

**Minutes**

Special Meeting of the Planning Board  
Village/Town of Mount Kisco  
Tuesday March 1, 2005

Meeting called to order at 8:00p.m. At the Municipal Building Mount Kisco, New York

**Members Present:**

**Joseph Cosentino  
Anthony Sturniolo  
Stanley Bernstein  
Ralph Vigliotti  
Doug Hertz  
Joseph Morreale**

**Members Absent:**

**Staff Present:**

**Michelle Robbins  
Whitney Singleton  
Michael Stein**

Chairman Cosentino began the meeting with the Pledge of Allegiance.

Chairman Cosentino: This is a Special Planning Board Meeting Tuesday March 1, 2005.

**1. Site Plan Compliance**

**a. Mount Kisco Commons – 195 North Bedford Road**

**Dan Hollis counsel for the applicant, David Sessions from Kellard Engineering, John Slaker from John Slaker Design Group, John Collins from John Collins Engineers, Al Rossi and Jodi Guterra from RD Management**

Chairman Cosentino: This is the Mount Kisco Planning Board and it is Tuesday March 1<sup>st</sup>. This is a special meeting on site plan compliance for Mount Kisco Commons 195 North Bedford Road. What we have here is a resolution for modification. We are going to go through this.

Dan Hollis: Before you do that Mr. Chairman I would like to say one thing. I just wanted to thank the board for scheduling this special meeting. I know this has been a long and arduous endeavor on everyone’s behalf. I came into this late in the game. We are deeply appreciative for you taking an extra night out of your lives to come here and do this. We are appreciative of the efforts of staff, Mr. Singleton, Michael Stein, Richard Stein, AKRF, Michelle Robbins, Nanette Bourne, for helping us to work through the issues that we had, that we had to resolve.

Chairman Cosentino: Thank you. Why don’t we go through this resolution? We will start with the top. We have some dates to put in. I guess we will do them after because we actually do not know what is going to happen. Whitney do you want to start with the first whereas?

Whitney Singleton: Sure.

Dan Hollis: I worked off of an earlier version, but in a meeting with Mr. Singleton I was able to take some of the comments specifically Mr. Sturniolo had last time. I also spoke with Ms. Bourne as well.

Whitney Singleton: What we are here to do is entertain the application for modification to the existing approved site plan. The site plan itself there was some deviations from what was being the originally approved plan. Whether they were due to field conditions or for whatever reason they were deviations. The applicant really is not in a position to correct those; given the fact that certain buildings have been erected based upon the

elevations that are out there now. So what the applicant has done is submitted an amended site plan application. That was recently submitted and the fees were paid. They have also submitted an application for not this particular applicant, but the engineers and/ or construction people for Target have submitted an application for a Certificate of Occupancy. It must be a temporary certificate of occupancy since there are still outstanding site plan issues. Even if you adopt this there is still further work that needs to be done on site. Pursuant to the village code any application for a TCO needs to be referred to your board to assess the degree of progress and make a recommendation to the building inspector to act or not act. Act favorably or unfavorably on a particular application. If your board entertains this application for amended site plan there will be a handful of outstanding items that have to be completed within the TCO period of 90 days. It is subject to two potentially 45 days' extensions. Again they will come back to your board if they seek a further extension. Your board has put conditions in this resolution of approval that will make sure that the outstanding items are completed within that period of time. If the applicant fails to complete those outstanding items within the 90 days or subsequently extended period of time the certificate of occupancy becomes null and void.

Chairman Cosentino: I was on vacation and Vice Chairman Sturniolo did a lot of hard work and put a lot of hard work into this. I am going to hand this over to the Vice Chair to run this. Because even though he kept in contact with I and he gave me correspondence he will know more about this than I will. He has spoken to individuals that I did not have privy of speaking to. So Tony at this point I am going to hand this over to you and I thank you in my absence of doing a wonderful job on this.

Anthony Sturniolo: I just need to bring us back to what happened on February 8<sup>th</sup> when we were last together. On February 8<sup>th</sup> this document again called a revised draft of planning board resolution of approval for modification to the approved site plan and the recommendation to authorize the building inspector etc. I need to establish for the record at the beginning six simple questions. At the February 8<sup>th</sup> meeting when no vote was taken at that meeting was there a certification for a backflow prevention device?

Dan Hollis: That had been approved? No.

Anthony Sturniolo: At that point was there a sign on the back of Target's door for employee's entrances. An Entrance with a buzzer and a signal device on February 8<sup>th</sup>?

Dan Hollis: No. Not on February 8<sup>th</sup>.

Al Rossi: No buzzer on February 8<sup>th</sup>.

Anthony Sturniolo: Again on February 8<sup>th</sup> was there an application for a modification to the approved site plan?

David Sessions: On February 8<sup>th</sup> no.

Anthony Sturniolo: Was the \$300.00 fee paid for that application that was not there? Was the water and sewer connection fee of approximately \$75,000 paid at the February 8<sup>th</sup> meeting?

Dan Hollis: That might have been paid by then. It was paid on or about then, but I am not sure of that answer. I won't say for sure one way or the other.

Whitney Singleton: It was paid the following week.

Anthony Sturniolo: So it wasn't paid as of February 8<sup>th</sup>.

Dan Hollis: I will accept Mr. Singleton's statement as being correct.

Anthony Sturniolo: These three sheets of paper which are the all inclusive modifications to the approved site plan that we are looking at and working off tonight. Were these available to the Planning Board at February 8<sup>th</sup>?

John Collins: Except for the two items that were required it was available on the 8<sup>th</sup>. Those two items were indicated with my arrows the employee parking across the back.

Anthony Sturniolo: But not in a hard formalized copy like this.

Dan Hollis: The drawing was available but these two you wanted some additions to it. So the additions were not there at that time.

John Slaker: There were no changes to the subsequent to the meeting. There was this modified landscape plan in the previous package. In order to make everything comply we re-dated it so everything is the same date.

Anthony Sturniolo: The board took no action on February 8<sup>th</sup> basically because we are missing about six or seven major items. The applicant requested that the Planning Board convene a special meeting. This is the special meeting tonight to accommodate RD Management to accommodate the applicant and their chosen date. That really has no impact of consequence on the Planning Board but the chosen date of March 6<sup>th</sup> for Target to open. We're here to accommodate that date right now. We were not in the position to make any decision on February 8<sup>th</sup> because the applicant lacked most of the items that we just discussed. Having said that and with a positive eye let's move forward to where we are tonight to review this document and several others. The reason why I said what I did was I just wanted crystal clear in everybody's mind that this planning board was more than willing to work with the applicant. We encouraged the applicant to come to several meetings in December to go over this stuff. When we finally met on February 8<sup>th</sup> there was a deficiency on the part of the applicant. That is why we are here tonight.

David shall we start with your presentation. What we now see in front of us and what was missing.

David Sessions: As far as the John Collins plan I believe John correct me if I am wrong the only variation from the previous plan on the current plan are the two signs indicating where the employee entrance is. Other than that this had been submitted previously.

John Collins: As well as the arrow has been extended across the back as requested with respect to the employee parking. The textual information refers to the discretion of the village manager in consultation with the Chief of Police for direction of the uniformed officers on the periphery.

Anthony Sturniolo: That whole paragraph is summarized in great detail which is the agreement between the village and Rd Management that, Dan, you have a copy of.

Dan Hollis: Yes a copy and signed.

John Collins: At the time that was prepared I didn't have the date of the document.

Anthony Sturniolo: In the back there was the grasscrete never proved to fulfill its expectations and dreams. Temporary crushed gravel was placed in the back. Then more was added because we noticed the deficiency in northeastern corner of it. That is going to be replaced at an appropriate time with gravel pave. We used the analogy of the people behind us (referring to the building across the street from Village Hall with some kind of porous surface. It will not be blacktop. So the question of the storm sceptor at the far end of the property is a moot point. The police agreement also explains that although this is a generalization of where the off duty police are in John's drawing it could be two here one there or whatever. Or Preston Way whatever the discretion. The note addresses the agreement. The next plan is the planting.

John Slaker: Basically what we did, is due to the fact that when the retaining wall gets relocated and one large maple will have to be removed. What we tried to do was compensate for that loss by planting five additional shade trees along Rt. 117 in areas where I thought for the future of the village would be an appropriate place. Some of the existing trees that are in the state right of way are in very poor condition. As a matter of fact one on our property that was planted by the DOT is basically split in half. So we thought by planting the five Linden trees over there, it supplements the loss of the maple in the back. Then in addition I know your board was concerned about some of the views looking down on the rooftop of the satellite store so to try and fill in and supplement some of that open space. There are some big trees there. So you were limited on what we could do. We planted a number of arborvitae to plant in among the existing trees. It is one of the evergreens that have the best chance of survival in the shady conditions and not get overwhelmingly big. It is maintainable and won't spread out onto the sidewalk.

Chairman Cosentino: How many arborvitae are there?

David Sessions: There are 12.

Chairman Cosentino: So 5 Linden and five arborvitae.

Doug Hertz: It 6 Linden on the plan and I see 6 on the plan.

John Slaker: That is correct.

John Slaker: Again since the last meeting all we did was re-date that same plan. So everything is dated the same date for your records.

Anthony Sturniolo: This is the proposed modification to the already approved site plan.

David Sessions: What we had done probably more than a month ago. Is we had submitted several plans. One plan was for the modification of the retaining wall in this area. Another plan was for the modification to the grass pave area. There was a third plan that talked about the crosswalk detail in front of Target. We had submitted those plans to be on the addenda for the February 8<sup>th</sup> meeting. Subsequent to the February 8<sup>th</sup> meeting you had suggested that we put all of that information onto one plan. Actually highlight all of the changes whether they were changes from the approved site plan that had already been built or proposed changes.

Anthony Sturniolo: This will be the plan of record.

David Sessions: What we have done we outlined all of the areas that changed and identified them as built changes. In other words changes that had already been done during the construction process. Also proposed changes. For example: We are now proposing to kick that retaining wall back. Those are all highlighted here. We have also included the retaining wall detail prepared by Paul Beck. The gravel paved detail. The proposed decorative fence along Rt. 117 and again the proposed modification to the retaining wall in this area.

Anthony Sturniolo: I may be jumping ahead, but as to the decorative fence along Rt. 117, we are also waiting for an engineering certification letter concerning that fence that is on top of the wall for the most portions.

Dan Hollis: I spoke to Mr. Singleton about that. I think the language we used is a little different than in the certification.

Whitney Singleton: It's proposed in here, that when we get to it, that a letter of suitable form from the village engineers and the village attorney shall be submitted by the applicant's engineer verifying that the fencing proposed on the northeast portion of the property will adequately mitigate. We don't have the exact language on that yet.

Anthony Sturniolo: That is addressing the question?

Whitney Singleton: Yes.

Doug Hertz: Didn't we also refer the fence to the ARB? In a general way?

David Sessions: That was submitted to the ARB the same day that these plans were submitted to the Planning Board.

Doug Hertz: Are you before them tonight?

Dan Hollis: I know they are in the other room but I think they are on the next meeting. The architect is handling that.

Jodi Guterra: The meeting that we were supposed to go was canceled because they didn't have a quorum.

Anthony Sturniolo: So his agenda is not addressing it?

Jodi Guterra: Exactly.

Dan Hollis: It was for an impression, not an approval.

Doug Hertz: I understand.

Anthony Sturniolo: We also discussed, in the back the pushing of snow into the wetland buffer. The damage to the fence I believe has been corrected.

Jodi Guterra: Yes it was repaired two weeks ago.

Anthony Sturniolo: The snow today this afternoon that was being moved from the back employee parking area. This goes from there to the gravel rock. Where is that snow going?

Jodi Guterra: There is that portions on the plan that where we were has the storage area. That is where they are putting the snow.

Anthony Sturniolo: David that is where?

David Sessions: Along the front southern parking spaces along Preston Way.

Jodi Guterra: We have been in constant communication with the snow plow contractor to make sure that it is being done.

Whitney Singleton: That plan in front of you is last revised 2/11/05 correct?

Anthony Sturniolo: Yes.

David Sessions: It is only a revised date not an actual date?

Anthony Sturniolo: Correct.

Doug Hertz: I have no specific questions on this. We have gone through each of these as they came in individually. I don't see any changes from what we looked at when they came in piece meal.

Anthony Sturniolo: At this point Mr. Chairman we can go through the revised draft planning board resolution of approval for modification to the approved site plan and recommendation to authorize the building inspector to issue a TCO. At the same time, Whitney, some guidance as to how we should address the applicant's formal site plan application that is this proposed modification.

Whitney Singleton: How should we address it?

Anthony Sturniolo: Can we discuss it as we are going through the resolution?

Whitney Singleton: As I pointed to Dan earlier. The application itself is obviously a requirement. Some substance of it has been discussed in a prior meeting. As far as going through the application there is a lot on there. Some of the modifications are really just relative to the wall and the deficient parking spaces and the amended landscaping plan. It's not a proposal relocation or modification of the building. It is more to make sure that there was application and a fee paid.

Chairman Cosentino: Then would you like to start with page one and work our way right through?

Anthony Sturniolo: Sure. On page one of the resolutions of approval we are talking about. Michelle looking at page one, the date of action needs to be filled in.

Whitney Singleton: Potentially.

Anthony Sturniolo: Potentially. I had Michelle ask Nanette to add the third tax map identification number. This is the last one that is underlined. I took that off the police agreement that Whitney had drafted. I am referring to 69.58-21.1. I am assuming that is correct?

Michelle Robbins: I will check that for you and remove the underline for the final.

Anthony Sturniolo: The first whereas that says on November 1, 2004 is that an accurate date?

Dan Hollis: The second whereas? It is on or about the time of the A&P. I would suspect that to be correct. The letter is the third and it appears to be correct.

Anthony Sturniolo: Is there anybody else with a comment or question on page one?

Chairman Cosentino: On page two there is a typo on 12.

Whitney Singleton: Can we go back for a moment? There is a series of typos Dave pointed out earlier. On the 1<sup>st</sup> whereas 6<sup>th</sup> one down. Cross out 1/28/05 and leave it 2/11/05. They were submitted that same date they were prepared. Correct David?

Dan Hollis: That was a Friday, correct.

Whitney Singleton: They were not submitted 1/28/05.

Dan Hollis: They were submitted to the Planning Board on 2/11/05.

Whitney Singleton: Not that we are to the date that should be deleted.

Chairman Cosentino: I think we need to start from the top. Are there any on page two staring at one? Does anyone have anything?

Anthony Sturniolo: A comment on one. That references correcting the 18-inch to 36-inch sump pumps. Then two is the compliance issue with the handicap parking spaces.

Chairman Cosentino: You are using the word sub pumps. The sub pumps are not the proper word.

Chairman Cosentino: I miss read it.

Chairman Cosentino: These are the catch basins. Am I correct?

Al Rossi: It is the sumps in the bottom of the catch basins.

Chairman Cosentino: They were originally 18 inches and were revised to 36 inches. Anything on two, three, four, five, six, seven, eight, nine, ten, eleven, twelve. Twelve is that lack of a grand opening?

Michelle Robbins: With acceptable grand opening and traffic management plan.

Dan Hollis: You are adding an acceptable in there.

Chairman Cosentino: Thirteen.

Michael Stein: Eliminate 13.

Chairman Cosentino: Fourteen.

Anthony Sturniolo: The light shield has been installed Al?

Al Rossi: Yes it has.

Chairman Cosentino: Fifteen.

Anthony Sturniolo: Fifteen we need to correct to read 7.4 feet.

Chairman Cosentino: The next whereas anything on that? Ok. One, two. On two?

Doug Hertz: Mr. Chairman the language of two D.

Chairman Cosentino: Replacement of temporary gravel?

Doug Hertz: With the approved porous surface as the subject of this resolution. Do you want to say as referenced on the site plan? The subject of this resolution is well beyond.

Dan Hollis: Do you want to make a reference to this specific later paragraph that might be helpful.

Doug Hertz: Ok. It is referenced in a few documents.

David Sessions: On page 3 sheets 1 proposed modification.

Chairman Cosentino: Page three.

Anthony Sturniolo: Mr. Chairman on page two second whereas from the bottom. An application fee needs to be filled in and at the last meeting we talked about the dollar figure for the escrow.

Dan Hollis: We did that. It was \$15,000 and change. We made that payment.

David Sessions: The application was \$300.00 Whitney?

Whitney Singleton: Yes.

Chairman Cosentino: Page three.

Anthony Sturniolo: On number 11 at the top of three we need to fill in the date.

Chairman Cosentino: Anything else on three?

Anthony Sturniolo: Michelle in the box where it starts one two three, we should add numerically 4-10. Then Dan I have a question about 9 and 10. Do you have the correspondence with you again?

Dan Hollis: I turned them in. I turned them when we were here last. If you need further copies I'll provide them if Michelle doesn't find them we'll get further copies.

Anthony Sturniolo: If you could just double check that you did.

Dan Hollis: They were the only ones I had that night.

Chairman Cosentino: Page four. This is a form of a question. The site work was completed as built drawings. Does this including the satellite complete? Do we have the complete as built drawings on that?

Whitney Singleton: I don't know if that is accurate but it is already in the code. When we get to another section that will be covered.

Chairman Cosentino: I have never seen it actually.

Whitney Singleton: The requirements are: built certification for the entire site.

Dan Hollis: The satellite will be merged into the as built for the remainder of the site.

Whitney Singleton: I don't know whether there is a certification of the satellite.

Chairman Cosentino: is there a certification on the satellite building itself?

David Sessions There was an as built survey done for the satellite building which I believe was submitted to the village.

Al Rossi: Yes it was way back when. At least a year ago it was submitted.

Chairman Cosentino: Can we check on that?

Whitney Singleton: We are amending the site plan now.

David Sessions: In fact an as built was conducted on the entire site. On which these current drawings omit. Obviously there will have to be another one once the wall is completed.

Chairman Cosentino: Anything else on four?

Anthony Sturniolo: Yes Mr. Chairman. A couple of things. Going back to be it therefore now resolved the bold paragraph in the middle of the page. The last line that's in bold, last revised 2/11/05. Is that date correct?

Dan Hollis: Yes. It is just dated.

Anthony Sturniolo: On number 6 on page 4. I would like to add the words: "all village application" and then continue on with engineering planning etc.

Chairman Cosentino: I have one more question just for my own information and nothing else. How many tables and chairs are there for the eating part of Target? Mainly the Starbucks.

Jodi Guterra: I do not know the answer to that.

Dan Hollis: 34 for the whole area.

Chairman Cosentino: On a whereas the required parking for the proposed use of 806 spaces, 250 spaces for the first 50,000 square feet 556 parking spaces for the balance. A total of 139,150 square feet. Was this considered a restaurant use of 34, which is a higher car count for the restaurant part?

Dan Hollis: I do not know how that was done when the parking analysis was made.

Whitney Singleton: The answer was that and we'll see this in a resolution in prior resolutions. It talked about the appropriateness of having a uniform parking count for the entire use of the site. As opposed to a parking count based upon individual users.

Chairman Cosentino: Now I see why. For any other restaurant in the village of Mount Kisco we have a higher count for automobiles.

Whitney Singleton: It is one per 75.

Chairman Cosentino: So we are saying if the restaurant was included in the count how many more cars would we have needed?

Whitney Singleton: I do not know the square footage designated.

Dan Hollis: it is not tables and chairs it is square footage of the area that houses in a restaurant use. According to the calculations that were done we had a surplus. I understand the concern that the number of parking spaces there may not be adequate.

Chairman Cosentino: I am not trying to put a fly in the ointment. I am just comparing. What happens now that something you didn't know before? Any restaurant in the village of Mount Kisco has a count of the square footage. Was this a complete count?

Whitney Singleton: If Applebee's on this site plan is required to approximately 20 parking spaces. If Applebee's were in another location in the village it would require 60 parking spaces. It is about one third. Yes 1 per 75 verses 1 per 270. Theoretically that is in recognition of the fact that they have different operating hours.

Chairman Cosentino: I was surprised when I heard that there was going to be a Starbucks. I had no idea there was going to be Starbucks. I don't think anyone on this board had an idea there was going to be a Starbucks. It was never brought up.

Dan Hollis: Food was brought up.

Chairman Cosentino: Food was brought up Starbucks was not. Target was supposed to have a pizza place. That was brought up. Starbucks was never ever brought up before this board. I want you to know that. It was never ever brought up. I hear now this morning. I get a call and there is a Starbucks and there are many tables in there. You say what happen here? The pizza place we knew about not a Starbucks. So let it be. Anything else on four, five.

Anthony Sturniolo: On five cross out line indicates number 12 is being removed, and David that is the reference to concept of the concrete pathway.

Chairman Cosentino: Number 6 is the backflow preventor and that is certified?

Dan Hollis: A copy is filed with Michael Stein.

Chairman Cosentino: Just let me add one more thing. I could be spiteful.

Dan Hollis: I will take your word for it. You have never misled me before.

Whitney Singleton: I just want to touch on paragraph 11. As we discussed at the last meeting. There is a traffic management agreement with the village that refers upon the village manager and consultation with other people. The right to require on site traffic monitors as well as off site on abutting public right of way, at the expense of the property owner. A copy of that agreement was given to the applicant at the last meeting and subsequent to that. What happened is they forwarded this to the property owner at some remote location and he sent it back with changes. Mr. Hollis faxed over to me last night. I already conveyed to him that the changes were unacceptable and he said. I want this clear and do not want to alter a document after the fact. You have you client's authority.

Dan Hollis: Mr. Rossi and I have the authority where it is reasonable and maybe can be pending.

Whitney Singleton: I need to get this on the record.

Dan Hollis: Obviously I do not have the fully executed copy of that as signed by the village manager.

Whitney Singleton: we will get that to you.



Chairman Cosentino: The changes that were made are null and void?

Dan Hollis: It is being signed.

Chairman Cosentino: That will be taken care of before a TCO.

Whitney Singleton: It is done. What happen is I have to replace some of the revisions. We are not accepting the revisions. Once I alter a document, which has already been signed.

Dan Hollis: That is why he is asking advice.

Chairman Cosentino: We are just trying to dot our I's and cross our T's.

Whitney Singleton: With regard to that agreement. There are some dates, which need to be inserted.

Anthony Sturniolo: Now we will go back to the police agreement.

Whitney Singleton: Or we can do it at the end of the resolution. However you want to do it.

Anthony Sturniolo: So let's hold off on the police agreement until we complete this document. Is there anything else on page 5?

Dr. Morreale: 11B. Traffic control devices to minimize congestion on village roads adjacent to the site. How do we operationally minimize?

Anthony Sturniolo: What that means is that the police department is going to have signs made up at the applicants expense that say Parking Lot Full, Do Not Enter, Turn Left, Turn Right. They are going to have all these way finding signs available to use as the conditions warrant.

Dr. Morreale: We are talking about 11 AB.

Anthony Sturniolo: The signs are called traffic control device similar to a traffic light.

Dr. Morreale: Ok what does minimizing congestion mean?

Michelle Robbins: it means minimize the delay at the traffic light or lights. They measure any amount of delay that you have.

Chairman Cosentino: On the resolution it is either the village manager or the police chief.

Dan Hollis: From what I understand the village manager makes a determination that there is a need for police involvement and once the police take over then the police in the field.

Whitney Singleton: This is solely for the opening day right?

Chairman Cosentino: Not just for the opening day. It could be any day.

Dr. Morreale: It comes down further to actually on C. I was just curious how you could minimize off site congestion. What does it mean?

Anthony Sturniolo: To me it means a positive step to address off site congestion and to try minimizing it as much as possible.

Whitney Singleton: I think it is a catchall generic term. The traffic control device as to whether that is changed in the traffic light or police officers on the streets. Whatever it may be and typical example of what might happen. If the lot is full and there is no more parking spaces the police will direct traffic away from the site so that traffic does not back up into the public right, of way.

Ralph Vigliotti: Why don't they say that?

Whitney Singleton: It's covered by more detail in the agreement.

Chairman Cosentino: The whole purpose of this is so traffic doesn't back up into the village. We know this could possibly be a disaster on holidays. This is not just for holidays. This could be on any Monday or Tuesday or any Wednesday where this might happen. If the police chief deems. This could happen every Saturday or every Sunday. We don't know. Target is not small potatoes here. This is going to bring a lot of traffic. There is no doubt about it. We know this. Look at A&P. So we have to prepare for it. The only way to prepare for it is to have traffic control by the village of Mount Kisco.

Dr. Morreale: I do not disagree. I'm just concerned about the wording. Because minimize usually has a very specific meaning. That there is some level that you are trying to achieve. There is nothing in here to suggest that.

Chairman Cosentino: How would you interpret that?

Dr. Morreale: I would almost be tempted to write it as reduce off site congestion in some acceptable level to somebody. That is what I was asking about. To whom? Because then you have to measure what you can use. This doesn't give you a measure at all. It is going to be entirely debatable what minimize means.

Dan Hollis: Can you say to the satisfaction of the on duty officer in charge?

Dr. Morreale: That would be fine. If that is the person you want to put in charge.

Jodi Guterra: Wasn't that addressed in the parking management plan. This is just referencing that plan.

Doug Hertz: Do you think we should look at the agreement with the village. Maybe language in there would help. We are just generically referencing what has gone into much more detail in the agreement.

Dr. Morreale: That is fine if it is true.

Dan Hollis: There is more detail in the agreement.

Doug Hertz: it may not be satisfactory to you there.

Michelle Robbins: It is part of the traffic management plan.

Chairman Cosentino: This agreement is designed to try not to have bottlenecks within the intersections in the village and Rt. 117. If the police officer on duty feels that extra help should come in that is entirely up to him. Not up to us. He will have to call them in. You may need an officer on Preston Way, you may need one at the Indian, you may need one in front of Burger King, and you may need on Rt. 133. Wherever it is needed to control traffic that is what we need. That is spelled out within this contract. I think it is excellent with those changes out.

Dan Hollis: The changes were just an insertion of a double word. I am not concerned about it because there is an implication in every agreement that the people involved in it will act reasonably

Chairman Cosentino: I think we are all going to act reasonably. What is reasonable that you as an attorney and I as a planning board member not as a police officer or the chief of the village manager knows what is more reasonable than we do. It is reasonable when you are not paying for it.

Dan Hollis: We are paying for it.

Chairman Cosentino: Right we are not. So it is pretty reasonable.

Anthony Sturniolo: On page 6 number 14 where we talk about the traffic management plan and the employee parking which is both listed on the traffic management plan and the over all modification to be approved site plan. I would like to insert, Michelle, dates of those plans. To weave it into 14. Traffic is 2/11 and the modification. Seventeen is talking about there won't be any TC of O until certain things are accomplished. Some of the things are seasonal or weather constrained. It talks about the retaining wall on the northeast corner of the property. The blacktop: asphalt plants usually open up around March 15<sup>th</sup>. The landscaping when that is appropriate to address and the replacement of the temporary gravel within an approved porous surface. That is the subject of this resolution.

Michelle in number 19, going back to the temporary gravel where we talked on the second line along the northern portion of the site until the porous pavement is replaced

with a permanent product that is the subject of this resolution. At the risk of sounding redundant where we say with a permanent product could we add porous in there. Just to bolster the concept that it will be porous forever and it will never reflect black top. Number 21 Mike is the County of Board of Health Certification and you are comfortable with it?

Michael stein: Yes.

Whitney Singleton: I think paragraph condition number 20 is supposed to read: the applicant shall submit not suggest. That has already been done but we need to keep things in order. I think a lot of these were done in anticipation of the February 8<sup>th</sup> date.

Dan Hollis: I don't care if 22 stays in but I just wanted you to know it was done.

Whitney Singleton: Paragraph 24 should say village attorney not village engineer. Just for clarification I have a modification to number 25. The way it reads now is fine but at the end instead of a period we should put a comma.

Anthony Sturniolo: After the word resolution?

Whitney Singleton: Yes, so it now reads. There shall be no final certificate of occupancy issued until both clients with each condition contained within this resolution comma the plans incorporated herein and the provisions of village code chapters 51 and 110. I am trying to be overly inclusive there, but what that talks about is I don't want to have a situation where somebody comes in for a final CO and says they have complied with all the conditions in the resolution. There are things in the site plan that aren't complied with or in one of the reference documents. Also chapter 51 the building construction chapter 110 deals with zoning. Specifically escalating to the conditions relating to a final certificate. The as built, the certification and everything else that needs to be done. I just don't want a situation where they said they complied with the resolution, but they haven't complied with the code. There is a check list of items that need to be complied with.

Chairman Cosentino: Is that it for 6?

Dr. Morreale: I have one point of clarification. Will we have to renumber these?

Michelle Robbins: I will renumber them.

Whitney Singleton: So long as paragraph 11 does not change. It is referenced in the agreement.

Michelle Robbins: Ok.

Anthony Sturniolo: The police agreement. On page 1 of the police agreement we need to fill in the date at the top.

Doug Hertz: Is this our agreement?

Anthony Sturniolo: This document is that of one of the resolutions of approval in what we just went through. This is referenced in 11 A.

Whitney Singleton: It is referenced and incorporated into the resolution.

Doug Hertz: This is a document that has already been agreed upon and signed.

Whitney Singleton: The applicant has signed it. It has yet to be signed by the village.

Doug Hertz: Ok.

Dan Hollis: I was directed to bring a signed copy tonight.

Doug Hertz: Is this a document the Planning Board can modify or is this something between the village managers and the applicant?

Chairman Cosentino: It has to come back before the Planning Board.

Doug Hertz: Ok.

Whitney Singleton: It has come back before the planning board?

Chairman Cosentino: He said to modify it.

Whitney Singleton: Terminated or modified by the village manager not by the applicant.

Doug Hertz: Other than understanding it as it relates to whether or not we are getting what we adequately need. Is it our purview to modify this at all? Or something to review it?

Whitney Singleton: It drafted for your benefit.

Doug Hertz: That is what I am asking. Is this between planning board and the village manager?

Whitney Singleton: The Planning Board Chairman's signature will be put on it.

Chairman Cosentino: This is everything that we have asked for.

Whitney Singleton: Are you suggesting that there are changes you want to make?

Doug Hertz: No. I am asking who the signatory to everything is.

Whitney Singleton: The village manager and the planning board chairman and the property owner.

Doug Hertz: Thank you.

Anthony Sturniolo: That is page one. Then we need a several dates filled in on page two.

Dan Hollis: They will all be February 11<sup>th</sup>. Except in the fourth whereas it wouldn't be called a modification including the last submission. Would that be appropriate?

Whitney Singleton: It would be March 1<sup>st</sup>.

Dan Hollis: No it would be February 11<sup>th</sup>.

Whitney Singleton: Approval.

Dan Hollis: Right it would be March 1<sup>st</sup>. You are right. The fourth whereas would be February 11<sup>th</sup>. The last paragraph.

Anthony Sturniolo: Traffic management.

Dan Hollis: That would be February 11<sup>th</sup>.

Anthony Sturniolo: Right. That would match this one. Does anyone have questions on page two? Page three, and four?

Dan Hollis: The dates for the signing by the village would have to be different than February. Underneath the signature for the chairman and the village manager. I authorized Mr. Singleton to do that in pen and ink on the copy that is already signed.

Doug Hertz: This is the third, in the implementation from day to day. I thought in the discussion that is not just the village manager. It says village manager in consultation with other village officials such as building inspector, police chief. So the village manager is the only one authorized to make that call?

Anthony Sturniolo: Also in here there is the word of designee?

Whitney Singleton: Ultimately the responsibility is that of the village manager.

Doug Hertz: Ok.

Chairman Cosentino: Whitney I have to address this to you. This document I feel is the only thing that is going to make Target and A&P work. As far as traffic. If there is anything that you think that has to be put into this. This is the document that the village needs. This is the one that will control the traffic. Without this document we have a bottleneck there like you cannot believe. I think everyone here will agree. If you don't agree there is something wrong.

Dan Hollis: I think the agreement adequately protects the interest of the village and the property owner. The last thing Target wants is not to have efficient traffic flow in and out of there.

Chairman Cosentino: that is why I say this is very important and that is why I addressed the village attorney. That if there is anything else that should be put into this agreement, let's do it now or forever hold our peace on this piece of property.

Whitney Singleton: This is all I can think of.

Chairman Cosentino: Is there any board member that thinks something should be added into this?

Doug Hertz: The only question that I have. Is the question that we are essentially only letting the village manager make that determination?

Dan Hollis: As a practical matter, as a matter of law in the event there is an emergency the chief of police in an emergency situation can make a determination. If you're thinking like a weekend the village manager isn't around for whatever reason.

Doug Hertz: Essentially.

Dan Hollis: The chief of police makes a determination calls his people in and goes to the village manager on Monday. Says look you were away or it was a long weekend or whatever it might be this is what happened.

Doug Hertz: Where is the language?

Chairman Cosentino: On what page?

Whitney Singleton: Three.

Doug Hertz: Again it requires the village manager to act at least to designate.

Whitney Singleton: Do you want to know the reasons why we did not want it any other way?

Doug Hertz: Sure.

Whitney Singleton: The board members here may recollect. We had a similar situation at Mount Kisco Medical Group and it seemed to be easy money for people that were looking to retire and bump up their last couple months of salary for the pension.

Doug Hertz: No more said.

Chairman Cosentino: You would know that the village manager would want to protect the village.

Doug Hertz: Absolutely. I was only looking at a situation where he couldn't be reached and he can't make a designation.

Chairman Cosentino: I guess it comes to the time unless there is something else that we need to make a decision on.

Whitney Singleton: You want to make a current status of this in reference to ARB with you for the fencing?

Chairman Cosentino: They need to go before the ARB.

Dan Hollis: You referred it so it has already been referred so we are in their jurisdiction.

Chairman Cosentino: You won't get a Certificate of Occupancy until that is complete anyway.

Dan Hollis: Remember Mr. Chairman it is not an approval it's just an impression. I believe that is the wording we used.

Chairman Cosentino: It still has to go before them and satisfy them.

Whitney Singleton: Just one other clarification so we don't have the same problem we had with A&P. When the A&P certificate of occupancy was issued immediately the next day there was a Hollywood search light shining up into the sky, plastic signs posted all over town. In every possible street. There is not going to be unauthorized use of signage posted around town.

Dan Hollis: No unauthorized signs no search lights.

Anthony Sturniolo: Assuming things go well for Target tonight what is the date Target expects to open to the public?

Dan Hollis: The grand opening is the 6<sup>th</sup>. Tomorrow if this all goes well and I discussed this with Mr. Singleton and Mr. Stein and Mr. Stein. Tomorrow is the 2<sup>nd</sup> and it hoped that a temporary CO could be issued tomorrow. As in any operation whether it is at CVS or my law firm if we are having a big trial you go through a dress down period. The quiet opening is what Target's people call it. The quiet opening is the shake down crew so that the staff that is in place can be trying out their techniques. Tonight they were having the organization assemble for a meeting. Obviously it won't be in the numbers that there will be at the grand opening but it is hoped that we will be able to open tomorrow in the quiet phase. So that the shake down crews will work. The traffic will be alleviated so we can get people in and out of the store quickly on Sunday.

Anthony Sturniolo: Could somebody from Target explain to me. What is the marketing significance of having a Target store open on March 6<sup>th</sup> in Mount Kisco and another one opening (obviously I am making it up) in Wichita Kansas on the same day. What is the marketing or the business strategy?

Dan Hollis: Ron Bailey from Target. Explain your position there and answer that question?

Ron Bailey: I am the senior site manager with Target real estate with Target Corporation in Minneapolis. I came out tonight to be with you at this special meeting. I was the person involved with this project with RD Development from the onset. To address your question: Target opens about 100 stores a year three times a year. We call them cycles. Right now this is the March cycle. We have a July cycle and an October cycle. Target is about 40 years old. I have been there 11 years and the strategy of this has been in place for quite sometime. Unlike other retailers that open when they are ready. Target has chosen a strategy of opening every single store in that cycle on the very same day for a marketing strategy. A nation wide presence that we now have in all 48 states. There is an economy of scale in doing that from an advertising stand point, from a merchandising stand point, from distribution centers and stocking the stores and training people. There is a lot of coordination within a region for more than one store opening in a particular region. It helps with that coordination of training. A single presence to the general public as well. It is very important internally to Target and it appeals to the public as well that we can set a date and hit that date. It is very important to the company to be able to achieve that goal. We work very hard in the communities such as yours to go through the approval processes. Working with our contractors to make sure the buildings get constructed on time. Turned over to the store to allow them to have training opportunities hiring opportunities merchandising. That is the goal that we have and do everything possible to achieve that and partly being in front of you tonight with the developer's assistance.

Anthony Sturniolo: Thank you. I wish this board had that information early on. Because we kept struggling with why does Mount Kisco have to accommodate a chosen date for Target to open? It's not a discouraging remark from anybody here at the table. With no concrete information as to why March 6<sup>th</sup> was whatever it was. It also reminded me of something I saw on the Target website. It ties into the Target Corporation and the community in which they operate. There are certain financial benefits that Target and certain municipalities in your home state area gain. Like having Target. Is there some application or dollar grant that this village can apply for?

Ron Bailey: Yes sir. The corporation for over 50 years has had a corporate policy of giving back to its communities 5% of its pre tax profits. That doesn't mean each community that they are in gets 5% per say. But nationwide corporate wide that is the strategy. Target is averaging about 2 million dollars a weeks that we give back to communities. In various forms of grants back to school. All kinds of community programs service programs and volunteer programs. Each store is allocated a certain funding based on the particular market they are in. Scholarships can be applied for. Grants can be applied for. The store will be very active in the community. We have the store manager here tonight, the regional manager. You will see a tremendous involvement with the store and Mount Kisco community. It's participation in all kinds of activities. Both financially and voluntarily and being a good neighbor. We will manage this property to the highest standard that Target can maintain. I know you will be very proud of the store once it is open.

Chairman Cosentino: I heard Target is very generous and they pay for filtration centers? We have a filtration center that I am sure your company would want to drink some clean water.

Ron Bailey: We are prepared to share and we will meet the local requirements. We do not try to dodge anything. We don't try to put the community in a corner by setting a certain date. We work backwards from the cycle. When we know we want to open March 6<sup>th</sup> my job is to figure out how long it takes to build the store. How long does it take for the city approvals? Every city has different standards. How long does it take to design the project? How long does it take to put the real estate deal together? So we look 18-24 months ahead of time to see when we can get that store open. Can it be a March cycle can it July. We set that accordingly. We try to meet your schedule not to have you meet our schedule. We want to fit into the criteria that we know we have to face ahead of time. We are not trying to be disrespectful at all by making you feel you had to conform to our opening. We have been working on this project for several years and thought we had everything lined up to open without a last minute scramble. We are happy here tonight and want to get everything done that we possibly can to meet your requirements. We hope you will work with us and if you see fit to grant the TCO tonight. We would like to have the quiet opening tomorrow and Sunday for the grand opening.

Anthony Sturniolo: Bill Williams is the village manager here in Mount Kisco. Would you be kind enough to contact him so you can apprise him of what the procedures and the steps are for any community grant money that is available?

Ron Bailey: I think I would prefer that the store manager or the district manager. They would be the ones that are actually operating here on a day to day basis. We would be more than happy to do that.

Anthony Sturniolo: I would appreciate that. We have one other thing that we need to go over and that is the short form: the environmental assessment form. We also need to take action on the resolution in addition to the resolution of approval. That David is attached to your letter of transmittal attached to the subdivision application.

David Sessions: Site plan sub-division application.

Anthony Sturniolo: So Whitney am I correct that we need to work this into the same motion?

Whitney Singleton: Prior to the resolution.

Chairman Cosentino: Then we are looking for a motion on the short environmental assessment form.

Ralph Vigliotti: I move to accept the short form for the environmental assessment.

Chairman Cosentino: We have a motion by Mr. Vigliotti. We have a second By Dr. Morreale. Will the secretary poll the board please?

David Sessions: I think the board needs to make a determination of significance to the bottom of the second page.

Whitney Singleton: If you go through what is the delineated on page two under C 1-7. Or actually A-E. The applicant was making certain findings and those are actually being made on your behalf. I just want to make sure this is accurate represented. Again we are not looking at whether or not there are significant impacts of the site. That has already been delineated, the application to modify certain thing within the site plan.

Doug Hertz: This is only the modifications that have been discussed.

Whitney Singleton: So you will see in part three you have to make a determination whether or not this application will have significant impact. If you make a determination then you may take a vote.

Doug Hertz: Do you want to change your motion?

Ralph Vigliotti: Whitney the opening words that you had on the short environmental assessment form. We are moving to accept?

Whitney Singleton: Make a determination of significant impact.

Ralph Vigliotti: On the short environmental assessments form I want to note that there is no significant impacts on this application. That is in the form of a motion.

Chairman Cosentino: We have a motion, do we have a second.

Dr. Morreale: Second.

Mr. Vigliotti, aye, Dr. Morreale aye, Mr. Bernstein aye, Mr. Hertz aye, Vice Chairman Sturniolo aye, Chairman Cosentino aye.

David Sessions: Please check the second box and sign and date it.

Chairman Cosentino: We need the resolution of approval for modification.

Dr. Morreale: Since I was the one that made the motion originally to bring Target here. I am happy to make the motion to approve the resolution of approval for modification to approved site plan and recommendation to authorize the building inspector to issue a temporary certificate of occupancy, to the Mount Kisco Commons AKA Manufacture's Outlet Center 95-10 on March 1, 2005.

Ralph Vigliotti: I will second that.

Chairman Cosentino: On the question? Will the secretary please poll the board?

Dr. Morreale aye, Mr. Vigliotti aye, Mr. Bernstein aye, Mr. Hertz aye, Vice Chairman Sturniolo aye

Anthony Sturniolo: I will be voting aye but need to make a few points to enter into the record. I was on the planning board when RD Management first came and presented the concept of a single retail store Target and a grocery store that was called the Food Emporium. It has now become the A&P. The decision to treat this entire development as RD Management presented it to the planning board, including Applebee's as a single shopping center. Therefore lowering the parking count I find incorrect. I never would have supported it. However that is water under the bridge and we are here now looking at positive things. One of the positive things would have been but can't be corrected tonight. If there were buffers all along here and real live buffers along here. You've almost got the newly planted trees just about on top of the sidewalk where pedestrians are. There is no buffer here at all. This planning board in the village historically, if you look at Rt. 117 and you are leaving the village and heading north bound on Rt. 117. The first thing you see to the left is preserved green space. What you see to the right is preserved green open space that the village owns. That a housing complex called Guard Hill Manor has fought to keep green. You go up Rt. 117 when Applebee's was developed this board insisted upon and John Slaker did a beautiful job in landscaping and screening as much as possible from the street. When you continue further up there was heavy duty landscaping at Northern Westchester Center for the Arts. This board also insisted upon greenery and heavy duty landscaping at the CVS, Tuscan Oven complex. Across the way is John's Best Restaurant. When they came in for a modification to their site plan we insisted on heavy greenery and buffering in front of that place. As well as the Westchester Mall which is the BMW/Toyota used car dealer ship. When you are facing this way and you leave Applebee's you see a wall of cars and bumpers and cars as you see here. How the buffer issue was missed when this site was approved on March 25, 2003 I don't know. I never would have agreed with it then. Again it is water under the bridge. Before the site was ever constructed the old outlet center was constantly flooded by the back wall. By the back wall at the northern end of the property. Somehow a stream was diverted. An earthen berm was created and trespass took place on another property on someone else's' property to re-divert the stream in an effort to prevent the flooding from heading in a southerly direction. Joe I need a little guidance from you. On the term picking and choosing. When this was Urban Renewal it was local zoning it was urban renewal. It was a pick and chooses for the convenience.

Chairman Cosentino: The bottom line is and just to echo Tony. The bottom line is if the Urban Renewal regulations were not modified this project would not be here today. The urban renewal regulations were modified and put the planning board in a position where we took local code. I think under the urban renewal you would need somewhere near 1,400 cars. Reduced to 806. So you have to know that. If they were not modified you would not be here tonight. This board did not modify them. This board carried out the wishes of other boards. That is why I say traffic plan is very important to this project. What we are missing there is parking and we only have a traffic plan to implement bottleneaking within the village. It is going to happen there is no doubt about it.

Anthony Sturniolo: I also vehemently disagree with the legal interpretation that the council to the planning board prior council to the planning board gave regarding the site overall. The former council to the planning board was not looking out the village's best



interests. That is why we now have a talented attorney seated at this table that has a strong moral compass. Having said that it is my turn to vote. Target is an innocent victim in my opinion of the way RD Management handled this application from day one up until tonight. There is absolutely no reason at all to penalize Target for what RD management had put this village through. I vote aye.

Chairman Cosentino: aye.

Board all ayes.

Chairman Cosentino: You have your Target.

Anthony Sturniolo: There is a newspaper article in the Patent Traded dated July 31, 2003. It is titled the Village board still has to decide how to use the money. It goes on to say the developer of a new shopping center is donating \$100,000 to create an open space fund at Mount Kisco. Rick Burdoff of RD Management in Manhattan said the donation is his way of giving back to Mount Kisco. The Mount Kisco planning board approved in March Burdoff's redesign for the long struggling Mount Kisco manufacture's struggling outlet mall center at 194 North Bedford Road. If anyone would like to comment on the quote I would love to hear it. It has absolutely no impact the vote has already been taken.

Dan Hollis: Mr. Burdoff intends to keep his commitment to the open space.

Anthony Sturniolo: Ok

Dan Hollis: How is this to be handled?

Whitney Singleton: I would see the building inspector in the morning. The building inspector will be aware that the resolution has been approved and has been signed.

Doug Hertz: Motion to adjourn

Chairman Cosentino: All ayes. Adjourned at 9:50 p.m.

Respectfully Submitted By

Stanley Bernstein  
Planning Board Secretary