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January 28, 2013

Via Federal Express – A.M. Delivery

VILLAGE CLERK
JAN 29 2013
RECEIVED

Hon. Kenneth G. Wray, Mayor
and Members of the Board of Trustees
Village of Sleepy Hollow
28 Beekman Avenue
Sleepy Hollow, New York 10591

Re: Open Door Family Medical Center
300 North Broadway, Sleepy Hollow, New York
Request Regarding Parking Permits, Crossing Guard and Shuttle Drop Off

Dear Mayor Wray and Members of the Board of Trustees:

This firm and Lyons McGovern LLP are co-counsel to Open Door Family Medical Center ("Open Door") in connection with Open Door's pending applications for the zoning approvals necessary to authorize relocation of its medical office to the building it owns at 300 North Broadway, at the intersection of North Broadway and New Broadway, in the Village of Sleepy Hollow (the "Property"). Currently pending are applications to the Village of Sleepy Hollow Planning Board (the "Planning Board") for site plan approval to authorize the proposed use – one that is permitted in the applicable C-1 zoning district – and to the Village of Sleepy Hollow Zoning Board of Appeals (the "ZBA") for area variances, the most central of which would relax the applicable parking requirements in the Village Code. A copy of the site plan for the Property (Sheet SP-1) is attached hereto as Exhibit 1. We are writing to request that your Board take the following actions to address issues raised during the ongoing review process: (1) consider whether your Board will allow the shuttle bus, which will be operated by Open Door for its employees, staff and medical residents, to drop off and pick up such passengers at the Beekman Avenue Parking Lot; (2) authorize the issuance of permits to Open Door for up to 33 parking spaces in the Village's Beekman Avenue and/or Elm Street parking lots;[1] and (3) hire a crossing guard to be stationed at the crosswalk that traverses North Broadway in proximity to the Property, whose compensation would be fully funded by Open Door. Please note that it is Open Door's

[1] Should the Board be willing to authorize Open Door to use municipal parking spaces on a fee basis but prefer a method other than the permit system, Open Door would be open to discussing a different structure, such as a license agreement.

view, for reasons which should become apparent in this letter, that none of the measures specified above is necessary to allow the proposed operations at the Property to proceed without significant impacts as to on-street parking, pedestrian safety, or vehicular traffic safety, but Open Door is nonetheless seeking your Board's cooperation to alleviate concerns raised by the public, the Planning Board and the ZBA.

Background

As you likely know, Open Door is a nationally recognized, award-winning, not-for-profit, federally-qualified health center which receives grant funding from the federal government to operate medical and dental practices in communities where private practice physicians cannot or will not serve. Its patients are predominantly uninsured or covered by government-subsidized insurance. Open Door has operated a medical office on Beekman Avenue in the Village since 1986, the current site of which is 80 Beekman Avenue (the "Beekman Avenue Facility"). It is the *only* provider in the Village and surrounding communities to offer a sliding fee scale for low-income patients.[2]

On the Property, Open Door will continue its existing activities on an enlarged scale and will supplement them with a new program. It is joining forces with Phelps Memorial Hospital ("Phelps") and New York Medical College to create a new residency training program for family practice physicians. This program is designed to recruit and retain the services of top young physicians in the country at Phelps and within, and for the benefit of, the community. The proposed medical office has both Federal and State support.

As soon as later this year, the Beekman Avenue Facility will not be suitable for Open Door's practice, which will include the joint family residency program. Although nominally 10,000 square feet in area, the Beekman Avenue Facility (the old "Strand Theatre") has an unimproved second floor that was unusable for the medical practice. The second story is not accessible by an elevator; it was not structurally sound for, or economically adaptable to, Open Door's use when Open Door purchased the Property. In fact, the body which accredits residency programs, the American Council on Graduate Medical Education ("ACGME"), found the Beekman Avenue facility to be inadequate.

While the Beekman Avenue Facility includes no off-street parking, it has functioned well without generating significant traffic or parking problems. Presumably, this is largely attributable to the fact that a significant majority of the patients and visitors to the Beekman Avenue Facility – approximately 70 percent – walk to it, while only a limited percentage drive. Surveys conducted by Open Door's traffic consultant, Adler Consulting, and submitted to the Planning Board and ZBA demonstrated this to be the case.

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[2] In addition to medical care, the Beekman Avenue Facility operates a WIC program providing nutritional counseling and financial support for food to pregnant women and children up to five years of age.

The number of parking spaces required by the Village's Zoning Ordinance in the C-1 zone under the parking formula for a conventional medical office is greater than can be accommodated in connection with the proposed use of the existing building on the Property. Specifically, the Property can accommodate seven full-size spaces or a combination of ten full-size, compact and transient spaces, where 40 are required. In order to mitigate any possible impacts on the availability of on-street parking, Open Door's program will require all employees, staff, and medical residents to park at Phelps as a condition of their employment. Open Door has entered into an Agreement with Phelps to permit this system to operate for as long as Open Door operates its medical office on the Property. A copy of the Agreement is submitted herewith as Exhibit 2. In turn, Phelps has an overabundance of capacity in its existing parking facilities and can easily accommodate the additional cars. Employees, staff, and medical residents will be transported to and from the Property by shuttle bus. Moreover, as shown by the analysis in the letters of Lyons McGovern, LLP, dated July 10, 2012, and Adler Consulting, dated July 9, 2012, copies of which are attached to this letter as Exhibits 3 and 4, ample on-street parking exists to handle the rare instances in which the capacity of the parking lot on the Property would be insufficient to handle the entire peak patient load. In fact, in its study dated June 28, 2012 (the "June Adler Study"), copies of the Table of Contents, Executive Summary, and pages 48 and 50 (i.e., Tables 5 and 6) of which are attached to this letter as Exhibit 5, Open Door's traffic expert concluded:

> Based on the analysis of the on-street parking, there would be sufficient number of spaces available to accommodate the anticipated needs of the Open Door facility for patients. Analyses also indicate that there would be sufficient parking spaces available at the Phelps Memorial Hospital garage for use by the Open Door staff. Therefore, it is [the] considered professional opinion of Adler Consulting that there are sufficient parking spaces available to accommodate the anticipated needs of the Open Door Clinic. Further, a safe pedestrian crossing of North Broadway is provided directly opposite the new facility. (June Adler Study, Executive Summary, page 5)[3]

Even when there is insufficient parking on the Property at certain limited peak appointment times the shortfall is projected not to exceed 5 spaces.

Possible Usage of the Beekman Avenue Lot as a Shuttle Stop

Concern has been expressed during the approval process that when the shuttle drives from Phelps to the Property it will be traveling in a southerly direction on Route 9 and would, consequently, need to make a left turn into the Property, potentially during peak traffic times. One alternative being

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[3] A full and complete copy of the June Adler Study was previously submitted to the ZBA and is available on the Village's website. It is Exhibit 3 to our firm's September 14, 2012 submission to the ZBA.

explored by Open Door is for the shuttle to drop off and pick up employees, staff and medical residents at the Beekman Avenue Parking Lot. The shuttle could then return to Phelps by utilizing a route that avoids left turns at intersections that are not controlled by traffic signals. The routing of the shuttle service has not yet been finalized, but this request to your Board is simply designed to allow Open Door, the ZBA and Planning Board to assess the viability of the usage of the Beekman Avenue Parking Lot in such a limited fashion.

Utilization of Parking Spaces in Village Parking Lots

During the ZBA's ongoing review of Open Door's application questions have arisen as to whether utilization of Village-owned parking lots in the area of the Property could serve as an alternative and/or supplement to employing parking at Phelps. Open Door is willing to purchase parking permits or otherwise enter into an agreement with the Village for the use of parking spaces in such lots by its staff, employees, and medical residents, if the Planning Board and ZBA deem such a measure to be a preferred means to address perceived issues as to on-street parking. For a short period, Open Door had been able to purchase parking permits for some of its staff and is willing to do so again, or enter into an agreement for the spaces if your Board were to approve their use by Open Door's staff, employees and medical residents at prevailing rates. To implement such an approach, Open Door would seek to obtain the right to use up to 33 spaces in the Beekman Avenue and/or Elm Street parking lots, which it would provide to its staff, employees and medical residents during office hours.[4]

The reason Open Door did not propose in the first instance to secure the right to use municipal spaces to satisfy some of its parking demand is that the Village declined to renew its permits last year. It was advised by Village representatives that the Elm Street Lot was required to fulfill the needs of contractors involved in the clean-up at the Duracell Battery Site and residents displaced by those activities and, in any event, the Village had established a policy of requiring Village Board authorization for parking permits for uses such as Open Door's medical office. It is our understanding that, at present, unused spaces exist in the municipal lots. For example, an Adler Consulting survey of parking space availability in the vicinity of the Property showed that the Beekman Avenue Parking Lot is currently underused during the hours that Open Door operates and, in fact, that there is sufficient parking in that Lot to support several parking permits. (June Adler Study, pages 48 and 50). I am also informed by Open Door's staff and administration that parking spaces were always available in the Elm Street Lot during the period when Open Door's parking permits were in effect. It appears that the demand for parking in that Lot may have increased during the clean-up. Any increased demand

[4]It is anticipated that the medical clinic will be open Monday through Friday (from 8:30 a.m. to 7:00 p.m. Monday through Thursday, and 8:00 a.m. to 5:00 p.m. on Friday) and likely for a portion of the day on Saturday (8:30 a.m. to 2:30 p.m.).

should be a temporary condition and an adequate number of spaces once again should become available in the Elm Street Lot once the clean-up is concluded.

In light of this apparent capacity for additional cars in the Beekman Avenue and Elm Street Parking Lots, it is requested that the Board advise Open Door whether it would consider granting it the right to use up to 33 spaces for the use of Open Door's staff, employees, and residents at prevailing rates or fees.[5]

Request for Approval of a Crossing Guard

Studies of the area's sidewalks and other pedestrian facilities and equipment (including physical condition and crossing signal duration) established that the pedestrian traffic projected to be generated by the proposed medical office would present no capacity or safety issues. *See* Exhibits 3, 4 and 5 and the letter of Adler Consulting, dated December 11, 2012, a copy of which is Exhibit 6 to this letter. They included a detailed inventory of all pedestrian facilities and equipment in the area of the Property and generated numerical counts of actual usage of such facilities, demonstrating that the facilities are physically adequate and that the time allowed for pedestrians to cross the salient streets is sufficient. In absolute terms, the number of pedestrians projected to be traveling to and from the Property, when quantified over the course of the day, is insufficient to cause any legitimate safety or public welfare concern. On an hourly basis, the number of pedestrians projected to be generated by Open Door on weekdays is as follows: (1) between 8:00 a.m. and noon, 13 per hour; (2) between noon and 4:00 p.m., 19 per hour; and (3) between 4:00 p.m. and 7:00 p.m., 12 per hour. In addition, at the pedestrian crosswalk to be used by Open Door patients, there is a 22-second signal phase during each traffic signal cycle wherein the pedestrians can cross North Broadway both east- and westbound between the Property and Mickey's Automotive. This time frame allows for even the slowest of pedestrians to cross the 40-foot distance between the two curbs. (National standards assume a pedestrian walking speed of 3.5 feet per second.) Moreover, during this phase, all northbound and southbound traffic on North Broadway is stopped at STOP lines by a red traffic signal. The only conflicting vehicle/pedestrian movement is from the right-turning New Broadway motorist which amounts to a maximum of five (5) vehicles during the PM Peak Highway Hour. (There are lower volumes of right-turning vehicles during the AM Peak Highway Hour.) In addition, visibility from both sides of the crosswalk is excellent. Still further, the accident reports for the studied intersections over a five-year period (January 1, 2007 - December 31, 2011) included no accidents involving pedestrians, even though hundreds of pedestrians pass through them at the peak traffic hours. (Exhibits 2, 3, 4 and 5) Of particular note with respect to Open Door's request for a crossing guard is that, based on its exhaustive analysis, Adler Consulting, in its letter of December 12, 2012, stated its professional

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5 Open Door is prepared to commit to purchasing the right to use up to 33 spaces, but is also willing to accept any number of spaces your Board is willing and able to approve now or over the course of the next few years until the clean-up is concluded and the demand for the Elm Street Lot spaces returns to its pre-clean-up condition.

opinion to be: "pedestrians walking to and from the Open Door Family Medical Center will be able to use the crosswalk to safely cross North Broadway at the corner with New Broadway during the signalized pedestrian phase." (Exhibit 6)

Notwithstanding that pedestrian traffic associated with the proposed use, including that crossing North Broadway, will be accommodated safely by existing infrastructure, Open Door has proposed to reimburse the Village for the employment of a crossing guard to assist pedestrians crossing North Broadway between the Mickey's Automotive site and the Property. The ZBA has asked whether Open Door has consulted with your Board about whether it would view such a measure favorably. This letter is intended, among other things, to solicit your Board's view in order to advise the ZBA.[6]

Conclusion

We respectfully request that your Board schedule for consideration the requests made by and issues posed in this letter on the agenda of the next available meeting of your Board. If you have any questions in the interim, please contact us. Thank you for your courtesy.

Respectfully submitted,

Hocherman Tortorella & Wekstein, LLP

By: Geraldine N. Tortorella

GNT:mc
Enclosures
cc: *Via Electronic Mail (with enclosures)*
Village Manager
Janet Gandolfo, Esq., Village Attorney
Sean McCarthy, Village Architect
Mr. Keith Safian, CEO, Phelps Memorial Hospital
Ms. Lindsay Farrell, President and CEO
Ms. Anita Wilenkin, COO
Gary Gianfrancesco, AIA, AICP, LEED AP

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6 The Village Architect has asked for a Resolution from the Village Board approving the hiring of a crossing guard. We believe such a request is premature, but note that the ZBA would be interested in the Village Board's willingness to facilitate this measure.

Bernie Adler, P.E.
Michael P. O'Rourke, P.E.
Kyle McGovern, Esq.

cc: *Via Electronic Mail (without enclosures)*
Hon. Peter Koffler, Chairman
and Members of the Zoning Board of Appeals
Hon. Glenn Rosenbloom, Acting Chairman
And Members of the Planning Board

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