

Special Meeting Minutes  
Village/Town of Mount Kisco  
Planning Board  
Thursday, January 22, 2009

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

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

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

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

**SEQRA:**

**Westchester Residence and Club**  
**Kisco Avenue**  
**PB2006-19**

**Present:**            **Mark P. Miller, Esq., Veneziano & Associates**  
                                 **Michael Finan, P.E., CMX Engineering**  
                                 **Patrick Hewes, Saccardi & Schiff**

Whitney Singleton: We are at a point in the SEQRA process with the Westchester Residence and Club application where the applicant has prepared a draft Final Environmental Impact Statement and had been through various iterations before your board, and your board has not only issued their own comments as to the sufficiency or lack of sufficiency of the draft FDEIS but you have asked your planner to sit down with the applicant and make sure that all the proper concerns and comments raised at the public hearing and raised by your board are properly addressed so that it constitutes a complete document. We are here tonight, not to adopt any findings, but solely to determine whether or not the FDEIS draft is complete and adequately responsive to the questions in the public hearing and comments of your board. With regard to the specifics of it, I would have to defer to our planner.

Nanette Bourne: Several months ago the applicant submitted a preliminary Final Environmental Impact Statement and we reviewed it, the board reviewed it, and provided a set of comments in a completeness review to the applicant in the early part of December. There were substantive problems. There were a number of areas and responses that the board considered needing a lot of work. The applicant spent the better part of December revising the document, and just to reiterate what Whitney said, you don't necessarily have to like the project, but find that the information in here is correct. You can question the judgment of certain components of the project, but I think the information in here is generally correct. Once you get to a point where you feel that the information is correct, that they have shown the respect to your comments and your review that you think deserves, and their comments are generally accurate, then the next step is to prepare a Statement of Findings. It is in the Statement of Findings that you can provide your qualitative judgment on whether or not you think that the way they have dealt with certain environmental issues is adequate. It is the Statement of Findings which is the appropriate vehicle for that. It certainly would be helpful for the applicant to hear all of that tonight, but I don't want you to feel that this is the end of the road. Keep in mind the next step is to get to a point where the FDEIS is accepted as complete, and you adopt the Finding Statement. That may conclude SEQRA, but all that means is that all of the involved agencies, such as the Planning Board that does site plan approval, the Village Board that adopts the proposed zoning, New York City DEP that issues the permits, are then able to grant those permits with modifications as proposed. This process is a way down the road, but it is nowhere near complete. The whole site plan approval process hasn't really even started yet.

Whitney Singleton: The FDEIS, when you determine that it is complete, is going to constitute the basis for any findings that you make and any decisions that you make regarding the application. So while you will be not determining per se, thumbs up or

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thumbs down with regard to the project. This is the work to determine what the basis is for your eventual determination. You want to make sure it is complete and the responses are accurate and thorough and comments are properly addressed.

*It was decided by the Board to review the document chapter-by-chapter.*

### **Chapter 1 - Introduction going into the Project Description**

Doug Hertz: Page 1, Section 2, Project Description, at the bottom of the page it begins to discuss an emergency access driveway. This is the first time I've seen this discussion, and I'm not sure how officially we got to this driveway being required. I know that probably out of earshot of this board there was probably input from the Fire Chief and other people within the village, and it's possible I missed a meeting, but I don't remember ever seeing a plan that described or showed this secondary access road. I do not have any data. I did not see very much throughout the rest of the document that discussed what this road was. If you look at maps in the document, there is a suggestion that it is going to be to code, and I don't know what exactly that means. A code for an access road? A code for a main road? Will this be paved, not paved? What are the environmental impacts of this road? We have talked a great deal about what was going to be preserved, cut down, cut and filled for the project, and throughout all that, this was never part of that equation. I'd like to know if this access road is built as part of the project and exactly what is involved. Additionally, if this road is proposed to connect to an existing gravel road on the adjoining site that the village owns, will it require being part of that road up to code, or are you going to be doing that work off-site? There is no discussion in this document as to what is going on in that. If it is going to be what I possibly deem that this is going to be a two-lane, paved, code road that will have a huge environmental impact which will have had no discussion in this document.

Michael Finan: The road came about as part of a discussion we had with the Fire Department and I believe Jeff Econom requiring a secondary access to this site in the event that there was a catastrophic problem along the main roadway. The road itself is not a two-lane, paved road; it is only for emergency situations. It would be gravel. It meets the standard by way of percentage and drainage. I don't remember if it is 16 or 18 feet wide, but it is only intended for one way into the site, turn around within the top of the site and go back out if you had too. There is a pull off along that access drive in the event that two cars happen to pass by each other.

Doug Hertz: If that is the case, then there needs to be a description. That has not been presented before this board. As far as I am aware, no where in the public record is there information about that until now. I think for this document to be complete we need that information within the document as part of the description so that we can understand it. If we can get additional tree count, additional cut and fill; tree cut numbers I'm sure will be impacted; all the information about what those impacts are going to be to add that road. I don't know if there is going to be a drainage impact. You tell me.

Mark Miller: We're trying to minimize the drainage impact as a result of that and there is a good amount of land that will be beyond that.

Doug Hertz: That needs to be laid out in the document on an information basis so that it is part of the record.

Nanette Bourne: In relation to the emergency access road, we saw the letter from Jeff Econom and I suspect it was kind of a cryptic note about the emergency access road, so I suspect there was more conversation, but I didn't see a letter from the Fire Department requesting it.

Mark Miller: They were at a meeting that we had with them.

Nanette Bourne: So it was verbal?

Mark Miller: Yes.

Chairman Cosentino: So there is no documentation from the Fire Department if this is the type of road that they approve because of their apparatus?

Mark Miller: Not that I'm aware of. They only mentioned an access road.

Doug Hertz: Are you aware of any additional work that has to be done on village property on the connecting road?

Mark Miller: We're not proposing any improvements to the existing access.

*At this point, Chairman Cosentino instructed the Planning Board Recording Secretary to inform the Planning Board Secretary that documentation is needed from the Fire Department of the scope of the road and to have the Fire Department report back to our board with documentation on that so we know exactly what the Fire Department is looking for.*

Ralph Vigliotti: At this point we are going to need to know when you propose to construct that road. Will it be constructed first, midway, tail end of the project, how will trucks get in and out, if you are constructing it first into the neighborhood and so on.

Mark Miller: Okay.

Stanley Bernstein: In looking at the map it looks as if the road itself is paved based on the way it's drawn. There is nothing in the text saying that it is not paved. It also encroaches on about one-quarter of the 4.4 acres which is supposed to be untouched, and throughout your document you keep mentioning 4.4, which has to be changed. This has to be quantified accurately as to how much open space would be left minus the road. Instead of 4.4 it will probably be something about 3.1. It has to be changed throughout the document. Now, contrary to what you said about how there was no thought about improving the access road that goes to the water tower which this intersects with, going to Mountain Avenue, there was a question on this road in the body of the text, and the response to that comment was that we will bring the other road up to specifications, meaning the road that goes through village property. You must have permission to do that. Based on your response to the comment, yes, you are going to improve that access road that exists right now to the water tower. A full discussion on this subject has to be included in here.

Doug Hertz: Do you know exactly where that is?

Stanley Bernstein: It's like a loop road that comes from Mountain Avenue and makes a turn around to the water tower. It happens to be longer than the proposed road going through their own property. It is quite a distance coming out of Mountain Avenue, close to a quarter of a mile. If that is going to be improved, a great deal of improvement has to take place, a great deal of environmental destruction, cut and fill, has to take place and there is no discussion on this at all.

Nanette Bourne: Stan, you are requesting they provide a thorough analysis of the access road?

Stanley Bernstein: Correct.

Nanette Bourne: In addition, they have not done a tree count.

Stanley Bernstein: They will have to do that, and they will have to describe cut and fill, how many cubic yards are coming out and going back.

Nanette Bourne: That is in here.

Stanley Bernstein: It says there will be additional cut and fill, but they don't say how much.

Nanette Bourne: They do have the disturbance.

Stanley Bernstein: They list that there will be a disturbance, but no discussion as to what the disturbance is.

Nanette Bourne: They do have it. We had a discussion about the 4.4 acres of open space. Did you already subtract from that the access road?

Mark Miller: 4.4 is the continuous area undisturbed.

Nanette Bourne: So it includes the emergency access road?

Doug Hertz: No it does not.

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Ralph Vigliotti: I read it was an acre of emergency access road.

Nanette Bourne: The question is the 4.4 accurate or do you need to re-check that?

Mark Miller: We will re-check it.

Doug Hertz: Which will also go to another section. It's not just how much land is undisturbed, but what is the largest piece of undisturbed land? If you're bisecting the undisturbed land, you now have a one acre or whatever it may be, it changes the nature of that land significantly.

Ralph Vigliotti: You also need to identify the size of trees that will be removed on the access road. You show that on the other parts of the property but not on the access road. I don't know if this fits into the introduction or not, but early on during the DEIS we talked about upgrading the model to illustrate the new configuration of the building. Now we need to show the access road. We talked about showing a full blown, much better scale of the road with the "tiering" that we did not talk about a year and a half ago. We have not seen that yet.

Nanette Bourne: If I could just make a comment on the trees, just to make sure it's clear. If you look at exhibit five.

Ralph Vigliotti: Yes, that's where it does not identify the trees on the road. "Clearing is required in order to provide emergency access."

Nanette Bourne: So, in order to accept this as complete, are you asking them to do a tree survey on that road?

Ralph Vigliotti: Absolutely.

Chairman Cosentino: I have a minor item that was brought up when we first started. I requested Mount Kisco seniors to have first choice entering these apartments providing they qualify as Woodcrest did.

Nanette Bourne: The difference is Woodcrest for the preference had to do with affordability, and these are market rate.

Chairman Cosentino: Yes, I said if they qualify. Since we are taking all the mitigation here, I feel it would be only right for Mount Kisco residents to be considered first to purchase. I would like it to be written someplace.

Mark Miller: I'll discuss it with Whitney.

Whitney Singleton: They can address that issue.

Ralph Vigliotti: Westchester County, in one of their letters, indicated whether or not any of the units would be set aside for affordable housing. I don't think that was answered, and it needs to be. If it is, I can't find it. Also, you have a projected cost for the units. I don't know if that's six months old to two years old. For completeness, I think it should be an updated figure in here for the FEIS, unless you're saying the figure in here is the correct figure. You have a figure for the proposed cost for the units. I think in completeness I'd like to see what the proposed cost is going to be when the units are completed in 18 months or two years, in all fairness to every one of us.

Chairman Cosentino: To answer your question from before, the height from the walls would arrange from one to eight feet high, and you were asking about the length.

Ralph Vigliotti: Yes. At some point we are going to jump to view of walls. You've done a nice job describing the heights and the tiers of the walls, but for whatever reason, you're not showing and describing and identifying the lengths of the walls. There is a scale in here somewhere, but I don't think we should have to rely on a scale to help us determine if the length of the walls are 30, 60 or 100 feet. That should be outlined in here in great detail.

Doug Hertz: On Page 2-9 it says "Summary of Significant Impacts of Project." The first thing that is discussed is the loop road and emergency access drive. I don't have much issue with much of the factual information presented. To your credit, we received a great deal more information in this version and a lot of the information we were

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requesting, and I thank you for that. These are not our findings; this is a question of their having addressed the questions that were asked to be answered. Subtlety slid into many of the answers is conclusions that the applicant draws that are, in my view, subjective. They are their conclusions, their version of what the facts lead them to believe. I think you could take a similar or the same set of facts and come up with perhaps slightly different conclusions. I don't know if I want to go through every paragraph in this document and suggest that the facts are fine, but the conclusions drawn by those facts are not necessarily the conclusions that I would reach. How do we address from the point of the entire document?

Nanette Bourne: I think some of the conclusions you consider the most egregious conclusions you just don't agree with can be amended to say "in the applicant's opinion."

Doug Hertz: So, for instance, on Page 2-9 C 1-A of the product description, Loop Road and Emergency Access, "the incorporation of this additional safety measuring plan is considered to outweigh the loss of vegetation for this connection to be made." That may have been a conclusion by people outside of this room, but I don't know that this board member made that conclusion or that it was ever discussed that this board could make that conclusion. I would ask that those kinds of conclusions be changed, specifically that one. Again, I did not go through this document. I was looking for factual information and whether we got our questions answered. As to the conclusions that the applicant reached based on those facts, those are their conclusions and not this board member's conclusions, necessarily. As stated earlier, we've never had any presentation by Jeff Econom, by any members of the Fire Department to this board saying that this road is necessary and that the environmental impacts that it will necessitate are outweighed by the in court of having this road, for safety or whatever other reasons it will present. Because of that, I cannot accept that sentence in this document. There may be sentences like it down the line.

Stanley Bernstein: Mr. Chairman, on the very same sentence, it should not say "the plan is considered to outweigh the loss of vegetation." There should be a parenthesis saying, "in the opinion of the applicant." This connotes that everyone who has looked at this considers this to be so, which we're not. There are many such instances throughout this document.

Ralph Vigliotti: I just want to ensure that there is a percentage of trees to be removed; 84% versus 16% that will remain. Is that now the correct percentages know that we're putting in an access road?

Doug Hertz: So we're asking that all the documentation be consistent so that if what is being proposed is this access road, that the disturbance, tree numbers, cut and fill numbers, etc., all reflect the current proposal.

Ralph Vigliotti: As well as the time frame for construction, which phases it, is and how will the materials be brought in.

Doug Hertz: Also, will this road proposed to be used for construction vehicle access?

Ralph Vigliotti: We also need to know if the loop road going up to Kisco Avenue is being used as the ingress/egress for construction vehicles. Also, what is the phasing in, where and how is all of this going to take place? My concern is that we do not have this unpaved mud road going up for two years during construction, and as a village we have to protect against mudslides. This road is just a bare two acres of land until you actually get the construction done of the units on top. Where does all this fit in?

Mark Miller: We understand. Presumably we have to address the rest of your comments tonight. Some of the issues you raised are already in there. You have clearly raised issues that are not in there and need to be. We will work with your staff on the material that is already in there and add any other material that you request.

Doug Hertz: Nanette, are you comfortable with the data that is presented on building height; the calculations?

Nanette Bourne: It's accurate, yes. Without being provocative, I want to go back to the project description. If you look at the end of the project description on Pages 26 and 27, this was new information that was not in the DEIS that was asked for and provided in here. Although the building really hasn't changed since you first looked at it, the numbers weren't really clear and this clarifies that the stipulation for a building of

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177,000 square feet has been modified to include an additional 50,000 some odd square feet for an underground parking garage and 50,000 will include circulation and infrastructure support, so that the total size building right now is 291,000 square feet. The dwelling units have stayed the same; the height of the stories has shifted based on the information we talked about. I want to make sure that you all understood that.

Doug Hertz: I was hoping not to go through every page and every paragraph of this document, but I'll make the same comment about the applicant's conclusions. We've seen this before with other applicants. Everyone wants to paint the best picture and lead the public with their document as best can be. I mean no ill will to you or anyone else, but I would really like to have a document that is factual and does not purport to have conclusions that are suggested here that may not be the board's conclusions. In the very last sentence of this whole project description, "in review the record.... that has been on display, the proposed project presently comports with the intended parties." Again, that is the applicant's conclusion. There is lots of factual information just prior to that, and I appreciate them providing all this factual data, that's what we needed, but the conclusion should be ours and not theirs. Rather than re-writing these conclusions, I would ask that these conclusions be stricken because they are not part of what this document is about. You will have a statement of findings; this is the data. It's not the applicant's conclusion about what the data suggests.

Nanette Bourne: You would like that entire sentence out?

Doug Hertz: I don't see that it's necessary. It is their conclusion as to what the data supports.

Whitney Singleton: As long as you're going to say that, I would say the same would hold true to the comments in the last column. "Square footage complies..." if that's their position.

Nanette Bourne: So take that whole thing out.

Ralph Vigliotti: The comment space goes beyond what was in the stipulation, as far as square footage, correct?

Whitney Singleton: The stipulation talks about overall square footage and overall footprints.

Ralph Vigliotti: But I think they went beyond.

Doug Hertz: So the conclusion is not ours, it's theirs and let's just stick with the factual information.

Ralph Vigliotti: Additionally, the wording says up to 129 units. You say that early on, but then later in here you say 100 and 20 units. It's up to 129 units. You discuss that quickly and then in the rest of the document you keep talking about the 129 units. You also say that you can be profitable at 120 units. We need to clarify this.

Nanette Bourne: On this table, where it says "required as stipulation" it has 129. It should say up to 129.

Ralph Vigliotti: It does say "up to," but as the document progresses, the "up to" is eliminated, and there is total discussion about 129 units. This should be noted.

## **Chapter 2 - Land Use, Zoning and Public Policy**

Stanley Bernstein: Mr. Chairman, A-2, 3 A-2 again is what I said before. In the middle of the second paragraph it says 4.4 acres of contiguous area... will be preserved. Therefore 37% of the project site will remain as open space. It is not true, you have to clarify that. You have to have an accurate description of the acreage.

Ralph Vigliotti: On 3A-5, that is another area where we are picking up, "the proposed project provides 129 units of senior housing, a need expressed as a priority in the village comprehensive plan." Is that correct, Whitney?

Whitney Singleton: I don't know off the top of my head.

Nanette Bourne: I think your point is a good one. It confuses two issues. The project provides 129, that's true. The need expressed as part of the Village comprehensive plan is senior housing, not the 129.

Ralph Vigliotti: That needs to be re-written, and just below is probably where you need to make the correction if we're talking about the emergency road. "The proposed project preserves approximately 4.4 acres of contiguous open space, 2.2 acres of un-contiguous open space, 17.7 acres. That's where those numbers may change if we're including the emergency road land.

### **Chapter 3 - Visual Resources**

Stanley Bernstein: On Page 3B-5, and this happens throughout the entire document, your responses to comments have been combined. There are two different people speaking especially at two different times or one speaking and the other one giving written comments. You combine them because they are similar. I don't think that's right. I think each individual notation should be separate. If Mr. Liebman makes a comment on an item and Mr. Gmelin makes a similar comment, they should be treated as separate comments. This is done throughout the entire document.

Nanette Bourne: That was something we talked about. That was intentional. We directed them, as they were having so many pieces of a response and you really could not understand.

Stanley Bernstein: Do you think this is a better way?

Nanette Bourne: Personally I do, and I think there is nothing in SEQRA that says you have to separate it out, and it was intentionally done so that the responses would make sense.

Stanley Bernstein: I understand.

Doug Hertz: Mr. Chairman, I would like to jump back to 3A, Page 8, back to land use and zoning. This will tie into what Ralph said earlier. In the middle of that page it says, "the number of units in the proposed project of 129 is necessary as a matter of the proposed project's economic viability," and then later on in the paragraph it references the letter from Joseph Rucella of Life Care. I re-read that letter which is attached later on in this document, and he specifically says 127 units is what is viable and then talks about 120-150 as the size area that makes this economically viable. So, again there is a conclusion here that is, a) not brought out by the facts and simply corrects the facts of the letter that is later on in the document, and it draws a conclusion that is only supported by a single document. We asked the applicant on more than one occasion to provide the economic basis for this break even point that validates the size of the project. We were never provided with any other supporting economic data to validate this break even other than this single analysis. I have no information to not agree with it, but we have not been provided with enough supporting data to come to that conclusion on our own. There is a conclusion within this paragraph that we are using this number because it provides the correct economic viability. I don't think we have the data to support that. As a continual comment, this gets brought up when we get to a discussion of alternatives, as one of the alternatives is a smaller size, so later on in the document there is comment on a question that I had about lasting impacts, if the units were scaled down some percentage. Again, this letter is brought out at that point to support that data, but again there is no additional data other than that single letter to lead us to believe that this is the end all and be all of the size that is required to make this project economically feasible that this is the break even point.

Ralph Vigliotti: Is there a sidewalk system going up the loop road?

Mark Miller: Yes.

Ralph Vigliotti: I'm looking at Section 3D, Exhibit 21 where you're showing the view of the walls from Kisco Avenue and I'm not sure I see sidewalks in that view. When we finally get the model of this loop road with the tiers and the detention tanks and the sidewalk system, we will get a better visual.

Mark Miller: The sidewalk is the red on the left hand side there.

Ralph Vigliotti: Please identify for me the width of that road and the width of the sidewalk. Does the width of the road and the sidewalk meet village code? We can discuss it more when we get to that section.

Stanley Bernstein: Mr. Chairman, Our response to 3B 13, second paragraph, is another opinion by the applicant. "The majority of the proposed building roof is relatively low." Relative to what? Furthermore, majority means 51%. So does that mean 49% is excessively high? That has to be clarified and has to be shown as an applicant's opinion, not the opinion of everyone reading this document.

Ralph Vigliotti: On 3 B 11, "the access driveway to the proposed project will include tiered retaining walls in excess of 15 feet. The Planning Board should consider whether or not these retaining walls have been significantly addressed in terms of visual impact." When we go to the retaining walls there are arrows showing eight feet high retaining tiers. If you go to 3 B 10 under Comment 3 B 15, there is discussion that the retaining walls in excess of 15 feet, but on the visual – Exhibit 21 – there are arrows pointing to walls that are eight feet high. We need consistency through the document.

Nanette Bourne: The wall that is 15 feet came from a comment that I made based on their site plan drawings that they had not fully developed the walls. That was in response to that. On Exhibit 20 they have a wall that's nine feet high.

Ralph Vigliotti: The exhibits have to be consistent with the written part of the document. Also, we need to see in writing the lengths of these walls. I should not have to take an architectural scale and try to figure out what size the wall is. I would like to hear, "Loop 1, the wall is X number of feet long, Loop 2, the wall is, etc.

Doug Hertz: If you're going to go to the Village Board for text changes of certain things, the lengths of these walls will be non-conforming to the zoning. You are going to end up having to go the Zoning Board for variances. In the code it states unequivocally that retaining walls should be no more than X in length; I believe no wall can be more than 75 feet. I am not suggesting that you re-engineer this, let's just get all the information in one place at one time.

Ralph Vigliotti: Also, when we are discussing the detention basins, I would like to see the actual length and widths of the basins in the text

#### **Chapter 4 – Natural Resources**

Doug Hertz: Page C 3 – "The applicant is committed to off-site mitigation and composes in the form of an off-site mitigation bank with tree planting...." Are we at a point that we can quantify this to some extent? What is the formula that we are going to be using?

Whitney Singleton: I have to plead some degree of ignorance on this with regard to the off-site mitigation. Was this for trees within the downtown area?

Nanette Bourne: This was the Shade Program that Kyla coordinates, and it was used for BMW. Because of the trees that came down on the back slope, they could only plant so many trees on site. There was an estimate of the cost of the trees that were eliminated because of the failure of the slope. BMW had to provide a check to the village for the replacement of those trees.

Doug Hertz: I know we discussed the fact that because this project is essentially moving a smaller, similar project from a particular site to this area, and as part of the Stipulation of Agreement the village gets the five-acre site of the former Town and Country, there is a suggestion that part of that area could be a donor site for some of this off-site mitigation. When are we going to discuss the quantity of that and how we're going to come to a formula for that?

Nanette Bourne: You can begin that discussion at Statement of Findings. Then during their site plan review when they have to revise their drawings and they have to come up with a detailed revised grading plan that will finalize the number of trees and the size, they will revise their grading plan based on the plan that you propose.

Chairman Cosentino: Do we have the proper zoning for that?

Doug Hertz: I am suggesting that there are going to be vacant areas that are going to need to be re-forested. This would provide the necessary contiguous function of a forest.

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Nanette Bourne: It was done with Woodcrest, BMW and Mr. Comacho. That was all done as part of site plan approval.

Whitney Singleton: I don't think it would be problematic to have a quantification process.

Stanley Bernstein: This is written on a one-to-one basis, and that's not what we did with Woodcrest. We took full wood. A 20" caliber tree does not equal five 4" caliber trees. It was there in the agreement. Three to one was the closest ratio. He protested and compromised three to one based on full wood. Full wood brings us to more to three to one, so we gave them a little bit of a break. But one to one is absolutely unacceptable. Five four inch trees does not equal one 20" inch.

Doug Hertz: Whitney, what is your recommendation as to the beginning of that process?

Whitney Singleton: As Nanette pointed out, the binding statement could incorporate that, and then as part of the process we could refine it during the site plan approval and make conditions of approval. That should not be a problem. I think you're talking about basically creating a fund for the site or sites to be designated at a later date and time.

Doug Hertz: Whether it's a fund or they are going to be specifically re-planting, whether the village replants or the applicant replants, or where we don't have the appropriate site, funds are provided or some combination thereof.

Stanley Bernstein: A question was asked by Bob Liebman about a wild life survey undertaken, and they answered by saying they had Amy Green do a survey. I read that survey and it was inconclusive, as she conducted her survey in the winter. She concluded that these are the possible wildlife that will be present, or may be present. That is not a wildlife survey. A wildlife survey should be taken in the spring or early summer and it should be comprehensive. That comment was not answered properly.

Nanette Bourne: You're right about that, but the issue is that it's a practical issue and we're not into spring or early summer. So the reality of getting that wildlife survey in this now is not going to happen unless this gets delayed until spring or early summer. Alternatively it could be discussed in the Statement of Findings and it could be a condition of site plan approval.

Stanley Bernstein: I'll accept that.

## **Chapter 5 – Geology, Soils, & Typographic**

Ralph Vigliotti: Are the detention tanks going to be underground or will they be exposed?

Mark Miller: There are surface depressions that we are proposing which are detention basins. There is one tank at the entry.

Ralph Vigliotti: I think discussion on fencing, safety and how high the fencing should be should be part of it.

Mark Miller: There will be no fencing proposed around the basin. If your permanent pool is less than 4 feet deep, safety fencing is now required around the basin.

Ralph Vigliotti: I'm requesting that discussion be part of this completeness package and that it be verified. I'm not sure if it fits here, but there was some discussion about an access road from BMW. We don't know if it was a verbal telephone conversation, e-mail or written.

Chairman Cosentino: There is no access road from BMW.

Ralph Vigliotti: We asked during our DEIS to lay the groundwork for discussion and it is discussed in here. I would like to know in what form that was done. Also, there was conversation in regard to New York State easement for the Saw Mill River Parkway. How was that conversation carried on? I would like to know how these surfaced.

## **Chapter 6 – Water, Resources and Wetlands**

## **Chapter 7 - Utilities**

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Doug Hertz: There is very cursory discussion in here about water usage. On Page F 9 there is a discussion of the Village's safe yield. Can you flush out that answer in terms of which calculation of safe yield do you used, and just give a little discussion about the different safe yield numbers that have been presented to this board?

Patrick Hewes: We worked with CMX in making use of Brian's sanitation analysis and Mike's office worked through that analysis. The responses that are here; you would like more detailed?

Doug Hertz: A little more detail as to where the safe yield numbers came from.

Patrick Hewes: More than what is discussed in the DEIS?

Doug Hertz: There is just a number, nothing more.

Patrick Hewes: We went through it in a lengthy discussion in the DEIS. It is referenced in the material of presentation.

Nanette Bourne: Would you like that to be brought into this?

Doug Hertz: Yes, so that we can have everything in a single document. Also, other than a reference, I don't see any real substantive discussion about water saving measures, water reuse or collection of rainwater for irrigation. One of the scarcest resources in this village is water, as you probably know. While there is a discussion of what your expected uses are per bed, this is really based on averages from other facilities. My hope is that perhaps as part of getting an extra LEED point here and there, certainly specific to this site; we have a much more restricted access to water than other sites do. Even though we may be within safe yield, I'd like to see what water saving technologies or strategies can be brought to bear on this specific site to lower the use beyond what an average facility would do. I do not see a discussion of gray water technologies or any other water saving strategies. I would really like to see that number come down. Many of the other impacts on the site, for instance, traffic, are going to be wonderful in relation to those others, but water is going to be significant usage.

Stanley Bernstein: I second everything that Doug said and Nanette asked if we would like a discussion on that. There is a very deep discussion in the DEIS which did not continue here. It should be brought from the DEIS to here and comments answered. Brian Parker's analysis of safe yield should be in here. This document is way over what he came up with. I'd like to know where the 125 gallons per bedroom comes in where we have always used for our criteria 100 gallons per person in this village. I'd like to see a full discussion similarly as it appears in the DEIS except with comments answered the way you've done in the rest of the document. Also, no opinions please. Opinions of your own should be clarified with parentheses, "this is the opinion of the applicant and is not a statement or fact."

Ralph Vigliotti: In the text you talk about preserving the ridge line. Please provide a map in the FEIS outlining the ridge line and then showing the building itself and the road and emergency road system. I read about it but I couldn't reference it to a map. When we say protecting that line, what does that really mean? Also, you make reference on one of your maps where the BMW footprints are located. I would also like to see where Curtis Instruments is located. It appears as though when I walked through the area that the proposed building is going to be above Curtis Instruments and I would like to see that in order to get a complete view of the two buildings that are abutting your property. I would like to see your piece, BMW as the footprint and then the footprint of Curtis Instruments on a map so we can get a sense of where this is going to be located on that mountain.

### **Chapter 8 – Storm Water Management**

Stanley Bernstein: I'd like to ask Anthony if he was comfortable with responses that say "this was fully discussed on the site plan."

Anthony Oliveri: A lot of those issues are engineering details that can be worked out.

Doug Hertz: Storm water management and the road that goes up are intimately connected. You're proposing a series of basins and large retaining walls that are very close to those basins. I can't help but thinking that some part of Mr. Econom's comment

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regarding the emergency access road fire department comment may have to do with nervousness about that whole system of retaining walls, road, and detention basins failure. I for one want to make sure if we approve a plan that we're not approving something that is going to fail in the event of catastrophic weather or something else. We have had a number of hundred year storms in these last few years.

Anthony Oliveri: The retaining walls as shown on the plan have not been engineered. We have a whole system where we obtain engineer drawings and review it before it gets built. At this point, you don't need that kind of detail.

Doug Hertz: Not that we have that information at this point, is it your sense that it's "engineer-able"?

Anthony Oliveri: Yes. Anything is. There are emergency spillways and a place for the water to go. Nothing is infallible, but all you can really ask for is that they are engineered properly when they are designed.

#### **Chapter 9 – Traffic and Transportation**

Doug Hertz: You mentioned the jitney that you're now adding. Do you have any projections on jitney rides, number of trips, etc? Is that in here?

Patrick Hewes: What is in here is a statement that jitney service is a part of the amenity program provided for access to shopping, etc. This has been very much welcomed and accepted as part of the project.

Doug Hertz: When do you expect to quantify how that is going to be used? When is the plan of jitney use going to be flushed out?

Patrick Hewes: I haven't heard from either the proposed operator of the project or the client, or in other discussions, that kind of level of detail. Given the kind of amenities of this project, how much of this overall project is dependent upon services of amenities is likely to be very pale, but we haven't done that and I haven't had any instructions.

Doug Hertz: Maybe you could bring this back to the applicant. There are a lot of facilities that are now considering preferred parking spaces for hybrids or certain types of whatever we may see down the line. Has there been any thought, as part of the sustainable nature of this project, to making the jitney a responsible, renewable fueled vehicle, and whether you're going to provide some preferred parking spaces or even access to electricity in the parking area for plug in vehicles?

Patrick Hewes: I have not heard that or discussed it. I think that the advantage and the nature of the LEED checklist exercise that as innovations come up; there is an opportunity to add that in. That is the kind of thing the Green Buildings Council likes to use.

Doug Hertz: When you bring this back to the powers that be, they should consider some of these relatively easy to achieve positives. Putting in the infrastructure in for that at this point makes sense.

Ralph Vigliotti: Have we calculated in snow and sand storage for the loop road, and whether or not we need to contact our own highway department to help us with calculations on how much storage area we need for a six-inch storm versus a twelve inch storm. This is a very difficult loop. We know that we close down several municipal roads in the village when we receive three, six or nine inches of snow because our highway department cannot manage those roads and they ice up very quickly. I believe it's a very large piece that needs to be outlined here. Is the truck starting from the bottom and working their way up, or are we using the emergency road in an emergency set of conditions to start at the top and work our way down? That needs to be addressed.

#### **Chapter 10 – Air Quality**

Stanley Bernstein: Staring on 3 1 1, there is a comment (3 1 2 response). Mr. Liebman has come to the conclusion that the amount of CO<sub>2</sub> equivalence would be 9% of Mount Kisco's annual emissions. You have come up with .009, which makes it ten times less. That is a pretty big discrepancy, yet you have no math to back that up. If in fact this is true and not just an opinion, you should expand Response 3 1 2 to show the math, so it can be compared. Not only that, the comparison from Mr. Liebman was from 2005 and your comparison was 2004. Again, apples and oranges, an opinion. You

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should give the math involved so we can see who is correct and who is not. Also, 3 1 4, 5, 6, various mitigation is shown, and again it's a self-serving document. "Selection of refrigerants that minimize or eliminate the emission compounds which contribute to ozone depletion..." that's mandated by the Montreal protocol. You can't be refrigerants today which are CFC's anyway, so that should not even be in there. It's not anything you're doing so wonderful. Also, bad response on 3 1 5. Mr. Liebman came through with information supplied by Con Edison, and you say the information you stated in the DEIS was most accurate. That was a bad response. You did not try to counter Con Edison's assessment by facts. I'd like to see that changed. It's the same for response 3 1 8. We know what your response was, we spoke about that before, but it doesn't respond to comment 3 1 8, and it should.

### **Chapter 11 - Noise**

### **Chapter 12 – Historic and Archeological Resources**

Ralph Vigliotti: Was a study conducted?

Nanette Bourne: They did the 1A and 1A said you needed to do 1B, and they did the 1B. The 1B did not show anything.

### **Chapter 13 – Community Facilities and Services**

Doug Hertz: There is a suggestion in this document, and there has been discussion earlier about community access to the site for walking trails. A statement was made early by the applicant that there would be some number of parking spaces designated for off-site visitors to park their car and walk the site. It was in statements made by the applicant in their early presentations to this board.

Nanette Bourne: Is that something you want?

Doug Hertz: Yes. I've never seen since then, how many spots were going to be designated as parking spaces.

Nanette Bourne: The parking spaces were at the top?

Doug Hertz: Yes, in the back.

Nanette Bourne: Was that in the Stipulation?

Whitney Singleton: There has always been discussion and somewhere in some document it does exist. There was a provision of a certain number of parking spots to deal with the access trails on the site, maybe four or six.

Doug Hertz: Somehow the delineation of that information hasn't made its way through to this.

Nanette Bourne: Is that an applicant's project or a village project?

Whitney Singleton: They were to provide parking spaces in the event the village was to create a trail system. The thought was that the bulk of the open space is going to be four acres.

Doug Hertz: Whether it's a trail system or not, it's a place that people are going to walk through. Currently there is no area on the other side to park cars. If the only access is on the corner of Mountain and Emory, there is no real place there to park vehicles. We don't know what the village is going to do with those properties, where all that would connect to, the other access point. This is an access point that the public can use to access the little part that was left over as well as the additional 37 or so.

Chairman Cosentino: The Mount Kisco Ambulance Volunteer Corps stated an increase in calls. They also stated that non-emergency calls should be done by a private service. Who is to say what are a non-emergency call and an emergency call? They don't have paramedics or EMT's that are going to diagnose what is an emergency call and what is not an emergency call. I'd like to see that stricken, or documentation from the Ambulance Corp. to tell us what an emergency or non-emergency is.

Nanette Bourne: Does that come from the Ambulance Corp. letter?

Chairman Cosentino: Being on the Ambulance Corp. for the last 40 years, every call we go on is an emergency. I don't know how that got there, and I don't think it was meant to be put there. There is never an EMT or a paramedic to diagnose what is or isn't. I would not want that coming for a document that we approve.

Nanette Bourne: They need to go back to the Ambulance Corp letter and clarify that.

Chairman Cosentino: Please send a copy of it here and have either Nanette or Nancy bring it to my attention and maybe I'll address it directly to them.

#### **Chapter 14 - Socio Economics**

#### **Chapter 15 - Construction**

Ralph Vigliotti: Please explain 3 N 2 in detail, "this section notes that the south side of Kisco Avenue will be used for a staging during the earliest stages of construction." What is the time line for that? Length for early construction stages; is that 30 days, 90 days, and six months? "The impacts of closing off the south side of the road must be discussed along with the protection of the existing drainage system." Are you talking about your south side of the road or the Kisco Avenue south side of the road? Please explain that in detail. There is no south side on Kisco Avenue; it's the southbound side, either east or west side which needs to be clarified.

Mark Miller: We will clarify that for you.

Ralph Vigliotti: If they are putting a statement in, has it been approved by the village that they are going to be allowed to do that?

Whitney Singleton: Nothing has been approved by the village.

Ralph Vigliotti: That's an important piece. We need to clarify south side as opposed to southbound. If we are saying earlier stages of construction, we need a time line there. That is a very busy road bringing lots of traffic into town, whether we eliminate a lane or not is something that has to be discussed.

Nanette Bourne: Part of what they need to do is correct that comment that was made by Marylin Shanahan.

Anthony Oliveri: They provided a general sequence of construction in their stormwater pollution prevention plan. You request a more detailed construction of sequences when you get the site plan.

Doug Hertz: As part of the impact of this entire project, we do need to get a sense of what the disruption to the public is going to be. You need to go into some more detail on that.

#### **Chapter 16 - Growth Inducement**

#### **Chapter 17 - Miscellaneous**

#### **Chapter 18 - Alternatives**

Stanley Bernstein: Page 3 Q 4 - response 3. "The proposed project strives to comply with the intent of the stipulation in all respects." That is not a statement of fact. It is an opinion by the applicant and it should be said so.

Whitney Singleton: I've noticed throughout the document you've misspelled James Gmelin's name. You need to correct that throughout the document.

Doug Hertz: On Page Comment 3 Q 9 references three statements that I made and then a response by the applicant. I would re-make the statement that the letter references only 127 units and not 129 as stated earlier, and that again, this is the only documentation that we've been given to support the size of the project, other than the Stipulation of Agreement. I would again request any other financial data or cost benefit analysis that can be provided to back up the fact that this is the proper size project, and that anything smaller is economically unfeasible.

Ralph Vigliotti: I don't want to belabor the point I was making earlier, but Marylin Shanahan does make reference (Section 3 N 2) with regard to how you are staging and hauling materials from the site. You give a response that "all materials excavated from

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the entire road will be excavated and hauled off the site with the exception of some material." Some could mean almost anything. "... Which will be placed in a dump truck and hauled via Kisco Avenue to Mountain Avenue to construct a fill section of the Emergency Access Road." We need a lot more information than that. That is not saying enough.

Doug Hertz: I want to re-read into the record a section of the letter from Life Care Services that keeps being referenced here. It is under Appendix D under Reports and Correspondence, the first item, a July 11, 2005 letter addressed to Whitney Singleton from Joseph **Rucella** from Life Care. "Regarding the issue of the number of units, it is our opinion that the minimum number of units for a community with services is between 120 and 150, and independent living community size greater than 120 units comprise over 70% of the market..." Later on in the document, "in general the retirement community at 127 units," this is the last paragraph on the second page, "is sized at levels that give it a chance to compete with comparable communities in Westchester." Certainly this opens a little bit of wiggle room with regards to the overall size of the project, certainly within a few units. I want to re-read that for the record.

Ralph Vigliotti: On 3 Q 2, I want to read into the record to ensure that we do. Under Comment Q 5, which is from Jeff Econom, "the proposed emergency access road from Mountain Avenue (water tank road) to the site should be wide enough to accommodate two way traffic, or at the minimum, provide adequate number of pull-outs so vehicles can pass each other." The response you gave was, "comment noted. The proposed emergency access road will be designed to satisfy the standards and requirements of the Village for safe access." We certainly need to know what that is to complete all of this. It could very well be that it must be a two way road with no pull offs. I think we should have that in the record.

Doug Hertz: I think you said that you've designed for a single lane with ample areas where vehicles could pull over and pass. We are going to need additional data from the Fire Department. I know that you've been asked to do that, so you've addressed that, but I'd like to find out at this point what additional work will be done off-site on that road. The bulk of that road is off-site for you guys, much more than what you're going to be constructing on your site. How much construction will have to be done on that site and what environmental impact that will have. I know that road very, very well. Widening that road is significant. It's on the edge of a steep drop off on one side and rock on the other side. Widening that road is not an easy prospect.

Chairman Cosentino: You said you had a meeting with one of the Fire Chiefs. You say Jeff Econom was at that meeting, and he approved a narrower road after making this statement?

Mark Miller: He stated that we should provide an access road. As far as I know we have not been approved for anything so far.

Chairman Cosentino: Jeff's statement was, "the proposed emergency access road will be designed to satisfy the standards and requirements of the Village of Mount Kisco." The code of the Village of Mount Kisco is curbing, drainage, paving, etc. That is a standard road. Is that what Jeff is asking for and then he agreed to have a narrow road just in gravel?

Mark Miller: I can't answer that question. As far as I would know we're not building a town standard road. We're building an emergency access road.

Chairman Cosentino: If Jeff Econom required it, what makes you think you're not going to do it?

Mark Miller: We don't think we're not going to do it. I guess I do not understand the question.

Doug Hertz: Your understanding was what you're being asked to design was an emergency gravel road.

Chairman Cosentino: But that's not what Jeff is asking here.

Doug Hertz: It's unclear. It's possible that this statement is taken out of context.

Chairman Cosentino: We need to clarify that. If gravel, narrow road is approved, so let it be. If Jeff is requiring village standard, that's a biggie.

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Mark Miller: We both need to know that.

Nanette Bourne: The next step is for the applicant is to revise this and may I suggest that instead of either revising or sending this whole thing to you, or they can submit just the changed pages.

Doug Hertz: I'm okay with changing just the pages.

Mark Miller: We will provide you with black line copy specifically showing the changes.

Doug Hertz: May I specifically ask that, aside from every single comment made tonight, that you go through the document specifically looking for conclusions that are yours and either state them as the conclusion of the applicant or simply strike them.

Nanette Bourne: The applicant will make their changes. Chances are they won't be done in time for the next meeting. They can either be on the 10<sup>th</sup> or the 19<sup>th</sup>.

Mark Miller: Now that we have the dates, we will let you know.

Chairman Cosentino: Thank you for coming to this special board meeting and a special thanks to my fellow board members who took time away from their home tonight to attend this meeting.

As there was no further business, on a motion by Mr. Vigliotti, seconded by Mr. Bernstein, the meeting was adjourned for 10:00 P.M.

Respectfully submitted,

Stanley Bernstein  
Board Secretary

dm