 Nursing and Personal Care Facilities, Not Elsewhere Classified

Establishments primarily engaged in providing some nursing and/or health-related care to patients who do not require the degree of care and treatment that a skilled or intermediate care facility is designed to provide. Patients in these facilities, because of their mental or physical condition, require some nursing care, including the administering of medications and treatments or the supervision of self-administered medications in accordance with a physician's orders. Establishments primarily engaged in providing day-to-day personal care without supervision of the delivery of health services prescribed by a physician are classified in Industry 8361.

Convalescent homes for psychiatric patients, with health care
Convalescent homes with health care
Domiciliary care with health care
Homes for the mentally retarded with health care, except skilled and intermediate care facilities
Nursing homes except skilled and intermediate care facilities
Personal care facilities with health care
Personal care homes with health care
Psychiatric patient's convalescent homes
Rest homes with health care

806 HOSPITALS

This group includes establishments primarily engaged in providing diagnostic services, extensive medical treatment including surgical services, and other hospital services, as well as continuous nursing services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care. Convalescent homes with extended care facilities, sometimes referred to as convalescent hospitals, are classified in Industry 8051.

Industry Group No. | Industry No.

806 HOSPITALS—Con.

8062 General Medical and Surgical Hospitals

Establishments primarily engaged in providing general medical and surgical services and other hospital services. Specialty hospitals are classified in Industries 8063 and 8069.

General medical and surgical hospitals

8063 Psychiatric Hospitals

Establishments primarily engaged in providing diagnostic medical services and inpatient treatment for the mentally ill. Establishments, known as hospitals, primarily engaged in providing health care for the mentally retarded are classified in Industry 8051.

Mental hospitals, except for the mentally retarded
Psychiatric hospitals

8069 Specialty Hospitals, Except Psychiatric

Establishments primarily engaged in providing diagnostic services, treatment, and other hospital services for specialized categories of patients, except mental. Psychiatric hospitals are classified in Industry 8063.

Alcoholism rehabilitation hospitals
Cancer hospitals
Children's hospitals
Chronic disease hospitals
Drug addiction rehabilitation hospitals
Eye, ear, nose, and throat hospitals: inpatient
Hospitals, specialty: except psychiatric
Maternity hospitals
Orthopedic hospitals
Rehabilitation hospitals: drug addiction and alcoholism
Tuberculosis and other respiratory illness hospitals

807 MEDICAL AND DENTAL LABORATORIES

8071 Medical Laboratories

Establishments primarily engaged in providing professional analytic or diagnostic services to the medical profession, or to the patient on prescription of a physician.

Bacteriological laboratories (not manufacturing)
Biological laboratories (not manufacturing)
Blood analysis laboratories
Chemists, biological: (not manufacturing) laboratories of
Dental laboratories, X-ray
Medical laboratories, clinical
Pathological laboratories
Testing laboratories, medical: analytic or diagnostic
Urinalysis laboratories
X-ray laboratories, including dental (not manufacturing)

8072 Dental Laboratories

Establishments primarily engaged in making dentures, artificial teeth, and orthodontic appliances to order for the dental profession. Establishments primarily engaged in manufacturing artificial teeth, except to order, are classified in Manufacturing, Industry 3843, and those providing dental X-ray laboratory services are classified in Industry 8071.

Crowns and bridges made in dental laboratories to order for the profession
Dental laboratories, except X-ray
Dentures made in dental laboratories to order for the profession
Orthodontic appliances made in dental laboratories to order for the profession
Teeth, artificial: made in dental laboratories to order for the profession

Industry Group No. | Industry No.

808 HOME HEALTH CARE SERVICES

8082 Home Health Care Services

Establishments primarily engaged in providing skilled nursing or medical care in the home, under supervision of a physician. Establishments of registered or practical nurses engaged in the independent practice of their profession are classified in Industry 8049, and nurses' registries are classified in Industry 7361. Establishments primarily engaged in selling health care products for personal or household consumption are classified in Retail Trade and those engaged in renting or leasing products for health care are classified in Industry 7352.

Home health care services
Visiting nurse associations

809 MISCELLANEOUS HEALTH AND ALLIED SERVICES, NOT ELSEWHERE CLASSIFIED

8092 Kidney Dialysis Centers

Establishments primarily engaged in providing kidney or renal dialysis services. Offices and clinics of doctors of medicine are classified in Industry 8011.

Kidney dialysis centers

8093 Specialty Outpatient Facilities, Not Elsewhere Classified

Establishments primarily engaged in outpatient care of a specialized nature with permanent facilities and with medical staff to provide diagnosis, treatment, or both for patients who are ambulatory and do not require inpatient care. Offices and clinics of health practitioners are classified according to their primary activity in Industry Groups 801 through 804.

Alcohol treatment, outpatient clinics
Biofeedback centers
Birth control clinics (family planning)
Drug treatment, outpatient clinics
Outpatient detoxification centers
Outpatient mental health clinics
Outpatient treatment clinics for alcoholism and drug addiction
Rehabilitation centers, outpatient (medical treatment)
Respiratory therapy clinics

8099 Health and Allied Services, Not Elsewhere Classified

Establishments primarily engaged in providing health and allied services, not elsewhere classified. Offices and clinics of health practitioners are classified according to their primary activity in Industry Groups 801 through 804.

Artists, medical
Blood banks
Blood donor stations
Childbirth preparation classes
Health screening service
Hearing testing service
Insurance physical examination service, except by physicians
Medical photography and art
Osteoperosis centers
Oxygen tent service
Physical examination service, except by physicians
Plasmapheresis centers
Sperm banks

Exhibit 13

Major Group 83.—SOCIAL SERVICES

The Major Group as a Whole

This major group includes establishments providing social services and rehabilitation services to those persons with social or personal problems requiring special services and to the handicapped and the disadvantaged. Also included are organizations soliciting funds to be used directly for these and related services. Establishments primarily engaged in providing health services are classified in Major Group 80; those providing legal services are classified in Industry 8111; and those providing educational services are classified in Major Group 82.

Industry Group No.	Industry No.	
832		**INDIVIDUAL AND FAMILY SOCIAL SERVICES**
	8322	**Individual and Family Social Services**

Establishments primarily engaged in providing one or more of a wide variety of individual and family social, counseling, welfare, or referral services, including refugee, disaster, and temporary relief services. This industry includes offices of specialists providing counseling, referral, and other social services. Government offices directly concerned with the delivery of social services to individuals and families, such as issuing of welfare aid, rent supplements, food stamps, and eligibility casework, are included here, but central office administration of these programs is classified in Public Administration, Industry 9441. Social Security offices are also classified in Public Administration, Industry 9441. Establishments primarily engaged in providing vocational rehabilitation or counseling are classified in Industry 8331; and fraternal, civic, and social associations are classified in Industry 8641.

Activity centers, elderly or handicapped
Adoption services
Adult day care centers
Aid to families with dependent children (AFDC)
Alcoholism counseling, nonresidential: except medical treatment
Centers for senior citizens
Child guidance agencies
Community centers
Counseling centers
Crisis centers
Crisis intervention centers
Day care centers, adult and handicapped
Disaster services
Emergency shelters
Family counseling services
Family location services
Family service agencies
Helping hand services
Homemaker's service, primarily nonmedical
Hotlines
Marriage counseling services
Meal delivery programs
Multiservice centers, neighborhood
Neighborhood centers
Offender rehabilitation agencies
Offender self-help agencies
Old age assistance
Outreach programs
Parole offices
Probation offices
Public welfare centers, offices of
Referral services for personal and social problems
Refugee services
Relief services, temporary
Self-help organizations for alcoholics and gamblers
Senior citizens associations
Service leagues
Settlement houses
Social service centers
Telephone counseling service
Traveler's aid centers
Youth centers
Youth self-help organizations

Industry Group No. | Industry No.

833 JOB TRAINING AND VOCATIONAL REHABILITATION SERVICES

8331 Job Training and Vocational Rehabilitation Services

Establishments primarily engaged in providing manpower training and vocational rehabilitation and habilitation services for the unemployed, the underemployed, the handicapped, and to persons who have a job market disadvantage because of lack of education, job skill or experience. Included are upgrading and job-development services, skill training, world-of-work orientation, and vocational rehabilitation counseling. This industry includes offices of specialists providing rehabilitation and job counseling. Also included are establishments primarily engaged in providing work experience for rehabilitees.

Community service employment training programs
Job counseling
Job training
Manpower training
Rehabilitation counseling and training, vocational
Sheltered workshops
Skill training centers
Vocational rehabilitation agencies
Vocational rehabilitation counseling
Vocational training agencies, except schools
Work experience centers

835 CHILD DAY CARE SERVICES

8351 Child Day Care Services

Establishments primarily engaged in the care of infants or children, or in providing prekindergarten education, where medical care or delinquency correction is not a major element. These establishments may or may not have substantial educational programs. These establishments generally care for prekindergarten or preschool children, but may care for older children when they are not in school. Establishments providing babysitting services are classified in Industry 7299. Head Start centers operating in conjunction with elementary schools are classified in Industry 8211.

Child care centers
Day care centers, child
Group day care centers, child
Head Start centers, except in conjunction with schools
Nursery schools
Preschool centers

836 RESIDENTIAL CARE

8361 Residential Care

Establishments primarily engaged in the provision of residential social and personal care for children, the aged, and special categories of persons with some limits on ability for self-care, but where medical care is not a major element. Included are establishments providing 24-hour year-round care for children. Boarding schools providing elementary and secondary education are classified in Industry 8211. Establishments primarily engaged in providing nursing and health-related personal care are classified in Industry Group 805.

Alcoholism rehabilitation centers, residential: with health care incidental
Boys' towns
Children's boarding homes
Children's homes
Children's villages
Drug rehabilitation centers, residential: with health care incidental
Group foster homes
Halfway group homes for persons with social or personal problems
Halfway homes for delinquents and offenders
Homes for children, with health care incidental
Homes for destitute men and women
Homes for the aged, with health care incidental
Homes for the deaf or blind, with health care incidental
Homes for the emotionally disturbed, with health care incidental
Homes for the mentally handicapped, with health care incidental
Homes for the physically handicapped, with health care incidental

Industry Group No. | Industry No.

836 RESIDENTIAL CARE—Con.

8361 Residential Care—Con.

Juvenile correctional homes
Old soldiers' homes
Orphanages
Rehabilitation centers, residential: with health care incidental
Rest homes, with health care incidental
Self-help group homes for persons with social or personal problems
Training schools for delinquents

839 SOCIAL SERVICES, NOT ELSEWHERE CLASSIFIED

8399 Social Services, Not Elsewhere Classified

Establishments primarily engaged in providing social services, not elsewhere classified, including establishments primarily engaged in community improvement and social change. Organizations primarily engaged in soliciting contributions on their own account and administering appropriations and allocating funds among other agencies engaged in social welfare services are also included, but foundations and philanthropic trusts are classified in Finance, Industry 6732. Civic, social, and fraternal organizations are classified in Industry 8641; political organizations are classified in Industry 8651; and establishments which raise funds on a contract basis are classified in Industry 7389.

Advocacy groups
Antipoverty boards
Community action agencies
Community chests
Community development groups
Councils for social agencies, exceptional children, and poverty
Fundraising organizations, except on a contract or fee basis
Health and welfare councils
Health systems agencies
Regional planning organizations, for social services
Social change associations
Social service information exchanges: e.g., alcoholism, drug addiction
United fund councils

Exhibit 14

Site Planning
Civil Engineering
Landscape Architecture
Land Surveying
Transportation Engineering

Environmental Studies
Entitlements
Construction Services
3D Visualization
Laser Scanning

February 22, 2018

Loretta Taylor, Chairperson and Members of the
Town of Cortlandt Planning Board
Town Hall
1 Heady Street
Cortlandt Manor, NY 10567

Re: JMC Project 14088
Proposed Specialty Hospital
2016 Quaker Ridge Road
Town of Cortlandt, New York

Additional Submission Materials and Responses

Dear Chairperson Taylor and Members of the Board:

Attached please find the following materials.

1. Letter from Village of Croton-on-Hudson Fire Department to Mr. Michael Preziosi, PE, dated February 7, 2018, noting recommendations based on reviewing the site plans and conducting a site visit. The Applicant's engineer, Ralph G; Mastromonaco, PE, PC, is in process of addressing the comments contained in the letter.

2. Transportation Management Plan by JMC, dated February 22, 2018, detailing the operation of the transportation related to the Specialty Hospital.

3. OLA Code Analysis, revision dated February 6, 2018, responding to Mr. Preziosi's comment #1 under the section Expanded Environmental Assessment Comments from his review memorandum, dated December 15, 2017, which states "*Furthermore the fire analysis shall remove all reference of a municipal water supply for the sprinkler system.*" The attached Code Analysis responds to this request.

4. "List of Stipulated Conditions for Proposed Specialty Hospital" by JMC, dated February 22, 2018, which the Applicant suggests may be incorporated into the Conditions of a Resolution of Approval.

5. JMC Landscaping Plan, dated February 8, 2018, along with a revised cover sheet/zoning schedule by Ralph G; Mastromonaco, PE, PC.

6. As a correction to our Response No. 1.14 of the letter to Loretta Taylor, Chairperson and Members of the Town of Cortlandt Planning Board, dated January 19, 2018 (albeit the

substance of our memo still applies), Section 188.C of the Town Code does not list Quaker Ridge Road, on which the property fronts, as an historic/scenic road.

7. With regard to an enclosed letter from Karen Jescavage-Bernard to Loretta Taylor, Chairperson and Members of the Town of Cortlandt Planning Board, dated February 7, 2018, concerning a New York Times article "City of Addict Entrepreneurs" dated January 24, 2018, the Applicant is proposing a high-end residential rehabilitation specialty hospital with select clients, having no outpatient or off-site residential component, and is not a sober living home. Moreover, the article primarily discusses the "Florida Model" where treatment and housing are separate businesses operating in separate locations, which is not at all related or relevant to the operation of the proposed Specialty Hospital use.

Response to Site Security Question

In addition, we provide the below responses to an inquiry at the January 30, 2018 Work Session regarding security measures at the proposed hospital.

1. Site security was discussed in the "2nd Addendum to Expanded Environmental Assessment Report", dated July 10, 2017, as noted in the below responses to comments therein. In addition to the security measures discussed below, as noted in the "Expanded Environmental Assessment" report, dated July 20, 2015, prior to admittance, all clients will undergo background checks, and no one with a serious psychiatric or violent history will be accepted for admission.

Comment 10

The applicant mentions security staff. How many will be on the property at any one time and where will they be stationed?

Understanding the security staffing is necessary to understand the impact on the character of the neighborhood given that, to my knowledge, there are no other facilities in the Greater Teatown community that have an extensive security staff. This is not to imply that the patients are a threat to the community - in fact I believe they are NOT a threat to the community. The issue at hand is that the presence of a security staff for any purpose is not in line with the character of a bucolic residential community. Security staffing also requires transport and uniforms - all of which bring commercial traffic to a residential community.

Response 10

HEWC has five (5) security full time equivalent (FTE) positions budgeted for the facility. We agree that the clients are not a threat to the local community. The security staff are responsible for the ongoing safety of clients, staff and other visitors to the HEWC campus. Ensuring the safety and confidentiality of clients is of primary importance. The security staff will monitor for trespassers on the property, assist staff with ensuring the monitoring and safety of any clients that may want to leave the program / property against

staff advice, and any other safety and security related issue that may arise. The security staff will not be armed with weapons of any type. They will communicate with radios for communication purposes. HEWC Security staff will be trained in security monitoring and control procedures / strategies for this type of facility. Security staff will be trained to utilize temporary physical "holds" when required by the specific situation where in the unlikely event that someone may be considered a danger to harm themselves or others, until the situation is resolved.

The security staff will commute to the facility like any other employee, and may be required to use off-site parking and the shuttle van. Uniforms will be commercially laundered and use the same once weekly laundry service pick-up/drop-off (see Response G1).

Comment 22

What arrangements will be made from preventing traffic from coming onto the property?

This comes back to the issue of security. Will there be a gate house with a security guard to prevent non-authorized vehicles from entering the facility? One or more guards manning a gate is clearly out of character with the community. This would clearly be a character changing element - for example a trip to Teatown Lake Reservation to bring a child to summer camp would be a completely different experience if on the way you pass security personnel. And yet if there is no security at the front gate, how does the facility expect to enforce the no-visitor rule or keep staff from driving to work and parking at the facility? Again, these are elements that need to be understood prior to considering a variance.

Response 22

There will be no gate house with a security guard. Rather, a gate at the entry will be controlled by an individual in the administrative office, and by the entering employee shuttle vans and permitted employee vehicles.

Comment 23

The applicant states that the location of patients will be controlled and monitored at all times. How will this be done?

Different facilities use different methods and each has its own impact. For example, some facilities use door alarms that go off if a door is opened without authorization. Others use a companion method - in which personnel go with patients as they move across a facility. Understanding the method is needed to understand the impact. For example if door alarms are used this will create noise pollution. If they use a companion method it has staffing implications and would increase human activity at the facility.

Response 23

"Controlling" patient's movements is not planned to be a practice at HEWC. Limiting patient access to specific locations / buildings on the campus will be identified and included in HEWC Client Rules and new client orientation instructions. HEWC security staff will

monitor patient, family member, staff and visitor movement(s) and access on the campus. Monitoring options related to patient, family member, staff and visitor access / activities / movement may include a closed circuit camera program, radio / cell phone communication, staff will wear identification tags that will establish the ability to determine who is a client and who is staff and/or visitor.

Comment 24

What methods will security staff use for enforcement?

Given a facility with a security force is a very unusual feature in a residential neighborhood, it is important to understand not only the size and posting locations but also the enforcement methods to be used by the security staff. Again, this is not to imply the patients are a risk to the community. This is to understand the extent of the impact having a security force posted in a residential community will have. Given a security force will change the character of the neighborhood we need to understand how dramatically before a decision on a variance can be made.

Response 24

HEWC has five (5) security full time equivalent (FTE) positions budgeted for the facility. The security staff are responsible for the ongoing safety of patients, staff and other visitors to the HEWC campus and will not be armed with weapons of any type. The methods utilized by security staff to ensure the safety and security of clients, staff and visitors will include patrolling the campus on foot and in a vehicle and will communicate with the use of radios, closed circuit surveillance camera system, staff and visitor identification system, etc. HEWC Security staff will be trained in security monitoring and control procedures / strategies for this type of facility. Security staff will be trained to utilize temporary physical "holds" when required by the specific situation where in the unlikely event that someone may be considered a danger to harm themselves or others, until the situation is resolved.

Medical and clinical staff will be trained to utilize verbal, non-violent crisis intervention de-escalation techniques / strategies to address situations on campus in the unlikely event where patients, staff or visitors present as agitated / upset. By policy, the organization will not utilize physical, mechanical or chemical restraint of patients.

Comment E4

Is security staff counted among the 86 employees?

Response E4

Yes, HEWC has five (5) security full time equivalent (FTE) positions budgeted for the facility within its 86 employees.

Thank you.

Sincerely,

JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC

Richard J. Pearson, PE, PTOE
Senior Associate Principal

Robert B. Peake, AICP
Project Manager

cc: David Douglas, Chairman and Members of the
Town of Cortlandt Zoning Board of Appeals
Mr. Steve Laker
Robert Davis, Esq.
Mr. Ralph Mastromonaco, PE
Robert Schonfeld, Esq.
Randolph McLaughlin, Esq.

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CONSULTING ENGINEERS

Principals
Patrick F. Lynch, P.E.
Steven Abbattista, P.E.
James F. Dolan, P.E.
John Torre, P.E.
Jill Walsh, P.E.

July 2, 2016
Revised August 25, 2015
Revised February 6, 2018

Steven C. Laker
Vice President
Hudson Education and Wellness Center
72 North State Road, #502
Briarcliff Manor, NY 10512

RE: Sprinkler Requirements for Hudson Education and Wellness Center
2016 Quaker Ridge Road, Cortlant Manor, NY
NHRW0001.00

Dear Mr. Laker:

As per your request, we have prepared a preliminary code analysis for the proposed Hudson Education and Wellness Center on Quaker Ridge Road, Cortlandt Manor, NY. Our analysis is based on the architectural analysis as prepared by Architectural Visions dated August 18, 2015. It is our understanding that the architectural analysis was based on the 2010 Edition of the Building Code of the State of New York and the 2010 Edition of the Existing Building Code of the State of New York.

For each building, we have provided the sprinkler and fire alarm requirements on the attached chart.

Upon your review of the attached chart, please let us know if you would like for us to meet with your office and/or the Fire Marshall or Town Officials.

Should you have any questions or require any further information, please do not hesitate to contact our office.

Sincerely,

Jill Walsh, P.E., LEED AP
Principal

JW/gg

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50 Broadway
Hawthorne
New York
10532
914.747.2800
olace.com

Hudson Education and Wellness Center
2016 Quaker Ridge Road
Cortlant Manor, NY

Building	Building #1
Architectural Visions Analysis	This is a large stone building circa 1920. The proposed use will be for a hospital which will include 92 beds +/-, dining room and kitchen, and recreation room.
Architectural Visions Code Review	The classification of this building shall be Institutional Group I -2 occupancy.
OLA Sprinkler Code Review	Per BCNYS Section 903.2.5: An automatic sprinkler system shall be provided throughout the building with a Group I fire area.
OLA Sprinkler Conclusion	Sprinklers are required in this occupancy.
OLA Fire Alarm Review	Per BCNYS: Section 907.2.6: A manual fire alarm system shall be installed in Group I occpuancies. Section 907.2.6.2 Group I-2: Corridors in nursing homes, detoxification facilities and spaces permitted to be open to the corridors by Section 407.2 of the Building Code shall be equipped with an automatic fire detection system.
OLA Fire Alarm Conclusion	Manual fire alarm system required. Automatic smoke detection is required in corridors and spaces open to corridors.

Hudson Education and Wellness Center
2016 Quaker Ridge Road
Cortlant Manor, NY

Building	Building #2
Architectural Visions Analysis	This is a two story frame building. It will be used for Conferences and Offices.
Architectural Visions Code Review	Section 405 of the Existing Building Code: Level 3 - The alterations to this building meet the criteria of Level 3 which includes but is not limited to 405.1 Scope: Level 3 alterations apply where the work area exceeds 50 percent of the aggregate area of the building. 405.2 Application: Level 3 alterations shall comply with the provisions of Chapters 6 & 7 for Level 1 and 2 alterations, respectively, as well as the provisions of Chapter 8. The classification of this building, based on the 2010 Building Code of the State of New York is Section 304-Business Group B.
OLA Sprinkler Code Review	Per EBCNYS for Level 3 alterations: Section 804.1 Automatic Sprinkler Systems: Automatic sprinkler systems shall be provided in all work areas when required by Section 704.2 Section 704.2: In buildings with occupancies in Groups A, E, F-1, H, I, M, R-1, R-2, R-4, S-1 and S-2, work areas that include exits or corridors shared by more than one tenant or that serve an occupant load greater than 30 shall be provided with automatic sprinkler protection where all of the following conditions occur: *Exception: Work areas in Group R-1, R-2, and R-4 occupancies three stories or less in height.*
OLA Sprinkler Conclusion	Sprinklers are not required for Business Occupancy per EBCNYS.
OLA Fire Alarm Review	Section 804.2 Fire Alarm and detection systems: Fire alarm and detection system complying with section 704.4.1 and 704.4.3 shall be provided throughout the building in accordance with the BCNYS Section 704.4.1. A fire alarm system shall be installed in accordance with 704.4.1.1-704.4.1.7. Sections 704.4.1.1 through 704.4.1.7 are occupancy classifications E, I-1, I-2, I-3, R-1, R-2, R-4 respectively.
OLA Fire Alarm Conclusion	Fire alarm system not required.

Hudson Education and Wellness Center
2016 Quaker Ridge Road
Cortlant Manor, NY

Building	Building #3
Architectural Visions Analysis	This is a two story masonry & frame building. This building will be used as a garage with storage above.
Architectural Visions Code Review	Section 403 of the Existing Building Code: Level 1 - The alterations to this building meet the criteria of Level 1 which includes but is not limited to. 403.1 Scope: Level 1 alterations include the removal and replacement or the covering of existing materials, elements, equipment, or fixtures using new materials, elements, equipment, or fixtures that serve the same purpose. 403.2 Application: Level 1 alteration's shall comply with the provisions of Chapter 6. The classification of this building based on the 2010 Building Code of New York State is Section 312 - Utility and Miscellaneous U (Private Garages).
OLA Sprinkler Code Review	Per EBCNYS for Level 1 alterations: Section 603.1 Alterations shall be done in a manner that maintains the level of fire protection provided.
OLA Sprinkler Conclusion	Sprinkler system not required.
OLA Fire Alarm Review	Per EBCNYS for Level 1 alterations: Section 603.1 Alterations shall be done in a manner that maintains the level of fire protection provided.
OLA Fire Alarm Conclusion	Fire alarm system not required.

Hudson Education and Wellness Center
2016 Quaker Ridge Road
Cortlant Manor, NY

Building	Building #4
Architectural Visions Analysis	This is a two story frame building. This building will be used for Patient Quarters and ancillary Administrative Offices.
Architectural Visions Code Review	Section 405 of the Existing Building Code: Level 3 - The alterations to this building meet the criteria of Level 3 which includes but is not limited to 405.1 Scope: Level 3 alterations apply where the work area exceeds 50 percent of the aggregate area of the building. 405.2 Application: Level 3 alterations shall comply with the provisions of Chapters 6 & 7 for Level 1 and 2 alterations, respectively, as well as the provisions of Chapter 8. The classification of this building, based on the 2010 Building Code of the State of New York is Section 308.2- Institutional Group I - 1. If occupancy is less than 16 persons the Code Section is 310.1 . Residential Group R-4.
OLA Sprinkler Code Review	Per EBCNYS for Level 3 alterations: Section 804.1 Automatic Sprinkler Systems: Automatic sprinkler systems shall be provided in all work areas when required by Section 704.2 Section 704.2: In buildings with occupancies in Groups A, E, F-1, H, I, M, R-1, R-2, R-4, S-1 and S-2, work areas that include exits or corridors shared by more than one tenant or that serve an occupant load greater than 30 shall be provided with automatic sprinkler protection where all of the following conditions occur: Exception: Work areas in Group R-1, R-2, and R-4 occupancies three stories or less in height. Building 4 would not require a sprinkler system due to the number of occupants less than 30 and/or the structure being less than three stories (depending on classification of the building).
OLA Sprinkler Conclusion	Building 4 (if classified as an R-4) would not require a sprinkler system because it meets both the exception for structures three stories or less in height as well as having an occupant load less than 30 persons. Buiilding 4 (if classified as an I-1) would not require a sprinkler system because the expected occupant load is less than 30 people.
OLA Fire Alarm Review	Building 4 will require a fire alarm system for either I-1 or R-4 occupancies.
OLA Fire Alarm Conclusion	Building 4 will require a fire alarm system for either I-1 or R-4 occupancies.

Hudson Education and Wellness Center
2016 Quaker Ridge Road
Cortlant Manor, NY

Building	Building #5
Architectural Visions Analysis	This is a two story brick building with a one story section to the east side of the two story section. This building will be used for Patient Quarters and ancillary Administrative Offices.
Architectural Visions Code Review	Section 405 of the Existing Building Code: Level 3 - The alterations to this building meet the criteria of Level 3 which includes but is not limited to 405.1 Scope: Level 3 alterations apply where the work area exceeds 50 percent of the aggregate area of the building. 405.2 Application: Level 3 alterations shall comply with the provisions of Chapters 6 & 7 for Level 1 and 2 alterations, respectively, as well as the provisions of Chapter 8. The classification of this building, based on the 2010 Building Code of the State of New York is Section 308.2- Institutional Group I - 1. If occupancy is less than 16 persons the Code Section is 310.1. Residential Group R-4.
OLA Sprinkler Code Review	Similar to Building 4, Building 5 would not require a sprinkler system due to the number of occupants less than 30 and/or the structure being less than three stories (depending on classification of the building).
OLA Sprinkler Conclusion	Similar to Building 4, Building 5 would not require a sprinkler system.
OLA Fire Alarm Review	Building 5 will require a fire alarm system for either I-1 or R-4 occupancies.
OLA Fire Alarm Conclusion	Building 5 will require a fire alarm system for either I-1 or R-4 occupancies.

Hudson Education and Wellness Center
2016 Quaker Ridge Road
Cortlant Manor, NY

Building	Building #6
Architectural Visions Analysis	This is a two story frame building with a stucco finish on the exterior
Architectural Visions Code Review	Section 403 of the Existing Building Code: Level 1 - The alterations to this building meet the criteria of Level 1 which includes but is not limited to. 403.1 Scope: Level 1 alterations include the removal and replacement or the covering of existing materials, elements, equipment, or fixtures using new materials, elements, equipment, or fixtures that serve the same purpose. 403.2 Application: Level 1 alteration's shall comply with the provisions of Chapter 6. The classification of this building, based on the 2010 Building Code of the State of New York is Section 310.1- Residential Group R.
OLA Sprinkler Code Review	Per EBCNYS for Level 1 alterations: Section 603.1 Alterations shall be done in a manner that maintains the level of fire protection provided
OLA Sprinkler Conclusion	Sprinklers are not required for Business Occupancy per EBCNYS.
OLA Fire Alarm Review	Per EBCNYS for Level 1 alterations: Section 603.1 Alterations shall be done in a manner that maintains the level of fire protection provided
OLA Fire Alarm Conclusion	Fire alarm system not required.

Hudson Education and Wellness Center
2016 Quaker Ridge Road
Cortlant Manor, NY

Building	Building #7
Architectural Visions Analysis	This is a two story brick and stucco building. This building will be used for Patient Quarters and ancillary Administrative Offices.
Architectural Visions Code Review	Section 405 of the Existing Building Code: Level 3 - The alterations to this building meet the criteria of Level 3 which includes but is not limited to 405.1 Scope: Level 3 alterations apply where the work area exceeds 50 percent of the aggregate area of the building. 405.2 Application: Level 3 alterations shall comply with the provisions of Chapters 6 & 7 for Level 1 and 2 alterations, respectively, as well as the provisions of Chapter 8. The classification of this building, based on the 2010 Building Code of the State of New York is Section 308.1 - Institutional Group I - 1. If occupancy is less than 16 persons the Code Section is 310.1. Residential Group R.
OLA Sprinkler Code Review	Similar to Building 4, Building 7 would not require a sprinkler system due to the number of occupants less than 30 and/or the structure being less than three stories (depending on classification of the building).
OLA Sprinkler Conclusion	Similar to Building 4, Building 7 would not require a sprinkler system.
OLA Fire Alarm Review	Building 7 will require a fire alarm system for either I-1 or R-4 occupancies.
OLA Fire Alarm Conclusion	Building 7 will require a fire alarm system for either I-1 or R-4 occupancies.