

Minutes
Meeting of the Planning Board
Regular Work Session
Village/Town of Mount Kisco
Tuesday, January 13, 2009

Meeting called to order at 8:00 P.M. at the Municipal Building Mount Kisco, New York.

Members Present: **Chairman Joseph Cosentino**
 Doug Hertz
 Stanley Bernstein
 Sol Gibbons
 Ralph Vigliotti

Members Absent: **Vice Chairman Anthony Sturniolo**
 Joseph Morreale

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

Public Hearing:

Mount Kisco Sports Arena
333 North Bedford Road
PB2008-16

Present:

Jim Diamond, Diamond Properties, Property Owner
Michael Gallin, Principal, Gallin Design Studio
Ken Rudolph, Developer, Mount Kisco Sports Arena

Of Counsel:

Lester Steinman
David Stolman

Recused: Doug Hertz

Michael Gallin: Since we met last, we had the opportunity to meet with your staff, and through some discussions with them, we have submitted a revised floor plan. We're outlined some restrictions that would not be oppressive to the operation of the business that we felt would address some of the concerns that we've been hearing from the board and consultants:

- Limit the maximum total occupancy of 250 people without the issuance of a special event permit.
- No alcohol on premises.
- Maximum of 3 pay for play video games. This will address the fact that this will not become an arcade recreational facility. We did not eliminate them altogether as there is a desire to have two or three video games within the large facility to entertain younger siblings who happen to be in the facility.
- No bleachers within the facility.
- Defined the incidental use of the league play that would be by participants that are not taking instructions process in the facility and limit it to the after prime business hours and on the weekends.
- The number of special events would be limited to 12 per year and it would be subject to the approval by the building inspector.

The other significant change is that that last application had two basketball courts and an indoor golf facility in the back. The business plan has changed slightly as the golf has been eliminated and the plan now presents three basketball courts consistent with the business model.

David Stolman: This is not entirely consistent with the meeting that we had. In the memo that I did summarizing the meeting, I was very careful to say subject to Planning Board approval when I discussed the various items. I think at this point the Planning Board has certain comments regarding certain aspects of what you just talked about. I think it is worthwhile for the Planning Board now to express their point of view on that.

Lester Steinman: Before they begin that, it may be best if we start at the top bullet, maximum occupancy, and maybe you can give a little background as to how you got to that figure.

Michael Gallin: We were trying to pinpoint a number that would one, be low enough so that it would have no adverse impact on the community on the site if the number of occupants below that maximum number were in the facility. It was felt among us that below 250 seemed like a reasonable number that would have a negligible impact considering the size of the facility.

Ken Rudolph: We feel the most people we will have in the facility at one time when it's in full use as when we have three games going on at the basketball courts, and we determined that the amount of people that we had in each basketball court. Even if we had two teams backing up each basketball court waiting to play we'd still be okay with 250.

Chairman Cosentino: The problem with that is Grand Prix New York is allowed 120. If we give you 250, Grand Prix is going to be in here and ask for their 250.

Jim Diamond: I think they are unrelated, totally different businesses. I don't think the Planning Board would be under any obligation to look at it that way. An important point is that the participant count, which we've updated here to reflect the three basketball courts as opposed to the two plus the golf, with full utilization, we're still at 86 participants. The occupancy of the facility is anticipated to be substantially below 250, probably below 100. The idea is in terms of a permanent restriction to be on the facility and to deal with those peak times when there could be a lot of events happening all at once, parents bringing kids, we wanted to pick a number that would be both safe in terms of the facility but also reasonable, so substantially below the number that would have any negative impact on 333 North Bedford Road.

Chairman Cosentino: That is a fear of the board, that that would happen with Grand Prix. If we go at 120, he can always come back in.

Michael Gallin: There have been discussions with Grand Prix New York about the special permit, and they would like to have two different peaks. One during the workday when the site is being utilized and then a different peak after hours; the logic being that after hours there are very few cars in the parking lot. There is less traffic on the street and it didn't make sense that it would be the same threshold. I would be interested to hear if the board would be willing to consider something similar at this facility.

Ralph Vigliotti: We end up with a cumulative effect down there. We have 250 here, x number going into Air Mac, x number of business people going into the proposed electric place, then Grand Prix and now the new space. There could be at any given time 1000 people down there. I leave you with that thought. The other thought is where does our parking calculation come in with occupancy rating versus square footage? If they are looking for 250 occupants, what does that mean for parking? What are they going to be locked into on your parking calculation for that site, which will have an impact on the remainder of the build out?

Michael Gallin: Both of your arguments jive with what I was saying about having two different limits; one during the business day and one after hours.

Ralph Vigliotti: But in doing that parking count, I don't think we can say "busy time/non-busy time."

David Stolman: It is based upon square footage.

Jim Diamond: One space per two participants plus one space per staff member.

Michael Gallin: That is per code. I believe the code has some provisions for non-concurrent use.

David Stolman: There are no specific shared parking ratios or quantitative standards in the code. Michael, when you used this standard of one space per two participants plus one per staff member at peak, what peak did you use?

Michael Gallin: In terms of participants, we used the number of people that could be on the field. So, we used 100 percent utilization for the basketball courts and the baseball fields and the training times.

Lester Steinman: What number was it?

David Stolman: It looks like the number your coming up with are 66.

Ralph Vigliotti: 66 spaces sounds like it is woefully under with the facility has the potential to have as far as parking. If we have 81 people using the site, and then you deduct the 81 people from the potential 250 on the site, what is the actual parking that is going to be needed to accommodate what you're asking for; a maximum of 250 people. We just can't base it on the number of athletes that may use this. We're basing this on another 150 people who may be spectators. Where are they going to park?

Jim Diamond: We are using the code, which is one space per two participants plus one space per staff member and visitors.

Michael Gallin: I presume when they wrote the code the idea was that most visitors will be coming with the participants. Certainly with youth sports that is the case.

Ralph Vigliotti: I think we have rationale to raise the parking to the appropriate limit.

Jim Diamond: There is a chart included in our most recent submission that has all the updated numbers. The site has 794 parking spaces available. Using the calculations in the code, where we are required to have 700 parking spaces, we have a substantial excess of parking spaces per the code. One of the benefits of the site is that it is so large with a mix of tenants that are really busy at different times of the day. Mount Kisco Sports Arena will have very little activity until sometime in the mid-afternoon when schools get out, but will go much later in the evening after all of the office and warehouse tenants have left for the day.

Ralph Vigliotti: As we have done this on other properties, we need to account for X number of spaces as you work your way down and fill the occupancy of all the square footage.

David Stolman: I think it's important to temper that with the fact that I think that the maximum utilization of the site may end up occurring on Sunday and Saturday when you're having these tournaments.

Ken Rudolph: That is primarily when it will be. During the weekdays it is going to be very rare that we will have multiple participants with visitors and spectators.

Ralph Vigliotti: You're asking for stadium seating with no bleachers exceeding three tiers. What is the length of that three tier stadium seating going to be?

Michael Gallin: To clarify why there was an interest to not eliminate all bleacher seating, there is no intention to put bleacher seating in currently. But it seemed like a mistake to say that there is never going to be a desire to want to have two levels where parents can get up a little higher.

Ralph Vigliotti: As part of your set of plans, we need to know what you are looking at as linear feet of stadium seating.

Ken Rudolph: We really haven't defined that yet.

Ralph Vigliotti: Then we need to know what the maximum would be. That will help us determine the use.

Jim Diamond: By agreeing to limit the total number of people in the facility, we're sort of achieving a similar objective by saying that we'll never exceed the 250 people anyway. There will be a theoretical maximum number of people who could fit on a set of bleachers.

Ralph Vigliotti: We need to have this down in writing.

Ken Rudolph: I think when we're going to use the bleachers we're going to Austin for the special use anyway. It's not going to be that we're going to have the bleachers set up all the time. It will only be when we exceed that number.

Lester Steinman: Ken, did I hear you say no bleachers without a special event permit?

Jim Diamond: I don't think that is what Ken is saying.

Lester Steinman: I think the problem is that your business plan is evolving as we go through this process. Some of these issues are being thought out on the fly. In addition, the whole occupancy of this site is also evolving and we're looking at another potential application to follow this that will put some burden on parking at night and weekends.

Jim Diamond: I do think it's reasonable that the business plan evolve with time, and there is no reason that it needs to be frozen in stone. It's not a business that currently exists. The point is we're trying to address the critical consideration with the property, which is at 333 we limit the number of trips that the overall property has, and we're limiting the occupancy within this particular use and another use on the site. I think it would be counterproductive for us to have restrictions that don't necessarily yield any real benefit and freeze the business plan in memoriam without any real logic to it.

Michael Gallin: We were also asked whether or not there would ever be bleachers in the facility. On day one, there was no intention of putting bleachers in the facility, but by asking that question, you're asking us to look into a crystal ball. Two years from now, will there ever be a desire for bleachers in the facility? The smart answer is to say we should keep the option to put in limited bleachers. We will define the number to make sure that it is something that everybody is comfortable with, and hopefully that will address your concern.

Ralph Vigliotti: The facility is quite lengthy.

Michael Gallin: Understood, and I understand your concern. We have no objection to limiting that number.

Chairman Cosentino: We just have to get to that number.

Stanley Bernstein: Mr. Chairman, my problem with the 250 occupancy is that it raises the threshold to special permits, which means you can use it any time you want. That's the maximum, and when you exceed 250 you need a special permit. That number should be lowered, so that you ask for a special permit after whatever number we come up with. You're raising the threshold on when a special permit is called for, and I'm not happy with that. Also, when I asked the question about bleachers, they said its no problem, it's not an expensive proposition to wheel in bleachers for spectator, and you said we have no intention of doing that. Now you're asking for a maximum of three tiers. I think we should specifically not allow bleachers in our resolution. The reason for that is that the entire 333 site is evolving into something entirely different from what we thought. To me it looks like it's heading towards a giant circus. I have not thought about it from a long range proposition as to whether Mount Kisco can bear a situation, a complex very mixed like that. About the traffic, when you first came to us I explained to you that traffic is like a 55 gallon drum. You keep dumping a couple of gallons of water in there constantly and then you reach a point, and the last tenancy comes in and he's got his gallon, and that gallon overflows the 55 gallon drum. What do we say to that last applicant? As a planning board, do we say no, you can't come in? Right now with what you have there, we are approaching the 55 gallon drum.

Chairman Cosentino: You are 100% right, Stan, except the parking that is going to be available is on the north side and not on the south side at night. There is really nothing on the north side from 5 P.M. on. The thing is, how do you get them to go there? You have two entities that are close together that are going to be there at the same time that are going to bring in a lot of traffic.

Jim Diamond: I think the 55 gallon drum is a good analogy, and I think it's important to know that we are getting to the end of the project. We're now 77% occupied, and this use would bring it to 95%. We just completed a traffic study based upon the 70% threshold, and that study showed we were right on target with our trip counts and we had 7 truck trips in the evening peak hour and zero in the morning. In our original traffic analysis, it was assumed we would have 20% truck traffic, which in a peak hour would be 60 at full occupancy based upon the study we just did, which would be 44 trucks. We've been able to drop the 44 to somewhere between 0 and 7 depending on whether it's A.M. or P.M. I think that is a critical situation, as we really tried to re-develop this property with sensitivity to the fact that Mount Kisco can no longer handle the type of truck intensive use that Grand Union had generated for so many years previously. There is give and take across the spectrum as we try to balance these competing objectives. Amazingly, we've been able to drop the truck traffic and also keep the trip traffic within the required thresholds, which I think it is a significant accomplishment. We've had to get a little creative in terms of the mix of tenancy, but I think overall for the property it's worked very well.

Lester Steinman: I don't dispute everything you've said on the trip traffic, but I think it's also fair to bring before the board the fact that in projecting the last tenant, the health club that you are going to exceed the thresholds that are established in the resolution.

Jim Diamond: The last tenant, if it were to be approved by the Planning Board would likely cause us to exceed the resolution, but at that point in time it will be up to this Planning Board to decide whether or not that it is a relevant and appropriate use for this site, and they will be free to decide if it just doesn't make sense.

Stanley Bernstein: Mr. Chairman, at one of our meetings in the past when Mr. Collins was here, he changed the timing of the lights. It all looked good on paper. But I drive quite often from Bedford Hills to Mount Kisco and back and there is a big problem any time of day. A trip that used to take five minutes now takes 20 minutes. In practicality, you have to take this with a large grain of salt. We see what's happening in Mount Kisco and it's getting worse.

Jim Diamond: I don't disagree with the traffic on North Bedford Road, but for this space, which is already approved for office and warehouse, we are considering whether the impact on Mount Kisco would be greater or less with the sports use as with office warehouse. As office warehouse, a 71,600 square feet space, with 10% of that being office, which is a reasonable ratio for most warehouses, would generate something like 100 employees and 100 parking spaces on the site, and truck traffic on top of it. All we're doing is replacing those 100 employees and whatever numbers of trucks with a sports use that will have a far lesser number of employees but will also bring visitors to the site. We think this is a positive for the facility and for Mount Kisco.

Ralph Vigliotti: With any questions, we've made that crossover. Now we have to zero in and complete this application. As one person, I am fully aware of the positives/negatives of a full office building versus this type of use, but that does not eliminate what we need to do with regard to good planning.

David Stolman: In focusing on the operation of the use itself, the tournaments would have a maximum of how many at any one point in time?

Ken Rudolph: 350 would be the most for a special permit. If we had a special use it would be another 100 above the 250.

Jim Diamond: Which would be projected to happen 12 weekends a year.

David Stolman: The 250 number is not a tournament number?

Jim Diamond: Yes.

David Stolman: I am trying to zero in on how we arrived at that 250 number. To be perfectly honest, I am a little hazy on this.

Michael Gallin: It's somewhat arbitrary. The 250 number is a number we backed into with what we thought was a number that was high enough so that if on a random Saturday there is a slight back up and they are behind schedule and another team shows up, the alarm bells don't go off saying he's in violation of the permit, but it's also low enough that it doesn't have an adverse impact on the site.

David Stolman: The peak is around 85 normally, and there seems to be quite a difference between 85 and 250.

Jim Diamond: Yes, but if you take a worst case scenario and you assume that all 85 kids are being driven by their parents, and some of them are coming with younger siblings. The same number of vehicles in the parking lot and same number of trips, but we didn't want to be in the situation where we are out there with a counter totaling up.

Ralph Vigliotti: It's a catch 22. You bring 250 in; only 81 can use the facility. Where are these extra people going to stay?

Ken Rudolph: This area here will be an open seating concession area. It's hard to say what the seating is because we're going to have courtside seating as well to watch basketball.

Ralph Vigliotti: Courtside seating meaning bleachers?

Ken Rudolph: No. You can sit at a table and look in.

Chairman Cosentino: How many tables are you going to have?

Ken Rudolph: We haven't determined that.

Chairman Cosentino: You have to put these pieces together.

Ralph Vigliotti: Is it a concession or a restaurant?

Ken Rudolph: Concession. We're not doing bleacher service.

Ralph Vigliotti: Where are those 180 people going to sit?

Ken Rudolph: There is enough room here. Most of the people that are going to watch are going to be in the mezzanine area.

Ralph Vigliotti: You really do need the bleachers for the people to sit along with the seating arrangement at the concession area. Otherwise, they are standing up.

Ken Rudolph: We are having seating at the concession area. Then there is also seating up top in the mezzanine. I don't think we are going to have fixed bleachers put in there. If we had a special event or games that required bleachers, it would be a small - maybe two rows - of bleachers that you would roll out.

Jim Diamond: As I said, the vast majority of the time we expect the occupancy to be under 100. If the total maximum participants are 86, it is logical to assume most times you're going to be somewhere around 40 to 60 people, and there will be maybe 30 or 40 parents who came with them. The vast majority of the time will be under 100. Perhaps there will be 20 or 30 seats in the concession area.

Ralph Vigliotti: It sounds like we don't need as many people as far as an occupancy rating of 250; therefore we don't need a lot of parking either.

Ken Rudolph: What number would you be comfortable with?

Ralph Vigliotti: We have no place to go but down. I think 175-200 would be more reasonable, and then it kicks in a special use permit which is fair is reasonable.

Lester Steinman: How long are the training sessions?

Ken Rudolph: One hour.

Lester Steinman: What age?

Ken Rudolph: 8 to 10 up to 16 to 18.

Lester Steinman: The older they get, the less likely the parents are going to be there.

Ken Rudolph: However, if there is a game scheduled.

Lester Steinman: Games are different.

Jim Diamond: I think we can live with a 200 figure. I think 175 are too low, because if you assume every participant comes with one person you're exceeding that. I think 200 would be reasonable.

David Stolman: The mezzanine level is something that is brand new to the early submission. What is the seating up there?

Michael Gallin: There is no fixed seating up there. There will be sort of lounge chair or bench types.

Stanley Bernstein: What is under it?

Ken Rudolph: Team rooms and bathrooms.

Stanley Bernstein: That was not shown on the plan we originally received in that section.

Ken Rudolph: We tried to utilize the space as best we could. If you have teams playing in here they need somewhere where they could go with the coach.

Chairman Cosentino: Do you understand what's happening? Every time we meet there is something else being added and we have to go back and digest it. I'm not saying it's bad, but you keep adding things. We had a special meeting on this and it wasn't brought up.

Ralph Vigliotti: We finally got you to a point where we're getting close, and now it's changed.

Ken Rudolph: We had our drawings/final lay outs finalized better.

Ralph Vigliotti: You have to be patient with us as much as we're being patient with you. You brought before us a new plan.

Michael Gallin: Absolutely.

Chairman Cosentino: So we have to digest this again and see if that's what we really want. It maybe a good idea, but everything is new right now. I need to get back to the 200. Jim, Grand Prix poisoned us. What there is now was never envisioned by this board, and that's why we're being very careful on this. To re-do the resolution, we have to be very careful again. The 200 number doesn't seem like a lot, but coming back with Grand Prix you're going to give me a number of 200 and we may not like that.

Jim Diamond: We are going to propose one change, and I can tell you what that change is. In the initial resolution we made an accommodation for whether it was daytime traffic or evening traffic. We said that the number of trips was limited to 65 during the day and 100 in the evening after 7 P.M. The restrictions originated with us. We neglected to have the same ratchet in the occupancy. So, the proposal will be when we come back in a couple of weeks, to maintain the 120 during the day but to ratchet it up in proportion to the number of trips, so the number of trips equals the 185 occupancy in the evening and on weekends.

Chairman Cosentino: We can talk about that.

Jim Diamond: We're not going to be proposing an increase in the 120.

Chairman Cosentino: That doesn't seem unreasonable, but we can talk about it. I think what you need to do here is get your stuff together. Let us know how many tables, how many chairs, what kind of concession, what it's going to serve, what it's not going to serve.

Ken Rudolph: Our plan has not changed on the food that we're going to serve. Health snacks. We're not doing waiter or waitress service.

Jim Diamond: I think if you wanted to put a restriction on the number of seats that are in the concession area, then that would not be objectionable as well.

Chairman Cosentino: I don't think there is an objection to people sitting down, but we don't want to make a restaurant out of a concession.

Stanley Bernstein: I would like to know where you intend to store the bleachers when there is no use.

Michael Gallin: There are no bleachers. If there were to be bleachers, we'd have to figure it out.

Ken Rudolph: I have a large storage area here. Its 30 feet by 53 feet. I also have storage on the sides of the field, all along this road and storage in the back.

Michael Gallin: The intention is to not have bleachers. The idea is that we didn't want to restrict to ever be able to put them in the facility. If a basketball tournament is played and lasts six months, and they have the last game of the tournament and anticipating 60 people watching the game, and they want to put a set of bleachers here, we don't want a six tier set of bleachers, but on the other hand if he wants to put in three levels so that people can go a little higher and see the game, we didn't want to put that in perpetuity. And that's why that provision is there.

Ralph Vigliotti: Would you be charging for spectators to watch the final on the tournament.

Ken Rudolph: I don't think so. We have in the past in the other facilities that we did an analysis of; they do charge \$2 to \$5 for spectators.

Ralph Vigliotti: I guess we're trying to take a peak at how many of these tournaments will you be charging when this becomes a money maker bringing in spectators? If it's one tournament at the end of six months that's one thing. If it's every week that is something else.

Chairman Cosentino: I think there was a question on the amount of events; from 12 to 6. I think they want to drop it to six.

Ken Rudolph: We really need twelve.

Chairman Cosentino: We need to talk about it.

David Stolman: Getting back to the mezzanine. It appears to be about 17 x 195, which is about 3,300 square feet. How many seats up there do you expect?

Michael Gallin: We have not laid out that. We are anticipating a much larger area than Grand Prix. There will be some lounge chairs up there for sitting, but most of it is going to be open for stands.

Chairman Cosentino: Has Austin Cassidy reviewed that mezzanine from a fire standpoint?

Michael Gallin: No he has not. I have, he has not.

Chairman Cosentino: He needs to review this. Let us know what he says about it. Do you have an ingress and egress?

Michael Gallin: Yes. There is a stair at each end, two stairs leading up to the mezzanine.

Chairman Cosentino: Going back into the building. Not going out?

Michael Gallin: Yes. They don't need to exit directly out of the building in this situation.

Chairman Cosentino: If you can get these things done, get a complete set of plans with everything. I haven't heard anything from Austin on this.

Michael Gallin: Austin typically doesn't review the plans for co-compliance.

Chairman Cosentino: I want him to definitely review this.

David Stolman: And we are going to be writing a section of the resolution regarding the special events and the procedure for getting a special event permit. If you recall, I had asked Austin for the criteria that he would use; the different entities that need to be coordinated, fire, police, emergency services, ambulance, that kind of thing. I will contact him.

Chairman Cosentino: Also, the fire commissioner needs to review this.

Michael Gallin: Austin will not be able to do a thorough review until we put together a full set of permanent drawings.

Chairman Cosentino: Whatever you have to do for him to give us a full set. We have to know what we're voting on.

David Stolman: May I have a drawing showing the whole facility.

Michael Gallin: Yes. There were no changes from the last one.

Chairman Cosentino: Please put together something so that we can have that is complete.

Jim Diamond: Obviously, as Michael designs a complete facility with complete architectural plans, the details will be flushed out, but this is final at this point.

Chairman Cosentino: I don't know if it's final without Austin looking at it. He is our guide because he is the one who is going to have to give you a building permit.

Michael Gallin: Typically we don't detail everything as part of the Planning Board process. It's a real investment to do this and you want some sort of confidence on the applicant's part that is moving.

Chairman Cosentino: We need to know what Austin's comments are.

Michael Gallin: In a schematic sense I think that is perfectly reasonable.

Ken Rudolph: Where would you like to see the seating for the concession? How many seats?

Chairman Cosentino: As many as Austin says, but I'm thinking of cluttering, and he will determine how many tables you can have.

Lester Steinman: Is there food service up on the mezzanine?

Ken Rudolph: No. You will be able to walk up there with food but no service.

Ralph Vigliotti: Will there be tables up there?

Ken Rudolph: We haven't discussed that. I don't think so.

Ralph Vigliotti: Are you willing to put something in the board resolution indicating that? That's how tight we need to get.

Ken Rudolph: We will detail the seating and the mezzanine.

David Stolman: We will also analyze the parking. There is a provision in the zoning which has been used before especially with relation to parking for the soccer field plus parking for all of this. You basically said the shared parking works. I think there needs to be a shared parking aspect. The figures that are on the plan are intended to show compliance with the zoning ordinance, which they do. We have to think this through and we'll get back to you on that.

Chairman Cosentino: Nancy will call you.

Conceptual Application:

**Peter Smith
211 Kisco Avenue
PB2009-01**

Present: Peter Smith, Architect for the Applicant

Peter Smith: I am the architect for my client. I would like to show you the existing site plan of 211 Kisco Ave. This is Ideal Electric. Our modification is based on the owners desire to take 10,000 square feet of the building and using it for his own use. That will necessitate a path.

Chairman Cosentino: What is he putting in there?

Peter Smith: He is putting his art collection in there for storage.

Chairman Cosentino: On 10,000 square feet?

Peter Smith: I have no idea. I can show you pictures of the old storage space.

Chairman Cosentino: Something else is going to be on the other side?

Peter Smith: There will probably be a tenant in the remainder of it.

Chairman Cosentino: You don't know what kind of a tenant?

Peter Smith: I have no idea.

Chairman Cosentino: That would be another application.

Peter Smith: Exactly. All I can tell you is that 10,000 square feet of it will be his, and he will be entering the building on his side, so there will be a modification to the elevation. I have those plans if you would like to see them.

Chairman Cosentino: Is he going to have an entrance on Preston Way?

Peter Smith: He really will be entering from his own parking lot, because this becomes elevated. You really can't walk into the building at all.

Chairman Cosentino: Is there a setback to the property line on the Preston side where he is now going to enter the building?

Whitney Singleton: There is definitely a setback. By virtue of creating an entrance on that side, that would be an interpretation of how you define the front and side door.

Peter Smith: In that case we would have three fronts.

Chairman Cosentino: The loading docks are going to remain for this storage space?

Peter Smith: Yes. This loading dock will remain for whatever the tenant is, and this will be for Mr. Louis-Dreyfus.

Chairman Cosentino: So (this is for) an entrance and a partition?

Peter Smith: Yes. There is no parking count on the old site plan.

Chairman Cosentino: Obviously the parking count is less with this than it was with Ideal.

Peter Smith: I have no idea what that was, but I've given you a count based on our calculations on this, which I can leave with you.

Anthony Oliveri: I have not reviewed it yet. He could leave it.

Chairman Cosentino: Obviously, it's going to be less than what was there, depending only on what the other side is going to be rented for, and we don't know that.

Anthony Oliveri: Austin should look at that.

Doug Hertz: I'm looking at the diagram of the parking and I'm curious how that works. There are spots 32 and 33 that don't look like you can get in and out of.

Peter Smith: You can.

Stanley Bernstein: It's a big space. I've parked there many times.

Peter Smith: This worked as a minimum module. Right now there is a dumpster there, so it's not quite the same, but I will give you those measurements.

Stanley Bernstein: Did you designate dumpster and snow storage?

Peter Smith: Snow storage will be out here, and I've got two trash areas, one next to each loading bay.

Stanley Bernstein: There was an item there about HVAC on the roof. It is probably too early to determine what you had in mind to put up there.

Peter Smith: There is one unit now on the low portion. I've taken a stab at it, but it may change because we're exploring a kind of system that I've never used before.

Stanley Bernstein: Energy efficiency, carbon footprint, etc. Please keep that in mind; also, the heat exchanger. They are going to control two air conditioners. The exterior air stream will be controlled by the interior/vice versa, in another season.

Peter Smith: And we're insulating the building, which currently it is not.

Stanley Bernstein: Can you give us some background as to why he's coming to Mount Kisco?

Peter Smith: He lives on Croton Lake Road and has for 35 years.

Stanley Bernstein: Thank you.

Chairman Cosentino: He's not purchasing the building?

Peter Smith: His Corporation is.

Anthony Oliveri: There is also lighting proposed.

Peter Smith: It is signage. Is that yours or ARB?

Chairman Cosentino: It's ours. Lighting is ours, signage is ARB.

Peter Smith: There is currently a couple of very high very glaring lights on the parking lot side. I would like to change them; replace them with lights that are lower in the walls and show up on the elevation and lights that only shine downward onto the parking area itself with shaded fixtures. There is no parking lighting on the far side of the parking lot, and I am proposing light posts. There are currently a couple of flimsy colonial lighting posts out here. I'd like to take them out and replace them with low bollard lights, which are illustrated on your site drawing Number One. Along this new path, also bollard lights, just the light downward so you can see where you're walking. No lighting onto the building at all.

Doug Hertz: Conceptually we're very happy with what you're saying. The village has just put together a new lighting code that will be adopted shortly. You can get it from Nanette's office. Most of what you're showing is within the specs. There are minimums and maximums and averages that have to be met. Ultimately when you come back we'll need photo metrics for the area, and the code that you will get from Nanette will list issues and levels, etc. It sounds like you should have no problem complying with that, as what you're proposing is essentially what we're seeking.

Peter Smith: It's pretty simple. My client does not want to call attention to the building.

Doug Hertz: Understood.

Anthony Oliveri: Also, you may need to show handicap parking. You need to show the striping detail and signage for handicap parking.

Nanette Bourne: What is the size of your stalls?

Peter Smith: I used your code.

Anthony Oliveri: The handicap space should be 9.5 wide, and mention all the aisle widths. Show your snow storage and trash areas. If there is an enclosure for the trash, detail that.

Whitney Singleton: The parking plan that you're showing here; that's not an existing condition, correct?

Peter Smith: There was no parking layout. Nothing is marked on the parking area. It's just busted up blacktop right now, and I don't think it was ever striped. We're laying it out probably for the first time.

Chairman Cosentino: Are you going to be re-blacktopping?

Peter Smith: Yes.

Whitney Singleton: Is there going to be proposed landscaping in the parking lot, or no?

Peter Smith: Not within the parking lot. There are mature trees on the eastern side. We're removing an equivalent amount of paving, equivalent to the area of the path, a balance of impervious surface, and we'll do something there. We may do something that will climb to hide that ugly wall.

Chairman Cosentino: Will you be removing paving?

Peter Smith: Against the building.

Nanette Bourne: When you submit for a formal application, you'll need to submit a landscaping plan.

Peter Smith: Okay.

Whitney Singleton: When you said you're removing paved, you're removing impervious surface. Is that to offset the impervious surface that you're creating?

Peter Smith: It does, but it also gives us an opportunity to do some landscaping and break up the appearance of that wall.

Whitney Singleton: Are there going to be components of your application that you are going to say are pre-existing/non-complying with regard to the site itself as far as building coverage, development coverage?

Peter Smith: I have not calculated it. Need I?

Whitney Singleton: Yes. That's part of the required commission. You have to show coverage. If you're going to propose modifications to a pre-existing, non-conforming, non-complying aspect of the site, they should be identified. Also, this is going to store an artwork collection?

Peter Smith: Yes.

Whitney Singleton: You're not proposing to disconnect any portion of the sprinkler system, are you?

Peter Smith: The sprinkler system is not going to be disconnected, but it will be configured.

Whitney Singleton: It will be?

Peter Smith: Yes.

Whitney Singleton: But it will be reconfigured in a fashion that still meets the International Building Code?

Peter Smith: Absolutely.

Chairman Cosentino: That will be inspected by downstairs.

Whitney Singleton: It's not unusual with an expensive art collection to disconnect the sprinkler system.

Chairman Cosentino: You need to make a formal application, and we'll put you back on the agenda when you have everything. Nanette, you may want to work with him on this to make sure he's got all his information together before he comes back.

Whitney Singleton: To avoid any misunderstanding going forward, if you're going to have a multiple tenant in this building, and you don't know who that is, you're going to propose a designated allocation of the uses for the balance of the building, then you're going to have to provide supporting parking for those uses. Obviously your client is aware that he is taping himself into a corner so to speak.

Nanette Bourne: Also, you're proposing two trash enclosures. There is a template you can get from the building department that recommends the dimensions and the materials for a trash enclosure.

Whitney Singleton: We would love it if your client would examine his dumpster and trash bin area on his other site as well.

Peter Smith: Which one is that?

Whitney Singleton: The Borders book store.

Peter Smith: I'll tell him.

Whitney Singleton: There are a lot of problems with the trash enclosure over there.

Peter Smith: Thank you.

Conceptual Application

Covanta Energy Corporation

**10 Lincoln Place
PB2009-02**

Present:

**Jack Thompson, Regional Engineering Manager, Covanta Corp.
David T. Waters, Jr., Transfer Station Manager, Covanta Energy Corporation
Robert J. DeGiorgio, P.E., Senior Project Director, Dvirka and Bartillucci,
Consulting Engineers
Victor Camporine, Environmental Compliance Specialist, Covanta Energy
Anthony Guardino**

Jack Thompson: Covanta Energy is the owner and operator of the municipal solid waste transfer facility on 10 Lincoln Place. We acquired the facility 15 months ago from Regis Industries, and since that time we've been making operation and environmental improvements to the site. We are presenting tonight a conceptual design for additional site improvements specifically dealing with storm water management and solid waste trailer storage. Over the past months we've been looking at ways to manage the storage of the transfer trailers that we store on site. We've selected the alternative and we've been working closely with the DEC on this. Once we made a decision on which alternative we wanted to pursue, we had a meeting with DEC and they are supportive of this alternative and this project. I know you are aware we have a lease agreement with the Village of Mount Kisco for use of the property, so the village is actually owner of the property. As we move forward there will be a joint application for the modifications here and the village will need to sign as the owner.

Robert DeGiorgio: The primary element of the design is this canopy structure here which is used to cover storage trailers that are loaded with solid waste. The solid waste DEC concern is if the trailers leak, leachate runoff. The underneath the storage trailer has a troth slope to drain to a pump that pumps any leachate that might leak to a storage track tank that is over here, so any kind of leachate we collect gets pumped to a storage tank and the new canopy would shed rainwater away from that area so we're not collecting rainwater with leachate, which is the primary objective of the design. In addition to that there is an existing storm water pond that is located at the low point of the site, and we're proposing to install a manhole in front of that pond to collect any solids or floating product that might run off from the site. It is a one hundred percent impervious site. We are not changing any of the impervious surfaces. That manhole is the best management practice to collect solids and floating products before it gets into the pond. This is a wetland back here, and although this construction is on the site, on the existing asphalt, we are in the one hundred foot buffer for that wetland, so we have to apply for a joint application with the DEC and The Army Corp. As landowners, that application has to be co-signed by the village. The canopy itself is a metal truss, single span, 65 x 60 foot canopy with a fabric enclosure. Inside the application we provided some pictures and drawings of what the canopy would look like. It's about 33 feet high. This is the lowest point of the site, so I put the elevations to give you a point of reference. The elevation at the grade here is about 75, so on top of the canopy it would be 108. These existing buildings are an elevation of 125 from grade. There is a significant drop off in grade on the site. It starts off at 90 and then drops off to 75 in this area. The canopy itself is not the highest structure of the site; the building still remains the highest structure on the site by some 20 feet.

Chairman Cosentino: What happens after that manhole gets filled with solids?

Robert DeGiorgio: It gets pumped out and disposed of as a waste, similarly to how they handle the leachate.

Chairman Cosentino: Did DEC push this issue?

Robert DeGiorgio: Very much so. The DEC has a big push for this type of leachate control system for storage trailers.

Chairman Cosentino: Were you cited for any violations by the DEC?

Dave Waters: Yes, April of last year. No fine involved. We sat down and worked this out.

Jack Thompson: When we acquired the site there were previous issues that the previous owner had, and we've been dealing with them and proactively working with the DEC to mitigate these issues. Covanta Energy is a leading energy from waste firm. We have 35 facilities that convert solid waste to electrical energy. We have one transfer

station in Mount Kisco and we acquired another one in Mamaroneck, and they are strategic assets to help us run our business. We have spent significant sums of money in the last year making other operational and environmental improvements as well as safety improvements to the site. This is a fairly large project that we're eager to get going on and so is the DEC. They've given us preliminary approval on this concept at this point.

Whitney Singleton: You refer to the prior owner, and that you've made improvements. One of the major issues with regard to your company's acquisition of this property was that you were not planning to lease from them. You were not buying anything, you were assuming their stock. That was the only way for this to be acquired, and that you were nothing more than a continuation of Regis Industries. If that is the case, I'm wondering why your application is in the name of Covanta Energy? The lease that existed expressly prohibited the assignment of the lease; that it could not be done, and your company's (sic) endurandum on that was to not take an assignment of the lease, but acquire the shares of the existing corporation that owned it.

Dave Waters: That's how we did it, yes.

Whitney Singleton: Fair enough, you were able to do that.

Dave Waters: Ultimately it should have been a Mount Kisco transfer station.

Whitney Singleton: Yes on whatever the name of the entity was, through the various acquisitions of stock, that is should be in the name of that particular entity. Also, why does the canopy need to be so high? This is to basically keep a separation of liquids? It is only covering a small dumpster. Is it going to be stacked up?

Robert DeGiorgio: The trailers are twelve feet high. At the gable end of the structure is only 14 feet high. The reason why it gets so high in the center is the nature of the span. Keeping a 60 foot single span without any intermediate columns, you get a truss that ends up being that high.

Whitney Singleton: Is the building height permissible under the zoning regulations for that district?

Robert DeGiorgio: No, we did not check that.

Nanette Bourne: Five to seven years ago the previous owners came to the board and were granted approvals for this area and created some basins and detention. The point was to catch the leachate. Was that installed?

Robert DeGiorgio: I don't think so.

Nanette Bourne: There was a whole system. Sterling was the engineer.

Anthony Guardino: The system was supposed to go in but I don't know if it ever was finally approved. The same as the odor control system. It was supposed to have been put in years ago, and it didn't get put in.

Dave Waters: There are two tanks, one underground and one above ground. The one inside the building, the above ground tank is 2,500 gallon capacity, and the one actually right next to the actual structure is a 1,500 gallon tank. They did a little trough off the tipping floor, and it went along the side of the building down the side of the tipping floor and into the 2500 gallon tank. The 1500 gallon tank was designed to have a trough that had all of the leachate flow into a sump where it got pumped into the 1500 gallon tank. That's what you might be referring to; those systems are there.

Nanette Bourne: This is going to enhance the systems that are already there?

Dave Waters: Ultimately it will help the situation.

Jack Thompson: We installed a wider, improved trench here. The liquids that come off the tipping floor right now flow down the existing pipe and storage tank located in this area. It is pumped out.

Nanette Bourne: Did you say you modified that?

Jack Thompson: Yes. It was not effective at all.

Nanette Bourne: One of the things you'll need to do is compare what the Planning Board approved, with what you've done subsequent to the Planning Board approval, and then you can propose that.

Robert DeGiorgio: Is there a way we can get what was approved?

Nanette Bourne: Yes. Call the Building Department and Nancy will be able to help you.

Anthony Oliveri: We also need to see the current survey of the site.

Robert DeGiorgio: The latest survey was done in 2004.

Anthony Oliveri: We should have a copy of that separately. You have two overlapping face maps here.

Robert DeGiorgio: That survey from 2004 exists on that survey. They did an "as built" survey, so there is actually an underlay which is the original design and the overlay which is the "as built." That's why you see those shadows.

Anthony Oliveri: You should give us the survey with the formal submittal.

Ralph Vigliotti: I recall an applicant that was before us that was proposing a canopy similar to yours and this board rejected the design and the concept of the canopy. This looks like a series of pipes that are holding up a skin.

Robert DeGiorgio: Yes. It's a metal truss.

Ralph Vigliotti: I'm not sure if that truly is a structure or not, and whether or not that's acceptable or not. I think this merits further discussion.

Whitney Singleton: I think we should back up a little bit and understand the context in which the applicant is coming. I don't purport to know all this, but there has been an outstanding DEC violation.

Ralph Vigliotti: I understand the violation and the runoff and the collecting and separating. But is this a structure or not?

Whitney Singleton: Under our code it's a building.

Ralph Vigliotti: I know a year ago we had a landscaping company that proposed something very similar to this and we rejected it.

Chairman Cosentino: It was not DEP mandated.

Ralph Vigliotti: DEP is mandating a cover. I'm not sure they're mandating a structure.

Whitney Singleton: I don't know they are mandating the structure or a building. They are mandating a solution to the violation.

Ralph Vigliotti: A violation is being directed. What prevents a landscaping company that was before us to say, Here, you approved the structure on Lincoln place, very similar to the one we wanted to put on another street very close in proximity, why can't we entertain our original?"

Whitney Singleton: If that is a concern that it is brought by the board to the applicant during the conceptual phase. There are some other issues here which the building inspector has not fully vetted out because you have underlying issues with the village being the owner of the property in regard to the permissible uses in the zone, the setbacks. This building is being proposed virtually on the property, correct?

Robert DeGiorgio: Yes. It's not too far off the property line.

Ralph Vigliotti: I'm looking at this whether this is a building or a tent with metal pipes.

Whitney Singleton: According to the building inspector, and I will concur with him, I can read you the definition of a building. Because there is a cover for the protection of people, it constitutes a building under the code. The implication of that is something else. Right now you have the development coverage of 95%.

Chairman Cosentino: If the setback is close and the village owns the property, can they go for a variance?

Whitney Singleton: I think they would have to obtain the variance in order to build on that particular location. And there may be sufficient basis to obtain that variance based upon constraints to the site, DEC violations, etc. I will have to go back and look at what the parameters are under the DEP and what the specifics are. Like Nanette said, we have to compare this application to the prior site plan application. I think Austin can give me some feedback, which by necessity, he can't say with any degree of definity that he wants to because of some issues you're still grappling with. Unfortunately, Austin and I will have to confer some more with Nanette.

Chairman Cosentino: It makes it difficult for this board right now.

Whitney Singleton: It also makes it difficult for the applicant. They're trying to deal with a violation. Conceptually you have some concerns with a skin building.

Nanette Bourne: With regards to the setback, it's supposed to be 30 feet. That setback is ten feet.

Whitney Singleton: I believe this is also going to require a fresh water wetlands permit from DEC.

Robert DeGiorgio: We may have the 30 foot setback; I have to check the drawings.

Nanette Bourne: The side yard setback, the wetland, is PD and there is a 30 foot setback if you're on the property line.

Chairman Cosentino: There are legal questions, engineering questions and planning questions for this site. Somebody has to come back here and give us a better view on what we're doing.

Whitney Singleton: Unfortunately, I did not receive this until Friday.

Chairman Cosentino: Yes and this board need more information to make a decision.

Whitney Singleton: I don't think that should preclude you outside those issues from expressing your general view.

Chairman Cosentino: Yes, but the outcome of our decision is going to be based on the village's needs, the engineering needs and the planning needs. Right now I see variances, possibly village problems, building problems and problems in general, and this is only a conceptual.

Doug Hertz: Based on your drawing you're going to need variances because you're almost on the rear property line.

Chairman Cosentino: I think there has to be a meeting of the minds before they come back before us.

Whitney Singleton: If the Planning Board members such as Ralph have a concern as to the visual appearance, that is a bonified issue to voice now, so that when they do come back with a formal application note that issue is going to be addressed. The other issues, Nannette, Austin and I will address and generate a report for your board and we'll provide a copy to the applicant as well as to what we perceive the necessary application permits to obtain.

Robert DeGiorgio: In that determination you've already decided it is a building. Not a structure.

Whitney Singleton: According to the Building Inspector's preliminary report, he said that *"it should be noted that the structure based on its function will likely be considered a building by definition."* I think we will be intimating that our code provides for a definition of "building" any structure having a roof supported by columns or walls intended for the shelter, housing or enclosure of indoor properties. If you're going to put something inside of it, you're creating a shelter which makes it a building. That will likely trigger some variance applications as well. Rather than go in bits and pieces, the planner, the Building Inspector and I will confer and come to a consensus as to what issues we see as being applications that you need to pursue. There is one issue; what

kind of SEQRA review is going to be done on this. Your DEC application requires us to be a co-applicant as the property owner.
I don't know what implications that has, but we can figure that out as well.

Doug Hertz: In going forward with variances, one of the questions that is going to be raised is the specific location. Is there another location on the site or a change in the size of this, such that you can ask for a lesser variance? The basic requirement of the variance puts the burden on you to prove that the minimum required doing the job that you need done. That is for any variance. They will require that you look at this, look at alternatives; possibly breaking it up to smaller structures. Whatever it may be.

Jack Thompson: We'll go back and take a look at that, and since it has been termed as a building, look at the economics of this project and other alternatives; the whole picture. In the meantime we'll wait to hear back from the board regarding other concerns.

Robert DeGiorgio: When do you think we would expect that?

Nanette Bourne: I don't think you're going to be hearing back from us because you are in a conceptual application. It is your decision as to how you go with this. If you want to meet with staff and the board agrees, you can meet with staff to go over some of these issues, but the ball is really in your court to move forward with this and prepare a formal application and come back before the board.

Whitney Singleton: On this particular application, because of their interface with the village and the zoning issue, I will take it upon myself to work with Austin and come up with something. For you to submit a formal application not knowing what you're applying for - we'll help you identify. It will probably be within the next two weeks. The building inspector is out sick, and we will be in touch with you after that.

Jack Thompson: In the meantime, we are collecting and disposing. We're not in a violation situation now. We're mitigating the situation on a temporary basis.

Tony Guardino: I do have a bit of a history when it comes to the transfer station for quite a few years now, not just with Covanta but with many people before them. I'm here tonight because I only just recently heard about this. I am probably here prematurely because I thought they were going to increase the use or the physical dimension of the site. If that is the case I will vehemently oppose it. What I've heard tonight sounds like it is something you are required to do, and I have no opposition to that. I have been fighting for years to see a better operation there, but I do want the board to know if, in any event, there is any proposal to increase the presently approved use of the site or the present boundaries of the site, I will be opposed to that. Also, I would like to make a request if I can to get whatever copies of the paperwork that is public knowledge so I can keep my records straight.

Chairman Cosentino: Thank you, and as soon as we have more information we'll let you know.

Continuing Review

Old Iron Warehouse Carey Place PB2005-20

Present:

Alan Pilch, P.E., Evans Associates Neil Alexander, Esq., Cuddy & Fedder

Chairman Cosentino: We have a draft resolution here, and I have an item on Page 5, "all business and activities shall take place inside of the building." You need to put on that "repairs on any equipment; trucks, cars, any vehicles." All repairs of vehicles shall take place inside the building. Also, "there shall be no outside storage of materials, equipment, landscaping products of any kind." That means the parking lot should be cleared of anything. Of course, there shall be no storage of fleet vehicles outside the building other than those occupying the required parking stalls. So, no trucks or vehicles are to be parked outside. I don't understand that. If someone comes to work, he needs to park outside.

Nanette Bourne: The parking of fleet vehicles.

Chairman Cosentino: I think we have to modify that.

Whitney Singleton: It's a slight modification. Fleet vehicles are required to have additional vehicles. If we say that fleet vehicles cannot be stored in any parking stalls then I think it's covered.

Chairman Cosentino: So that means no trailers or anything that carries equipment should be stored outside. That would be a violation.

Whitney Singleton: It's not so much equipment. The parking requirements that you have for this or any use are parking requirements generally provided in the code. If someone is going to provide fleet vehicles they are required to demonstrate additional spaces for those vehicles. This is parking for the people that are working or visiting on the site, not for oil trucks, etc. I actually have some proposed modifications and although Nanette and Anthony looked at this last week, I did not have the ability to get my changes done in time. I provided some changes for the board tonight.

Stanley Bernstein: I would like to change Item 17 on Page 4: "Fertilizers, pesticides and other lawn care or landscaping products shall be handled, etc.," It should say "shall not be used." We are right on the corner of the Kisco River, New York City water supply. There should be no chemicals going into that river. Alan, your company is very well aware of the latest practices and environmentalism is on the rise. I know the Cornell Cooperative Extension has information on how to maintain landscaping without use of pesticides or fertilizers. Yale School of Forestry also has something. I am sure your company is well aware of those situations. That has to be re-written and should be rewritten for future.

Nanette Bourne: I will re-write it.

Whitney Singleton: I have a hand out here with changes primarily on the last page. A lot of it is in the form of questions for the board. I've modified some changes that Anthony made. Anthony had suggested, and rightly so, that the performance bond be put in place or other financial security acceptable to the village to be improvements to the public right-of-way. I was wondering if we should have not just a performance bond but a maintenance bond as well.

Anthony Oliveri: I think a two year maintenance bond would be the normal practice and a good idea.

Whitney Singleton: Nanette, I had a few questions since this is an actively working public street. I don't know what is exactly involved from a logistical perspective from ripping this up, putting in this storm water vortex system, repaving and re-curbings. Does this have the potential for interfering with normal business operations of joint property owners? Should we put some sort of a provision in there that the improvements shall be constructed and installed in a fashion that will not prevent or impede ingress/egress?

Anthony Oliveri: They should maintain access to properties at all times.

Whitney Singleton: If the board wants to put a condition in like that, you may do that as well.

Chairman Cosentino: The no trucks going up and down Kisco Road is code enforcement. It does not have to be in the resolution and I know they are monitoring that now.

Whitney Singleton: For #3, I know your board has been adamant in the past of situations where there is off-site improvements; that all those improvement be fully completed prior to the issuance of Certificates of Occupancy (C.O.). I presume you don't want the building operation while the road is still dug up.

Chairman Cosentino: Right. It has to be complete. Of course plantings are weather permitting.

Whitney Singleton: For #4, obviously the necessary consents and approvals from the Village Board being a condition to the issuance of any building permit or the issuance of a C.O. Do you want to make sure all improvements are in place and consents are necessary before your site disturbance? Not just the violations, you are going to have to get Village Board approval before you go forward.

Neil Alexander: The only thing I'm concerned with if the village has six months or a year to complete and can we write the resolution and make it clear that some of these things are not precursors.

Chairman Cosentino: Our policy is six to a year and you can come in for an extension.

Whitney Singleton: One thing he is raising is when does his clock start?

Chairman Cosentino: When we approve the resolution.

Whitney Singleton: Right, but then he has to go out and do other things that are outside of us.

Neil Alexander: I have to go to DEP and my guess would be the Village Board doesn't want to see me until I have my DEP approval.

Whitney Singleton: I think you can say the construction shall commence within six months of all requisite approvals but in no case shall exceed. We will take care of the wording on that.

Neil Alexander: On Mr. Bernstein's language, I don't have a problem with it by any stretch, and I completely understand the gravity of the situation. I just don't want to get caught betwixt and between if there is DEP, DEC, best practice management that lets us handle something that is invasive. I don't want to be precluded from it by how we word the language as to the ban. That is something like a phragmites because there are wetlands.

Stanley Bernstein: I was not considering the invasive species, which, of course we should have a clause in the approval that does cover that for any applicant who wants to add plantings. We should make sure there are no non-native species there; but that is separate issue. I'm concerned with chemicals leaching into the water supply.

Nanette Bourne: The concern with DEP or DEC, will they permit removal of phragmites?

Neil Alexander: First of all, he defined it at fertilizers and pesticides. That includes inorganic material. It was very broadly worded, and that was what I was trying to get at.

Stanley Bernstein: There are guidelines from Cornell and Yale. I am sure Evans Associates are very well aware of the guidelines

Neil Alexander: I know, but the way you had said it was "a ban." I would like to key into some kind of a BMP.

Stanley Bernstein: BMP allows certain toxic chemicals on lawns, but I don't want to see that. BMP has not gotten up to date.

Nanette Bourne: Stan, you don't oppose BMP's?

Stanley Bernstein: I oppose the use of chemicals, pesticides and chemical fertilizers.

Neil Alexander: That's fine. Chemical fertilizers, that's what I was getting at.

Alan Pilch: My concern is the words invasive species like microstegium, which is very common.

Stanley Bernstein: There is nothing in our resolution and never has been. We should include it, but we are not prepared at this juncture right now to have a clause in there; but we should. You being who you are should be able to control that process.

Chairman Cosentino: Whitney, I know this may be a village problem, but I want your advise on the concern that was brought to our attention of the new road that is going there that no parking of trucks, trailers, etc., should be parked on that road obstructing traffic going up and down. Maybe the village has to have the proclamation of putting no parking signs. The road is only going to be 24 feet. You will not be able to get another vehicle through if another car is coming up.

It would be our recommendation for the Village Board to plant no parking signs on both sides of that road.

Whitney Singleton: I will relay that to the Village Board.

Doug Hertz: I suggest we move forward and move this to a vote.

Motion to Approve Resolution for Old Iron Warehouse, Cary Place, PB2005-20:

Motion: Doug Hertz
Second: Stanley Bernstein
Aye: Sol Gibbons
Aye: Ralph Vigliotti
Aye: Stanley Bernstein
Aye: Doug Hertz
Aye: Chairman Cosentino

Continuing Review:

Northern Westchester Hospital Center (NWHC)

**400 Main Street
PB2003-02C**

Present:

Steven R. Doherty, AIA; Principal, The SLAM Collaborative
Scott Blakely, Sr. Vice President, Principal Landscape Architect, Insite Engineering
David J. Vander Wal, P.E., Sr. Vice President, Walker Parking Consultants
Steven Barshov, Esq., Sive, Paget & Riesel, P.C.
Michael Caruso, Vice President Facilities, NWHC
John Partenza, Sr. Vice President & Treasurer, NWHC

Ralph Vigliotti: We have a letter from Steven Doherty with regard to revised lighting and a memo from Anthony Oliveri regarding the steep slopes and SPPP review.

Steven Doherty: Based on the comments made at the last meeting, we worked with David Vander Wal at Walker Parking and came up with a scheme that incorporated low level perimeter lighting that is basically mounted on the parapet wall of the garage and pole mounted lighting around the center. We tried to show images when there are no cars parked on the deck and when there are cars parked on the deck. That is the biggest issue that comes into play with that low level perimeter lighting; how you still achieve the code required lighting levels through the isles in between the cars. The previous schemes showed a variety of pole mounted lighting with and without multiple heads ranging in height from ten feet to 15 feet to reach the required light levels. This scheme uses the pole mounted lights that are in the center. They are 12 feet above the deck and then the perimeter lighting. That is what is required at a minimum to reach the code required light levels. There are some concerns with it. When cars park in the garage they are basically blocking the perimeter lighting, so you start to get some dark spots both between and behind the vehicles, and that is a security concern. From a cost standpoint and operational perspective we added 92 light fixtures to the garage. This is not an insignificant cost, both short term and long term.

David Vander Wal: Williams College has the most local project where I've seen this done and at every strike there is a light fixture on the side where they didn't want the poles. The fighting there are people don't park perfectly, and as soon as you don't park perfectly it's blocking the light in between two cars and you have no light between two cars. That is one of the issues they are fighting there. You can also build in, but you have a light fixture four feet above at parapet height, but it's in the bumper zone for the cars. You try and protect it, but vandalism and accidental damage is too easy, but it can be done. The key for why there are so many (they are between every two parked cars) is because as soon as you park the car in front of it, you're not going to get any light. On a hospital campus where there are shifts running you want to be able to have good lighting for the staff that changes in the night and evening hours. I drew the poles down as low as I could in the center to just reach to the back of the cars, so basically the perimeter lighting is going the 18 feet and anterior fixtures are going to other side of the drive lot.

Michael Caruso: Another option because the parking structure is still a few years off, as technology advances, with LED lights, etc., there may be an opportunity there for getting better lighting.

Doug Hertz: We shared this thought earlier. LED lighting is still relatively young, and one of the advantages with that is that you can tailor the spreads more easily than on conventional lighting. One thought is to look at this closer to when you're going to be building this and see if the movement of technology is such that we can come up with a better solution at that point and still stay within the overall boundaries of the new lighting ordinance.

David Vander Wal: Right now the LED technology in theatre fields is well in advance of parking fields. Their focus has been much more on trying to get a cost effective fixture with similar distribution. They have not gone one step beyond. Three or four years is a long time in lighting technology.

Ralph Vigliotti: That being said, procedurally how do we move along with the lighting?

Nanette Bourne: As a condition, in the "whereas" we talk about the performance criteria that you're interested in achieving. This approval excludes Planning Board approval of the lighting plan until that such time as a building permit is requested.

Whitney Singleton: The applicant has no problem representing to this board that they are comfortable with that?

Steven Barschoff: Yes. No problem.

David Vander Wal: We still have to stick with the building code. We have been doing a lot of work with the LED manufacturer. Walker specifies more parking lighting than anyone else in the country, so obviously the lighting manufacturers talk to us quite a lot. To date, we have been doing well with the LED's to get them to the point where they are equal.

Ralph Vigliotti: We had some conversations with regard to continuing exploring how we could close off the upper deck if it's not in use at all. We were going to explore how that can be done. Look at other parking structures and how they handle an upper deck knowing that there may be low use.

John Partenza: I don't know how you handle that with people coming in 24 hours a day.

Ralph Vigliotti: It's something to explore.

John Partenza: To commit to it is a different issue.

David Vander Wal: If the cost of the LED is reasonable, you can go to the motion detectors.

Chairman Cosentino: I don't think the hospital would put them in a position to put somebody at risk.

Steven Barschoff: I think at the end of the day if it was not utilized it would probably still need to be lit anyway, just so that somebody couldn't drag someone up there.

Ralph Vigliotti: Point taken.

Chairman Cosentino: John, I've never asked for many things from the hospital, but I've gotten many phone calls. No one wants to wait 11 years for the front greenery to mature and grow. We need to do something there the first year with the landscaping. We just can't show the village construction for a long length of time without showing them something that this Planning Board has done that we're proud of as well as the village and the hospital. If we leave that the way it is right now, we're not showing the people of this village that anything is being done, even though the Emergency Room is excellent. We need to show the people in this village that this village and this Planning Board have done something to beautify 172 on the corner there as soon as possible.

Michael Caruso: Are you looking at the level of detail that was developed or something between that and where we are at? Because the level of detail was developed as soon as we lost those 65 parking spaces.

Nanette Bourne: I think what the chairman is talking about is some kind of interim landscaping improvement. I think the board understands that your full parking improvement plan requires a lot of complexities, and that will take some time. They

understand the sequence, but in the meantime they are looking to see the landscape plan that upgrades the frontage.

Steven Barschoff: In other words, is there some way we can do an interim landscape plan?

Chairman Cosentino: I would like your landscape people to put something together for there. The village fathers have worked very hard in making this happen. I'd like to think we've worked a little harder. We want to show the village fathers that we negotiated something that is going to look nice while the construction is going on.

John Partenza: To scope that, we're not talking about taking parking spaces away today, we're talking about an interim plan. I understand what you're saying. We, too, are up against a lot of financing approvals. We are well past state approval. We have to start showing something or this might become a moot point at our end. We are coming to a critical point here. We will continue to talk about this.

Chairman Cosentino: I have been here a long time and I am very proud of my board members here on accomplishing something that maybe some other board would not have accomplished. This board is one of the best boards I've ever sat with; they all have something to give. I need to do something to make that happen.

John Partenza: I know what you're saying, but I don't want to say anything I can't deliver. We need to go back and understand what we're really saying here. We are at a tipping point now. If it is something that can be done quickly, that is something we need to talk about.

Chairman Cosentino: Yes, something that you can use again. Maybe we have to get John Slaker involved again.

Steven Doherty: Is the primary objective to doing it to block the view of the cars? Simply putting mature evergreens in will help block a view without putting some of the low level planting that adds the color.

Chairman Cosentino: I want to go through a summer where people are looking at this saying this is going to really be a nice project.

Doug Hertz: We hate to ask you to do work that you're going to undo, but what about the possibility of doing just the areas around the entrance and perhaps the corner without losing the bulk of the frontage on Main Street in terms of parking? You may be doing some planting there, but you may lose some of the construction, perhaps the entrance construction and the Moore Avenue construction, and you might lose a couple of spots, but it would be a semblance of what would be then filled.

Steven Barschoff: So you would like us to look and see if there are some parts of this that can be accelerated without losing parking spaces?

Chairman Cosentino: Yes.

John Partenza: In your mind, what is the phasing? What happens first?

Chairman Cosentino: I would really like to go through the summer letting everybody see what is happening.

John Partenza: We were hoping to start construction on the ER as soon as possible.

Nanette Bourne: I think now is a good time to talk about the sequencing of this. You need your zoning approval, and you have your public hearing scheduled at the end of January. Assuming that you have your zoning in place the first half of February, we can be working on the resolution and you can be working on your final site plans, and this can be before the Planning Board for a vote at their second meeting in February or their first meeting in March.

Steven Barschoff: If we can get the approval contingent upon the zoning.

Whitney Singleton: The timing of this is not going to be a problem. We will start preparing the resolution right away.

Nanette Bourne: Besides getting your zoning, you need to modify your set of plans somewhat to address Anthony Oliveri's comments, DEP's comments and the color

landscaping plans that you submitted and presented to the Planning Board last time were not included in your set of drawings. We need to make sure there is a complete set, including the interim landscape plans. As soon as you get them to me then I can finish the draft of the resolution.

Steven Barschoff: Perhaps we can be on the next agenda as well, just to tie up any loose ends that there may be. That will pave the way for action going forward.

John Partenza: Does your vision for the interim have to be part of the approval? How do we scope that? Is it possible to have a work session? I don't want to hold anything up. I would like a working meeting with both sides so we can make a good faith effort to see what we can do within a time frame between now and then.

Michael Caruso: We need to work with John Slaker as we develop that. What about Austin's review? I know Austin has our complete set of documents, and we have walked him through it. At what point is he in on this? Once you get the resolution passed, what is the time frame for him to get us a building permit?

Whitney Singleton: After you satisfy any conditions of approval that are predicated to the resolution. There will probably be some bonding requirements that need to be done. Nanette and I will work with the applicant to make sure we are gutting out some of the procedural issues for the resolution. We will coordinate that with a representative from the applicant at a staff meeting.

Anthony Oliveri: Also DEP approval.

Nanette Bourne: We need to make sure all the improvements are tied together. We don't want to hold up the issuance of the building permit for the E.D. if there is no C of O until the interim landscaping is in.

John Partenza: So those will all be caveats to the resolution?

Nanette Bourne: Yes.

Steven Barschoff: We have a bidder's conference on the 20th. By no means can we start this project until we have all our bidders in place.

Whitney Singleton: Do you think it would be beneficial to have one representative from the hospital come to simply discuss sequencing at our staff meeting next Friday?

John Partenza: Yes, I will discuss it with Joel. I will be more than happy to go.

Scott Blakely: There are two items in Anthony's memo I would like to discuss before we leave. One has to do with the slight increase in that one design point and your recommendation to the board that they may want to consider some detention onsite. Two of our design points eventually empty into the brook at Leonard Park. There is one that goes through CVS and one that goes by Friendly's. During the interim condition, which is prior to the construction of the parking garage, the final condition, once the parking garage is finished; there is a decrease in all of our design points. We don't have any increase off-site in the final condition. It is during that interim condition where there is a shift in the drainage divide. Basically, in the existing condition (the old medical office building that was torn down) drained toward the retail center. In the interim condition, we are putting a parking lot in here and we're picking up that drainage into a system treating it, and then releasing through to design point two.

Anthony Oliveri: The concern what was going through CVS and if that pipe has capacity to handle it. CVS was in here recently, and they show a 30" pipe going across.

Scott Blakely: There is a 30" pipe that runs through their property, opens up into where they are re-building that headwall and reconstructing the riprap. There is an open channel and then it runs into a 36" pipe and through.

Anthony Oliveri: Your drawing shows a 36 crossing 117. My estimation is a 30" runoff coming from your site with whatever else is coming off 117 exceeds capacity.

Scott Blakely: The other option we have is to maybe make a shift in the drainage divide and take some additional water back.

Anthony Oliveri: You have capacity at the other end.

Scott Blakely: We're reducing it over there. The only problem is we don't have anything to tie into it. We will analyze the existing and then the proposed condition.

Special Discussion:

2009 Planning Board Rules and Procedures

Chairman Cosentino: Planning Board Rules and Procedures, I don't know if Tony had anything on this or not. I would like to not entertain it until he gets back.

Correspondence:

a. Letter from Andrea A. Oncioiu, Associated Project Manager, NYDEP to Daniel Simone dated December 2, 2008 re proposed office building for Filippo Simone, 127 Barker Street

Chairman Cosentino: I understood that. Is he in violation of something now? A boat?

Whitney Singleton: Yes. There was a violation of the site that was issued by the building inspector. I do not know whether it's subsequently been corrected. They have had all sorts of storage of commercial vehicles.

Chairman Cosentino: Is it in court?

Whitney Singleton: I don't know. It may have been rectified. They may have simply been issued a Notice of Violation.

Chairman Cosentino: The boat is still there. Also, briefly please tell the board members what is happening with Getty.

Whitney Singleton: As set forth in your package, we received an extremely peculiar correspondence from the counsel for the land owner basically conditioning the property owner's consent only in the event that the Planning Board recognizes Parcel A and Parcel B for which there is no subdivision. There are a lot of statements in there that are simply incorrect. He talks about the property being bisected by zoning districts, which simply not true. He talked about there being two separate parcels of land, which there are not. There was a lot of peculiar stuff, saying that the application can proceed so long as it's on these terms. The chairman and I have discussed this and I have discussed this with the representative for Getty as well, we e-mailed a copy to Mr. Monteleone. His statements are just wrong. It is not an unimproved parcel and an improved parcel, its one tract of land that has not been subdivided, based upon my investigation with the Building Inspector. There is no line separating the two parcels for the zoning district between residential and commercial, we have no floor area ratio in the building code that referenced by Mr. Monteleone, and he said the property only consents to an application that recognizes all these conditions, which don't exist. We are suspending any further review of the application until they come in with an unqualified consent and an application that matches. I think there is a dispute going on outside of this Planning Board and outside the village that we don't need to be dragged into. I have not heard anything from this individual since I wrote the letter.

Chairman Cosentino: There was supposed to have been a meeting between the owner of the property and the lessee of the gas station. Both were going to call village hall, which has not been done yet to my knowledge, and try to set up a meeting to clarify what they want to do. The bottom line is, I believe they want to subdivide the property and possibly build two, two-family houses on the lower part where the funeral home parks. Or, possibly sell that parcel to the funeral home, so the funeral home can make a parking lot. They definitely want to subdivide that property and that's the reason for it. The lessee has a 35 year lease there.

Whitney Singleton: And in the meanwhile, there has been an application to the Zoning Board of Appeals for the setback variance for the canopy, which is still pending. In anticipation of some of these issues, some points of questions were put to the applicant; how many uses are there on the site? It was represented just the gasoline sales and automotive repair are the only approved uses on the site and that there are no other uses on the site. I don't know what that parking lot is off Gregory Avenue.

Chairman Cosentino: So that's wrong by saying there are no other uses, because there is a lease between the funeral home. It is more than one use. It was incorrect for them to say there was only one use on the property. There is a parking lot use.

Whitney Singleton: I'm talking about what is officially on the records. This is the part that perplexes me. They want to subdivide and they want to put houses in the back. It's not a permitted use in the zone.

Chairman Cosentino: He wants to re-zone it back to residential.

Whitney Singleton: I think we are going to have to be very careful on a going forward basis that we're not too myopic in our approach and not see the big picture. We have to know what we are looking at here as far as an application.

Chairman Cosentino: That is why he is no longer on any agenda, until we get this straightened out.

As there was no further business, on a motion by Mr. Vigliotti, seconded by Mr. Bernstein, the meeting was adjourned at 10:40 P.M.

Respectfully submitted,

Stanley Bernstein
Board Secretary

dm