

**Minutes
Meeting of the Planning Board
Regular Session
Village/Town of Mount Kisco
Tuesday, September 9, 2008**

Meeting called to order at 8:05 P.M. at the Municipal Building Mount Kisco, New York.

Members Present: **Chairman Joseph Cosentino**
 Vice Chairman Anthony Sturniolo
 Doug Hertz
 Sol Gibbons
 Ralph Vigliotti
 Joseph Morreale

Members Absent: **Stanley Bernstein**

Staff Present: **Nanette Bourne**
 Anthony Oliveri
 Whitney Singleton

Formal Application:

Crossroads Plaza
639-657 East Main Street
PB2008-15

Present: **David Steinmetz, Attorney at Law, Zarin & Steinmetz**
 Brad Schwartz, Attorney at Law, Zarin & Steinmetz
 Richard Cohen, Buckingham Properties
 Joseph Scaltro, Engineer, Accurate Engineering
 Associates

David Steinmetz: Briefly, Crossroads Plaza approved by your board in 1998; is what we believe to be a successful and attractive shopping center here in the Village. As you all know, at one point one of the spaces, 6713 square feet was utilized by UBS, arguably as an office rather than a straight retail space, although retail services were provided. The application tonight really is quite simple. We want to put that 6700 square feet back to the identical retail use that was approved by your board in 1998. To dispel any concerns that the Board may have, originally there had been discussion about putting a drug store chain in that space, about the possibility of combining that 6700 square feet with an adjacent vacant 1300 square feet. That is not what we're here for, that is not what we're seeking. We're not seeking to join the two spaces, and we're not seeking to do anything other than straight retail in those 6700 square feet of vacant space. The space is vacant and has been vacant. I apologize; Mr. Ed Cohen could not be here tonight. He was called on some humanitarian and charitable business out of the country. He did write a letter to the Board apologizing. He was going to be here at last month's meeting, but when it was cancelled, he was unable to rearrange his schedule. But Richard is here, and he asked us to make it clear to the Board that we need to get this space rented; we need to get this center occupied. They are having tremendous difficulty legitimately putting the space out to rent with this change of use back to retail hanging out there. They are losing upwards of \$30,000 a month in retail; as I'm sure any of you on the Board can imagine with this type of space. We think it's a real simple application. We're not changing the parking, we're not changing the circulation, and we're not changing anything on the exterior. We simply want to put the space back to what it's approved for.

Chairman Cosentino: Just a clarification. I was on the Board at the time of this agreement with the Village 10 or 12 years ago. There were 17 parking spaces dedicated to Ben and Jerry's and the Luppino building across the street. Do the 17 parking space get included with the 119, since they're dedicated to others?

Nanette Bourne: In the resolution, #14, no signage shall be erected to suggest specific parking rights. There are a couple of references to that and the resolution does not specifically discuss what we remember to be the discussion at that time. But it talks about conditions in the title need to be included in the plan and failure to do so is non complying.

Chairman Cosentino: So if we could assume that the 17 parking spaces are included in the 119, there's no problem. Whitney, do you agree with that?

Whitney Singleton: I'll go back and do a review of this application. I will clarify that.

David Steinmetz: Point of information that might help and answer the Chair's question; when the Village conveyed this property to our client, the Village specifically put language in the Deed that says the spaces that we are talking about are to be counted toward Crossroads or the centers bulk and not toward anyone else's bulk.

Chairman Cosentino: And you have documentation on that?

Brad Schwartz: Yes, included. This should be in your packet. Exhibit B.

Nanette Bourne: But it can't prevent others from using it.

David Steinmetz: Absolutely; and that was at the request of the Village. The Village said here's the property, you count it toward your bulk, but please allow others to use it on a first come first serve basis.

Chairman Cosentino: I want to clarify this because every time we negotiate with somebody else nearby he says he has nine parking spaces to himself and no one can use them. That is what I want to clarify.

Brad Schwartz: The language states, "the party of the second part, which is us, shall be solely responsible for the maintenance of the property herein conveyed and shall be the only party or entity entitled to utilize said property to meet the bulk zoning requirements of the Village of Mount Kisco.

David Steinmetz: So that goes to our required 119, and we're the only ones.

Chairman Cosentino: Fine. I wanted to get that clarified for the minutes.

Ralph Vigliotti: There was a time about six months ago, maybe it was a physical therapist or trainer, that had these spots labeled indicating no one is to park there but the clients of this particular company, and according to what you just read, and I had complained about that because the retail across the street could not park there and the understanding was that those spaces would be available to all here and here.

Chairman Cosentino: But if you look at the map, those spaces that were dedicated to Somers Orthopedic are here.

Ralph Vigliotti: And they should not have been dedicated but they were. Those signs are down now.

David Steinmetz: I don't know if those are the Parcel B spaces.

Ralph Vigliotti: How do we make sure?

David Steinmetz: The "B" line is right here.

Ralph Vigliotti: So if we're calling this the east side wall, there are eight spaces. Those signs are now down, but I just want to prevent that from happening again.

David Steinmetz: So that my client is clear, what the Board is saying is that in the future should my client wish to try to restrict certain spaces to certain potential tenants, either he can't or he would need to come back to the Board and explain a reason why. Maybe there would be a legitimate public health, safety and general welfare reason.

Ralph Vigliotti: There was an agreement ten or twelve years ago that these seven or eight spaces would be available to the retail across the street.

Chairman Cosentino: The problem is in the agreement here; it gives them the right to take up the full 119 spaces. It was never put in the resolution.

Ralph Vigliotti: I'm going to ask Whitney if you would be kind enough at some point to research that. There is documentation to that effect. There was a small road that came through Park Avenue. That road was a Village dedicated road, it was purchased by Mr. Cohen, the retail across the street was very upset that opportunities were not given to everyone in that area, and I believe there was a deed restriction and understanding or part of the resolution that these eight spaces would be available to the retail across the street.

David Steinmetz: I'd like to explain two different things. One, the only property that the Village conveyed to my client was Parcel B. This is Parcel B. Parcel B is subject to the restriction that the chairman just read about the bulk. This, I think, what you're talking about is a license agreement that was entered into and expired.

Brad Schwartz: Correct. It was a one year terminable at will.

Ralph Vigliotti: I don't think so. We're going to stop here. You guys need to do your homework, and our attorney will do his homework. The property owners across the street have been the owners of that property from day one, and this goes back 10, 14 years, and they had a concern that was addressed by Mr. Cohen at that time that these spaces, in all fairness to the Luppino's who own that property, that these spaces were set aside for their use that they would not be exclusively used by anyone that is renting property in the building. So, just check it through. I don't want to be argumentative; I just want to protect the retail across the street. Mr. Luppino would be very happy to hear that I am here to protect his rights.

David Steinmetz: We will make sure he hears that. Whitney, we will provide you with a copy of the license agreement that I think you remember I gave you when we met on that topic.

Whitney Singleton: The license agreement that wasn't paid for nine years by the property owner. That's when we decided to sell the property, remove it and Deed it. And those Deed restrictions can only encumber the property that was conveyed. It conveyed that Parcel B be made sure that it was mutually available to all people and while it could go to the lot and bulk requirements for the applicant and solely for the applicant it was to be made available for all in the area. So, it couldn't by definition at least by the Deed, extend beyond Parcel B.

David Steinmetz: Having said that, you should know that Mr. Cohen has always tried to be entirely cooperative to all of the neighboring properties.

Ralph Vigliotti: I'm not talking about Parcel B right now. I'm talking about these eight spaces that are along the wall on the east side of the building.

David Steinmetz: Absolutely.

Whitney Singleton: We'll look into it.

Ralph Vigliotti: My concern is we're going back to retail, and I want to make sure that whatever that retail is there has to be some associated traffic counts and some associated studies done, because it's night and day from what it was 10 or 12 years ago in that area. So whatever retail you're going with, which you don't know, I think it merits something that we need to talk about. There is retail that is normal nine to five and then there could be seven days a week, 24 hours a day. It's going to impact this road, which is in front of Park Avenue now which doesn't work as far as ingress and egress, and I want to make sure that whatever retail is going there that it is not going to exacerbate a bad situation as it is now. We will scrutinize whatever retail you intend to bring there. To make sure not just that section of town, but that the traffic that it generates and those patterns are actually looked at.

David Steinmetz: Mr. Chairman and members of the Board, with all due respect and regardless of what Mr. Vigliotti has said all we're seeking to do is that which you've already granted permission from my client to do. So I totally appreciate the comment, and I think to the extent that you have concerns about what other properties may or may not do to contribute to Park Road and the neighboring other properties, you absolutely have a right to analyze that at some point in time when other property owners come forward with an application. With this unique situation, my client has an approval. He has an approved retail center for retail use under the Mount Kisco code. We have spec'd it, designed it and built it in accordance with the Mount Kisco Code, and we're seeking to use it in accordance with the Mount Kisco Code. So, regardless of what retail use he brings in there, he's allowed to do it.

Ralph Vigliotti: Why are you coming before us this evening?

David Steinmetz: Great question and I'll answer as I always do with all of you very honestly and bluntly. In probably nine other communities that I could rattle off, I wouldn't be here. But you have a unique code; a very protective and conservative code in many ways, which is good for all of you and good for your community. Your code has

been read and interpreted by your building inspector to require my client to come back before the government and ask for permission to do that which he already has permission to do, approval to do retail, for the simple reason that along the way he brought in an office. He put an office in there in 6700 square feet, used it in that fashion legally, no problems. Now he's ready to come back and use it as a retail center. Your code actually says because he's going from office to retail, which definitely has a higher parking demand, we have to come back for a Change of Use Permit. If you read the first letter I sent to you, I put language in there; we're going to come in because we always come in to cooperate and work with you and make sure everything is square at the corners. I don't think we should have to be here, I don't think we should be wasting your time and I certainly don't think we should be wasting my client's effort and money to do what he's already permitted to do. He's a retail center, he's built a retail center, you analyzed it, you did a five year SEQRA analysis and from 1993 to 1998 this property was thoroughly studied.

Chairman Cosentino: In all fairness, from 1993 to then things have changed considerably. Whitney, since they're looking for a change of use, which is fine, they are entitled to it, and yet this Board as planners does not know what is going to go in there, does this Board have the right to know what is going in there at the time and review it?

Whitney Singleton: They're telling you what the use is going to be. They're not telling you what the user's going to be.

Chairman Cosentino: But you can have use of anything that will compact the area more. My question is solely, can we review it?

Whitney Singleton: If you're looking to see the associated impact for a particular use, and there is a use being proposed, and they can go from one retail use to the other retail use without a Change of Use Permit then what you would anticipate to be the spectrum of impacts for retail uses that would be permitted in the zoning.

Ralph Vigliotti: Would you read off the wide range of retail uses for that site?

Whitney Singleton: For GR.

Doug Hertz: Mr. Chairman, while Whitney is looking this up, I have to say, and this is a rare thing you'll ever hear coming out of my mouth, I happen to agree with the applicant. I don't know why they're here.

Chairman Cosentino: They're here because the Building Inspector determined that they should be here.

Doug Hertz: I understand, but we're being asked to give them a Change of Use that we've already agreed is okay.

Ralph Vigliotti: 15 years ago.

Doug Hertz: But they haven't violated their site plan or changed their site plan.

Ralph Vigliotti: No they have not. They came before the Planning Board "X" number of years ago to bring in a business use there and the Board approved that. They're back before us because they want to go back to retail. The business use had very little impact on that neighborhood. There are neighborhoods along there that I want to make sure are being protected, by not putting a McDonalds there or a Burger King. They came before us to have a business use.

David Steinmetz: That's correct. Fifteen years has changed; a lot has changed. The most significant thing for our discussion tonight is the parking requirement.

Ralph Vigliotti: I'm not here to talk about the parking.

David Steinmetz: But that's what you have to talk about, and I understand the stomach ache that you're wrestling with. You're here wrestling with a use, not a user. What you said three minutes back; you'd love to regulate users. You'd love to say this retail guy generates this much traffic, this retail guy generates that much traffic. That's not what you're allowed to do under zoning.

Ralph Vigliotti: I want to find out what's in the retail and I want to make sure that Mr. Cohen is not bringing in a retail business that is going to tear apart that section of town because it's so busy.

David Steinmetz: That would require something different from what I am here asking for.

Nanette Bourne: To put this in perspective, the reason why this came to the Planning Board is because the applicant's original application identified a user. It was over 8,000 square feet.

Doug Hertz: I thought that was the reason they are here, because they originally were suggesting combining retail spaces to get over a point where they did need a Special Use Permit. But now, what they are suggesting is simply using the space in the manner to which it was permitted. So, I still ask the question, why are we doing this?

Chairman Cosentino: As I've said before, the Building Inspector would not give them a permit, and sent them before us.

David Steinmetz: Subsequent to Nanette's comment, when we said we're no longer doing that, we were still told to come back.

Nanette Bourne: Originally it was Austin who told them to come, when they wanted Walgreen's.

Chairman Cosentino: Then I said if you're going to be talking about Walgreen's, it's on the application, come back again with just a Special Use Permit without Walgreen's, which is what you've done. But the real reason they are here is that the Building Inspector said that the use of the insurance company that was there was sales, and he had to come back to change the use back to retail.

Whitney Singleton: It's the function of this Board to plan for this site. It's not the function of this Board to determine permitted uses in the zoning districts to determine the propriety of the Building Inspector's interpretation. If they don't like the Building Inspector's interpretation then they make an appeal of that determination to the ZBA. They are here for an application for a Change of Use Permit to go to a retail use on the site which is permitted, which does have the required parking requirement. If they don't like the determination of the building inspector, they have avenues of relief which they've elected not to pursue. I think we are wasting our time to debate that issue.

Chairman Cosentino: In all fairness, I think that the Board wants to put certain things in the minutes. We have other people in this Village that ask questions, and they can always pick up the minutes and find that we've already asked the questions that they're looking for. We're trying to protect the Village. That's our job. We need our Village Fathers to realize what we're doing. As far as retail, they're entitled to retail, but these questions have to be asked.

Whitney Singleton: I think I can probably give you a reference to a prior application that was reviewed by your board many years ago and litigated several times before your Board. If you recall on the corner of Barker Avenue and 117, there was a gas station, which was the subject of a subdivision application and it did not want to disclose a use for the property. The Board asked how we can review an application for a subdivision when we don't know what the use is going to be on the property. And the advise that I had given you at that time in which your board adopted and I deemed to be appropriate then as well as now, is to look again at the uses that could be allowed in that zone. In this particular application I can read to Mr. Vigliotti the permitted uses on the zone.

Chairman Cosentino: On that same note, if you read the minutes, we approved the land but he had to come back and tell us what he was going to put there for a site plan approval. The difference here is a site plan has been approved already.

Whitney Singleton: Understood. While the applicant is back before your Board with a host of permitted uses in the zone, they are specifically relegating themselves to retail use. If they wish to change that use and it has a higher parking requirement, they will come back for another Change of Use Permit. If they wish to change with another permitted use with a lower parking requirement, they will simply seek a Certificate of Occupancy building permit.

David Steinmetz: We agree with counsel on those statements.

Whitney Singleton: If they go to more intensity in the future, it will require a Special Use Permit.

Ralph Vigliotti: I would like to hear and place on the record what retail uses are allowed in that zone.

Whitney Singleton: The principal uses are stores and shops to the conduct of any retail business excluding drive ups, drive in and not to exceed 8,000 square feet. Personal service establishments, restaurants, drinking establishments, administrative business and professional offices, post offices, banks, dry cleaners, laundries, Laundromats, libraries, museums, government uses, parking lots and structures, educational training facilities, service establishments, residences, drug stores and limited situations, which are inapplicable here, gasoline stations, physical training studios.

Chairman Cosentino: Correct me; add to that, anything over 8,000 square feet they have to come back to us.

Vice Chairman Sturniolo: If it appears we're saddled with this change of use issue because another entity in this building said you need to come back to the Planning Board and after listening to Whitney's litany of potential uses, why don't we simply focus on what use would have the most dramatic, the highest impact, and let that be the driving factor. If, and I'm making it up; if a warehouse use were permitted in this district, then we would look at what is entailed with a warehouse; tractor trailers, loading trucks, midnight deliveries, all that. So why not pick from the list the worst case scenario and move forward with that. Other than, if the applicant is willing to state for the record, who is going to go in there; the name of the tenant.

Richard Cohen: We don't have any tenants at this time.

Chairman Cosentino: I don't know what use would be more intense there, but they still fit the criteria of 119 parking spaces no matter what it is with what Whitney just read.

Vice Chairman Sturniolo: Going back to the hypothetical warehouse use, if you had to build loading docks you would have the change the amount of parking spaces.

Chairman Cosentino: That would trigger Planning Board approval.

David Steinmetz: That would require a change of use of the modification of the site plan. I don't have approval for a warehouse, I have approval for a retail center, which has a parking ratio of one to 150 for the first 10,000 and then it drops off. Which, you should all know is one of the most conservative parking ratios. The first 10,000 square feet of this center is parked at a Christmas peak parking ratio. A more conventional analysis would be one to 200 or one to 250 for the entire center. When I referred to the Mount Kisco code as a conservative code in that regard, it is. Reading codes for a living, there is a value to having that step that you've created, that first 10,000 square feet is heavily parked.

Vice Chairman Sturniolo: So let's take the worst case scenario and move forward.

David Steinmetz: So the record is clear, we are not here for a use that deviates in any way from the use that's approved on the site plan which is parking ratio of one to 150 for the first 10,000 and then step down there, which is under Mount Kisco's code, the straight retail use. All we're asking for is straight retail.

Chairman Cosentino: The nice thing about it is if he got a client such as Walgreen's, and he's got 6713 square feet and Walgreen's need 10,000 square feet, they have to come back here because it's over the 8,000 square feet.

Vice Chairman Sturniolo: If the client comes in and doesn't need more space, the worst case scenario we're grappling with is if it's something that would have a greater parking and turnover, such as a store that does a lot quicker business but is still considered retail, still fits the same shoe size as what is permitted. That's the intangible that we're trying to deal with right now. There is a difference between square feet of Walgreen's and square feet of repairing Stradivarius cellos and violins.

Ralph Vigliotti: Or a Dunkin Donuts with high turnover. I am placing on the table concerns of that neighborhood. It has nothing to do with retail changing back.

Doug Hertz: This is more a question of our ability to do anything. They have already complied with the strictest parking count that we can get them to comply with, so what discussion are we going to have that's going to get them to go beyond complying with that; restrict them even further.

Ralph Vigliotti: We had a similar discussion when we were going to put a Dunkin Donuts in the former D'Agostino's, the carpet place. It was a retail building, we had conversations whether the ingress and egress would be a very difficult that side of town. By right, they could have put a Dunkin Donuts there but they listened to us and they were able to move differently.

Doug Hertz: I totally agree with that.

David Steinmetz: If we want to put a Dunkin Donuts we've got to come back.

Ralph Vigliotti: I hope we're together on that. I want to share that with you very early on.

Joseph Morreale: If an applicant comes in and gets a special permit for retail in the site plan, then they come back and want to revert, do they have to rescind the special permit?

Whitney Singleton: I think we're throwing out nomenclature that is not necessarily applicable. They got a site plan approval for a commercial building that shows at their own election to convert to another permitted use within the zone with a different parking requirement theoretically, and now after having made an election to do so and after having paid a Certificate of Occupancy to use that space for an office use, they wish to revert that to the original use to which they no longer have a Certificate of Occupancy and in doing so they need to comply with the requirements that exist as in present day. They can't simply go back and put themselves in the position of saying well it was retail at some point in time, and I want to reclaim that. If there had been a change in the parking requirement since that point in time, then they would be subject to that and they may not be able to revert back to that use. In this particular circumstance I think the same parking requirements exist today. And I think what would probably be appropriate is for me to review the application and lay out to your Board what the permissible do's and don'ts are relative to the review of this application as set forth in our code. That might make a better use of your board's time.

Chairman Cosentino: But you could also argue the point that people came off the street and bought insurance there. That was sales.

Joseph Morreale: So your answer to me, Whitney is that you should take this under advisement?

Whitney Singleton: No. What I think I suggested was for me to do an analysis both to review the application for it's compliance with the zoning, for Nanette and Anthony to do an analysis as to whether they think this compliant or there are issues of non-compliance and then for me to identify for you what, pursuant to the code, are permissible areas for you to consider relative to this site.

Anthony Oliveri: There is a memo from Austin in the packet regarding a number of existing zoning non compliant dimensional requirements. That could affect any review, obviously looking at it as a new change of use application.

Richard Cohen: With all due respect, I just want to emphasize that our company is suffering a loss of \$30,000 a month. We haven't had any reduction of taxes while this has been in front of the Board.

Chairman Cosentino: But this is the process.

Richard Cohen: I understand but I want to make sure that is known because that does have an impact on our company.

David Steinmetz: We would hope that your Board could deal with this tonight. If you can't deal with this tonight because you don't have a resolution or there is answers to questions you still want, we would ask that you bring us back as soon as possible because as I'm hoping you could all understand, it's a lot easier for a center to lease space when it has space that is currently lease-able as opposed to sign my lease but I can't let you occupy it because we still have a process.

Chairman Cosentino: Yes, we will work on this. We'll get the information back from our attorney, and expedite it as quickly as possible.

David Steinmetz: If there is anything else that you need us to supply at the next meeting, please let us know.

Nanette Bourne: What would be helpful is if you could break down who the tenant is and their square footage, use and appropriate applied to that.

Whitney Singleton: Also, the issue regarding lighting. I know that you address that in your memorandum, but the Board will be entertaining later this evening new lighting regulation, which will be adopted which is going to not be grandfathered.

David Steinmetz: If you would give us the latitude of a few more minutes, Mr. Cohen brought his lighting consultant with him here tonight. I'd prefer the gentleman not come back next meeting because I think it's a pretty easy issue. We built what was asked, and as I understand it your board spent a lot of time and effort in 1998 spec-in out the lighting, location and fixtures to accommodate Timber Ridge and others, and we had our lighting consultant go out there. He found that there were no deficiencies, under lit areas or excesses. I'm hoping that this is a non-issue, but if there are questions about the lighting he is here and he can answer them. My understanding is your proposed regulations are actually more lenient than the old regulations in certain respects.

Doug Hertz: It would surprise us.

Nanette Bourne: Are they compliant? That becomes a very easy discussion?

Brad Schwartz: Are you saying there is not grandfather protection in the new proposed plan?

Doug Hertz: No.

Whitney Singleton: It would be terrific if you could broach that issue with the Board.

Brad Schwartz: Did I see in an earlier version that it does have grandfather protection?

Whitney Singleton: There is a copy of it in tonight's agenda.

David Steinmetz: Have you received any complaints about lighting on the site that we are unaware of? We know there was a letter written by the Mount Kisco Beautification Committee to my client commending him on the beautiful landscaping, the building and the parking lots and the grace and elegance of the facility at the gateway to the Village. We have only gotten compliments on that site.

Joseph Scaltro: I made two site visits and took some hand readings with a hand foot candle meter. My basic feeling was that the installation meets the basic intents of the code. It's not glaring, excessive lighting or misdirected lighting. I did some quick numbers assuming I really believe its 100 watt high pressure sodium lamp. I did a calculation saying it was 150 watt high pressure sodium lamp and found that under ASHRAE 90.1 you're allowed .15 watts per square foot. We're at about .075 per square foot. So you can see that they are very frugal on the amount of electricity and it certainly proves that it's not over lit or excessive lighting. I further walked around and did not see any glaring spots. I was looking at all the traffic lights. I looked at the neighbor who does have cobra heads. It is certainly well-engineered in design system of eight years ago. Is it compliant to the new dark sky regulations? No it is not, but it is still a very good lighting design. I took reading at the curbs, it doesn't have trespass. It's got numbers like .2 and .1 even though you're allowed .5. I read your old code was an average of 2.4 with a minimum of .6 foot candles. I believe your new code is really coming more into line with what the ASHRAE energy compliant standards are, where for a retail use you're looking for .8 foot candles average with a .4 minimum. So you can see that your lighting levels in your new codes are starting to reflect where all this leads in the energy codes. I'm actually going to an IES meeting next month where hopefully they are going to be talking about revamping the IES handbook because the book is out of date today. I could say, with my 25 years experience, I walked around the site; I did not see any glare or misdirected light. There is nothing pointing up and it certainly seemed like it was meeting the intents of the code. Now, it was designed and installed way before you had this new code and way before dark sky existed, so how could it meet that? It couldn't, but it's certainly a well designed spot and gives adequate lighting without being excessive and without giving glare.

Vice Chairman Sturniolo: Just a few points. Our concern is not be it a sodium fixture versus another fixture. Our concern is a couple of simple things. When you do a full blown photometric lighting plan, do they comply with the new lighting standards that we have? And, are the fixtures full cut off? If they're not, go ahead and modify them. There is a note, David in your letter to us that says your consultant will be present at

this meeting to explain how the current lighting meets the spirit and attentive of Village regulations. AKRF advised us that it believes strict compliance is required. As one voting member of the Planning Board I would like to see strict compliance as stated in your letter to us and as stated from our planner.

Joseph Scaltro: Strict compliance would not be possible. It is not a cut off fixture, so I could never do that. Your code also requires that the concrete base extend two feet above grade. Their bases are basically at grade. What they have could never meet full compliance with your new code coming in.

David Steinmetz: Are you requesting that my client tear down all those fixtures, tear down the supports and re-build them all? These were not off the shelf fixtures. As I understand it, you and the chair may recall, your board in 1998 required a specific fixture. They built the fixture, paid extra and my understanding is that Timber Ridge has written letters saying there is no excessive light or glare. I absolutely understand that you're entertaining new, more state of the art lighting regulations, and it sounds like even our own consultant finds it commendable that you're doing that. The issue is whether this is the application for you to say tear out what you've got and put in something new. If I understood what Whitney was suggesting maybe there ought to be some discussion of a grandfathering provision.

Whitney Singleton: What I was saying is, you're here, the Board is looking for a couple of improvements to the site, you're going to have to change it within a year and a half anyway, it might be a good opportunity to address that concern of the Board now rather than later.

David Steinmetz: There is at least one significant change in the text that is subsequent to the version Brad and I saw. Maybe this is an issue that we need to talk to Whitney more about and maybe even to the Mayor and the Board of Trustees as to an existing site that is not otherwise causing difficulty in the Village. I hear your concerns and you know we want to try to address them. I just don't want to turn to a shopping center that your Beautification Committee has commended for its grace and elegance and now tear stuff out.

Vice Chairman Sturniolo: There may be a lot of mixing in of The Beautification Committee what Timber Ridge Road years back to right now, and the issue with the sodium vapor lamps, etc. I'm just saying that for, and I believe you've represented other clients in the past year or two that have been here, and we've always reiterated that we're working on new lighting codes and everybody needs to comply, so why not address those now because eventually the code will take place, and it kind of goes back to the point that he said. I'm saying there is a new lighting code and I'd like to see it enforced.

Chairman Cosentino: Is the new lighting code brighter than what they presently have?

Vice Chairman Sturniolo: No. Until we see a full blown photometric lighting plan you can't answer it.

Joseph Scaltro: There are numbers that are below your .6.

Chairman Cosentino: The reason why I say that is because they just settled a problem with Timber Ridge which was brought before the Village Board on the high intensity lighting there and I think the last letter from Timber Ridge to us was that they are happy to put brighter lights in there. You're right; we should go by the code.

Joseph Scaltro: We looked at the lighting that you had and I made sure with the trespass lighting we weren't offending any of the neighbors. If we were to change light fixtures that are located here, we would then be putting more than the .5 foot candles over the curb line. So, it wouldn't be something where I could change the light fixture or to a higher wattage or different type and then still meet the cut off.

Vice Chairman Sturniolo: A full cut-off fixture is an independent subject from the type of lamp that's in the fixture. That's what we're talking about. If anything, a full-cut off fixture is going to help Timber Ridge even more than they are enjoying the lighting right now.

Ralph Vigliotti: Currently the lighting works well. Whether it matches our current code is something else, but going through that neighborhood every night I think it's fair and reasonable. It may not match the lighting code and that is something that needs to be

addressed. I want to make a fair comment. I'm more concerned about the use than I am about the lighting that seems to be fair and reasonable.

Brad Schwartz: To match it would be brighter lighting.

Joseph Scaltro: Yes. To match you would end up with higher intensity you would need a higher pole. Right now you have a nice ten foot pole that is very residential. You have a lower wattage in there that makes it very comfortable. If I was to try and redesign this I would probably be at 12 to 14 foot poles.

Vice Chairman Sturniolo: When you read the code you will see there is some leeway on pole height. You may not wind up replacing poles. You may wind up replacing the fixtures with full cut offs.

David Steinmetz: How significant is that base issue?

Joseph Scaltro: That's big. The new code requires the new base to be 24 inches above grade.

David Steinmetz: It sounds to me like we would have to create a whole amount of disturbance and a construction project throughout the site where we're building concrete bases.

Chairman Cosentino: Counsel says within a year and a half you're going to have to address it anyway. Maybe now is the time to address it.

David Steinmetz: Again, I'm being candid, I don't know how the Board reacts, but maybe this is an issue that the Board of Trustees needs to consider after you do your referral back to them. Procedurally, where are we? The Planning Board is going to be commenting on the new proposed guidelines?

Whitney Singleton: The Planning Board is proposing. There's no referral back to them.

David Steinmetz: Okay, but it's going from here to the Board of Trustees.

Whitney Singleton: Correct.

David Steinmetz: I don't want to stick around and burden the end of your agenda with more comments, but I hope you would consider grandfathering certain aspects.

Joseph Morreale: One of the things I was curious about is there are three categories. I am trying to figure out which category you were quoting from because I don't see the consistency here.

Joseph Scaltro: There was one where you had low, general retail uses.

Joseph Morreale: Now I'm reading here .2 to .8 minimum average and maximum. Is that where you were?

Joseph Scaltro: Yes. .8 average, .2 minimum with a uniformity ratio of 4 to 1, I'm assuming that's average to me.

Joseph Morreale: And the maximum horizontal foot candles at lot line are .1?

Joseph Scaltro: Yes.

Joseph Morreale: What did you say?

Joseph Scaltro: I had maximum horizontals of point... I'm not exactly at the lot line in the parking spots themselves. I'm at .6, .5, .2, .1, .3, .6, .7, of course there are light fixtures right on the light line. You have cobra heads here. This parking lot here, if you remember, he had cobra heads at about 40 feet. Probably 250 watt cobra heads, so he is spilling light over here already on us. This place has a very low intensity nice lighting system and right next door we have high intensity cobra heads.

Joseph Morreale: I'm concerned about when somebody comes in front of us and says we think we meet the lighting requirements, but maybe we don't; it would be nice to match up what you're saying against what the code says. That's what I'm having trouble with. As I said to you, if it says .1 here and you're giving me .6, that's not within the code, so I'm having trouble with that.

Joseph Scaltro: But I wouldn't be able to meet it because I can't shut off these guys' lights or the street lights. Some of this is definitely trespass light from the guy with the 50 foot pole, and the town has a cobra head here and here that are adjacent to the property.

Joseph Morreale: Am I right that they have till the first of January 2011?

Whitney Singleton: Yes.

Joseph Morreale: So there is a time period in which you could make adjustments.

David Steinmetz: Understood.

Joseph Scaltro: One thought was to shut lights off on the perimeter on the timer at night you would virtually have a cut off fixture.

Nanette Bourne: What you describe is you don't have full cut off fixtures on the interior of your site, so you do have glare going down.

Joseph Scaltro: Yes. They're acorn fixtures; they are Hanover Acorn Glass Fixtures.

Nanette Bourne: The acorn fixtures are so you get the affect of the aesthetics without the glare going up.

Joseph Scaltro: Some of the new Hanovers do that, but in this particular model I did not see that device in there when I was there, although I did not take it apart. I'd have to take it apart.

Richard Cohen: I know my father mentioned that when they were installed he did put some sort of lens or mechanism in there to help screen the light down. I believe that has been done.

Vice Chairman Sturniolo: You'll be able to get the specifications from the manufacturer that shows what you just said and it's going to say it's a full cut off fixture and that will satisfy this. I think the simplest way to address this point, really, is to do a full photometric lighting plan, what is there now, look at it, see where it matches the code and see where it doesn't match the code and see what preventive measures you can take to accommodate it.

Chairman Cosentino: In any event, I don't want that to interfere with the Change of Use.

David Steinmetz: Agreed. I appreciate you saying that. We will work with both Whitney and Nanette on the tenant mix. Can you ask for a draft resolution to be prepared whether you vote on it at the next meeting? Obviously it's always within your prerogative, but can we at least have one at the next meeting so that Richard can tell his dad?

Chairman Cosentino: I don't know if we'd know what to put in it. Unless you feel, Nannette, that you can have a draft at that time.

David Steinmetz: The change of use is approved and that the applicant is limited to a change of use solely to retail use commensurate with the one to 150 parking ratio. That's it. We can't do anything else?

Nanette Bourne: I can have a draft.

Chairman Cosentino: We're going to get a draft resolution and we're going to talk about the things Ralph and Tony brought up. Nannette, you're going to work with them and give your information to Whitney so we have information by the next meeting and we don't have to hold them up.

Continuing Review:

**Northern Westchester Hospital
400 Main Street
PB2003-02-C
Emergency Department / Parking Structure
Present:**

Scott W. Blakely, RLA, Sr. Vice President, Principal Landscape Artist, Insite Engineering
Kurt M. Lavaway, Associate, The SLAM Collaborative
Eric O. Roise, The SLAM Collaborative
John P. Gelcich, Senior Planner, Saccardi & Schiff, Inc.
Warren Geller, Northern Westchester Hospital Center
Michael Caruso, Vice President, Facilities Administration and Management, Northern Westchester Hospital Center
John Partenza, Senior Vice President and Treasurer, Northern Westchester Hospital Center
Joel Seligman, President and Chief Executive Officer, Northern Westchester Hospital Center
Steven Barschoff, Counsel, Northern Westchester Hospital Center

Michael Caruso: We want to start out by thanking the Board for extending us the additional meetings we had in August and also to extend our submission dates so we can coordinate the drawings. We prepared a brief overview to explain the documents that we submitted. Kurt and Eric from SLAM will do that overview for you tonight.

Kurt Lavaway: First of all, I want to start out by saying that this is going to be just a general overview of the submittal documents that were submitted a couple of weeks ago. We have not received any comments back, so we're not really prepared to give a detailed presentation.

Chairman Cosentino: Will you be addressing anything that the Village Board was interested in?

Kurt Lavaway: I can do that. Part of that is just to show you the scope of what we're proposing now, which is a lot of the items that we've discussed at previous meetings. It's basically just to show you the scope and how a lot of those comments have been incorporated in the documents at this point. If the Board thinks there is a better night to do this, we could put it off to another night, but it's a short overview of what we've submitted. Here are some handouts; I want to start out by saying we submitted a couple of weeks ago detailed site plans for the whole campus. We submitted architectural plans for the garage and the E.D. addition. We submitted a full EAF report and proposed text amendments. We also submitted proposed texts to the Zoning Board of Appeals to accommodate some site constraints that we had on the sites. We do still owe you some plans that we are planning to submit at the end of this week. Those are the site lighting plans and the site lighting cuts and the erosion control plans. We are awaiting review comments from your consultants. We have not heard anything as of today.

Anthony Oliveri: I'd like to point out the review comments will be released at the next meeting. That is the procedure of the Board.

Eric Roise: There was a landscape consultant that the Board had hired. We gave him the package and he was going to comment back to us. That is the contact that we have not had back from him yet.

Kurt Lavaway: So to start, you know the existing site in this application we are including all the buildings, lots and uses that are on the hospital site. We've got the hospital site itself, the hospital housing site up in the northwest corner and the two retail lots that the hospital also owns in the southeast corner. You are familiar with East Main Street, Moore Avenue to the north, Boltis Street to the west, St. Marks to the south, and just to be consistent with the EAF documents when we're talking about parking, this is what we're referring to the south parking lot. When we refer to the retail lot, we are referring to that existing retail lot that used to serve both the St. Marks medical building and the retail buildings. The nurse's lot is 48 spaces on the east end of the site, the MD lot and the Emergency Department parking is in here. The north lot is the main lot on the northeast corner of the site, and what we are calling the service parking is served from Moore Avenue and presently is a dead end to the service, but there is some parking along there. This plan, this second sheet shows the final build out that they are presently proposing and is presently included in the documents. That includes the garage, the retail parking, the Emergency Department which has been discussed at length, the north parking buffer and northwest contractor parking that we need to offset from that north parking buffer. The other thing that is discussed in all the documents is phasing. This is discussed at length in the EAF. There are a number of different types of phasing that are discussed. I just want to overview what those are, and as far as the EAF is concerned, we're talking general phasing of the site. There are other types of phasing, project phasing, which is how the project got bid out individually, there is

another type of phasing for construction phasing, which is different phases within each one of these phases that will accommodate construction traffic and construction work while everything is getting built. So for the EAF when we're talking phases, we're talking three general phases. Phase One which is the E.D. and the loop road; Phase Two is the parking garage and the retail parking and Phase Three is the proposed parking buffer along the north parking lot. The northwest lot over by the hospital housing is considered part of Phase One. We need that for contractor staging and for the first couple of phases that it used for contractor parking.

Joseph Morreale: Can you give us an idea of a timeline for Phases One through Three?

Eric Roise: Phase One is about a year and a half to two years. That includes the loop road the improvements to the site and the E.D. Phase Two, the garage, is another 18 months, and Phase Three which is the parking buffer is projected to be about four months.

Joseph Morreale: That's after the four years.

Eric Roise: Yes.

Michael Caruso: The reason the buffer was chosen to be last is because it displaces during the construction of the buffer, 70 parking spaces, to actually build it. At the end it would only displace the 50, but it had to go last in order to build the parking structure, we would have to displace 160 spots that are going to be part of this phase, plus the 60 for the retail.

Vice Chairman Sturniolo: It's nice that you put a date on these charts. There have not been any dates associated with it in previous submissions. As changes come up, we can see where they've come up. When does the 18 month stopwatch start?

Eric Roise: The E.D. starts the clock.

Kurt Lavaway: That gets into the parking. The way we have approached it is a master plan approach for the whole site. It's broken down in the EAF. It's fairly complex, so I ask you all to read that. Suffice to say, for each phase and each sub-phase of the project, we have now met the parking demand throughout the construction of the full site. We meet that during construction by using off-site parking and valet parking in the north lot. At the end condition, when the garage is built, the north lot is done, everything is turned over; all our parking is one site with no valet and no off site parking. The streetscape improvements; you asked us for a buffer along here, that's all included in the submission documents. We also have a buffer for the north parking, which you've seen before. We're awaiting comments from the landscape architect to address and to respond to on both those sites. That's pretty much the whole project. When the E.D. is built, the loop road is built and the modified south parking lot gets turned over, the retail parking pretty much stays the way it is, and this is the interim condition until they start construction of the garage where all this parking on this end of the campus goes somewhere else. As part of that in the EAF we know that retail parking will disappear, so we are anticipating that the retail demand will be met in this nurses' lot here in the interim, and once the garage is built, they get their parking back.

Doug Hertz: Is the intention to start the parking structure as soon as you've finished with the E.D.?

Joel Seligman: That's our goal. I'm going to say what you don't want to hear which is that all this is assumed that the financing is available to do this. Our intent is to do it as soon as possible after the completion of the E.D.

Vice Chairman Sturniolo: The 18 to 24 months of phasing; the agreement that you have with New Castle for the parking there, do those agreement dates tie into everything we just heard so far? Is there flexibility on your agreement with New Castle if you run into snags and you need those 140 spaces longer?

Steven Barschoff: I have not gone back to double check to be sure we are exactly in sync. Some of these numbers were being worked on relatively recently. To some extent it's a moving target in that there could be construction delays. I think the understanding that we have with New Castle is that because we're not just up there to use that site for this overflow parking, the expectation is that in the event that we need more time that we will be able to get it. I have not actually gone back to line them up, as you're asking. We can do that for you to see exactly how closely they match.

Michael Caruso: We just had a meeting with the Town of New Castle because we are currently looking to rent a permanent space over there, and while this is all taking place, we have a bunch of our current departments that are within the hospital that will be there permanently. That will reduce our numbers on site. So while we do have the 140 there, we also have the use of the Unitarian Church. We don't have a lease with them, but that's an additional 60 spots that we are in the progress of finalizing.

Steven Barschoff: We've made the commitment to provide the requisite amount of parking on site and off site. If we can't provide it at Reader's Digest, and there are already redundancies that we are trying to build in, we're going to provide it and we'll provide it somewhere because we have to. We're trying to, not only do what you're suggesting on lining them up as best we can, but there are other options we are looking into as well right now, and we will explore others if it appears that they become necessary.

Doug Hertz: You mentioned that you hired John Slaker and he hasn't gotten back to you with comments yet. Has this Board had an opportunity to talk with John? How are we going to get the information to John about what our concerns are for that buffer?

Chairman Cosentino: The information is going directly to the hospital; the hospital is coming to us to present it with John. The hospital is hiring John Slaker.

Eric Roise: The Board requested that he look at it, and we give him information so he can look at it for you.

Doug Hertz: From my perspective, it would be useful if he can hear from the Board directly what our concerns are so that his time spent with you is productive.

Eric Roise: We've put calls in; we just have not gotten things back.

Michael Caruso: I'll make sure that I clearly communicate that to him. Our first part of doing it, after we heard it from what the Board's request was, that following week, all these documents were sent to him with reference to any landscaping piece on the property. It was all sent to him, we did make some follow-up calls, but I'll make sure it's very clear with him to come in.

Chairman Cosentino: He has to come before this Board with it.

Nanette Bourne: I will call him to reiterate what the Board has said tonight.

Doug Hertz: The earlier John can be with us, the more productive he'll be with you.

Kurt Lavaway: Just to wrap it up, the final condition end to the site would be the E.D. with the new garage. The garage has been lowered into the grade as suggested. The retail parking is at that lower level, and there is a sub-level in the garage that addresses the retail parking. There is a ramp because of the grade that goes up and physically connects through the rest of the garage. There will be physical barriers put in place at that level to prevent the retail parking from getting up into the hospital lot. This is the general overview. We are all here to answer any questions you may have.

Joseph Morreale: During the construction of the garage, what would happen to the retail parking spaces?

Michael Caruso: We took a stab at looking at where we can possibly put retail parking, and our closest spot on site currently would be this parking lot because it has the easiest access down to the retail.

Eric Roise: The numbers are all in the EAF. When you look at it, it explains it all.

Vice Chairman Sturniolo: When we reached an understanding of the collective berm and the front, you talked about utilizing some hospital property on Boltis street for that?

Michael Caruso: This location. The reason why it's showing here for contractors is because it's within the H district. That would give us 34 parking spaces.

Eric Roise: We made it all work without having to do that.

Vice Chairman Sturniolo: Satisfying the displaced cars and satisfying the parking needs of the construction personnel?

Michael Caruso: Even when we build the berm, with the parallel cars that are here, we're going to have a net loss of 50 cars. Right here, without going into another zoning area, staying within the H district, we'll have 34. So we still have a deficit.

Eric Roise: This is made up in the garage.

Kurt Lavaway: On campus we made up for every loss. We don't have a loss on campus on any phase without having to go into using the residential.

Vice Chairman Sturniolo: So without using the residential, but using the joint lot of the construction workers, is that at all delaying the start up of Phase Three for the berm?

Kurt Lavaway: That's why Phase Three is the last phase, because the contractors are out of that lot by that time.

Vice Chairman Sturniolo: If you had parking to the left of that Phase Three lot on that other piece of property that you own, would the rezoning allow that?

Michael Caruso: We'd have to put our construction fences up, our silt fences and we have to be able to access from within the lot as opposed to going onto 117 to get the equipment in there, so that's where we figure there would be 70 cars displaced.

Kurt Lavaway: Most of that lot as it's shown now would be still used as construction staging and trailers during construction. They will be there until the end of the garage.

Michael Caruso: Essentially you would have the 160, the 60, the 70 and the 30 something. That's why it's shown like that. We looked at it a lot of ways.

Vice Chairman Sturniolo: So the driving factor is because of the zone change that would be necessary for that other property?

Michael Caruso: I don't think that's the only driving factor. We still have to be able to keep the contractor's parking someplace on the site, so that would only give you the 30 and maybe 20 there.

Kurt Lavaway: I thought we had discussed this at least in part last time. To say that we were scared might be putting it mildly about the idea of proposing running parking down Boltis and the potential impacts of the residential neighborhood.

Eric Roise: That's why we worked it out to make it work so that we are not going to that option.

Doug Hertz: You mentioned that you are working on a lease with the Unitarian church?

Warren Geller: We have a lease with them. We are working on our zoning application for the Town of Bedford.

Doug Hertz: Would that potentially take 60 of those vehicles?

Warren Geller: No. That is included in our initial 200 during the phasing that we're moving off site. We went to additional spaces at the Lutheran church, so we're up to 50 there, we have 60 at Unitarian, 140 at Reader's Digest. That was in our initial count just to meet our numbers during full fledged Phase One. We're okay with the 140, but we're going to want the 60.

Doug Hertz: You know where we're going with this?

Michael Caruso: Yes. You want the berm built first.

Joseph Morreale: Really what we're getting at, it's going to take five years before that ever changes. That's what we're seeing, and you keep saying there really is not a whole lot you can do about that.

Michael Caruso: I can certainly see why you want to build it first, but I don't want to lose sight of the fact that the ER is aging and people are piled up in the hallways there.

Doug Hertz: I'm not suggesting in delaying the Emergency Room. No one is.

Joseph Morreale: I was bringing the real issue forward.

Kurt Lavaway: The real issue is this south parking lot. When this is under construction, that's our worst case. We are losing the most parking, 160 plus another 60 spaces.

Joseph Morreale: You're making the assumption that Reader's Digest is not going to convert all that?

Warren Geller: We are taking space there and requiring a parking lease there with the assumption that Chappaqua Crossing will come to fruition, and that does into their parking count of some scale. I can't imagine it's going to pass through the town of New Castle at the scale it's at now, just based on the reaction we have seen while we're there. We had a very positive meeting with the town today with their planners and their building inspector about over 35,000 square feet that the hospital is going to be taking on every term lease in buildings that are going to be there infinitum, and that's going to move significant services there from rehab to physical and occupational therapy, balance center, sleep center, wound care center, hyperbaric medicine; so many of our medical offices are moving there, so those out patient practices will move there, and it's not to grow volume on campus, it's to build the campus properly based on our Plaintiff concepts of patient centered care, where we have storage space and family space and spaces for the staff to decant. This will be very beneficial to us in the long haul. Our meeting today went very well. We showed them preliminary drawings prepared by John Sullivan, and they were very impressed with what we're trying to do there in New Castle.

Joseph Morreale: That would be a permanent juncture?

Warren Geller: Yes. One of our strategic goals is to expand to the south.

Joseph Morreale: The shuttle bus service back and forth, have we seen traffic analysis of what that's going to meet? When you're putting 120 spaces down there?

Chairman Cosentino: I think New Castle will address that.

Warren Geller: New Castle did address it. Most of it came off of the Saw Mill, and John Collins in addition to Mike Galante from Frederick P. Clark, as the Village and as the Village of New Castle looked at the traffic numbers, and it didn't have a large impact. Most of that traffic is coming by now, and two shuttle buses of 25 to 30 persons, brand new with the White Plains Bus Company, so energy efficient.

Chairman Cosentino: Mrs. Gerard made a statement that she wanted to help as much as possible. They are part of the community.

Warren Geller: And it was much appreciated. They saw what Mount Kisco does and how you guys were working with us, and they pretty much jumped on board the same way, which was very nice for the hospital.

Michael Caruso: They are all employees that will be located there. They were strategically chosen of how they come to work. Most of them are coming up the Saw Mill River Parkway now and have to pass that way. We chose them based on where they live and how they come in. A lot of thought went into who we will be putting there.

Doug Hertz: There will be less traffic counts for a period of time at least because the cars will be parked.

Joseph Morreale: They are not coming up Route 117.

Warren Geller: The shuttle bus will come up 117. Most of the staff that goes on the Saw Mill comes from the north because you go 684 to the Saw Mill and it will be right there. We will be parking on their campus on the Saw Mill side on their campus. We're not going to be parking on the 117 side. They were obviously very concerned with Greeley traffic and 117, and that's the concern we had to address.

Steve Barschoff: I was before the Village Board and presented the application simply for the purpose of asking for the referral back here, which the Village Board did vote by majority vote. There was one abstention. The concern that was raised by that particular member was concern that went to the merits of the rezoning application, particularly the height numbers and the other numbers that were in there. I indicated we were not seeking any kind of approval from them at all that night, just simply to get the ball rolling by having it referred back here which was done. One of the things that would facilitate the zoning process if there could be a way of communicating back to the Village Board that the zoning is simply the way of enabling the parking garage to be

built, which is what the Planning Board wants. It's really more the garage dog dragging the zoning tail, if you will. I tried to communicate that. I'm not sure if I really got that across or maybe this particular Board member didn't want to hear it from me, maybe he wanted to hear it from someone inside the Village. We do stand with having been referred back to the Planning Board and so we will ask you for your recommendation as part of the process.

Whitney Singleton: How do you propose to deal with the issues of ownership of the individual lots to make sure that they are narrated properly and cannot be sold as separate and apart?

Steven Barschoff: We would put in restrictive covenants. This is the first time that the matter comes up, but as a practical matter I couldn't imagine dividing the lot in which there was a single parking structure and sell these two pieces, but if it were to be a request of the Board, I don't see any reason why we wouldn't put a restrictive covenant and that would prohibit these from being sold separately.

Whitney Singleton: And you're not currently in the same ownership? Is that correct?

Steven Barschoff: I have not seen a title.

John Partenza: Yes, they are under the same ownership; it's all under the corporate umbrella of the hospital. I think there are two subsidiaries on it, but we could certainly have a restrictive covenant as long as there is a parking garage on it, and solve it.

Whitney Singleton: And that third lot as well with the ambulance? Is that similarly owned by the hospital?

John Partenza: Actually right now that's owned by Norcorp, we're about to shut that corporation down and put it in our title holdings. We have two corporations, the hospital and title holding company which holds all the titles to non-hospital properties.

Chairman Cosentino: By the way, we've been getting a lot of reports on the ambulance parking illegally on sidewalks.

John Partenza: Where they are now at 444 Main?

Chairman Cosentino: Yes.

Warren Geller: We'll take care of that. At the moment they are not going to relocate. We haven't been able to find a suitable site. We looked in the area, we'd like to keep them close for everybody's benefit, but the rent is right at the moment for them.

Whitney Singleton: I don't know that the proposed zoning addressed this. I'm trying to figure out once all is said and done how we will do an analysis going forward of the uses on the commercial site and the uses on the hospital. How are we going to know what supporting parking spaces are going to be associated with the retail use?

Steven Barschoff: There is a physical division as proposed inside the parking structure. There are a certain number of spaces allocated for retail and a set number of spaces within the structure allocated for the hospital.

Warren Geller: You're not going to be able to access the hospital site from the retail. There will be bollards blocking it off.

Whitney Singleton: The number of spaces that you're attributing in your allocation for the hospital is just those that are solely accessible from the hospital?

Michael Caruso: Yes.

Kurt Lavaway: To clarify, there are more than 68 spaces on this sublevel. The hospital will retain some parking for that use. I assume it will be shared parking that they can get up through an elevator from that sublevel to the parking lot.

Whitney Singleton: That will be attributable towards the hospitals required plans?

Kurt Lavaway: Correct.

Whitney Singleton: But there is no double carrying spaces?

Kurt Lavaway: No.

Nanette Bourne: If you think back to the schedule that we all talked about, it's a bit behind because the applicant had requested some more time to revise their materials. But this is the formal application that gets this kicked off and gets it moving in the direction of review and approval of the permits by other agencies. One of the three pieces of information that you've been provided is an expanded environmental assessment form, another is a storm water prevention plan and the third is an historic and archeological update. With regard to the EAF, the agencies that are involved cannot act on this until the Board as Lead Agency makes a SEQRA determination. So, even though it's the practice of the Board to do your SEQRA review and then make your SEQRA determination at the end of the process, this is one time where it is not going to work that well because in order for the schedule to move forward, the hospital needs to get their application to DEP to review for their storm water pollution prevention plan. DEP will not entertain their application and storm water prevention plan until your SEQRA determination is done. I have gone through and reviewed the EAF. I have some substantive comments in a few areas and I have some housekeeping comments on some of the structure. If you want I can go through them quickly tonight, and any other additions and edits and comments. Then the applicant will need to resubmit this. Really clarify the phasing program. The graphic that they provided tonight I would recommend be the graphic that they include in the EAF. It's a much more comprehensible diagram, and includes the months that you spoke about tonight. The parking that is next to the hospital housing needs to be clarified whether or not it's temporary or permanent parking. In the EAF it's discussed as a gravel lot, but it continues on through the final site plan, and it needs to be clarified. If it's a gravel lot for the long term, is the Planning Board comfortable with a gravel lot or do you expect it to be paved?

Chairman Cosentino: We expect it to be paved as we do with all other lots.

Nanette Bourne: They show landscaping around this parking area in the materials they provided tonight, and I recommend that those materials be brought into their EAF. There has been an enormous amount of effort on the part of the Planning Board to look at the visual impacts, as you consider the visual impacts on the structure on St. Mark's, and particularly on the residential homes across the street. You asked for some drawings that clearly showed what it's going to look like and a lot of effort has been put into this to reduce the scale, and we know it because we've talked about it, but it's not reflected in here. When it gets reviewed by the public, you really want all that effort to be apparent. The issue of the second floor Emergency Department. It is referred to as a shell. Even DEP brought it up as what is the proposed use? It is not included in your parking demand analysis and I've understood from the very beginning that it's going to be a shell with a use to be determined. We need to nail down how that use is triggered and what it does in terms of parking. The graphics need to be reorganized. Some of them are out of place. The cultural resources, the historic and archeological work need to be made clear as to when they intend to do it. Additional work was required, investigation in a couple of areas and how that fits into your phasing program. For example, there is some additional work that suggests in the area of the berm along Main Street and the Board may not want to require the applicant to do that investigation in Phase One, but Phase Three cannot continue until that work is done and cleared by SHPPO. I will hand deliver to the applicant my housekeeping comments that go with this.

Vice Chairman Sturniolo: Can we also incorporate this set of drawings in the revisions?

Nanette Bourne: Yes, that's already in there.

Doug Hertz: You were also talking about incorporating the elevations?

Nanette Bourne: I think they need to do some kind of a photo simulation of the visual impact on the elevations.

Warren Geller: Would it be helpful if we include the initial pictures that we did and what it is now?

Nanette Bourne: It's typical to show existing conditions, but you want to show what it's going to look like with the building in and the landscaping.

Michael Caruso: For the purposes of getting the visual, looking at this garage piece over here, should we wait or should I release them to at least start with the photometric before the landscape architect that the Board wants us to use is on board?

Nanette Bourne: I don't think you can wait.

Doug Hertz: I think we're more concerned about his input for the berm and the whole front but largely I think what we're talking about is the visual impacts, streetscapes.

Eric Roise: We can take snapshots of that 3D model that you saw.

Chairman Cosentino: Are you going to be ready to go on the next agenda?

Nanette Bourne: If they can get their EAF revised. The key thing is your photostims. That's up to you.

Chairman Cosentino: We will put you on the 23rd agenda.

Nanette Bourne: It's possible the next meeting will get you to the public hearing, because then there are a couple of tracks that are running parallel.

Eric Roise: We were in front of the Architectural Review Board and they liked it, but they told us the Planning Board has to give us the okay to go ahead with our review based on the garage and the E.D. Once you guys approve this, then we can go to ARB; another thing that you guys will kick off, so we can go to the ARB for final approval.

Chairman Cosentino: Okay. Next meeting.

Illumination Guidelines

Vice Chairman Sturniolo: Next item on the agenda is the illumination guidelines.

Nanette Bourne: These reflect two minor changes and they differ from the ones that are in your packet. Table I, page five under the second column, maximum mounting height, there is a fourth asterisk that has been added and on page six, and the other change is there was a column on the right hand side that is now deleted, thanks to Anthony. The four asterisk change has to do with giving the Planning Board the discretion of the height and type of lighting on top of a parking structure, so that you don't have 15 foot light poles on top of a parking structure.

Doug Hertz: Number three, page four, referencing foundations that support lighting poles, I assume that's so a car doesn't hit the pole. Is there some flexibility on that?

Nanette Bourne: If you go into parking lots where they don't have them, that's when you see poles lying on the ground.

Anthony Oliveri: You would have four bollards around the poles and you'll see those.

Vice Chairman Sturniolo: The four may look tacky.

Doug Hertz: In the case of the Village's streetlights, which are similar to what the applicant was discussing earlier this evening, I wonder if there should be some discussion on our part to determine where the bases need to be reinforced or raised or protected in some fashion. That maybe would give us a bit more discretion. I'm not up for changing this at this late date, I'm wondering if that makes sense to anyone based on the earlier discussions.

Vice Chairman Sturniolo: Or if we added something after the word "ground" similar to the four asterisks or in the opinion of the Planning Board if this needs to be adjusted.

Ralph Vigliotti: I agree. If we look at the commercial building we were looking at earlier, it has a nice town and country look. If we force this on it, it becomes more institutional. At some point we have to use some good judgment to what looks good versus what needs to be protected.

Doug Hertz: So for instance, in something like this where a pole is behind a barrier of some sort.

Ralph Vigliotti: It could be just a nice large stone.

Doug Hertz: So maybe we want to amend that to say "or to be protected in a fashion to be determined by the Planning Board."

Ralph Vigliotti: Do we put a provision in if they are damaged they need to be replaced within an "x" number of days?

Doug Hertz: Is that something that we want to get into in the lighting code?

Ralph Vigliotti: Whitney, how can we word that?

Whitney Singleton: We have a situation where somebody has a preexisting non conforming commercial lighting. (Mr. Singleton then quoted from the existing lighting code). "All other non commercial lighting may be maintained until January 1, 2011. Following that date, all commercial lighting shall conform to the standards of this chapter." How do you conform? Do you go out and change it? Do you take a permit out with the building inspector? Is it an application for a site plan amendment?

Ralph Vigliotti: It could be all of those.

Whitney Singleton: But, there should be a procedure that's established in here because you're going to have a lot of people who are all of a sudden nonconforming. We heard tonight in a very polite fashion, you're telling me that the lighting that the Planning Board told me to put in "x" many years ago now needs to be ripped out? I don't know whether what we heard tonight was inflated or not, but that was a pretty significant number. If that's the case, how do they go about doing it? How do we direct them in this regard? You're saying not only do I need to correct this, but I need to make an application to the Planning Board for that. It doesn't say in here how we should do that, and that should be clear.

Vice Chairman Sturniolo: How do we address that tonight? What changes do we need to make?

Whitney Singleton: There is that balance of getting back to you to make it thorough and also moving things along. Perhaps this should be a discussion item for Thursday.

Vice Chairman Sturniolo: I think you know the feeling of the Planning Board. So we're not going to vote on this tonight?

Whitney Singleton: It could be voted on subject to changes. I think this is something that needs to be addressed, and I think that you're going to want to afford the ability of an applicant who has what you would regard as nice lighting to be grandfathered, to be given an exemption, to be given a variance, whatever that may be, special dispensation, etc.

Nanette Bourne: The alternative is to let this get into the public hearing process.

Whitney Singleton: I just went through four public hearings on the sign ordinance, with commercial property owners complaining they have to replace a sign they paid \$98 dollars for. When you have somebody coming in with a \$100,000 lighting plan...

Joseph Morreale: Then you put the whole thing in danger. I think we need to correct it before it goes public. Why is it in there in the first place? 24 inches above the ground. What's the point of that?

Sol Gibbons: Protection from the car hitting the pole. If it hits the foundation, it's not going to do too much.

Whitney Singleton: And it's only applicable when there is no curbing in between it.

Joseph Morreale: So if you put fencing around it, you've accomplished the same thing.

Vice Chairman Sturniolo: Then it goes back to the question of bollards.

Joseph Morreale: You're not raising the pole, you're not getting into that whole expense, but you're protecting the pole.

Anthony Oliveri: In some instances, if you don't raise it, if you put up a fence or guardrail around it, you may lose parking.

Vice Chairman Sturniolo: Case in point would be an abomination of parking at Mount Kisco Commons, where every triangle that sits around the pole encroaches on the 9.6 x 18 foot space.

Doug Hertz: I think the intent is to get the non conformity having to do with glare and levels and not with the structures necessarily. And for new things going forward we should retain the discretion to have it built the way we want.

Whitney Singleton: Let me make this suggestion. Perhaps what we should do a Thursdays meeting is look specifically at the issue of non conformities and spend twenty minutes on that. In anticipation of that, we can also look at the language that we did for the sign ordinance, because there is a big section on amortization and what your options are and try to incorporate some of the language that we did there with regard to this. Not the phasing, year one, two three and four, some of the provisions they have as to how you go about becoming compliant.

Doug Hertz: I would also like to see something in here that basically says notwithstanding all of the above, the Planning Board retains discretion, to give us some wiggle room where in our opinion, strict adherence to these guidelines does not advance the cause that we're trying to do. There are going to be situations, clearly, that are very, very difficult. One of the things is establishing a baseline amount of light. Any building that sits on a commercial street that's sitting under a Village street lights or things like that; how do you determine where the light is coming from? That means you have to switch off lights or shield.

Whitney Singleton: You're trying to figure out how to get compliant substantively; I'm trying to figure out how to get compliant procedurally. Someone has one light on their property which is non-compliant. Who do they make application to? Do they make application? You define non-conforming lighting as commercial.

Vice Chairman Sturniolo: Why don't we wait another time? We've put this off from agenda to agenda. Let's nail this down Thursday and put this back on our agenda at the next Planning Board meeting for approval.

Whitney Singleton: I think that would be safer.

Vice Chairman Sturniolo: These are the only two items that we want to see changed.

Doug Hertz: We want to see overall discretion, possibly some discretion in that mounting thing, the grandfathering or non-grandfathering, issues of glare trespass and quantity.

Whitney Singleton: Do you foresee a situation where there would be an administrative correction to somebody's site plan? In other words I'm non compliant because I've got "x" many foot candles, and all they need to do is change a bulb? Do they have to come back to the Planning Board for an amended site plan?

Doug Hertz: I don't see where they have to come back.

Whitney Singleton: They are amending their site plan.

Vice Chairman Sturniolo: The site plan is going to reference foot candles, which is a spin off of changing the wattage.

Whitney Singleton: Differentiating between the administrative sides.

Doug Hertz: And having an administrative change would be great.

Anthony Oliveri: You have to leave it up to the Building Inspector to make a decision to send it back to the Planning Board.

Vice Chairman Sturniolo: Could we agree, you've got the thoughts on Thursday and we'll discuss it on Thursday and then bring it back and vote on this at the next meeting.

Joseph Morreale: Once we approve this, it goes to the board and they have to approve it?

Whitney Singleton: They hold a public hearing, should they so desire to solicit input from the public. Right now there are two things before the Village board. There is a complete overhaul of change of zoning for one and two families, which is pretty significant, and there is a proposed change of sign ordinance where it is very accommodating, very user friendly and a lot of thought and consideration went into it. The commercial property owners are very, very in touch with what goes on in this community. The mere removal of neon signs has created uproar. There is a sense that Mount Kisco is unique with a lot of economy and individualism versus we don't want to

make Mount Kisco cookie cutter like other communities, where every sign is the same, which they have gone to great lengths not to do.

Joseph Morreale: That's all the more reason. This could generate a lot of antagonism. Flexibility in it is really important then.

Whitney Singleton: One thing to consider. One of the types of signs that is encouraged under the proposed sign law are these wood carved signs with the gooseneck lighting that comes out and illuminates it externally. MY thinking, is seeing the face of that bulb, which you can always see in this lighting, going to be in violation of what we're proposing here? Those are the things that need to be considered.

Ralph Vigliotti: When does the sign ordinance go into effect?

Whitney Singleton: There is five year amortization with the possibility for unique circumstances to get one year multiple one year extensions.

Ralph Vigliotti: That's fair and reasonable.

As there was no further business, on a motion by Mr. Vigliotti seconded by Vice Chairman Sturniolo, the meeting was adjourned at 10:25 P.M.

Respectfully submitted,

Sol Gibbons,
Acting Secretary

dm