

Minutes
Work Session of the Planning Board
Village/Town of Mount Kisco
Tuesday, September 22, 2009

The meeting was called to order at 8:00 P.M. at the Municipal Building Mount Kisco, New York by Vice Chairman Sturniolo.

Members Present: **Vice Chairman Sturniolo**
 Joseph Morreale
 Stanley Bernstein
 Sol Gibbons
 Ralph Vigliotti
 Doug Hertz

Members Absent: **Chairman Joseph Cosentino**

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

Public Hearing

333 North Bedford Road
PB2009-05A

Present: **James Diamond, President, Diamond Properties, LLC,**
property owner

Of Counsel: **Lester Steinman**
 Michael Galante

Vice Chairman Sturniolo: This basically encompasses the Mount Kisco Athletic Club, Safe Haven Storage, and Grand Prix New York.

Mr. Steinman pointed out that this is a continued public hearing for the Mount Kisco Athletic Club applicant and a new public hearing on the Safe Haven site plan amendments. They are being treated together as one site plan amendment and then a separate hearing on Grand Prix New York. We will start with the site plan subjects first, and then go to Grand Prix New York later.

James Diamond: With respect to Mount Kisco Athletic Club, the proposal that we have been in front of the board is for a 30,000 square foot health and athletic membership club that would go on the south side of the building all the way at the end next to the municipal soccer field. The other part of what we are discussing in terms of Safe Haven Self Storage is for the provision of ten parking spaces for U-haul trucks for rent on the property, which is a component of the self-storage operation. Generally, people need to rent U-haul or Budget trucks when they are moving as well as self-storage units. The two businesses are linked in terms of being demand drivers for each other. We are proposing that those ten spots go at the bottom of Ice House Road where they would not be visible from 117.

Austin Cassidy: To underscore and create a synopsis of my memo, the proposal is to store, ten vehicles for rental purposes in associated with the self-storage unit. The code does not permit that specifically as a

call-out under principal uses, and it does not speak to it at all under special permit uses. However, there is language in the code relative to accessory uses that would allow that consideration and give you the tools to deliver that proposal. Furthermore, if you feel that it is approvable under that language for this particular site, please note also, there is language in there that speaks to the locale where that storage may occur and it is prohibited between the street line and the front base of the principal building. In this scenario, in that there is no rear parking to convert to, the only available parking area where this could be stored absent the variance would be the parking along the north end of the building, which is not in between street line and the front face of the building.

James Diamond: For those purposes, would our street be 117 or Ice House Road?

Austin Cassidy: 117.

James Diamond: I would think that the intent of that language would be to ensure that trucks that would be stored would not be visible from the street, so they would not be sitting between the street and the building. But between the street and the building there are a lot of other buildings obviously that front 117 and the street that actually leads to our building at the south side is Ice House Road. It would seem that by having the trucks anywhere in the parking lot not visible from Ice House Road, we would achieve the intent. I think we could put them between the maintenance garage and the space that is proposed for Mount Kisco Athletic Club, to the west of that building.

Austin Cassidy: Neither the board or I are empowered to act on anything other than what the code says. But, your point is very substantial and probably the key to a variance, should one be needed in this scenario.

Ralph Vigliotti: Where would the office be located for the rental of the U-Haul trucks?

James Diamond: There is actually no separate office. It is just a component. There is an office within the self-storage business.

Ralph Vigliotti: And that is where you would rent the U-Haul trucks?

James Diamond: Exactly. There is generally someone who is on duty working, and that would be the same person.

Ralph Vigliotti: Ice House Road has become the main entrance. Why would we, as we enter your property want to see U-Haul trucks, when we have gone through lots and lots of time over the years to enhance the property? Also, what size trucks are we talking about?

James Diamond: There is a whole range of sizes within the fleet, going all the way from trailer hitches to regular vans up to small box trucks to large box trucks.

Ralph Vigliotti: It reminds me of the gas stations of the 1980's where they had U-Haul trucks as an accessory use. We spent years trying to get them off Main Street. Now, we are putting them back on. I know you are trying to make this property a triple A property, and now you

want to put U-Haul trucks with trailer hitches. It is not permitted, but I do not think it is anything we want to see on that site. You do have a facility to store them indoors. As you come down Ice House Road, there is a small warehouse there. I do not think this is anything we want to see. If they are hidden somewhere and you go through the process with the ZBA, but I am not sure I want to see these.

James Diamond: I really do not think they are a visual negative.

Ralph Vigliotti: They are a negative. Are you saying they are positive to the site?

James Diamond: I think they are neutral.

Ralph Vigliotti: I do not see them as being neutral to the site in my opinion.

James Diamond: I think it is important to consider what you mentioned with gas stations with U-Hauls. Those would typically be a half-acre property, 20,000 square feet or so, and trucks will look crowded on that type of site. On a site like ours, where we have 800 parking spaces, I do not think it is a visual negative. Everything is very spaced out with lots of open space.

Ralph Vigliotti: But 10 will become 15, because you will be back in six months that that part of the business is doing well and now you need more spaces. How do we regulate that as a board?

James Diamond: We would be very comfortable with the 10. The use is typically more like two or three, but there could be peaks. The way the business works is the trucks are not permanently stationed at the property. When you are a U-Haul dealer, people have the ability to rent a truck somewhere else and drop it off at your facility. Someone else rents it at your facility and takes it somewhere else. It is not that you have a permanent fleet that sits there. They are coming and going. We currently do have vehicles inside because we have unoccupied space, and we have found two or three is typical. I can see the demand for peak hitting eight or ten vehicles.

Vice Chairman Sturniolo: When you say two or three is typical, meaning in the average course of the business day?

James Diamond: Yes. Usually what happens is people drop them off in the morning or in the evening, and then a new set of people come and pick them up in the morning or evening. People usually rent them for a day or two to move their goods in or out of self-storage or from one home to another home.

Stanley Bernstein: I have to give this more thought. My first reaction is that it is not a permitted use, not even an accessory use, and if the ZBA allows it, I do not think I would fight it. This is only a first impression and I would have to be convinced otherwise.

Austin Cassidy: If I might digress, just to keep all the issues all clear on the table. I think there are two issues that should be addressed here. While they are aligned and adjoined with each other in the code section, you would be looking at, number one, whether you deem this to be an approved accessory use in and of itself, and number two

would be the location. If this were to go to the zoning board, it can go one or two ways. It can go one way that they would be pursuing an easement variance and an area variance, should you deny it, or it would be going exclusively as an area variance if you were to prove the use but not the locations. As you continue with your deliberations, keep that little schematic in mind.

Sol Gibbons: I have to give this a little more thought as to the visual effect it is going to have on the property. I do not know how much of the structure you would see from the main road. I have to think about it.

Austin Cassidy: I think on that note I can factually state you cannot see anything from the road. Once you get down onto the private property, then you can see it. You cannot see it from the public roadway.

Joseph Morreale: I would like to think a little bit more about the use, but I am concerned about the location. I am already concerned about the flow of traffic and the stoppage of traffic on 117. Plus the fact that you are locating them near the soccer field. I would prefer, if we were going to grant this, to put the trucks on the north end, because then they would use that exit and it would relieve the south end exit. I also know from experience having watched the U-Haul dealership on Main Street, that there are lots of trucks parked around. I do not know where you are getting this idea that it is two or three, but they used to have six or eight parked, which was a real eyesore. Granted, you would not see this from 117, but I think you have to be cognizant of the fact that they might be an eyesore for other people coming to your other businesses. That is important to think through, too. I am much more concerned about location and traffic than I am about the business itself. I will vote for the north end for sure.

James Diamond: The area that proposed was not immediately close to the soccer field. It was actually right as you're coming down Ice House Road when you're across from where the Simone Brothers building is, in that L area there of parking. So it is relatively removed from the soccer field. The self-storage is currently located adjacent to Grand Prix New York, so almost directly across from there. I do not think we would object to moving it a little further north. The negative with going all the way to the north side is it is far away. There are no additional personnel for this. It is rented by the office person, and the facility is usually just has one office person. I think one thing to keep in mind is just for the use in general as well is how low the parking demand is for that use. I forget the exact number of spaces that was assigned to it in the previous approval for self-storage, but I believe it was 10 and 20 spaces overall for the use. There are typically no more than two customers there at a time and one employee. Essentially, we already have spaces allocated within our site plan for this use. They are not allocated for U-Haul trucks, but allocated for storage. It is an extremely un-intensive use, but an accessory part of it really is people moving. That is what storage is all about, and as part of that, they need trucks.

Joseph Morreale: You are trying very hard to improve the business volume on that whole site. Why would you pick a business that is not very heavily used? There is a juxtaposition there that does not register right.

James Diamond: We are not really trying to increase the volume. I think what we have done very successfully, which we have said from the beginning with this application was that we were going to look for users that were low traffic generators. So, even within office and warehouse standards, we tried to find tenants that would be at the low end of usage. Companies like Wine Enthusiast and Photofile and Airmack really generate very light traffic. We always talked about self-storage being a great add to the mix because it generates almost no traffic. Because of our traffic limits, we have always been concerned about making sure that we stay within the thresholds and finding the types of tenants who are just light generators.

Joseph Morreale: So if you only did self-storage and did not do rental vehicles, wouldn't that suffice?

James Diamond: The big part of the truck rental business is that it goes hand in hand with storage. There are several competing self-storage facilities. If you're a self-storage facility that has a truck available for rent, it's more likely that you'll get that customer for a self-storage unit than another facility. In other words, someone is not going to want to go to your facility to rent a moving van and then move their stuff to a different facility. They will likely rent a storage unit from us. The revenue you earn from the truck rental is relatively insubstantial, but it is about the way it generates storage business.

Vice Chairman Sturniolo: Is this analogous? If you go to a hardware store and buy a few pieces of plywood, you have to figure out a way to get that home to you. If you go to a Home Depot, there is a truck there you can rent. You rent it and bring the truck back. Is that kind of what you're talking about as this accessory use to the primary use?

James Diamond: I think there are definitely some similarities. Home Depot is likely not making much revenue on renting those vans for \$19.95. But the fact that if you buy \$500 or \$1,000 worth of items from Home Depot and don't have a way to get it home, you may not buy it if you don't have a way to get it home. There are definite similarities that it facilitates that sale within Home Depot, and that is what we're trying to do at Safe Haven; facilitate the rental of a storage unit.

Anthony Oliveri: There are no site or engineering issues.

Lester Steinman: It seems to me that while the question of the ability of accessory use is still uncertain, what is a unanimous concern by the board is visual impact so that would possibly advance the application, the applicant might consider amending his proposal to change the location of the parking and give necessary SEQRA variance for that. If not, it can be relocated to the north end without requiring a variance, and that would be up to the Building Inspector.

Austin Cassidy: To further facilitate this could I suggest a Plan A/Plan B, that obviously if the code is unworkable for whatever reason that having that distant from the rental location, is there an agreeable site, albeit not compliant of the code, between you and the board for the least or perhaps no visual impact relative to the site, then the board could be possibly supportive of, when you go to the Zoning Board for a variance?

James Diamond: We could try to come up with a location. I don't know if it would be possible for the Board to perhaps do a site visit, and maybe we can park some trucks in the location we suggested and get everyone's first hand visual view on how it looks. The spot we suggested we really think is the best spot because it's set down into the hill and it happens to be an almost completely non-utilized portion of our parking lot. It's furthest away from the building of any of our parking spaces. Right now, I believe the only people who use that parking area are actually our neighbors.

Joseph Morreale: What would the security lighting requirement be?

James Diamond: There is already sufficient lighting. We have a low level of lighting throughout the parking lot. If you recall, during the initial approval process we added a couple of additional lights that the board had requested along Ice House Road, so we have two parking lot lights along Ice House Road. One, at the intersection where the bypass road connects, and one a little further down as well. There would be absolutely no need for any additional lighting at all.

As everyone was clear as to the exact location of the site, (as you go down Ice House Road, immediately to your right before the slope of Ice House Road ends), it was suggested by Vice Chairman Sturniolo to park some vehicles in the parking area site. It was agreed to a site visit on October 10, 2009 with an October 17, 2009 at 9:30 A.M. back up date.

Ralph Vigliotti: Is this a U-Haul Franchise?

James Diamond: The signage is U-Haul. The trucks all belong to U-Haul. You're just acting as an agent for them.

Ralph Vigliotti: So you don't really have as much control as you might because it is U-Haul. What happens if the 11th truck arrives? Do you turn it away or not? If we do a site visit, we need to see ten trucks, full impact. The other concern that I have is that I've seen people emptying the trucks right on site. There have been sites in town by major rental agencies in which trucks are actually being emptied out on site - partially or fully, from one vehicle to another vehicle. It's more of a visual - coming down Ice House Road, which is a main entrance to this site. You have done so much to enhance that site. It's a step backwards, certainly not a step forward, and it's not a neutral.

James Diamond: We will put the trucks out, and I think you'll be positively surprised at the visual.

Joseph Morreale: Is there any chance you could put them out at night?

James Diamond: Sure.

Joseph Morreale: I have a real concern with both theft and theft being a target.

Vice Chairman Sturniolo: If you could put them out the night before the 10th and individually we should all check it out that night.

Lester Steinman: You are in the position to continue the public hearing to October 27, 2009.

James Diamond: Can we come back at the first meeting in October to continue our discussion of Mount Kisco Athletic Club? I don't think there is anything for us to do at this point other than the traffic information that has already been submitted.

Lester Steinman: I do not know if David is available that night. The board would like David's comments but he has not yet had an opportunity to see this traffic memo. I would suggest you provisionally say the 13th with the proviso that you reach out to David to see if he is available. If not, the fallback date will be the 27th.

James Diamond: With your permission, when we seem to have a larger number of vehicles, I'll put them out and I'll send an email advising that the trucks are out.

It was agreed by all that Mount Kisco Athletic Club will be placed on the agenda for October 13 subject to confirmation by David Stolman.

Public Hearing

**Grand Prix New York
333 North Bedford Road
PB2005-21A**

**Present: James Diamond, Property Owner
Jose Tjedor, General Manager, Grand Prix New York**

James Diamond: As you mentioned, we were requested to put together a narrative basically describing what Grand Prix is, what we do, where we're hoping to evolve the business over time, which is what we've done in this letter. Grand Prix is a membership club conducting leisure time recreation activities for use by members, customers or clients on a periodic or seasonal basis. I've broken the type of events or usage that we have at the facility into the major categories. Corporate events, which are typically Monday through Friday during business hours, could be anything from team building programs, corporate outings, holiday parties and customer appreciation days. They can range in size dramatically; they can be as small as 10 or as large as 200 people. Social events tend to happen in evenings and on weekends. This could include any type of social get together. There have been a number of non-profit fundraisers over the past 18 months that Grand Prix has been in existence. Again, these also can range from 10-200 people or even larger. There have been a couple that have been larger, including the Northern Westchester Hospital Center event. They are often and either the 10-20 person range or the 75-150 person range, depending upon the type of event. A birthday party can be 15 or 20 people. A larger type social party can be 75-100 people. Then we have adult arrive and drive racing, which is on weekdays and weekends. We have junior arrive and drive racing, which is offered everyday between 3 and 7, and then on weekends starting at 12 noon. We have adult racing leagues and schools, and then also junior racing leagues and schools. All of those programs require a Grand Prix membership in order to participate. Anyone who races at Grand Prix has to become a member of Grand Prix. The other facilities within Grand Prix include the

restaurant and bar and smaller arcade area where there is pay for play video games. When Grand Prix was conceived, the expected corporate business to be a larger part of their business, but obviously the recession has negatively impacted the corporate market. They found that social events have taken part of the place of the corporate event market. Grand Prix made somewhat of a mistake when they designed seven corporate conference rooms that were very formal in nature and seven rooms that could be combined into two larger rooms for larger meetings, but are not really well-suited for social functions, generally speaking. In terms of dealing with the downturn in the economy, Grand Prix has taken a number of steps to really focus on building the junior racing program, which has become a more meaningful part of the business over the past several months. It has also incorporated a number of value pricing packages into their menu and it has expanded the membership tiers. Where there was a daily, annual, student and VIP memberships (the VIP membership providing unlimited racing annually), Grand Prix has modified the pricing structure to encourage people to become annual members by offering them lower rate prices. It has also added another membership tier, gold membership, which includes a number of free races each month. We then, in this memo, talked about some of the things that we are working on now in terms of differentiating the nights so that each night appeals to a different group of racers; having combination type events where we could have a night of racing and wine tasting, for example, obviously the wine tasting after the racing. We are interested in converting the members lounge and office into an office and more event space than a members lounge. In terms of new product lines within the business, we are discussing several ideas including rock climbing, laser tag or paintball and expanding the arcade area. Racing will always be the major component of Grand Prix because it is 75% of the space within the facility, but we are trying to fill out the product offering a little bit so that there is something for everyone. If there is an event with 50 people coming in, not everyone wants to race; there is something for other people to do as well. We think these types of uses are very symbiotic with racing. Rock climbing would be a tower that could support four to six climbers maximum at a time. This works well as well as paintball and laser tag, for the type of team building and competitive situation that the car racing appeals to as well. Our perspective is that the critical restrictions on Grand Prix are the fact that it is a membership club, the fact that our automobile trips are limited and our occupancy is limited. We have set limits on both trips and occupancy within the facility, which is really the key. This board was always concerned about there being too many people visiting Grand Prix. We have set limits on both trips and occupancy to ensure that we have no negative impact on 333 North Bedford Road or on the town in general. But the issue has been that Grand Prix has a difficult time getting anywhere near those capacity limitations. Their trips are significantly below their threshold, as is the occupancy. So the objective is to try to add additional product lines to the facility so that we can do a better job at actually coming close to the types of volumes that were predicted and expected. We spent a lot of time at the last meeting talking about the board's concerns with DJ's and live bands. I have tried to make clear here that Grand Prix has absolutely no desire to become a nightclub facility, but the idea of having a DJ as part of a night of racing, wine tasting or scotch tasting or some type of event is what Grand Prix is interested in. One of the concerns raised at a previous board meeting is having catering events at Grand Prix as opposed to a racing facility. I have included an example here of how

the Holiday Inn, Mount Kisco functions, which is a hotel. With some number of rooms, they obviously hold functions in their event space. They fundamentally are a hotel. There is no requirement that everybody who visits every function at The Holiday Inn has to stay at The Holiday Inn. That would make any type of function at The Holiday Inn non-feasible. The fact that they have events there does not change their fundamental nature of being a hotel. I also talk about the example of golf membership clubs being very similar. Finally, we feel Grand Prix has been a very positive addition to the community over the past 18 months. Other than The Wine Enthusiast, which is on our property, Grand Prix is the largest physical business within the community. It is nearly the size of Target and A & P combined, but has a fraction of the impact on the community, which goes back to the theme of how we really try to find businesses at 333 that can use large blocks of space while having minimal impact on the community. We hope the board will work with us as we try to fine-tune the business model so that it is a sustainable model for the long term.

Vice Chairman Sturniolo: Your letter addressed the concerns the Planning Board had in wanting to see what the business plan was. I welcome comments from the board.

Stanley Bernstein: The approval was given to this organization to be a membership club only. Now, by giving daily memberships, it seems to me to be a ploy to get around the membership situation, especially now since you've reduced the price to \$5. Also, you may have written a number of times how you don't want to be a nightclub, but if it looks like a horse, and acts like a horse, it is a horse. If Grand Prix closes, this will probably be a cabaret or a dance hall. The analogy of the Holiday Inn is specious at best, simply because every hotel in the world has two components. One is hospitality/stay over and the second is facility rooms for parties, weddings, etc. Even though you have separate rooms, even if the parties were to be held in separate rooms, a DJ or live band in the middle of the facility makes it a nightclub. These are things that worry me. If Grand Prix disappears, you've always got the facility for drinking, eating and music. I don't like it.

James Diamond: If the business ceases to exist, I think the special use permit would disappear and we would not be able to stick a different type of operation in there. The daily membership was always part of the business from day one and part of the original submission. Grand Prix is motivated to generate annual memberships and even the unlimited membership, because they obviously earn more revenue from the sale of an annual membership and it's a motivation for people to come back on a recurring basis. You can purchase a day membership at health clubs; it's always been part of the business. Part of the logic is that you want people to try it and then they become long-term repeat customers. If you set up a high barrier to entry, it's hard to get people sold for the long term.

Joseph Morreale: Thank you for the extensive letter. It was very helpful to see the plan and what you're trying to do. I listen to you carefully about what you're trying to do and I understand the economics and the diversification of the business. The concerns I have are the mixing of kids under 21 and alcohol. How do you keep all that separate so that you don't run into a situation where kids who are getting access to alcohol that are underage? How do you control the

drinking so that when people leave the racing facility and get in their cars they don't think they are still in a race mode and start speeding? I am also concerned about membership. Are members allowed to bring guests who are not members?

James Diamond: Yes. Absolutely. Not to race, though. The only way you can race, which is right now, all you can do there other than use the restaurant, is by becoming a member. You have to get entered into their computer system in order to get booked into a race.

Joseph Morreale: That would mean you would have a fair number of people at these events that either were not racing or are friends of members. So when you say the facility is primarily the members, it may not be. Getting back to my first question, how are you going to control the alcohol?

James Diamond: I would encourage anyone on the board to visit the facility on nights or weekends and get a sense of the way the facility operates. It is not a wild and crazy facility. The junior racing is between 3 P.M. and 7 P.M. only. The expanded focus on junior racing is really focusing on kids 6 to 15 type age groups, which is a small component of Grand Prix's business previously. The restaurant is a pretty upscale looking and feeling facility. It is not a rambunctious college bar type thing. They obviously have alcohol controlled in terms of I.D.'ing patrons, but there is usually just a handful of patrons at the bar, so it's not the type of thing you may be visualizing.

Jose Tjedor: We also use two breathalyzers that we have available at all times.

James Diamond: To give you a point of reference, Grand Prix has a very strict policy. If you have a single drink, you can't race. That is the primary reason for the breathalyzers. If they suspect someone who even has walked in off the street, having had a drink somewhere, they won't let them race. Over the last 18 months, I would be surprised if that was an issue with. I don't think there have been any examples of excessive drinking where there was heavy drunkenness. I understand the concern, and we're certainly very aware of it. We do not want that type of facility at our building.

Jose Tjedor: The way it normally works is that a person coming in gets a wristband. When you go to the bar, the wristband is cut off, and from that point forward, you cannot race. We are very, very much aware of the combination of racing and drinking being incompatible. We have the staff very well trained to be aware of this.

Vice Chairman Sturniolo: Are the wristband and breathalyzers one of the components of the initial special use permit when Grand Prix first opened up?

James Diamond: Correct. They were conditions of the original approval resolution as part of the requested amendment. I requested that the language be brought in so that rather than it necessarily always being a wristband, sometimes they could use a stamp. It is an important part of the business. Generally speaking, they are very focused at Grand Prix at keeping things operating well. For example, on the racetracks when people are racing, they are very aware of the tendency of people to get competitive and cars can bump going

around turns. There is a strict policy that if you hit another car and you could have avoided it, you get a time out. If they think it is an ongoing problem, they will throw you out of the facility. It is extremely infrequent, maybe once that someone had to be actually thrown out of the facility. People understand this is a sport. It's about racing. It's not about banging into other people. That is why I am suggesting you spend some time there so you can get a sense of the way the business operates.

Joseph Morreale: As Planning Board members, one of the things we have to think through is, let's suppose you're very successful. Then you can't use the past data that you quoted for the future, because more than likely as the volume increases rapidly as you diversify the number of incidents could greatly increase. You could have drinking and accident issues. I wish you much success if we go along with this, but on the other hand, it raises the risks.

James Diamond: The most important thing with the facility is the occupancy limits and the trip generation limits. One of the things I've always liked about Grand Prix is the fact that there is an inherent natural restriction on how busy they can really be. If they are busy, they need to turn people away. They only have two racetracks. The racetracks can only have five races an hour, and there can only be 12 people in each race. People typically do somewhere between two and three races per person. They have a maximum amount of inventory that they can sell, and they don't run it 100%. Like an airline, it's hard to run it at 100%. It cannot possibly turn into a situation where there are hundreds of people there because there is nothing for hundreds of people to do. Even something like rock climbing - same thing. Four to six people, six maximum stations, it cannot get out of control. Everything we are exploring is uses that we know can be easily controlled and profitable but not get crazy.

Joseph Morreale: I also think of the analogy of dying with a thousand cuts. The cut is not big, but when you start adding them all together, it can turn into a major problem.

James Diamond: We are not asking for the overall occupancy limit and trip generation to change. The business works well with that number of people. The challenge is to get to that number of people, maximum 120 during the day and 185 nights and weekends. One 150-person event would take up the whole facility. Its 120,000 feet, but 75% of it is two giant racetracks that can only fit 24 people. The Northern Westchester Hospital event was larger, but once you get to 150 people, it's a full facility-type event.

Ralph Vigliotti: You did a nice job on the business plan in an effort to work around the economy. Hopefully we'll be out of the recession and you will be all corporate business again. Stan's point on evolving is certainly a concern to a point as to what happens if this becomes another business. Please talk about the Special Use Permit.

Lester Steinman: You are setting several precedents. You're expanding on a concept as was originally proposed for the membership club for corporate use. Now what is being proposed is fairly little relationship to that in many respects. The board may be having difficulty trying to fit that in to the existing zoning provisions for a membership club. A better way to look at this is that what the

applicant really needs is to get an amendment to the zoning ordinance to create a new special permit use, which would be a more concise description of what he's trying to do. If the Village Board is willing to do that, then this whole pretense of the membership would disappear. In terms of a precedent for a future holder, once a special permit is granted it is specific to that particular use. But, if there are elements to that particular use that were approved, if someone comes in and wants a special permit for those same elements it becomes very difficult to say those are not permitted when you've already permitted them. Maybe they wouldn't come in with the exact business where they'd have to come back before the board for approval, but again we've established a precedent of what elements are part and parcel with the existing building.

James Diamond: We would obviously disagree with the statement that what we're proposing is very different than what we're talking about now. As we've laid out in this letter, this not a lot of change. Whether we're talking about a corporate event or a social event, it is still an event of racing and eating and drinking. I went into a little bit of detail here giving a lot of background of the business, because I think the board is interested, but it doesn't fundamentally change the business. The business will continue to be two large racetracks with conference and meeting facilities and the restaurant and bar, just like it's always been. I don't think we're talking about a dramatic change at all. Membership is really key to the business, and we don't want to get rid of membership. This business is not unique in the United States. There are a dozen of them and everyone throughout the country has a daily and annual membership - its part of the way the business operates. That was not an invention of ours that was added to this facility that is the way the business operates. If the board recalls, we talked about F 1 Boston, which is the nearest facility south of Boston. They operate exactly the same way.

Jose Tjedor: We have knowledge of what similar facilities are doing in the United States. We had a consultant come in a few weeks ago to assess our business, and this individual indicated that no single facility like ours, with the core business being driving, is profitable at this point in time.

Vice Chairman Sturniolo: Les and Mike, you've heard the comments from the Planning Board. Would it make sense at this point to take the most recent resolution of special permit approval dated June 30, 2009, and incorporate tonight's conversation into that?

Lester Steinman: I don't know that we have enough consensuses where the board is. I've outlined six or seven global issues, which may help us in going back to that resolution, and interpolate what we had proposed and what Jim had proposed. The first issue is the linkage of other activities to racing. Will the applicant have the right to pull up both tracks and sponsor non-racing related activities and parties? They are proposing that should be permitted. The board should consider whether the applicant can do that or whether the ability to host parties will be limited to when the tracks remain available for racing. I am not the final arbiter, but what is being described here would fall into the definition of a cabaret, which would require a cabaret license. Even if you call it a non-nightclub, the village code may call it a nightclub. Will there be any remaining restrictions on music at the site? Whether a DJ or a live band other

than what is being proposed, is that as long as the music can't be heard outside the limits of the facility. Criteria for multiple large events by more than one tenant. The proposal is to kind of strip that out of the existing permit. Are all requests in the resolution pertaining to controlling or prohibiting driving or racing to be removed and replaced with an unidentified policy? There are specific policies that exist now in terms of bracelets and other things-the proposal really is to strip those out and not have anything specifically in the resolution. I mentioned the fact that one other way to go if there is a desire to apply to the Village Board to amend the zoning, whether in the interim, the board would consider some provisional relief to the applicant pending the results of that application. Of course, the 64-million dollar question is does the expanded use fit within the existing zoning? I'll refer to the Building Inspector on that issue. We already talked about the establishment of permitting a cabaret on site.

James Diamond: Would it make sense to set up a work session where we could work through these points one by one rather than perhaps going through them all tonight? We definitely have flexibility on our side. Some of the things we've talked about are not really critical to the Grand Prix business model. In terms of taking up both tracks, it's really happened once in 18 months. If that is something the board feels very strongly about, I don't think it is important. The fact of the matter is that people go to Grand Prix to race. Events are held there because of racing. Our view is that it gets into an issue of micromanaging. When there are dozens of restrictions, each one of them cuts off another line of revenue, and none of them achieve a meaningful purpose. The objective is to keep the occupancy within the limits. If that is something that the board feels very strong about, it's something that is really not critical to Grand Prix's business but each of these little things has an impact. Perhaps a work session would make sense.

Lester Steinman: A work session at staff level, we think, is a good idea.

Vice Chairman Sturniolo: It sounds to me that there is willingness on your part to negotiate, compromise and modify some of the outlined ideas that you initially proposed.

James Diamond: Absolutely.

Vice Chairman Sturniolo: We will keep the dialogue open and work on the staff level meeting.

James Diamond: One request I would have is that we try to do it at Grand Prix. I go back to the point that I think the more time this board spends at Grand Prix the better you will feel. We know we're going in the right direction - good for business, good for town, good for our property, and I think the more we can expose you to that the more you'll feel comfortable that we are going in a positive direction.

Stanley Bernstein: On that thought, suppose I decide to pop in on a weekday anonymously. What would happen?

James Diamond: Anyone can walk in the door, look around, and ask questions. Many parents do that and we welcome it. The objective is to convert you into a racer. It is an exciting environment and that is

how we generate business. There is no way to get from there to racing without becoming a member, because you have to purchase a membership to get into a race.

Vice Chairman Sturniolo: We will work on the meeting, continue the public hearing on the 27th and continue the public hearing on the 13th of October for Mount Kisco Athletic Club. On the 10th with a back date of the 17th is the date to look at the trucks for Safe Haven.

Final Action

**222 Main Street
Viktor Solarik
PB2009-11**

Present: Viktor Solarik

Vice Chairman Sturniolo: The applicant is seeking to put a display case in front of the store location.

Viktor Solarik: I am here regarding the submission we brought in on September 9, 2009, which included the application, the environmental assessment form and the plan, which indicates the overall site plan and where the display is proposed at 222 Main Street, including details of the storefront with the display and construction of the display. As we said before at the conceptual, it is intended to be a portable display to be brought in front of the store during business hours and brought inside at the end of the business day. It is going to be on casters. It is not powered. There is no lighting.

Doug Hertz: It says produce, is produce what is typically going to be on there?

Viktor Solarik: Mostly something that is more durable. Vegetables and fruits in ice.

Doug Hertz: There will be drainage?

Viktor Solarik: Yes.

Nanette Bourne: I want to note that the resolution was sent to the village before I got the final plan, so the blanks need to be filled in. The time from 8:30 to 9:00 and the second, is identified by the dimensions, which are 2 feet 4 inches by 8 feet.

Vice Chairman Sturniolo: On page one, the last whereas that goes to the outdoor display cart, I believe there is a spelling typo after the word window. I would suggest we add a #8 condition with words to the effect that there shall be no electrification of any type associated with this outdoor display cart. Although it is not germane to this application itself, it's something I would like you to carry back to the applicant. The current interior lighting in the store seems unusually intense. There are halogen lights hanging down off the ceiling in a permanent position, but it illuminates the entire plaza. Tremendously so in the daylight, and if we were to look at it at night now, it really is, in my opinion, over the limit. They are not construction lights. They are up there permanently. Anthony, if you would not mind

coordinating with Austin and see what can be done. There is a concern on our part.

Viktor Solarik: I will check it out and maybe we can lower the wattage.

Vice Chairman Sturniolo: Anthony is the Village Engineer and you can work with him.

Joseph Morreale: When you put out the fruits and vegetables on display, how do you control insects?

Viktor Solarik: I do not know. I will ask. I think whatever is displayed there is not sold at the end of the day.

Joseph Morreale: My point is during the day, when the cart is outside, how do you control insects?

Viktor Solarik: I do not think you do. I think if you have flowers or fruits or vegetables, whatever are outside, the insects get on it. I do not think you have a way of controlling it. I have not seen any netting over displays and there are plenty of stores that do have outdoor displays. We do not spray.

Motion to Approve the Resolution for the Outdoor Display, 222 East Main Street, Application PB2009-11, September 9, 2009, Tax Map 80-33-1-13

Motion: Ralph Vigliotti
Second: Doug Hertz
Aye: Sol Gibbons
Aye: Joseph Morreale
Aye: Stanley Bernstein
Aye: Vice Chairman Sturniolo

Continuing Review

Filippo Simone
127 Barker Street
PB2006-05

Present: Daniel Simone, representing the applicant

Daniel Simone: The last time we were here, we discussed reverting the application back to the single driveway, which the plans were revised. We were looking for a Negative Declaration so we can proceed with finalizing the application with New York City Department of Environmental Protection (DEP) and subsequently then being able to finalize the plans with Anthony and Nanette for any comments they may have outstanding.

Anthony Oliveri: I think we were good with the engineering issues. We were awaiting DEP's final on this. We reviewed all the storm water detention issues previously.

Vice Chairman Sturniolo: The photometric lighting plan is all right?

Daniel Simone: That was revised pursuant to your last memo. We had to add one more fixture just to increase the continuity of the lighting, and that was re-done.

Anthony Oliveri: I believe this was revised since the last time.

Nanette Bourne: What is before you is the Environmental Assessment Form that was prepared by the applicant Part One and Part Two. I have looked through it and it appears to reflect the kind of information that should be involved. The potential impact is considered potentially adverse. This form is sufficient for you to make a determination of significance that either there is no potential for adverse impacts or ultimately if there is there should be some additional information provided. If you issued a Negative Declaration tonight, it does not constitute a site plan approval. It just allows the EAF and the Negative Declaration be transmitted to DEP so that can continue their own SEQRA review as well as allow the applicant to pursue the stormwater pollution prevention plan. It is possible that at some point during this process he will come back to the board with statements from DEP that they are comfortable with the site plan and the storm water provisions are adequate. Then you can position to continue site plan review or they will come back and make changes to the site plan that you will review.

Vice Chairman Sturniolo: And then at that point we could then ask for a resolution of approval to be prepared?

Nanette Bourne: That's right.

Doug Hertz: No disrespect to the process, and I know the board had previously directed you to re-draft this as a single entrance in and out, as one board member I personally like the layout that was presented previously, which had a separate right hand in only. I think it provided a better and safer means of getting in and out of the property. I am still concerned about what I see in front of me, where we have a wide driveway certainly enough for two cars to be side by side, but immediately as you turn you get into a section of drive, which is one car wide. I am concerned that in making this turn when someone is coming out, there is potential for an issue there. While I understand that the board had directed the applicant to move in this direction and in general, that is not good planning to have multiple curb cuts where one could suffice. That being said, I understand where we are at the moment.

Stanley Bernstein: We never discussed any tree plan, or what you are going to do with the trees on the property.

Daniel Simone: There is a majority of existing large caliber trees that front the eastern side of the frontage and the adjacent property line. These are all being maintained. There is a clump in the center location here that is being removed.

Stanley Bernstein: On the footprints of the building you show four hickories.

Daniel Simone: Yes, and there is an elm in the back or one or two maples.

Doug Hertz: The discussion here was that because the trees are mature, there is no site line basically.

Daniel Simone: They are nice canopy trees and provide good shading.

Vice Chairman Sturniolo: Is the stockade fence right on the property line?

Daniel Simone: It crosses it. The last ten feet or so encroaches about a foot into the property. So does the driveway in actuality. The property line comes over a small portion of the driveway and the sidewalk. We have no intention to touch it, because it's beyond the trees and is a limited disturbance anyway.

Joseph Morreale: Does the building have to be where it is? When I envisioned the driveway coming in and out, I thought the building would be back further so that you'd have more distance to pass cars through there.

Daniel Simone: We did change the footprint of the building to shift the front of the building back to create more space in the front. That was done in January.

Joseph Morreale: How far back did you go?

Daniel Simone: I think we moved it four feet or so. It can't go any further back from the back end of the building, because we won't get the turning maneuverability in the back for cars. The 39 feet is the setback, but the pavement area itself, which is about 30 feet given the offsets that we need for the turn around area, and then there is a five-foot setback from the property line, and there's three or so feet off of the building for a planter.

Joseph Morreale: And the turn around in the back is for what reason?

Daniel Simone: So the cars that are parked in the back can do a three-point turn and then exit, basically from parking spaces six through eight. There is a minimum of nine spaces required for general office for the building and the ninth is within the building. The 12-foot wide drive is, according to code, for uses with less than 20 or so spaces, one ten foot wide drive is permissible. That gets kind of tight, so we made it 12 just too also facilitate the turning movements coming off of Barker Street. Mr. Hertz's point of the conflicting traffic also. Anyone coming out of here has visibility in this location, so this person will have to kind of stay. It doesn't eliminate the need that there could be conflict, but it's a small lot.

Joseph Morreale: And we're still permitting the cars coming east from 117 to turn left into it?

Daniel Simone: Yes. We don't anticipate a lot of this traffic coming from the McLean Avenue side. We wanted to make sure it was achievable.

Stanley Bernstein: Have you had any thoughts on making any kind of environmental enhancements to the building; electrical and heating, etc. I don't use the word LEED because it's not really doing what everybody hoped it would.

Daniel Simone: We have not even gone that far with the building design itself.

Stanley Bernstein: On your own, without any LEED certification, I urge you to think about becoming carbon neutral or doing something with the heating and electrical, etc.

Daniel Simone: I am more of a proponent with the Nyserta Energy Smart Programs than the LEED programs today because there is a lot of incentives under these programs and they seem to work.

Stanley Bernstein: They do, but the Conservation Advisory Council went through that. Other areas are doing it, and Smart Grid doesn't seem to fly with Con Edison. There are many things on the market; furnaces and electrical possibilities. I urge you to think that.

Daniel Simone: This building is also being designed under a very residential scale. We are trying to keep things like lighting levels, etc., as not your typical office type building.

Stanley Bernstein: Also, some way of limiting the use of water. As you know, Mount Kisco is problematical.

Daniel Simone: This building is being designed with point source water heaters, which have less of a water demand. There is not a huge need for hot water in a building this size, so they will have a one unit per floor to occupy the bathrooms, which is a great benefit from that standpoint.

**Motion to Propose a Negative Declaration for Application
PB2006-05, Filippo Simone, 127 Barker Street**

Motion: Stanley Bernstein
Second: Ralph Vigliotti
Aye: Sol Gibbons
Aye: Joseph Morreale
Aye: Doug Hertz
Aye: Vice Chairman Sturniolo

Continuing Review:

CVS Pharmacy
10 South Bedford Road
(421 Main Street)
PB2008-17

Present: William Null, Attorney at Law, Cuddy & Feder
Neil Alexander, Attorney at Law, Cuddy & Feder

Vice Chairman Sturniolo: We have a cover letter from Mr. Null, which addresses a lot of points, one of which is the \$5,000 escrow fee that has been positive for the review. We have a modified version of the previous site plan that we last looked at. Do you want to go through with us what these changes are since the last time we met?

William S. Null: I really do not know what you last saw. I know what we are looking to do here is, as you know, CVS occupied an existing grocery store, has made upgrades to the site and we are at a point

right now where we're looking to make some additional upgrades. The grading of the parking lot, additional landscaping, some modifications to the lighting, some improvements to the outside and you know we can't do that without site plan approval, which is why we're here. Our hope is that with your approval we'll be able to move forward and make those improvements. We recognize that it is not everything that this board wants. We regret that we are unable to deliver everything that this board wants. But we are looking to improve and enhance the site from where it is right now and quite frankly from where it was for decades as a food store, etc. We have a bank in there; the façade is basically set up and ready to go, but we need the landscaping put in and this is the right time of year to be able to do it. We'd rather not miss another season. We'd rather take care of the grading as shown on the plan. We hope that we can move forward with that approval and be able to tell CVS that the village is supportive. I am here to make that presentation. I really don't want to compare what was and what is. I think it's fairly clear what is here. I do recognize that what we're presenting is not as much as what had been shown at the last session.

Vice Chairman Sturniolo: Anthony, what is missing from your point of view?

Anthony Oliveri: The last time we were at a point, and I know you don't want to mention the last point; there were a few obvious changes to point out to the board. The trash dumpster area was moved towards the building, there are some minor changes on the site itself; the island and site configuration. The bigger thing is the storm water outpour in the back, slated to have some improvements. A spillway to protect against the erosion that is going on back there was removed. There is no storm water improvements proposed on the list. I don't think the front wall improvements are proposed here with the railing and so forth. I believe there are some elevation changes - the look of the building and changes to the landscape. The lighting, I believe is being brought up to current standard. We have to take a look at that.

William S. Null: When I spoke with and asked the engineer about the storm water, I was told that the storm water improvements were primarily to address offsite water coming through our site, not to deal with our own water generally. The cost was quite substantial, which is why they were eliminated. It is not a condition that we're creating either by the improvements that we are proposing or from the actual occupancy that we've got. That is a condition that exists from water running through our site.

Anthony Oliveri: It was an existing condition, but it's on this site, and there are some erosion issues at the outfall.

William S. Null: But the water coming through is primarily not our water.

Anthony Oliveri: It's your water, it's DOT's water, it comes through the site. It's an existing condition.

William S. Null: It's not our pipe that is carrying other sites water.

Anthony Oliveri: It is picking up your water as well.

William S. Null: Yes, that's true, but it's not a significant component in what's coming through.

Anthony Oliveri: It was an existing problem with that drainage channel that the village is looking to have addressed.

Vice Chairman Sturniolo: A couple of the points that came out in the Building Inspector's memo to us were, are you planning to have any storage containers on site? For example, seasonal items of display?

William S. Null: Not that I am aware of. I believe we have more than ample capacity in the store for storage. I do not believe there are any proposals to have any exterior storage. This is, as you know, a larger store than the other store that is being referenced here. The last time I appeared before you we talked about that and the size. We don't believe we have any need for outdoor storage at this site. We have ample capacity for warehousing internally at the store.

Vice Chairman Sturniolo: If the county goes to separate trash containers for recyclables and paper and cardboard, is what you're proposing on your plan sufficient to handle that potential?

William S. Null: We can check and verify back to you, but my guess is there is enough room in the back. I don't know if the existing design is sufficient.

Neil Alexander: It depends on the scope of what they actually decide to recycle.

Vice Chairman Sturniolo: I may have missed it, but on the lighting photometric plan, does it specifically mention full cut off fixtures?

William S. Null: We were talking about that before. Those are always part of what we're proposing so we don't have spillage over onto the other properties. They are full cut off lights, and they are dark sky compliant.

Vice Chairman Sturniolo: And that photometric lighting plan complies with the newly proposed village lighting standards?

Neil Alexander: My recollection is that it complies subject to the pre-emption by the federal law for ATM's.

Vice Chairman Sturniolo: With the exception of the ATM's?

Neil Alexander: That is my understanding.

Vice Chairman Sturniolo: I'm referring to everything other than lighting excluding the ATM.

Neil Alexander: That is my understanding.

Vice Chairman Sturniolo: Did Shannon get a copy of the newly proposed lighting standards?

Neil Alexander: Yes, from Nanette back in January or February.

Joseph Morreale: You are proposing a back entrance at night. Since you're open 24 hours, for safety and security reasons do you have to put in much more powerful lighting for people walking, since you've now got an entrance and an exit there?

William S. Null: I think the lighting is adequate for security purposes, for people walking.

Doug Hertz: Our regulations preclude them from over lighting.

Joseph Morreale: Are there stairs back there?

William S. Null: I think it's a ramp back there. It's ADA accessible in the back.

Anthony Oliveri: This lighting plan, by the way, is based on the old layout. It was not updated in the new layout. This is probably the lighting plan we received on the first go round.

Vice Chairman Sturniolo: We need to get a current lighting plan to mesh into this.

William S. Null: I can talk about updating a lighting plan.

Ralph Vigliotti: Are you proposing security cameras for the rear of the building?

William S. Null: I would have to firm that up.

Ralph Vigliotti: You're proposing that the rear entrance be open 24 hours also as the front?

William S. Null: I know at other stores they close off one entrance. I am not sure which side they are going to close off, or that they are going to close off only one, because the rear is going to be ADA accessible. We can get back to you on that.

Ralph Vigliotti: Why wouldn't the front of the building be ADA accessible? There is only a curb there.

Neil Alexander: We'll have to find that out.

Stanley Bernstein: This is a new site plan?

William S. Null: Yes.

Stanley Bernstein: This is the way you want to go ahead, including the rear entrance?

William S. Null: Yes.

Stanley Bernstein: The reason you guys walked out many months ago was because you refused to accept the conditions we proposed. CVS or whoever is in charge of this whole operation just refused to do it. The same thing applies. There is nothing here about the fence around the wall in the front. This is an entrance to the village. This has to be an imposing structure. The bank façade is a joke. It was there for a long time, but that doesn't mean that it still has to stay

there. I was under the impression it was going to be part of the same façade. We made some suggestions about the west elevation and even some of the proposals that your people made have been taken off; fake windows to enhance the look, etc., and now it's made out of Eifs, kind of fake stucco. I don't like it. You're not getting the rear entrance unless that's fixed, and, the bank front is fixed, and your water. We are in the middle of the Croton Watershed. Every drop of water that falls on Mount Kisco belongs to everyone who is in Mount Kisco. You can't say that is somebody else's water; that is your water. Your water is affecting Leonard Park, the hospital's water is affecting you, and the church's water is affecting the hospital. Every drop of water that falls in this area is part of the Croton Watershed and you are responsible for the storm water conditions.

Neil Alexander: We are under the Main Street corridor.

Stanley Bernstein: You went away once, I'll be very happy to let you go away a second time.

William S. Null: The unfortunate thing about this, Mr. Bernstein, is that this has been not a particularly beautiful store and façade for decades.

Stanley Bernstein: It's still not.

William S. Null: We're improving it. What you're looking to have us do is something that I don't believe is an appropriate standard to hold us to, with due respect. You're looking to have us improve it to make it aesthetically acceptable to you, when what we are doing is improving it from where it was. We are not building a new building, you are not reviewing it as a new building, the ARB reviewed it and it was acceptable to the ARB, and that's the aesthetic component. The requirement under the site plan is for it to be harmonious and compatible with the community. It has been part of the community for decades. I think it's hard pressed to say that it's not harmonious and compatible. We are trying to work with the town, we are trying to provide certain landscaping and move things around, but we are strapped by a budget and moreover we are strapped by a building that has been this way for decades that we are now improving. If you look back at what it was as Grand Union or what it was as Stop n Shop, at no point was that side façade fixed up, and it was just as visible then as it is with CVS. I really think holding us to a different standard than the other user is not right.

Ralph Vigliotti: I think we are going to need more time to work on this. I think I am going to move to table this. I hope I can get the vote to do that. We need more time to review this, review what you're sharing with us. Our engineer talked about the storm water retention and you were totally disregarding his statements. You are disregarding the statements here, and we need to circle the troops here and talk about this in greater detail. So I move that we table this; you guys are not taking us serious enough.

Neil Alexander: You can't table us and make that statement first. That's not fair.

Ralph Vigliotti: You totally discounted our village engineer. You walked right over his tracks.

Neil Alexander: No, that's not what was done. You made the phone call. You pulled us back to the table. We walked away once. On several occasions.

Ralph Vigliotti: I don't think that's true.

Neil Alexander: That is true. You told us what you wanted. I'll pull out the January meeting minutes, when you gave me an ultimatum and you said to me, "We want the whole loaf or go away." And I said, "I don't think I can deliver that." I said something to the fact of two-thirds, three-quarters, somewhere in that range, and I said I can't get you that full loaf. I know Mr. Bernstein got very upset because I talked about where the Dow was that night. You called us back to the table. We did walk. Nanette called on whose ever behalf, she was told to call us, you pulled us back. We had two off line meetings.

Ralph Vigliotti: Is that true, did we call them back to the table?

Nanette Bourne: Yes.

Ralph Vigliotti: By whom?

Nanette Bourne: At the request of Chairman Cosentino. I reported that information at a Planning Board meeting subsequent to getting together. The chairman asked that I reach out to Shannon, the engineer, to see where things were left, what was on the table, what was unresolved, what had been resolved in an effort to encourage the applicant to try to find some comfortable ground with the Planning Board. The meeting was held and the applicant came back to this informal meeting with pretty much these plans, and presented them, which is a rollback version of where they left off with the Planning Board. The chairman indicated to the applicant that he was disappointed.

Ralph Vigliotti: I beg to differ. This is the first time I am hearing and seeing this - when I got my packet last week. I did not know that we requested that they come back. We did not discuss this as a board that we wanted them back.

William S. Null: We have right to make a submission.

Ralph Vigliotti: Absolutely.

William S. Null: With due respect, we are here in good faith to try and get something done that we think is beneficial, not only to us but to the town. By providing this rear entrance, we have it so that people are more safely able to get into the store from an area of parking that is immediately accessible. We are adding landscaping; we are doing significant other improvements. We recognize it's not everything that you want, but we have a right under the site plan provisions to do this, and we're looking to have a constructive dialogue. We are not discounting what Mr. Oliveri said. The water that comes through our site is coming through by way of an easement on a pipe that serves others. It's not "our water," with due respect. It's the town's water. It's public water at that point. We're adding to it, but it doesn't mean that we have to assume the full responsibility of taking care of impacts from it.

Ralph Vigliotti: But you're taking absolutely no responsibility. What the village engineer said was totally discounted. There could be 30% of the water going in there.

William S. Null: It's not.

Ralph Vigliotti: I don't know what it is.

Neil Alexander: To try and help contextualize for a second, my feeling is that CVS was asked to keep a line of communication open. It is trying to keep a line of communication open. It is trying to do what it can justify doing. You may say its all metrics only; fine. But ultimately, I think Bill's point is worth underscoring. It's less than what you want, but it's more than what is. What we all want, I'd love to deliver that, and so would CVS, but it's not what's deliverable. I can't give you something I can't give you.

Doug Hertz: This is considerably less than what CVS proposed last time, at a time when the economy is considerable better. That is my perspective. I don't quite understand that balancing act. I understand we are not to get everything we want. What I am surprised at is how little of the last proposal we are actually seeing. Given that, I understand the argument that the site has been this way. We spent five years with the hospital designing what is going to happen directly across the street at the hospital, and their committing significant funds to upgrade their appearance on that corner specifically. From the entrance to the entire landscaping in the front, all the way around. We are working as diligently as possible to make sure that buildings that actually get to come back to us do get improved, because we realize that it maybe a 25-year period between the next time, and we have to weigh that. I think you understand that. I, for one, am surprised that the applicant has come back having stepped back so far from what they previously committed. I don't understand that.

William S. Null: We don't want to be in a position where we have an offer to make improvements that we can make, and merely stay and occupy and use the site. We don't think that is productive. We're hoping we can have not a closed down discussion.

Vice Chairman Sturniolo: There is a motion on the table to table it. I have not asked for a second yet. Do you want to take what you've heard tonight, go back to your people, mull it over and hopefully come back with more improvements to this and not have us table it?

William S. Null: With due respect, and I understand why you're asking; I think what we presented to you is what we are going to be able to present to you. I will get back to you with answers to the questions that you've asked, but I don't believe it would be constructive for me to go back to CVS and say it's been tabled, and the town is not receptive. The inclination had been, after the last time that we were before the board at a full meeting, was for CVS to just pull the application and walk. Discussions amongst the client and representatives led to us bringing it back. We are looking to have a constructive participation in the town and to show that we're looking to improve things. We don't have money to put towards a lot of the improvements that we know we are asking for. Even though you think that they are line items, a lot of them are six figure items at a minimum for each. It's over \$100,000 to just put the thin brick on

that wall around 172 and 117. That's a lot of money and it runs up the tab dramatically very quickly. So, I cannot tell you I am going to be able to come back with anything more because basically, what you've said is very similar to what was said. If I only take what I've heard so far, I basically hear what I read in the minutes and what I know was said at the last session. With due respect, I don't think that is new dialogue to the dialogue that you're asking me to bring back to CVS. Given its not new, I don't think I'm going to get a different answer.

Doug Hertz: But why is it that this proposal is so far stepped back from CVS? Not our last request, CVS's?

William S. Null: Fair question.

Neil Alexander: I don't know if we actually have an answer.

Doug Hertz: Many of the things that have been agreed upon previously are now no longer.

Neil Alexander: Importantly, this is not an attempt to re-negotiate what we previously agreed to. This is a pure dollars issue. This is not an Enron or BQ. This is just where we are.

William S. Null: I spoke to Shannon about this when I got this plan. Shannon said it went back, and they cost estimated it. What they thought it was going to cost for what had been discussed before, was over budget on what the numbers were coming in at, and this is what can be done within the budget. It is not a small budget.

Neil Alexander: I was not at the meeting and I don't mean to put you on the spot, Nanette, but I believe Shannon met with the people who were in that room, and there was actually a line item for every dollar cost that was made. Basically there was an offer at that time, based on that budget. We are only wed to certain things that we want or need. The rest of the dollars you guys can allocate as you'd like to see them spent on different projects. We just can do all of them. I believe cost line items were given for a lot of different things, including the storm water practices. That was \$175-200,000. If we do that, there isn't budget left to dig a minor foundation for the brick facing, let alone a really nice fence work. That is what came back to me.

Nanette Bourne: That was a one-way dialogue. What Neil is saying is true. They came to that meeting wanting to discuss that, and really it should be Chairman Cosentino that shares this with you. Since I was at the meeting, they wanted to engage in that dialogue and Chairman Cosentino said he would not. That what they brought, which was this plan, was so far from what he had hoped to see, that he concluded the meeting very quickly.

Neil Alexander: CVS was coming at that from the standpoint of an open hand as to what it was capable of doing. This was the top number what we were given, the design team came up with what they could do, and then they came up with a list of things that they thought were the best balance.

Joseph Morreale: If the board chair had reacted to what you put before him as not being acceptable, then where did you get the go-ahead to bring it to us?

Neil Alexander: It's just due process.

William S. Null: We understand what the board chairman was saying, but we thought it was important to not walk away from a community that we have invested significantly, and to come and have this dialogue even if it's disappointing, because the dialogue needs to be had. While the board chairman may accurately represent what each and every one of you may be thinking right now, we need to be able to talk about it. If we are going to be sent away and told, "don't do the landscaping, don't do the paving, don't do the lighting improvements and don't do anything more; leave it alone and just occupy it," we will take that message back to CVS, and unfortunately that is what we will tell them. But we are looking to have an ability to move forward with improvements on the site.

Whitney Singleton: When you say that the village is not looking to have these improvements, I think that is, to coin your phrase, with due respect, somewhat disingenuous. If you are coming to the village asking for certain site plan improvements that benefit the client, and in doing so you have to pursue a site plan application, and this board is charged with the obligation, but reviewing the site plan amendment in the same fashion that they would review the original site plan, and they have a certain expectation of site improvements that they'd like to see, as commensurate with what you're proposing. I don't think it's fair to say that they are not interested in seeing site plan improvements.

William S. Null: That's fair. At the same time, if there is a package that is broader that cannot be offered, and the choice is one of getting some but not all, then that is why we brought it forward. To have that discussion. I know that you would like to have what is here plus, and the message that we've gotten from CVS is, the plus is not available, or we'd be showing it to you.

Neil Alexander: I didn't want to be right when I was here in January. It got heated and I basically said I don't think I can deliver that, and was told all or nothing. It's turning out to be that is the case. We had a great dialogue after that breakdown, and later in the meeting you basically said, "Come back with what we want." From a process regulatory affairs type person, which is what I do, I was saying to the client, you get what you want in a sense if you get an approval, and you get done in one meeting, and it just didn't have enough value.

William S. Null: The cost estimates came in much higher than expected, so the package that was being looked at when Neil was talking about that ended up much pricier. That is the unfortunate reality.

Joseph Morreale: So the initial proposal we saw from you was economically unfeasible, and we were presented with that with the understanding that, that is what you were really thinking of doing. Had we approved that, what would you have done?

William S. Null: We would have had to go ahead and build that. We would have had to come back and ask for an amendment. But we're not there.

Joseph Morreale: I hate to say this but it feels like a sort of bargaining process in which you've decided to take two steps backwards to see how far back we're going to come.

Neil Alexander: I think you're casting aspersions with that statement.

William S. Null: I think it's a fair point to feel that way, but I can tell you that is absolutely not the way we work, and that is not the way we would present this. We are not doing that. We are actually doing the opposite. We are from a point where we were told, "pull the plan and walk away," and we're coming back to try and get something done. I understand you're saying the rear entrance is what you want, and the only way you're going to get the rear entrance is if we do more. And, I'm fine bringing that message back. But if we didn't get the rear entrance, could we get this without the rear entrance? Is that a message that I should bring back, or can we go forward and do the landscaping improvements and put the lighting in? I don't even know if that is on the table.

Joseph Morreale: I don't know what is on the table. That is what's troubling.

Neil Alexander: This is what's on the table. There are no ploys and tactics in this. I don't think I can be of any more clear than I am. Bill and I knew this was going to erupt.

William S. Null: It's a very uncomfortable situation to come back in and say that what we presented to you and told you was what we wanted to do and can't do. It's a particularly uncomfortable situation since what we're proposing to do wasn't everything you wanted to do anyway. I still think that on the basis of communicating fairly with this board and this town, it's better to come back and present it to you and to see if there is some way of moving forward together than just have us throw up our hands and walk away. It's not the way we wanted to leave it.

Neil Alexander: It's not too dissimilar to other applications you've heard tonight where the original plan had to be modified because of the way the world is.

Doug Hertz: Mr. Chairman would it make sense, so they get a clear sense of the board, to just go down the line and voice our feelings about what it proposed, so they can understand where each board members position is?

Ralph Vigliotti: You could almost pull out the minutes from the last meeting, because I think we will be pretty much underscoring what we said at the last meeting. Why don't we get it on the minutes for this meeting again? I will remove the proposal to table this.

Whitney Singleton: It says in your cover letter that you're bringing this application on behalf of CVS and it only references one lot. I presume that all aspects of this application including anything to do

with the bank, are deemed to be inclusive as part of one application, correct?

William S. Null: Yes. We are representing CVS, but CVS is the sub landlord to the bank.

Whitney Singleton: What would happen with the bank improvements in the event that CVS didn't move forward? They are coming in for a revised lighting plan.

William S. Null: Are you talking about the lighting that is shown on this plan?

Whitney Singleton: Yes.

William S. Null: Anything and everything that is shown on this plan CVS is representing to be done.

Whitney Singleton: If CVS is pulling the plug, how is the bank going to move forward with certain site improvements that it needs to make?

William S. Null: I'm not aware of what the bank needs to make.

Whitney Singleton: Your application is proposing certain lighting changes consistent with the ATM Safety Act by the New York State Banking law.

Neil Alexander: I don't have an answer for you on that question.

Doug Hertz: I am going to give you my biggest concern, which is that this is a gateway property. For many years it has been a bit of an eyesore. We and you are stuck with an existing building that creates significant constraints - traffic flow, where we can landscape, where we can do improvements. Given those tremendous constraints, you try to work with Shannon and the CVS team to try to come up with something that would address the fact that it is a gateway property, and deal with the improvements that CVS wanted to make. I think we got fairly close. I am not comfortable taking this many steps backwards and agree to something that we are going to be seeing possible for decades. It will be "good enough" for CVS, and I don't think the village should have to just accept "good enough." I think you are being held to a slightly higher standard because of the visibility of the property. I think we have all been in agreement as to what was supposed to happen on the 172 side, it was really the last sticking point where we had all be in addressing the elevation along Route 117.

Stanley Bernstein: One thought I had was that the building was like this for many, many years. This was built in the days when there were no constraints upon any developer. This is the first time this board has had an opportunity to improve this site. It's a shame to have to pressure an entity to go ahead and do something that they can't afford to do. I understand that. Also, you have to understand that we have to live with this for decades. We spent hours and hours with the hospital trying to design something very nice. The hospital is going through tremendous expense and they rely on donations, which are way down because of the economic climate. I understand CVS is now

hard pressed to make a profit because of the economic situation. Will the CVS building change when the economic situation changes? Will CVS turn around and say we are making tons of money because we're in Mount Kisco at this gateway building and we are so close to this beautiful hospital? Is CVS going to say we should give something back to the village for all the money we're making? They are a corporation like all the others, and they really don't care what it looks like or who has to pass it. I am the guy who is going to have to live with this. To see my neighbors and friends stop me on the street and ask me what I did here in front of this beautiful hospital. It is hard to shake the corporate ethos - we know that. I cannot accept anything that will be in CVS's favor without giving something in return. We understand we are not going to get a full loaf. But what is shown here is the whole loaf taken away. I am very strong about the storm water. This is a minor erosion problem, which can become a very large erosion problem. We know there are quirks in the law, but we know that we are still responsible for what is going to happen on this property. I for one will not give a dime to CVS without a dime's return in aesthetics, functionality and compatibility with the church and the hospital.

Anthony Oliveri: I thought we were at a certain point last time and it is not clear why all that was removed. As far as the storm water goes, it is water that does pass through the site, but it's an existing problem on the site that should be addressed at some point. If it's not going to be addressed now, I don't know when it's going to be addressed. It's on CVS private property and it has to be addressed.

Ralph Vigliotti: My goal tonight was to set a wake up call out that we are not starting all over, but continuing from January. What you presented tonight was a start all over, and that's unfortunate. I need to send that wake up call back to your clients indicating that we really haven't moved, as I am hearing from our stand, on this gateway piece of property. It is "the" gateway of the five into Mount Kisco; bring folks from all over the tri-state area into the hospital, into this village. This site needs to represent what a gateway site looks like. The church and the hospital have done wonderful things. We have other developers re-developing sites in the village and we're holding them to a similar standard that we're trying to hold you to with regard to aesthetics, safety, ingress/egress into the sites, and to bring these old sites up to the 21st century here. I am not in favor of the rear entrance because I honestly believe the ingress/egress coming off of 117 is bad to begin with, and there isn't a rear entrance now. When we get into the safety aspects, whether it be lighting or security cameras, if the rear entrance is used 70% of the time, then that rear entrance should look as main entrance should look on any other store. In Shopper's Park, many of the rear entrances are nicer than the front entrances. There are expectations here in this whole new era.

Joseph Morreale: You've made it clear that you want to come in here and make a really improved site. One of the things you have not recognized is that we're improving that entire corner. That means if you don't improve your site to something that is on par with what is going to be there, you are going to look pretty derelict in comparison. I want you to think ahead on this. I am going to accept the fact that you really want to do something helpful. I was not convinced of that at first. If you only do what you're suggesting, you're going to look 20-30 years behind what everyone else has done when you're done. We are not going to get another chance at this, and we are trying to

project forward to tell you that we want this whole corner as a gateway corner into the community to be on the same par level. I also know for a fact that the economy may be bottoming out and coming back. Drug stores and the diversity that you have in that store in terms of product line are going to make it a very profitable store. We gave in on the beer; we were not thrilled about that. Also, I'm very concerned about safety and security. When we saw the original plans for the back entrance there was a walkway because you are cutting across traffic with this. It was not clear to me that this was all of sudden a handicapped entrance.

William S. Null: There is a ramp inside. There has always been a ramp inside.

Joseph Morreale: But my point is why would you put the handicapped entrance in the darkest part of that lot?

William S. Null: You are correct in saying that the front is ADA accessible. The back drops down. In order for the back entrance to be ADA accessible, you need a ramp. I probably described it incorrectly because of that. Both sides would be ADA accessible, but because the back drops down, that's why you've got the loading dock there at a grade where the rear is higher, you need to have a ramp up to the interior of the store.

Joseph Morreale: Let's not take a left turn. You've got a loading dock, you've got a traffic flow through, and to me you don't have enough security and safety there for people walking in that door. You have a real issue here.

William S. Null: It's all there. The same protection we had before is there.

Joseph Morreale: I was looking at these new plans that didn't show a whole lot, and since you already said you scaled it down, I thought you took it out. I'm glad it's there. My last point is this. We are trying to work with you. It may not feel that way, but we are. But we are expecting something much more along the lines of what you originally gave us. I'd love to see a replication of the windows from this side of the building on the other side. It would be very symmetric and would balance the building, maybe architecturally more interesting. I don't think that would be expensive.

Neil Alexander: I'm not trying to be glib, but one of the comments also suggested tonight is that you want three fronts.

Ralph Vigliotti: The rear is not even close to looking anything like the front. There are dumpsters and areas for trucks to drop off items, but it is going to end up being probably the main entrance. If you do counts, in all fairness, this is the entrance that is going to be used probably 60% of the time, because of the potential parking.

Neil Alexander: Even when we were close, you can't dress up the 172 side the way we were talking about dressing it up and then keep that budget static and get three or two and a half fronts without massively stepping back how nice that 172-side front is. Part of what we are stuck with is not only is the budget static, which it's not, you cannot get that 172 front that we showed you and that 117 looking that way.

Even with the budget we originally started with. We would have to step back that front a lot.

Joseph Morreale: It's interesting you're arguing this way, because I've seen a lot of CVS's that were much more upscale than this. It depends on what they decide to do in the community and how much they want to spend.

Neil Alexander: You've acting as if we had that decision-making authority. We don't.

Joseph Morreale: But we're telling you how we feel about this.

William S. Null: We have a lot of grading and lighting on a fairly large site, and an exposure on a really long corner. It is \$100,000 just to do thin brick across that front. So, what Neil was saying is if you were to pick and choose where to put the money, it may mean compromises on some of the rest of it.

Joseph Morreale: It really all depends upon the rate of return you get off this building and the amount of money this building creates for you. That is what is at issue, which you never addressed.

William S. Null: With due respect, it's not.

Joseph Morreale: You take percentages of that, and that's how you figure upgrades.

Neil Alexander: Not as legal counsel. We don't have that authority.

William S. Null: Apart from that, with due respect, we're in and operating this building and we're trying to upgrade to adapt to certain site conditions and improve certain site conditions. If we make none of those changes, whatever we're going to realize out of that site is going to be basically the same. We're not looking to do it that way. There has been a very large budget for what a typical CVS put towards these improvements, but there are a lot of existing problems with the site that mandate costs being assigned to them, which aren't typical. It's a topographically challenged site; the parking area is not in great shape and it needs work. There is a fair amount of money to do that.

Joseph Morreale: And you knew that when you bought the building, and you also know what kind of a return you're going to get on this investment. Otherwise, you wouldn't be there, right?

Neil Alexander: Yes, that's what you as a board I guess are weighing. You're saying, "What do you think CVS is going to do the more we stick in our heels"? I don't know. All I know the last direction in January was walk. Then we received a telephone call and we were asked to come back to the table. We didn't want to burn the communication line so we tried to engage in a dialogue. All I know is what we've been given to present.

William S. Null: We appreciate your giving us the comments. We'll go back to CVS with them. But if ultimately there is not a willingness to move off of where we were at the last meeting, and to look at this seriously, then I don't know where we can move.

Joseph Morreale: I want you to remember what I started with, and that is you've got to look at this building in relationship to how much better that corner is going to be, and you don't want a building that represents your company that looks old, and frankly not very attractive. You have to think about that as an image for your company. Also, if I even buy some of your argument about you couldn't do everything you came in with the last time; this is way too scaled back. There has to be some middle ground that you can come back to us with that would do much of what we want, even if it is not 100%. We have to see a good faith effort.

William S. Null: You have seen a good faith effort.

Joseph Morreale: I honestly don't feel that. No manner what you say to me, I don't feel that way.

Neil Alexander: I'm not going to be able to change your mind on that.

Joseph Morreale: No you won't, and I can't change yours either. I am saying there is middle ground here to come together on.

William S. Null: CVS would not have spent the money to revise the plans to bring something to you and had us here in anything but good faith. I understand that we could disagree on that.

Sol Gibbons: This is a gateway piece of property, and it's been covered pretty well by the other board members here. We sent you away the last time and we didn't like the plans. You came back with something that is so inferior that it's bordering on insulting. It's disappointing if you expect us to be happy with it. I'm sure that you came knowing that we would not be happy with what you brought here, considering what you brought the last time. I am in agreement with the comments made here by my fellow board members. The property should look the way we feel it should.

Nanette Bourne: I think the board has been consistent in their comments, and the only thing I would like to underscore besides gateway is that part of what the village is getting in improvements included the re-facing of the retaining wall and that rail that is probably not compliant with DOT safety standards considering the way that it is constructed. You've spent a lot of time talking about that. There are tree wells right in front of the store; at least one tree has died. Why you would want to make that substantial investment when you're framing your site investment with a frame that is broken is difficult to understand.

Whitney Singleton: I think everyone knows exactly what's going on here and what's at stake. I don't think anything else needs to be said.

Vice Chairman Sturniolo: My fellow board members spoke elegantly and eloquently. You heard, as Nanette said, gateway, gateway a million times tonight. Surely, a non-profit organization such as the hospital is going through huge, huge difficult times. But they are committed to upgrading the façade as well as the interior space of the hospital to service the clients. You have also heard about the church across the street. You heard the term "a higher standard" kicked around. CVS chose that high profile spot for a reason. Having one CVS on one end and another CVS on the other, locking in the

pharmacy business, I totally understand. Part of the cost of doing business from CVS's point of view is having to become good citizens and understand this gateway entrance is one that not only do we want protected and enhanced, but something that is conducive to their further business efforts. I can only strongly urge you to take all these comments back to CVS. We would love to see you come back to the Planning Board. Bring CVS over; let them hear it directly from us if they want, let them have a dialogue with us. I felt both of you are in an odd place. You're being given something that is marginally passable, and you probably knew what our reaction was going to be. I feel for both of you. I realize you do not control the financial outlook of the corporation, and you are caught in a hard place trying to sell something. This is just my interpretation and I am not asking you to agree or disagree with me, but you are trying to sell something that you may not have your heart into. Our heart is into it, and we are trying to sell it back. Come back with something better.

William S. Null: We appreciate what you are saying. We really do believe this is a good faith effort by CVS. It is meant well and it has intended to do exactly what we have been able to do tonight. I appreciate your taking the time to talk to us. We will bring your comments back and get you some answers. Thank you for your time and consideration tonight.

Correspondence

- Emails from Patrick Hewes dated September 4, 2009 re submission from Westchester Residence and Club
- Letter from Mark Miller, Esq., to the Planning Board Secretary dated September 9, 2009 requesting to be placed on the Planning Board meeting agenda for October 13, 2009.
- Minutes from the Mount Kisco Beautification Committee
- Notice of Comment Period re Transportation in New York State improvement Program Amendments.

Vice Chairman Sturniolo: Something not on the agenda is a short presentation from Whitney regarding floor area ratio.

Whitney Singleton: I did go back and look at a prior meeting, which was discussed, but not a formal resolution of your board, but the Village Board had requested that something be drafted with regard to floor area ratios so there is a three-dimensional limitation beyond the existing two-dimensional limitation on the maximum permitted area of construction and development. Something has been drafted which essentially in every single zone does nothing more than double the maximum building coverage. Hypothetically, if you have a piece of property with a 20% building coverage, on a 10,000 square foot lot you could build 2,000 square feet; maximum total square footage would be 4,000 square feet or double the maximum building coverage. That is to avoid a situation that seems to be becoming more pervasive in town, which is essentially encouragement of people to occupy basements and attics. By placing a limitation on the overall volume capacity you can have within the building, it will hopefully dissuade people from doing that, resulting in more appropriate occupancy and development scales within the village.

Doug Hertz: How is it defined? Would that preclude you from being able to finish your basement?

Whitney Singleton: It would not necessarily preclude you from being able to finish your basement. It would replace an overall limitation of ceiling on the total amount of square footage that you can have within the confines of that particular building. I would think that people who are trying to maximize the best utilization of their space are not going to have full-blown living quarters in their basement. They are not going to want to choose to put people in third stories. We see what other communities do as a guide for what we draft, and when it came to the definition of floor area, it is almost a universal accepted definition in Westchester County. I would say that the definition that I had selected to be included or a version thereof is replicated in at least 10 other communities in Westchester County. In the past, the board had asked me what their recommendation was of the Planning Board and I said we had discussed it and your board was generally in favor of it. We never actually did it in the form of a resolution to make a positive recommendation to the board.

Motion that the Planning Board Recommend to the Village Board to Adopt the New Language Proposed for the Floor Area Ratio Concept

Motion: Joseph Morreale
Second: Stanley Bernstein
Aye: Sol Gibbons
Aye: Ralph Vigliotti
Aye: Doug Hertz
Aye: Stanley Bernstein
Aye: Joseph Morreale
Aye: Vice Chairman Sturniolo

As there was no further business, the meeting was adjourned at 11:15 P.M.

Respectfully submitted,

Stanley Bernstein,
Recording Secretary

dm