

Minutes of Meeting of the Planning Board
Village/Town of Mount Kisco
Thursday, February 25, 2016

Chairman Cosentino called the meeting to order at 6:50 pm in the Municipal Building.

Members Present: Chairman Joseph Cosentino
Ralph Vigliotti
Enrico Mareschi
Doug Hertz
John Bainlardi
Michael Bonforte

Members Absent: Anthony Sturniolo

Staff Present: Jan K. Johannessen, Village Planner
Anthony Oliveri, Village Engineer
Robert Melillo, Assistant Building Inspector
Whitney Singleton, Village Attorney

Chairman Cosentino led the pledge of allegiance.

Chairman Cosentino stated welcome everybody, this is Tuesday, February 23rd, this is a Planning Board meeting for the record and the first thing on our agenda is the minutes. Michelle, we don't have the mix to approve two sets of the minutes, so we'll hold off on them. The next will be Mount Kisco Supply. Would you come up and identify yourself for the record please. This is a public hearing still, no this is not a public hearing. It's a formal application.

**1. Mt. Kisco Supply – 369 Lexington Avenue
PB2015-0300, 80.48-4-17 (SBL)
Site Plan**

Peter Catizone of Catizone Engineering was present

Mr. Catizone stated good evening my name is Peter Catizone with Catizone Engineering, representing Mount Kisco Supply. And I guess the last time we were before this Board was end of the year last year and we had some conversations with staff just trying to button up some of the issues and the main issue I guess, is how parking was calculated in the past versus the way its calculated now. So, in the past we were always of the assumption that we would use a shared parking criteria and as we understand it, the staff did not feel that the hours of operation flexibility were large enough to constitute that. So what we are proposing is for the Ferguson Showroom, a parking requirement of one vehicle per 500 square feet and that gives us a requirement of 38.6 spaces and we're providing 39. The 39 is not counting 10 spaces dedicated to Two Men and a Truck for their truck parking. The number is consistent with other uses in the Code, such a plant/nursery, lumber, automotive and with respect to the actual counts, this is a typical week. Monday seems to be a busy day with 12-14 customers over an 8 hour period and 6-10 Tuesday through Friday and for Saturdays, they're only open four hours but they have 4-6 customers. So if we take that into consideration all of the Saturday customers there at once, that's 1 in 833, one space per 833 square feet. So we're asking this Board to consider the parking requirement for Ferguson Showroom only, the other uses are fully compliant with respect to the parking, we're not proposing a modification or alteration to those numbers at all.

Mr. Bonforte stated can I just ask a clarifying question Peter? So, in this diagram, which is you know, down the middle there, I see showroom, storage, showroom, showroom, boiler room, are you referring to just asking us to look at just the showroom category parking numbers...?

Mr. Catizone stated Ferguson Showroom parking, correct versus the total.

Mr. Bonforte stated thank you.

Jan Johannessen stated just to clarify, when, there's a provision in the Code that states when uses aren't identified in the parking standards that the Planning Board is able to set the parking standard. Showroom is not specifically identified as a use in the parking standards, so the applicant is requesting that the Planning Board set the parking standard for the showroom only at 1/500. The remaining uses are identified in the parking standard and are compliant.

Chairman Cosentino stated thank you.

Mr. Catizone stated the other items that are open that we'd certainly like to have some closure to, there are some activities mainly the demolition of the existing house and associated pavement which are in the wetland buffer. We've submitted an EAF and an application for Change of Use, Activities within a Wetland and Subdivision. The house here, the two family house will be demolished, we are proposing two residential lots at this location. We do have some comments as far as driveway widths from the Building Department but we'd also like to ask this Board, if this Board is comfortable with the 1 in 500, that you authorize your Planner to draft a negative declaration and resolution for preliminary subdivision approval. That will allow us to go back to the Village Board, which we've been in front of already to relocate that existing zoning line between RT-6 and CL, that gets relocated here and it also allows us to secure the variance for the coverage on this.

Chairman Cosentino stated I mean, I don't have problems for the 500...

Jan Johannessen stated Pete, I just want to mention that the, at our last staff meeting you identified that the rear parking was going to be for employees only, that the driveway wouldn't be used by the public.

Mr. Catizone stated yes, we've had some back and forth discussions and we can designate the parking at the north as employee only, that's primarily what it's used for now, but we can place a sign and designate it for...

Chairman Cosentino stated well that will be a condition.

Jan Johannessen stated yeah, and that restriction is just because of the width of the driveway.

Chairman Cosentino stated right and as far as the 500 feet, I, myself, do not have a problem, I don't know how the rest of the Board feels but I don't have a problem with that.

Mr. Mareschi stated Chairman, I'm okay with that.

Chairman Cosentino stated are you okay with that, Mike?

Mr. Bonforte stated this is the 1 in 500 square feet, yes, absolutely, that's fine.

Chairman Cosentino stated this Board doesn't have a problem with that.

Jan Johannessen stated the only item preventing us from granting preliminary approval is the submission of the preliminary subdivision plat.

Mr. Catizone stated we've been in contact with the surveyor and he has been authorized to prepare the plat and we anticipate that that will be submitted on the 21st for the meeting on April 6th.

Chairman Cosentino stated okay.

Whitney Singleton stated can I just ask a question, is this all currently, how many lots is this presently?

Mr. Catizone stated it's presently 3 lots.

Whitney Singleton stated and are they all under the same ownership?

Mr. Catizone stated yes they are and the proposed is three lots as well.

Chairman Cosentino stated two in the RT-6 and the rest in the CL?

Mr. Catizone stated correct.

Chairman Cosentino stated okay, Jan, is there anything else here. He just has to do his homework and get back to us.

Jan Johannessen stated pending submission of the preliminary plat, we'll have a draft negative declaration and resolution for preliminary subdivision approval for that meeting.

Whitney Singleton stated and you're going to show on your plans that the determination, as far as your calculations. That the determination of one space per five hundred is per Planning Board determination, as opposed to Village Code and you're going to show the one way, not the one way, the access will be for employees only, no public access to the north lot.

Mr. Catizone stated yes.

Whitney Singleton stated and if there's any easements that are to be shown for the residential lots to get to the sewer or storm drain.

Mr. Catizone stated yes.

Whitney Singleton stated make sure that they're shown on the residential lot as well.

Chairman Cosentino stated you know, I'm just thinking of something, for safety reasons only and only for that am I bringing this up, I think there should be a sign in that driveway saying employees only.

Whitney Singleton stated that's what he just said, Joe.

Mr. Catizone stated we'll put a sign at the...

Chairman Cosentino stated I'm sorry, I didn't hear that, okay, fine.

Mr. Catizone stated yeah.

Whitney Singleton stated is there going to be an easement across that back there?

Mr. Catizone stated yes, the drainage will be relocated, it's shown on a map here, it will be located in this strip here, 10' drainage easement, we'll make sure that's also on the plat.

Chairman Cosentino stated okay.

Jan Johannessen stated that's it.

Mr. Catizone stated that's it, thank you.

Chairman Cosentino stated thank you. Work with Michelle in getting back on the agenda, Peter.

Mr. Catizone stated okay, thank you.

Chairman Cosentino stated Westchester Foundation for the Disabled, would you come up and identify yourselves for the record please.

**2. Westchester Foundation for the Disabled – 135 Radio Circle Drive
PB2016-0321, 80.63-1-1.2
Amended Site Plan**

Mr. Scott Blakely of Insite Engineering, Mr. Henry Kensing, Esq. and Mr. John Signorelli of Westchester Foundation for the Disabled.

Mr. Kensing stated Chairman, I'm Henry Kensing, I'm legal support for this matter, hopefully only moral support. John Signorelli, the Executive Director of the council, we're expecting Scott Blakely to be here.

Mr. Signorelli stated he was delayed, he was under the false impression that it might not be until 7, he was in transit a few minutes ago. He is the one who did the plan, the engineer is also here and he's making sure Scott's going to be here momentarily. I don't know if you want to start without us, I apologize...

Chairman Cosentino stated its not your fault, we took it out of...

Mr. Kensing stated I take it there will be no public hearing tonight on the Mercedes Benz matter.

Chairman Cosentino stated Mercedes Benz is a public hearing.

Mr. Kensing stated but it will not take place.

Chairman Cosentino stated yeah.

Mr. Kensing stated and what's it called for.

Jan Johannessen stated 6:30.

Whitney Singleton stated we figured the other items would be more expeditious.

Chairman Cosentino stated so I took them first so they don't wait.

Mr. Signorelli stated well thank you for the courtesy, I hope we're not embarrassing ourselves in the process.

Jan Johannessen stated Joe, I can explain to the Board what the project consists of.

Chairman Cosentino stated it's a conceptual.

Mr. Kensing stated we had memorandum from the Building Inspector and Jan.

Chairman Cosentino stated and here's Scott.

Mr. Blakely stated I'm sorry I'm late.

Chairman Cosentino stated we took it out of order, so you're not late.

Mr. Blakely stated Scott Blakely with Insite Engineering. We were last before your Board when the Foundation purchased the building. We were seeking approvals to move them in. We went through an amended site plan which included architectural plans for the building, parking counts, there were really no physical modifications proposed at that time except for some restriping of the parking lots, creation of a loading area. At that time we had 65 parking spaces on site, we were required 60, we had 5 extra parking spaces. The CLC has since looked to increase the usable square footage in the building in a couple of different areas, on the first floor they're looking to create approximately 1,500 square feet of office space in these two shaded areas. Access to the office would be through this existing doorway, there would be a wall here and then a door access into storage which is currently storage and then an additional area back here with access to a hallway here and then access to this storage here from this office space. So we're looking to create these two office spaces on the first floor. The other thing that they're proposing to do is to create some internal parking spaces, there's a storage in the rear, we're looking to create six parking spaces within the building. We've had preliminary discussions with the Building Inspector and we're area of what we need to do from a Fire Code and Building Code requirement in order to park in here with ventilation and other things. Currently, there's two existing parking spaces in the building that access through two overhead doors in the rear. There's two overhead doors on the north end of the building here which will be used for access in and then access out. The doors at 9 1/2 feet wide by 11 feet tall I believe and I know Jan had a couple of comments in his memo as to how these doors will operate. They have mechanical openers on those and we can designate one in and one out but again this will be employee parking in here, if necessary. We did design the interior spaces to meet the parking stall length and the access aisle, that was another comment that Jan had and on our next submission, for our formal submission it will have this dimension. The other proposed modification...

Mr. Bonforte stated Scott, excuse me, can you just clarify for myself and maybe for the Board, where is the road? Which is Radio Circle in the diagram and I know the property, I drove by it recently and went in the parking lot but I just want to clarify where those indoor car spaces.

Mr. Signorelli stated in the back of the building as you're facing it.

Mr. Blakely stated Radio Circle is down at the bottom of the plan, access into the site is here...

Mr. Bonforte stated and then maybe turns around.

Mr. Blakely stated correct. The main entrance into the building is here which is here, and the two existing overhead doors in the back where the two parking spaces are here. The other two overhead doors that are here, are located here on the site plan.

Mr. Bonforte stated and you've already stated that there's no reason to change the footprint or the parking lot curb cuts, I didn't get through that...

Mr. Blakely stated no, we've done studies on the site when they first purchased the building as far as possible expansion to surface parking, there are some possibilities that we may be looking at in the future but what we're trying to do is minimize disturbance, minimize site work and minimize the time necessary to get them to be able to utilize some additional square footage in the building. We're looked at the possibility of some parking across the front with a one-way access in, again we're Designated Main Street, so its DEP approval, we have a DEC wetland on the adjacent Zierick property that may trigger a DEC wetland and again trying to minimize construction costs so we're working with them to see what we can do

so they utilize more of the building. They have a number of offsite places that they're renting right now, that they would love to consolidate into the building.

Mr. Signorelli stated and this plan will achieve that.

Mr. Blakely stated modifications to the second floor include taking what was designated as storage on the previous approval, this 2,399 square feet, this is the old plan that was approved by your Board, this was just designated as storage with just an opening here. We want to take that and convert that to office on the second floor. These modifications of the proposed office on the first, second floor conversion from storage to office and then the provision of the six parking spaces in the building, there's a requirement of 67.4 space and I think we have 71.

Chairman Cosentino stated so you comply with the...

Mr. Blakely stated we comply, correct.

Chairman Cosentino stated any members have any questions on this? I don't have anything on it, I think what you're doing to consolidate would be an asset as far as expenses.

Mr. Signorelli stated we've been in Town for 30 years, we want to be here for the next 60 years and it's a huge advantage to have all the affiliates under one roof.

Chairman Cosentino stated Michelle, why don't we set this up for...

The Secretary stated Chairman, it's a conceptual application, would you like them to apply formally?

Chairman Cosentino stated absolutely, go a step further on this application.

Mr. Blakely stated okay great, I think our next submission date is Tuesday?

The Secretary stated on the first, yes.

Mr. Blakely stated we're going to look to make our formal submission on Tuesday for a meeting at the end of March.

The Secretary stated yes, March 22nd.

Mr. Blakely stated okay, we'll work out the details with Jan, address their comments and we'll be back into you next week.

Chairman Cosentino stated thank you. Okay, let's just go through the special discussion on Holiday Inn.

Holiday Inn Special Discussion

Mr. Scott Blakely of Insite Engineering was present.

Chairman Cosentino stated they're asking for a request of an extension. I just have one question on this and I want to address it to Rob. Rob, on their building permit do they have one item or is a mixture of the whole building, I mean they're doing a lot of work there.

Rob Melillo stated we have a couple of building permits going.

Chairman Cosentino stated so each item is a different...

Rob Melillo stated well its depends on what they applied for, they have a roof permit there, they've got internal renovations...

Chairman Cosentino stated okay. An extension, we give everybody an extension, I mean an extension is an extension, we've given them before.

Whitney Singleton stated Joe, I think the applicant is here, are you here for them?

Mr. Blakely stated I am here for them. Scott Blakely, Insite Engineering for the applicant, Holiday Inn. We had received Amended Site Plan Approval from your Board back in July. We have addressed 99% of the comments, we have received a complete application notification from the DEP. We needed DEP approval because we were taking a small planting bed in front of the building and turning it into that

outdoor dining terrace, so that required a DEP approval and it's taken quite a while to get to the point where we're at. We have a complete application from them, we anticipate their approval shortly, we've worked out the details of the conditions of the approval, so as soon as we get our DEP approval, we'll be making a resubmission to your Board for sign-off the site plan, which hopefully will take place in the next month.

Chairman Cosentino stated Whitney, you had something?

Whitney Singleton stated yeah, I think and Scott, you can chime in and interrupt me if you want. The problem is the permits, they're not asking to renew a permit which has yet to expire, they're asking for a renewal for a resolution which has already expired.

Chairman Cosentino stated oh.

Jan Johannessen stated essentially a retroactive extension.

Whitney Singleton stated essentially that's what they're asking for and I know that staff has taken a look at where they are with different things and whether or not they complied with certain conditions. I know from my perspective, they have done everything that I had requested and similarly to the extent that was possible the Village Engineer and Planner, they're concerns have been satisfied. We just didn't think it was within our purview to say that it could be extended without it actually coming to your Board.

Chairman Cosentino stated what are we extending, the building permit, the application itself?

Jan Johannessen stated the site plan approval.

Chairman Cosentino stated so we need a motion on that, don't we?

Whitney Singleton stated yes and for what period of time are you extending it.

Chairman Cosentino stated well they're not asking any particular period of time, we normally do it for six months.

Mr. Blakely stated we would request the six month extension.

Whitney Singleton stated and it would subject to the same terms and conditions that were already embodied in the resolution.

Chairman Cosentino stated same thing. Do we have a motion?

Mr. Bainlardi stated six months from now?

Jan Johannessen stated six months from now.

Mr. Bainlardi stated I'll make a motion that we approve an extension of the amended site plan approval for 6 months on the Holiday Inn at Mount Kisco application.

Mr. Mareschi seconded the motion.

Chairman Cosentino stated motion by Mr. Bainlardi, second by Mr. Mareschi, on the question. Will the Secretary poll the Board, please.

UPON ROLL CALL:

| | | |
|---------------------------|---|------------|
| Mr. Bainlardi | - | aye |
| Mr. Mareschi | - | aye |
| Mr. Vigliotti | - | aye |
| Mr. Bonforte | - | aye |
| Chairman Cosentino | - | aye |

The motion carried by a vote of 5 to 0.

Whitney Singleton stated Scott, one other thing that's not on the agenda but since you're here for so many things tonight...

Mr. Blakely stated okay.

Whitney Singleton stated I had an inquiry on behalf of the Planning Board as to what was going on with that residential piece, where a lot of fill seems to be brought in on Boltis Street. Where appears to be where the linear accelerator may be going in, they've cleared out some trees and been bringing in extensive amounts of fill or snow and fill.

Mr. Blakely stated I am not aware.

Mr. Vigliotti stated its on Boltis, I think I've seen it.

Whitney Singleton stated yeah, the residential property.

Mr. Blakely stated I can find out. I'll make a call tomorrow to the hospital and see if I can get you an answer.

Whitney Singleton stated okay, thanks.

Mr. Blakely stated thanks for everything.

Chairman Cosentino stated okay, we'll go back up to the beginning of the agenda, still at a public hearing Mercedes Benz. Would you come up and identify yourselves for the record please. This is still a public hearing.

**3. Mercedes Benz of Mount Kisco – 333 North Bedford Rd (Former Wine Enthusiast)
PB2014-0285, 69.50-2-1 (SBL)
Amended Site Plan and Change of Use**

Mr. Peter Catizone of Catizone Engineering, Mr. Anthony Monteleone of Monteleone & Monteleone, Mr. Jim Diamond of Diamond Property, and Mr. Ron Rieman of Maser Consultant were present.

Mr. Catizone stated good evening, my name is Peter Catizone, Catizone Engineering representing Estate Motors.

Mr. Rieman stated Ron Rieman of Maser Consulting, here for John Collins.

Mr. Catizone stated so we're here for a continuation of the public hearing, I know how much everyone enjoyed the presentation last time, so we'll do it again. So first and foremost I want to thank staff for working with us over the past two weeks since the last meeting, in identifying all the comments in the comment letters that were SEQRA related and accepting draft response for us. It really helped us out a lot in preparation for our submittal which will be on or before March 1st for the March 22nd Planning Board meeting. What we'd like to ask, I know there's going to be discussion, so I'll start with the ask, is that this Board authorize the Planning consultant to prepare he negative declaration in whatever form that's in for the 22nd meeting and if a draft happens to be available on the 8th, we'd certainly love to come in.

Chairman Cosentino stated did you say negative?

Mr. Catizone stated yes, negative declaration or again in whatever, whether it's conditional. And that's our ask, so we're here to answer any questions. Ron, is here to answer traffic related questions, I assume there will be one or two of those. Fire away.

Chairman Cosentino stated why don't we just go right down the line, John, why don't we start on that end and work our way down? John, why don't you start?

Jan Johannessen stated can I just maybe open up the conversation with, obviously we're leading up to a conditional neg. dec., I think that there's two major items still open for discussion that we should be speaking about tonight and one of those is the trip cap, currently set at 450 per peak hour with a 10% hour and the other is the anticipated traffic related impacts and the proposed mitigation and whether the Board feels that mitigation is adequate or satisfactory. I think that those are the two items that the Board should be focusing its attention on. The other items I think we've all discussed and come to some consensus and agreement on.

Mr. Catizone stated if this Board wants us to address the cap at any time...

Jan Johannessen stated Chairman, sorry to interrupt, at the last meeting there were some graphics displayed by John Collins, basically going over the cap and how that would be impacted by Mercedes Benz, I requested that information be supplied to the Planning Board, which it has in a February 17th report by

Maser and that's been distributed, I believe you got it via e-mail and its been provided by hard copy tonight. I think that addresses the cap issue just a note that the information in this report, the calculations are based on I believe a 13-day average.

Mr. Rieman stated yes, correct.

Jan Johannessen stated previously, I think the graphics shown at the last meeting may be have been the actually...

Mr. Rieman stated what was presented at the last meeting was the hourly traffic volumes for the week day, based on 13 days and a Saturday for two days. What was presented in the report was peak conditions, I do have the updated charts...

Jan Johannessen stated but over an average.

Mr. Rieman stated over an average, yes. It's the same charts that Dr. Collins provided last meeting, however at your request we actually added the increase of Mercedes and you can see compared to the 450 cap and the 495. I know you want to get some questions in, would you like the charts up at least. Its two sides, we'll just present the weekday first. If need be, we'll turn it around for Saturday but again you should have those charts in front of you, I have extra copies if you don't have that.

Mr. Bainlardi stated I guess I'll address my view with respect to the maximum design volume, the condition that was in a prior approval, I was not part of the Board during that process but I've looked back at what was done and I understand where the Board started 10 years or so ago when the first proposals were coming and there were certainly concerns about what the uses were going to be there, there were unknowns at the time. My understanding is that this condition made its way into the approval on the basis of some study that was done by the traffic consultants at the time and some assumptions were made and that's kind of the basis of where it started. Correct me if it's...

Chairman Cosentino stated well just one little correction, we knew what was going to go there at the first conceptual. We were told certain things were going there that didn't happen.

Mr. Bainlardi stated and as we know throughout the years, different uses have come in, maybe that we're not consistent with what originally contemplated to be on the site but studied in each instance and amended approvals and subsequent approvals with whatever conditions were imposed upon them, were granted and now here we are today. So, I understand the history and the concern is, was that site going to be able to support the type of traffic that was being contemplated at that the time and can it support the traffic that's contemplated now by this current proposal. So my view on this is that in looking at the traffic impact study that's been prepared my interpretation is that the maximum design volume of the 450 peak hour trips may actually have been conservative, that we know currently what the uses are on the site, we understand what traffic is coming and going and also additionally, we understand how the parking is being utilized and how traffic is flowing around the site, so we have real figures and real information that we can base a decision off of today with based upon what's being proposed. So my view is we have a couple of different options here, the option that you're proposing is to take this averaging and if we look at it from an averaging standpoint you're not going to exceed the maximum design volumes or we could increase those design volumes or we can eliminate those design volumes and then look at, going forward look at each application as it comes in on its own merits and it will stand or fall based upon the traffic impact study that's conducted for that particular use. I'm fine with any of those frankly, at the end of the day on this issue I don't have a problem with what's being proposed and I think that the traffic impact study demonstrates the site is functioning reasonably and will continue to do so with the application as proposed. On the other issue about the impact to Ice House Road by the current application, my understanding is that the conclusions that have been reached indicate that there will be no impact to traffic moving along the 117 corridor and that the impact, any impact is really limited to traffic exiting Ice House Road at certain peak hours. And then certain peak hours the level of service exiting the site would degrade from an E to F...

Mr. Rieman stated in the p.m. hour, marginally but yes.

Mr. Bainlardi stated which basically would mean that are certain peak times there will be motorists leaving the site who may have to wait for a longer period of time to get out of the site but it will not impact the level of service on 117.

Mr. Rieman stated that's correct.

Mr. Bainlardi stated and so the mitigation that you're proposing for that is this modification of the signaling timing and I think you're demonstrating that whatever that proposal is, that that would take the level of service and maintain it at its current level of service.

Mr. Rieman stated again, thank you, that's confined to basically a one hour p.m. peak which as you mentioned was peak conditions as opposed what we're having on average conditions or other times during the day.

Mr. Bainlardi stated so with respect to that issue, I'm comfortable that the mitigation as proposed is adequate but I say that knowing that there may be other Board members who don't feel that same way and specifically wants to see at some point, in the near future, an improvement made to that driveway entrance. Now I understand there's a lot of issues that follow on that, not the least of which, is do you have the legal rights and ownership to effectuate those changes but where I fallout on this is basically I want to see those improvements happen, I think that those improvements are important for the 117 corridor, I think they're important for the Village. I think they're important for anyone who is going to use the site, I use the site a lot, my family uses the site a lot. So, I think those improvements, you know really need to be worked on and happen but I don't see any impact here at this point, that in my mind would move me to impose a condition requiring that. That's my position on this issue.

Chairman Cosentino stated Mr. Vigliotti.

Mr. Vigliotti stated well, if we talked about trip generations I'm assuming that the trip generations are based on what the ingress, egress can handle with regard to the trips itself. As it currently stands, Ice House Road has not changed since the inception of the purchase but the trip generations have changed but the current trip generations based on trip generations that will be put into place by the two Mercedes dealerships. Particularly it appears to be similar on weekdays as with the Wine Enthusiast, but it's not similar on Saturday. If you look at the trip generators for Saturday, particularly at the 10 to 2 o'clock range, we have bridged that cap, the plus 10% and the only way to get around the number of trips and I'm not discussing anything faulty with the trips, I'm discussing what's not helping those trips to get in and out and that is, what you have at Ice House Road hasn't changed in 12 years but the site has changed dramatically. So the mitigation that we've talked about over the weeks and months, really hasn't changed, our grand scheme for mitigation at this point and I mentioned it last meeting, is to take 209 and the light that's there and take two seconds from that light and add those two seconds onto Ice House Road and that's your answer of mitigation, it's just not enough. Now, you may say and you've said it in the past, we're not really concerned about how many cars stack up and queue to leave 333, that's our property, we don't really care but you know at a resident of the Village and I think it's our duty as a Planning Board to represent everyone, those that travel on 117 and those that are trying to get off the site that may be our residents and there are a lot, there are a lot of residents in this Town that use 333 and we really haven't done anything. So we're saying it's okay that there's 14-18 cars stacked up trying to queue out, taking an extra 6 to 8 minutes to get out, there are businesses, some are owned by the landowner, on Ice House Road, but we're allowing those cars to block their entrance and exit. I would like to see, as one member of the Board, something in our conditions that would take a firm stand on improvements, not just we hope to do the following but there's a schedule in the conditions to say we will do the following, in six months, one year, 18 months. Without that we have really no guarantees of anything and what have we really done. As one member, I have no problem welcoming Mercedes onto the site, I think it would be a good retail use, I have no problem at the end of the day that there is enough parking to support Mercedes, I honestly believe there is, you have to walk a little bit but I think there's enough parking on the site to support just about everything that's there. When we get to the end of it all, it's all about the mitigation, what have really done, we really haven't done anything. I know purchasing 209, and going through the contract and actually being in ownership presents some opportunities but those opportunities could very well be limited by the tendency that's there, those are real issues. I am still as one member of the Board, I take the firm belief that the north entrance and there may be some laughing among some members here that the north entrance was intended for well over a half a century to be the main entrance and was until Ice House Road was improved. We can't make a left hand turn in, we can't make a left hand turn out, I would like to see John Collins and your staff, engineer a traffic light that will allow a left hand turn out of the north entrance that would be presented to DOT for either approval or no approval. That is what's going to make that site work for many, many, many years. Why would someone from Mercedes that's visiting either of the dealerships and the folks that work and who are testing the cars after repairs, want to travel all the way through the site, to wait in line and queue to make a left hand turn if they wanted to head up and bring a car back to someone that lives in Somers, when they could go right up the driveway and make the left. I just find for someone that, if I owned Mercedes, I would just find that time to kill me, to have one of my employees go out and spend a half hour, when it could be 16 minutes to make to left hand turn to bring a car back or to pick up a car or test a car. I would like to see and I know John Collins has said that DOT is not going to allow it and unless you've done the engineering, and presented the engineering to DOT, they're not even going to give you an answer, I understand that. I that is the answer to the site, yes lining up Park Drive with Ice House Road in the future would be wonderful for both Ice House Road and Park Drive. We're still not sure if its going to have any impact on 117, we do know that when you get to the north entrance traffic tends to speed up a bit along that corridor, where at the Ice House Road because of the backup to Burger King and then the backup to what is now Stop and Shop, that section of the corridor is bad news but when you get up to, in and

around which is the former CVS light, people speed up, they're not doing 15 or 10 miles an hour. If we talk about just quickly and I'm sorry to take up so much time, Seth has said with regard to trip counts, "I am reviewing the numbers but the Planning Board has to understand that the 10% buffer from the 450 to 495 would be exceeded when Mercedes is built every day, and not one in a while, I can't imagine that was the original intent of the 10% buffer." So, I think I've said everything I need to say, I don't think at the end of the day that two seconds for the type of improvements or the type of retail establishments that are going to be in place, is the kind of mitigation that, we have a responsibility and I don't think I would be responsible as a Planning Board member, to say to my so called constituents out there, 'how are things going on the Planning Board, I heard that Mercedes is coming in and the only difference in traffic is going to be lessening the two seconds on Ice House Road, I don't think we're doing our job if that's all that we do. There's more to be done, if we are to move forward, as one member and I'd like us to move forward and I know the Mayor has said that he would hope that the Planning Board and applicant can find some middle ground to get this project moving forward, I think the middle ground is the mitigation of traffic and how we're going to handle that. So, I end with this, I would like to see two items being presented, one would be a condition within the resolution that in X number of months we'll do this, with regard to aligning Ice House Road with Park Drive, in one year we'll do this, in eighteen months the shovel will go in the ground, or we'll have engineered with approvals from DOT and this is when we'll be able to put the shovel in the ground and/or a full blown engineering done to satisfy DOT with the north entrance with a left hand turn so they can make a genuine decision to say nay or yay. That's kind of where I stand, I really wish you well, and as I said, I'm okay with the parking, I am okay with the two dealerships, I don't have any problems with that regard, its just getting in and out of the site, we've done nothing, when Wine Enthusiast leaves, they take 100 employees with them, give or take on the weekdays and only 10 or 15 or 20 there on Saturdays and yet on Saturdays in the peak of our day in Mount Kisco, the peak when everyone is out doing their thing, shopping at Kohl's and going up and down 117 and waiting and queuing to get out of the site, we are at the cap plus 10, so we need to do something with that regard. I think I've said everything I need to say and I thank you for giving me the time.

Mr. Diamond stated I think we've done, I think what we're presenting here is the most that we can present and I think after a year and four months, if the Board wants to vote that it's a bad use, then I can live with that but I think we just need to get to a decision...

Mr. Vigliotti stated I don't think the Board is say it's a bad use, not at all.

Mr. Diamond stated specific to the traffic, specific to that intersection.

Mr. Vigliotti stated yes.

Mr. Diamond stated because I don't think there's anything else we can do and if the Board says that without being able to do more they can approve it, then that's fine but we just need to move on as an applicant. I think that what we've demonstrated is that we're staying right at that 450 plus 10% or less, we thought we were going to come in asking for a raise of the cap but using the averages, we're kind of right in that buffer zone. I think that the issue with the north entry way is not of our making, for many years, as you said for 50 years that was the main entryway, what happened is that when our property was out of use for 10 years, somebody decided to make that middle lane which is now a left hand turn lane into Foxwoods, someone decided to take that away from our site, it had been a left hand turn lane into our site at one point but when our site was dormant, it was made a turn lane into Foxwood. It was a negative to us, there was a positive to that other development and that's fine...

Mr. Vigliotti stated Jim, I'm not saying a left hand turn into the property, I'm saying a left hand turn out.

Mr. Diamond stated there's junk, we studied this 10 years ago, we studied it nine years ago, we've studied it forever. Its physically impossible, now we're, we've in the last 10 years, we acquired the Carl Clement Building, we acquired the Simone Building, we've not acquired 309 Bedford Road, we are buying these buildings not because they're great real estate investments but because they allow us to incrementally improve our site. We are determined over time to move the ball forward, as we said we would 10 years ago. We've spoken to owner, the only way to improve the north entry way, which is to move our driveway south, on to where Skriloff's property is, that's the only way. We've spoken to them for 10 years, and they have no desire to do anything with us, so unless that changes, there is 0 possibility of us being able to fix that but what our traffic engineer has determined and what the Mount Kisco engineer agreed with is that there are several ways to improve the exit from our site that makes it better than it is today, better than it ever was and better than it ever was might be an overstatement but way better than it is today, even with Mercedes is to eliminate left hand turns out of the 309 building, eventually align the intersection is a homerun, to enable exits from our site out of easement which we presented to this Board 2 years ago and met with resistance, but we are currently in litigation with Martabano and potentially that can be revisited in the future, some years from now if we ever get through that lawsuit. There's multiple ways to address

this other than the north entryway, which is likely impossible unless something ever changes with the Skriloff property to our south.

Mr. Monteleone stated the north entrance has been dealt with extensively by John Collins, he's told your Board unequivocally, on more than one occasion that DOT and the distance between the lights and respective ingresses and egresses on to it, make it impossible to do a left hand turn there except by taking the property of Skriloff, Skriloff won't deal. So that is an impractical, impossible condition that we cannot meet.

Mr. Mareschi stated it was presented to DOT?

Mr. Monteleone stated yes, John Collins over the years...

Mr. Mareschi stated is it in that?

Mr. Monteleone stated we will present it but we don't want that as a condition of approval and we don't want that to stop our negative declaration to proceed, with your negative declaration and if you issue a complete negative declaration now, other than a conditional, then you can always amend it and you can always revoke it and rescind it but issuing that is critical tonight because if you issue a conditional, then we're in a 60 to 90 day delay because of the terms required to be met with a conditional. All we're asking you to do tonight is to authorize the staff to draft a negative declaration, not a conditional negative. You have the authority and the right until site plan approval to amend or rescind that negative declaration. To address your issues Ralph, I've lived in this community for 40 years, I will never present an application and I never had presented an application to this Board that I think is detrimental or will be detrimental to the Village, so I feel exactly the way you feel. Now to say that because there are people stacking up on Ice House Road, is a reason to not approve this application or not allow it to move forward, to me is not what your Board is empowered to do. Your Board is to look at traffic, traffic is on public streets, traffic is not on private ingresses and egresses and if people are stacked up on Ice House Road and are unhappy about it, who's going to suffer, he is, his tenants are going to leave because its customers are not happy.

Mr. Vigliotti stated you are at the cusp of the 10% because of trip counts and the intersection can't handle the trip counts on Saturdays. This has been said by our consultant, so how do we get around that?

Mr. Monteleone stated well we address that by looking at the intent of the trip counts from the very beginning and to make the argument that one or two trip count excesses are a break down in the cap, is now what this Board or any prior Board's intended, it was to be an average and we have no problem working on averages with you.

Whitney Singleton stated can I cut you off for a second? Because you came in a little late and you're commenting on some things that are contrary to what your application is seeking.

Mr. Monteleone stated what?

Whitney Singleton stated first of all the discussion of the neg. dec. which is a CNL, has already been discussed and I've already discussed that with Neil Alexander...

Mr. Monteleone stated I know you did.

Whitney Singleton stated alright, the issue is they're going to issue a conditioned neg. dec, they're not going to issue a neg. dec...

Mr. Monteleone stated and why?

Whitney Singleton stated why? Because a negative declaration can only have conditions that are of minimal consequence and otherwise applied by application of law, for example, if somebody issues a neg. dec. subject to you meeting a noise ordinance, subject to you meeting a setback, subject to you meeting an emissions statement, those are conditions which otherwise exist, and you would otherwise have to comply with and if you don't meet those they could cause the rescinding of the declaration. However, when there's substantial conditions that are not simply by operation of law, the appropriate way to deal with them is a conditioned neg. dec.

Mr. Monteleone stated and what are those conditions?

Whitney Singleton stated well that's what Pete [Catizone] has previously requested tonight that Jan and I begin to work on a conditioned neg. dec. and it would be available for consideration at the meeting of...

Mr. Monteleone stated what are the significant reasons why you can't issue a neg. dec., a full neg. dec.?

Whitney Singleton stated what are the reasons? Well you're proposing a whole host of things that may not occur, including a modification to a traffic signal.

Mr. Monteleone stated we're proposing a two second change to be submitted to DOT and without that the traffic is not significantly impacted on 117.

Whitney Singleton stated Tony, I'm not going to debate the conditions as to what they are, they're for the Board to determine.

Mr. Monteleone stated well I guess its for the Board to determine whether they're going to issue a conditional neg. dec. or not, or a fill neg. dec.

Mr. Diamond stated I think Ralph, the other point I'd make which I think is really important in the context of this, is sometimes people come in with an application for a building, you guys have one opportunity to look at it, it maybe three or four decades before its looked again, so you want to make sure you cover all your bases, get everything right, it's your one bite at the apple to make sure you get it right. I think this is like our 17th application in the last 10 years. We'll probably be here another 17 times in the next 10 years. We're telling you that we have a long term plan to do something with 309, once we can figure it out. We don't really know yet and we can't commit that we're going to do it 12 months and I'd be lying if I said we were going to do it in 12 months. Estate Motors won't even be operating for like 18 months or two years, best case scenario at this point. So we can't commit to any timeline but what I can say unequivocally is that we're going to be here a lot more times because somehow we end up here everything time we want to do something at our site. So this Board will continue to have more opportunities to put us through the ringer, so to speak and we're not going anywhere, so it's not like it's going to be another four decades before somebody looks at this again and its not like we're coming in with something that is a crazy intensive, environmental use. You're looking at the numbers, your traffic engineer is saying there's not impact to level of service, the trip count is right there in the margin of error in the 10% margin, it's like right there and you guys are going to have an opportunity to see us again sometime in the next year or two.

Whitney Singleton stated with that being said, I do have to clarify one thing, you say we get another bite at the apple but the fact of the matter is when we sat down to look at the totality of the site, you and your attorneys were vehemently opposed to the Board examining any prior approvals on the site. You did not want to go revisit any of the prior approvals for any of the other portions of the building and you felt that that was double dipping by the Planning Board. Specifically when they inquired about Grand Prix and the uses that are going on in Grand Prix and its compliance with the special use permit. Neil Alexander balked at any consideration of that site or any other portions of the site. So I think it is, I appreciate what you're saying and I agree with the general tenor of what you're saying but to say that they get a second bit of the apple or a 17th bite of the apple every time you come in, that's not exactly a completely accurate statement.

Mr. Diamond stated I don't think what you said Whitney, is at odds with what I'm saying. I don't think that all 17 of our tenants should be re-litigated every time we come in for an application on a new tenant. What I'm saying is that we will be here on applications for the next tenant and the next tenant after that and the next tenant after, and what we're talking about here is not whether or not this tenant or that tenant who is already is okay, we're talking about what the impact is on the site of Estate Motors. Really the need or desire to improve Ice House Road, is not driven by Estate Motors, that's not what's putting us over the line. Estate Motors is arguably, I would argue an environmental decrease from what Wine Enthusiast is right now. For 10 years we were told by this Board and by everybody in this community, that truck traffic is the thing that's more important, we demonstrated that Wine Enthusiast has 100 truck trips a week and that Estate Motors has got like 5, so we're eliminating tractor trailers off the road, replacing them with a handful of car carriers and I would argue its therefore a dramatic decrease in traffic. I don't think anyone would look at any of the automotive dealerships in this Town, like BMW, or Lexus, or anybody else and say its of a negative environmental impact, the only negative that there's been from any of these auto dealerships is when they have to load and unload on the street, which everybody's in agreement, will never happen with our site because we've got an unlimited amount of excess land. So there's not environmental impact here, at least I would argue, and the need and desire to improve Ice House Road is not driven by Estate Motors, we're all agreement that that would be an improvement. I'm there every single day, almost 7 days a week, except during ski season when its 5 days a week and I see the traffic every day and I know 100% that it works 99% of the time, there is around 10 minutes a day, maybe 20-25 minutes a day, where you have to wait five minutes to get out, that is not the end of the world, it's not like we have some crazy, dysfunctional system, and Estate Motors is not going to make it any worse.

Mr. Vigliotti stated just one comment, I want to just for the record and this really for Ron and your team. The north entrance, with an offset light, has an offset light to accommodate only a left hand turn out of the site, been designed and engineered and presented in a formal fashion to DOT for approval.

Mr. Rieman stated formally, it has not, John, maybe 10 years ago, no but just from an engineering standpoint, unless the road is realigned...

Mr. Vigliotti stated there are plenty of the roads all over the County that are not aligned which allow for left hand and right hand turns. What I'm asking...

Mr. Rieman stated it is perhaps a nonstarter...

Mr. Vigliotti stated and perhaps...

Mr. Rieman stated I think some of the long term improvements Jim discussed was, things can be done to Ice House Road in the future and he's taking those steps to you know, go towards that, so he can improvement it significantly with some of those other...

Mr. Vigliotti stated I still can't comprehend and I may be a little thick sometimes, if I were Estate Motors, I would insist that be a left hand turn, guys make sure you engineer that and get approval from DOT, I want my people to make left hand turns out of that site, I'm too big of any applicant not to at least try. So, I just place on the table that a formal request with all the documentation that DOT requires before they'll even blink an eye is there for them to see to say you know what guys, we would approve this, it's going to cost you dearly but we would approve this or no we will not approve this, let's put this to rest once and for all. I'm not sure if Bedford, I mean they certainly wouldn't be an advocate of this, they want all the traffic to go to Mount Kisco, even the roadway is not ours but what's coming out is ours. So, I ask that carefully, I'm only one member and other members will speak, it's a large site, I think being able to make a left hand turn out of there, getting up on Green Lane to get on the Saw Mill and head out, is a wonderful deal and its quick and easy and there's no queuing, the wait on line down at Ice House Road to get out. IT could be 3-4 years before that is worked out, it could be 5 years before the tenants vacate and you're able to do something that Ice House Road. I just leave you with that, you don't have to answer anything...

Mr. Rieman stated I would like to, if you'd like, I could address the short term level of service operation of the Ice House Road intersection, the mitigation that we're proposing, if you'd like me to discuss that...

Mr. Diamond stated Ron, could you also just talk about the difference though between, because at Ice House Road, we do have an offset light, but the difference is the alignment of the two roads between us and Park Drive versus Foxwoods, maybe you can just talk specifically as to why one works and the other doesn't.

Mr. Rieman stated the Park Drive and Ice House Road, the offsets, [inaudible] and Seth and I discussed how to model the operation of the signal, it operates more as single traffic signal, the offsets at the north access are farther apart and wouldn't work as Jim mentioned, the only way you can get that operating as an isolated single intersection signal would be if you relocated the road and there's a lot of constraints with that, I gather.

Mr. Monteleone stated Ralph, the way you phrased it, if DOT came back and said this is the way it can be solved, DOT comes back and says yeah, take Skriloff's property, it ain't gonna happen.

Mr. Vigliotti stated no, no, it can't be on taking a property, what I'm proposing is not taking a property...

Mr. Rieman stated as is condition.

Mr. Vigliotti stated as current condition, with a engineered light, we can send men to Mars, I think we can engineer a traffic light to make a left without taking a of any property and I know DOT won't look at anything unless its been perfectly designed and engineered before they'll make any decision. That hasn't been done, a phone call to DOT saying 'remember that road on North Bedford Road, it's the one that goes into that big warehouse, do you think we can put a light there? No, I don't think so'.

Mr. Rieman stated at least from our standpoint, from an engineering standpoint, we know there's constraints from that and its really not easy to design or, almost impossible to design, so we already know that from our standpoint, also...

Mr. Mareschi stated is it worth a shot? To make a call?

Mr. Rieman stated I mean everything is worth a shot, I agree with, I don't think it should be talked into the context of this application at all. Jim has been speaking all along to he would like his site to work ideally, two signals...

Mr. Mareschi stated we like Mercedes there, that's fine. We have no problem with Mercedes...

Mr. Rieman stated no, no, I understand that, we have to be careful of talking about certain improvements that aren't impossible or not necessarily required as part of this applicant, that's all I'm saying. Everything is worth a shot but I wouldn't subject that to the Mercedes application. It could be something that Jim would like to explore in the future to make the site operate better which he has already with the taking of the 309 property. We've looked at three alternatives there, we discussed that with Seth, there is an alternative to the south that Jim mentioned, that you know, hey, that's the cleanest one.

Mr. Vigliotti stated and that's out of our hands until you work...

Mr. Monteleone stated you have the ultimate hammer here, and the ultimate hammer is we're going to be coming back to you at some point in time and asking to increase our number of lifts from 27 to 36 and the only way you're going to grant that is by us showing an improvement in traffic flow on Ice House Road, alright. So part of your concern is going to be addressed at that time because we don't have a choice, Mercedes is insisting that we increase the number of our lifts and they're giving us a timeframe to do it...

Mr. Vigliotti stated I understand that, Tony.

Mr. Monteleone stated so you have every opportunity then to have us come forward to you and show you how we are going to improve the intersection to allow for this increase in traffic. That's a given, so your condition is really met by the fact we're going to have to come back to you.

Mr. Vigliotti stated our traffic consultant, I guess Ron you're aware that Seth has said that the weekday trip counts is equal to the Goldens Bridge Mercedes 16 bay dealership, however the Saturday could accommodate 26 lifts because of Wine Enthusiast not being there. So what Seth was saying was that 16, not 28 or 30 bays is comparable to the traffic and queuing and traffic counts, comparable to the Goldens Bridge site.

Mr. Rieman stated if you're just replacing, forget Mercedes, forget any development, if you take one use out trying to put the same exact use in or matching trips. What you guys have to remember is we conducted detailed traffic study, couple revisions, went back and forth with Town consultants, so we did analyze the impact of whatever that delta was, so we did increase, put additional traffic during, as you mentioned during the morning p.m. and Saturday, a little more on Saturday because you don't have that tradeoff with the Wine Enthusiast. I guess what I wanted to point out, if you look at the short term, I'm not saying we won't look at long term but short term and this was confirmed with your consultants, we're talking about the local service that was mentioned earlier during the peak p.m. hour, the peak critical hour, that one time period where the 117 level of service remained the same, the morning, the p.m. and on Saturday, the operation of 117 remained the same, Park Drive, the level of service remained the same for all three peak hours, the one hour that had the little blip was the p.m. peak hour, the Ice House Road approach went from a level of service E to a level of service F, with a change in 5.6, we'll say six second change in delay, that was during the p.m. On Saturday we have the same level of service, not only on 117 and Park Drive, but the same level of service on Ice House Road. If you're just looking at traffic impacts and we do have a memo from Seth that you know, quoting the same numbers, for six seconds it went from an E to an F, you could say that's minor, maybe not, I'm not saying its not, you know, I wait at traffic lights too, I have a little more patience because I can't yell at myself...

Mr. Vigliotti stated we've learned to accept a traffic level of F, we've accepted anything that's not less than an F is okay.

Mr. Rieman stated I'm just quantifying numbers, I'm not making light of six seconds but for six seconds we looked at what can we do if you just want to make everything apples to apples. So with two seconds from the 309 signal, we can get that level of service back to an E, not only back to an E but have like ten seconds less average delay on that approach. So in the short term we know there's something to be done, if those two seconds don't happen, again we're talking about one peak hour, you're talking about maybe a six second delay, maybe tomorrow is a seven second delay and the next day is a four second delay, I'm just talking about pure numbers and this as a traffic engineer and Seth and I went back and forth, its hard to have a public kind of understand that from...

Mr. Vigliotti stated do you know how easy it is to lose two seconds of every minute of every hour, if someone doesn't pull up to the car in front of them, that two seconds is gone, its two seconds, not 20 seconds.

Mr. Rieman stated our opinion, take it for what it's worth and when they all say, when you mentioned about the cap and you mentioned the traffic consultants 10 years ago, that was also our company, John and myself, I'll take a little credit for that but it's amazing after 10 years that we're right on target with that 450

projection, again any of these projections we do in the future, we're not just making up numbers, we have numbers from Mercedes, traffic counts that we did, so we're simply saying this is what happened. I mean, I could go on and on talking numbers and bore myself to sleep...

Mr. Vigliotti stated I've been done, I know the rest of the Board wants to speak.

Mr. Rieman stated thank you.

Mr. Hertz stated I have one question which I don't think has really been addressed. I'm familiar with the site as well and right now you have a lot of traffic on the southern part of the site that's using Ice House Road, when I've been on the site, the north entrance still allows for a right hand turn out but I don't see anyone using it. You know typically right turn out means you're going to Mount Kisco, so generally you're going to take the Ice House Road exit because it's closer. I wonder, have you guys looked at the possibility of creating better signage on site to say right hand turns this way and shunting them up to the north entrance to go right, so you're not queuing that light for...

Mr. Rieman stated we could do additional signage, you make a great point, you're talking about not impact to 117, Park Drive and you can well who cares about the driveway, I never said that. We are concerned about the impacts of the driveway but just think about it this way, they do have the ability to make the right turn at the north access, as you mentioned people aren't do that. They're willing to spend that extra...

Mr. Hertz stated or they don't know.

Mr. Rieman stated you go to a site more than once, you know but we can address signage.

Mr. Diamond stated well I think again, as someone who is there every day, it doesn't feel right to leave from the north side. I think everybody knows the north exit is there, I mean people go to the Saw Mill [Club], they know its there, if they're coming from Bedford, they turn in that way and they leave the other way. I don't feel right because you're going north to go south and its not putting you beyond the other intersection, you're just at the same light on the other side. You're really not saving any time and John Collins' point during the whole process was that if there is going to queuing, its not that Ice House Rod doesn't matter, its that if there's going to be queuing on our site, its better. So if people leave from the north exit, they're actually sitting on 117, they're on the State road, its better if they're on Ice House Road, leaving 117 empty. The answer really, has always been Ice House Road really does not have a tremendous amount of traffic, its just that two thirds of our traffic head south, one third heads north, the north blocks the light and the southbound can't get out. So there's two ways to accomplish that, either we have a right hand turn lane out of Ice House Road which we what we have to do when we align 309, add a dedicate right hand turn lane or make easement one in between Patio.com and Nissian, an exit only from our site, two ways for them but exit only from our site and then all of the southbound traffic will go there and Ice House Road will have very few cars who want to go north. We have two solutions that could work, one of them will end up happening in the not too distant future, we're not talking decades but we're not talking six months either. The answers are there, we really don't even, other than the fact that you want two entrances and exits to our site for fire purposes and all of that, we really don't even need the north entryway, Ice House Road can be made to function correctly.

Mr. Monteleone stated on behalf of Mercedes Benz, we will be more than happy to put very prominent signage within the dealership to encourage, well to tell our employees they are to leave by the north entrance to go south and we will encourage our customers to do the same thing, to utilize the north entrance. We don't have a problem with that being a condition because it's a reasonable condition...

Mr. Vigliotti stated but they can't make the left.

Mr. Monteleone stated no, they can't make the left, John Collins said its only going to load more traffic on 117 but we'll do it.

Mr. Diamond stated Doug, the people who do use the north entryway, the same as it is Wine Enthusiast right now because they're starting to the north of that, and they're heading south so they go up the hill and they turn out, those guys, Dasko, the people who are there. Estate Motors will, their customers will naturally use that north exit to take the right because it feels right.

Mr. Hertz stated if you were a betting man, what do you think has a better chance of happening first, being able to use Easement 1 as an exit only or the realignment of Ice House Road?

Mr. Diamond stated well in terms of, its hard for me argument in terms of which can happen first, in terms of which I prefer, is Ice House Road, that's my preferred solution right now. There is nothing, we own 309, the only thing that stands in the way from us being able to do that is approvals from this Board and us

having full control of the site, unrestricted, unburdened by the leases that are in place. So its really, from our perspective, it's a matter of time once leases burn off or we're able to make deals, we'll be able to do it.

Mr. Mareschi stated what do you think Jim, two years, three years, four years, hard to tell?

Mr. Diamond stated if I'm guessing, I mean you guys aren't holding to me, three years, I think we'll be back within two years and presenting something to you guys hopefully.

Mr. Monteleone stated we'll be back in about two years.

Mr. Hertz stated what's the build out time frame for Mercedes?

Mr. Monteleone stated about 18 months.

Mr. Bainlardi stated Jim, what are the benefits aside from the traffic that would improve the traffic coming in and out of Ice House, would you get out of dealing with the 309 property and improving that. Are there other things that are going to improve the property aside from the traffic standpoint, signage?

Mr. Diamond stated right, so we're motivated to do, that's a good point. It's not, it's really an overall improvement for us, right now, Ralph, you said the north entryway was the main exit, it looks like the main exit still, its 100 feet wide, Ice House Road is 50 feet wide, so it is counterintuitive that Ice House Road is our main entry and exit. By aligning the intersection, we'll end up with at least 100 foot wide Ice House Road entryway. We've sketched out what a right hand turn lane would be and the left hand turn lane and the enter lane, we end up with a large, nice grass median in between the right hand turn lane out and the other two lanes. Which gives us an opportunity to take down all the signage we have now, make a nice monument sign, to better define the property with 100 foot wide entryway. That's significant to us, I mean we're still not happy after all these years with the street presence of the site and it's a real opportunity for us to open it up from 117, so I mean as I've said before and I'll say it again, we overpaid for that site, we did not buy 309 because we love the architectural style of the building, we bought it because it's a solution to a problem that we intend to solve and that's my point in terms of saying we've been here 17 times, it's not like we're disappearing and you guys never see us again, we're going to be back, you guys know it, you've seen me too much over the last decade.

Chairman Cosentino stated Mike, are you okay?

Mr. Bonforte stated yes. Pete, can you put up a plan with Ice House Road? I mean, I know I have this personally, alright, that doesn't shown any of the, well it just shows 309 is right there, okay. Some of the number were quoted in feet and so on, I have to go to the site again and take another look at that and so on.

Chairman Cosentino stated alright, I just have some concerns here and Jim I just want to address a couple things. I echo Mr. Vigliotti's points, they're good points to try to improve the property but a couple things and I want to be very clear on a couple things, if Easement #1 was complete, it would relieve a lot of traffic on that property. I was one member that was not against it because you said that this Board was against it, I was not against it at the time. It may not have been a popular thing for me to say but I thought it would help the site, okay, I realize it might be in litigation and it won't be for a while but that's up to you, okay. With the point of Mr. Vigliotti bringing out the backup on Ice House Road, it's true, when I heard John Collins say well it has nothing to do with 117, the traffic is backed up on Ice House Road, well its implementing other people that live in the Village that go to the gym and need to go to work and they're backed up. So I think what Mr. Vigliotti said is that these people are impacted also and two seconds doesn't make that much difference, so you might as well leave it the way it is or get the two second whatever, I just wanted to bring that up. When we talk about a negative dec. and a conditional negative dec. I don't know whether all the conditions have been met yet and I turn to Jan for that. All the conditions that were put forward, haven't been met yet, have they? I mean Anthony had a load of them, I don't hear Anthony saying anything.

Jan Johannessen stated our comments are being addressed. They're going to address our SEQRA related comments in the March 1st submission to be reviewed by the Board on the 22nd, the conditions of the neg. dec. haven't yet been...

Chairman Cosentino stated okay but what I'm saying is that I don't think anybody even came before this Board, Tony, in all fairness where there were conditions to be met that we gave them a negative dec., a conditional negative dec. until the conditions are met, I think that's fair. You can't say its not fair because if you represented the other side, you would say I understand and it's not holding anybody up, I don't want to hold Jim up, I want this off our plate and Mercedes doing what they have to do.

Mr. Monteleone stated its holding us up 60 to 90 days by doing a conditional and I'll go through a timeline with you and you're going to have the same benefit if you issue a conditional versus whether you issue a full neg. dec., you're still going to have that hammer all along the line.

Chairman Cosentino stated okay, just let me go through some other things here. I want to be very clear, I want Mercedes to happen, okay, it's going to happen and Jim when you said a few minutes ago, I just want to address a couple things to be very clear with the Planning Board. You said you've been here 17 times for 17 different things, I understand that but in the Change of Use, you do have to come back and there were some change of uses there, so if it was 17 times, we didn't say Jim come back and say hello. We wanted to accommodate you as quick we can for a Change of Use and this is normal, your business is big down there, you've got a tremendous amount of places down there, so yeah, you're going to come back more than everybody else. Let's face it, you're 100% right, 117 in the last ten years has changed and for some reason Bedford has a sign some place down there saying if you want to get any place in Westchester County, take 117 to Mount Kisco because all the traffic, all the mitigation from Bedford comes to Mount Kisco and it is what is and can't help it, another car agency, they're going to come to Mount Kisco, trucks are going to be flying up and down the road through Mount Kisco because of 684 over there, they're going to come through Mount Kisco, we're going to get more mitigation, they don't care. You take a ride, with your improvements also by that way, I want to add that, if you take a ride from the Indian to the Mount Kisco line okay, you've got a Scarsdale, you go past that, you've got the South Bronx. Compare what we've done in Mount Kisco with signs and streetscapes and everything and go beyond your property, you don't have the same thing and you've improved it a lot, we understand. And also, I want to add that if Bedford had the opportunity, they would continue to push mitigation towards the Village of Mount Kisco, this is their route. What Seth did say, whether its in concrete or not, he said in his report that 16 bays was a wash, it may have been a wash for Wine Enthusiast but maybe not for Mercedes. I have one last thing that I want to bring up, the traffic light as Ralph had brought up on the north end, even if you made a right hand turn, you're going to have a problem because of the other light. You may make a right hand turn but the other light might be red and you're going to be...

Mr. Monteleone stated be bonked up.

Chairman Cosentino stated exactly. So it's not the best either, getting back to what Ralph said, if at all possible someone, somewhere, somehow can visualize of what that intersection would be, an engineer or so, it may be good to come back and say look, this is what's going to happen, this is going to cost three million dollars, I can't do it or I can do it, okay. And again, I think buying 309 was an asset to 333 because I think eventually you're going to be solving the problem for 333 and extending Ice House Road from 50 to 100 feet but getting back to Ralph, there were good comments made, things that could be done and maybe can't be done. I don't want to hold up the application, I want the application to fly but there are certain things that this Board has to do to make it right. One of those things is, I cannot in all honestly give a negative dec. because this Board has never done it for anybody else, that I know of, when there were conditions that have to be met.

Mr. Monteleone stated but I don't think there are conditions...

Anthony Oliveri stated the remaining issues on Jan's...

Chairman Cosentino stated Anthony, let me ask you a question, do you have conditions that are not neg. dec.

Anthony Oliveri stated we're calling it conditions but its our memos that haven't been addressed yet.

Chairman Cosentino stated your memos are conditions, am I not correct?

Anthony Oliveri stated sure if you want to call it conditions but they're not the same conditions as the neg. dec.

Chairman Cosentinno stated Jan, do you have conditions.

Jan Johannessen stated I have comments.

Chairman Cosentino stated are the comments conditions?

Jan Johannessen stated the SEQRA related comments are going to be satisfied before the Board has an opportunity to issue the neg. dec.

Chairman Cosentino stated okay, they answered the questions.

Mr. Monteleone stated no but he's saying they're not conditions, we're going to respond to them...

Jan Johannessen stated I think the conditions are going to be more operational conditions, related to mitigation, related to outside agency approvals...

Chairman Cosentino stated let me rephrase myself, do you think this should be a negative dec.?

Whitney Singleton stated Chairman, that's not fair to ask.

Chairman Cosentino stated I'm trying to say something that we've never done before Counsel and I don't want to hold up this application, I just want to do the right thing that we've done for everybody else. John, you want to say something, go ahead.

Mr. Bainlardi stated for a point of clarification, along what you're saying, maybe you could explain to us the difference between conditioned neg. dec., the conditions that may be in the neg. dec. and conditions that may be in the site plan approval, two different things, right?

Jan Johannessen stated they are, I think if you're to issue a conditional neg. dec., you would be instituting conditions that in your opinion made the proposed action not have a significant impact on the environment. So you might say that if you can get the two seconds from Subway and give it to Ice House Road, that there's not going to be a significant impact but if the DOT were to deny that, then you might have different opinion and think that's a potentially significant impact that might trigger a positive declaration. So they're going to be conditions that need to be satisfied in order for the Board to make a determination of non-significance.

Chairman Cosentino stated that's what I was getting into, I just want to do the right thing.

Mr. Bainlardi stated I think we have identify those...

Chairman Cosentino stated they have identified them by the comments.

Anthony Oliveri stated what we identify were things they could address...

Mr. Monteleone stated and resolve.

Anthony Oliveri stated by their March 1st submission to resolve so they wouldn't have to be conditions and there would just be the larger issues that Jan's talking about.

Whitney Singleton stated and those are the issues that Pete, at the beginning of the meeting before everyone walked in, asked that we start to undertake to identify and draft for the Board.

Chairman Cosentino stated that's what I want to do to push this on.

Mr. Diamond stated my understanding is the only issue, and please correct me if I'm wrong because I very well might be wrong here, the only issue that's a question in terms of conditional neg. dec., is whether or not those two seconds can be reallocated from 309 to Ice House Road. Is there anything else that would make the difference?

Whitney Singleton stated Jim, frankly, I don't know off the top of my head but the items that we were talking about have to do with, is my understanding, is the ability to secure the approvals from the Department of Transportation. The ability to secure the approvals from the Town of Bedford to mitigate some of the conditions that were previously talked about with regard to appearance and screening and everything else, anything that the Board may require as a condition of approval, relative to access at the north entry, whether that is something or nothing at all, it seems as though there's a difference of opinion as to what should be done there. Anything else that the Board considers to be, other approvals may need to be secure, whether they're from the Town of Bedford Wetlands Commission, the State of New York Department of Transportation, the Department of Environmental Protection, the Mount Kisco Zoning Board, whatever they happen to be.

Jan Johannessen stated there would also likely be a condition I would suspect tied to the number of lifts.

Chairman Cosentino stated not to you hold you up Jim, when they say everything has been met, I don't think this Board would have a problem, but let Tony go through his...

Mr. Diamond stated Tony, before you do, I just want to address a couple of the points you have on that list because I want to be clear about something in terms of Ice House Road. It's not that we're saying heck, we

don't care about Ice House Road, if people have to wait, doesn't matter'. You know, we own a lot of buildings, if people have a problem in our buildings we get a lot of phone calls, we don't like a lot phone calls. When people call because they're unhappy about something, they don't stay in our buildings, they end up leaving. If there's not enough parking spaces or something like that. I can honestly say, that in ten years, I don't think we've gotten a single phone call from any tenant saying we have a real problem with ice House Road, our customers can't get out here, not once in 10 years.

Chairman Cosentino stated but that's not issue here, that was never the issue.

Mr. Diamond stated I am just making the point, it's not that we're saying heck we don't care it's a disaster but it doesn't matter, its one our property. We're saying 5 minutes a day, its backed up, its six seconds one way or the other way, no one is calling us to complain, its really not a big deal at all. I also just want to address this issue of Bedford dumping on Mount Kisco...

Chairman Cosentino stated that wasn't in the form of a complaint, it was in the form of it is what it is.

Mr. Diamond stated I really don't think it's the case and in terms of auto dealerships, I want to make the point that we're constructing the Chrysler auto dealership across from Pedigree, next to Russell Skeeters. And that brand new building was approved by Bedford in a matter of months and is now operation, will be operational next month.

Chairman Cosentino stated but there was a dealership there before, Jim, in all fairness.

Mr. Diamond stated but it was empty for 10-15 years but we're talking about here primarily, at least in Mount Kisco, is a Change of Use application and we're not at like 14 months and I'm not saying, look, part of the blame is on us, fine, I just, I think this Board should be aware, you keep saying you don't have a problem with Mercedes and you'd like to see it happen ideally and all of that but at a certain point, things, there's a saying in business that time kills all deals, we're at the time point where time will kill this deal. We are after, we started in 2014, we started a negotiating a lease with these guys in 2013. We are now in 2016, they are out of time, we are out of time, that's why I started tonight by saying if the Board can't get over the delay on 309 and the intersection and all that, you guys should just reject it now because we spend another year here, we will not spend another year here.

Chairman Cosentino stated you won't spend another year here. Do you have any reason, let me rephrase this, is there anybody in this room, staff included, okay, know why this applications taking too long?

Whitney Singleton stated we do not have all the responses yet, relative to SEQRA, they are intended to be submitted by March 1st.

Chairman Cosentino stated is that what's holding up this application? I need hear it because we're being accused of holding up an application.

Whitney Singleton stated Joe that is part of the process of...

Anthony Oliveri stated the discussion has been traffic for a year, my memo is dated I think, December 2014 and those are the comments that are going to be addressed with the March 1st submission, I'm not saying that's your fault, I'm just saying that's been the process.

Mr. Diamond stated I'm not trying to get into a 'he said, she said', you guys are burying the application or anything like that but we should talk about the types of things that we're talking about because we're not talking about a final approval here. So when Jan and Anthony say that there are SEQRA issues outstanding, the types of things that we are talking about is Jan identified one or two light fixtures on the Bedford Certified Preowned site that he thinks should be modified but they could have an environmental impact because its light on 117. We're talking about the setback of the new cars displayed on 117, how far back from the road, our next submission is going to pull them back from five feet to like 12 or something like that. We're talking about, in other words you can quantify those, you can call those things SEQRA issues, you can also call them things that will be done in the Site Plan process as we go through Mount Kisco and Bedford and Bedford is going to have their own comments about what the landscaping should be on 117 and how those new cars are displayed and how the cars are displayed. This is, we're not at like the end of the process, we're asking you guys to sign off, we're at the beginning of the process, just trying to get a neg. dec. so that we can actually start the review process with seven other agencies.

Whitney Singleton stated what I was starting to say before you went on that explanation, was that one of the primary reasons we're here tonight is so that the Planning Board can start to give us some feedback as to what they think, as to the essentially two or three significant items relative to us drafting a conditioned neg. dec. and we're talking about Tony's timeline, we're talking about mitigation for dealerships, Chrysler

next to the car wash, frankly we're sitting over here saying we're not getting to the substantive issues that we need to discuss with the Board.

Jan Johannessen stated we started out with we should be discussing two things, one is the cap and one is the mitigation and adequacy of that and the related impacts. The Board needs to give us the direction as to whether you want us to prepare the neg. dec. when you would like it to be prepared, it's going to be a conditional neg. dec. with those conditions, should look like, if you're okay with the mitigation as proposed, are you okay with modifying the cap so it's an average as opposed to not be an average.

Whitney Singleton stated and do you want it to stay at 450, do you want it to be modified? Do you want to 16 bays, do you want to see 116 bays? Do you want to see two second, do you want that to be the two second mitigation on Ice House Road and to be the condition that has to be satisfied with DOT as a precondition to getting final Site Plan Approval from your Board? Those are the issues that we need feedback on, not discussing you know, while it may be an economic reality for Tony, for your client from a substantive...

Mr. Monteleone stated its more than economic, its practical, we can't go to DOT until you issue a neg. dec., so we're swimming against the tide here.

Chairman Cosentino stated is that what it is?

Mr. Monteleone stated we cannot go to DOT until you issue a neg. dec., not a conditional, a neg. dec. let me go through...

Whitney Singletons stated Tony that is simply not true.

Mr. Monteleone stated they won't accept it.

Whitney Singleton stated once they issue a conditioned neg dec. it will go out to all involved agencies. Have you not been before boards in Bedford already?

Mr. Monteleone stated we've been before them but they will do nothing until you issue the neg. dec, let me go through my timeline.

Whitney Singleton stated they will not act, the only thing that they are precluded from doing it taking action.

Mr. Monteleone stated they can't act, we've been here since October of '14. They won't act until we get a neg. dec. and let me give you a timeline to show you how it can be delayed.

Chairman Cosentino stated before you do that, one second. Whitney, continue what you were saying.

Whitney Singleton stated what I was saying is the only preclusion for any other involved agency from acting is, I'm sorry, they can entertain anything they want and they can do so and they have been doing so to date, these other involved agencies can entertain applications, they simply cannot act until a determination of significance has been made by this Board. Once you make a determination of significance, let's just say it's a conditioned neg. dec., you will send out the conditions and the other involved agencies will have an opportunity to comment on the sufficiency of those conditions and whether or not they suggest anything. It will not preclude the applicant from pursuing other applications, it was just until that 30 day period expired from the time we send out the conditioned neg. dec., until 30 day expiration, that's how long they have before they can act. So what we're talking about is 30 days from the time you issue a conditioned neg. dec.

Mr. Monteleone stated and that adds 60 days to our process.

Jan Johannessen stated can I just interrupt? Before we get into a discussion of whether this should be a conditioned neg. dec. or a neg. dec., I think we should come back to the issues at hand, the cap and the impacts, let's get beyond that. Let's see where the Board stands on that and then we can argue about the timeline and...

Mr. Diamond stated to be clear in our position in terms of the cap, we're not asking for a modification of the cap. We think that the data shows that we will be right there. Now, to back up to the intent of the cap when this was put in place, the wording says, it doesn't actually say like you will not exceed 450, what it says is that you will count the cars, once a year, if you exceed 450 peak trip by more than 10% then you'll come back into this Board in order to discuss mitigation measures that can be implemented. What it really was was a trigger for this Board to be able to take another look at the site and see what could be done

better, which again, with the 17 applications, the Board has had a lot of opportunities to keep looking at the time. The Board, once Mercedes is in place, it's not like we're showing hey the data shows we're going to be 700 trips, we're like right there, we may be below, if we end up being above, then we can at that time discuss mitigation measures which will likely be an improvement to Ice House Road, which is why we don't think that the cap needs to be addressed now.

Whitney Singleton stated Jim, let's just pause on that just so that we're all on the same page. When our traffic consultant is telling this Board is that once Mercedes goes in, you will be in excess of that number each and every day of the week.

Mr. Diamond stated I don't think that's what it shows.

Mr. Bainlardi stated I think that's what it shows.

Mr. Rieman stated that's something that Ralph mentioned and I never saw that.

Mr. Diamond stated I don't think it says that.

Mr. Rieman stated I disagree with that.

Mr. Monteleone stated I disagree with that too, you took it from an earlier report, if you look at his last comments and his last report, he said we will have no traffic increase on 117 and he agreed with our numbers. He agrees with John's conclusion.

Mr. Diamond stated it never passes 495.

Jan Johannessen stated that's because you're averaging. You have to explain to the Board that you're not asking them to exceed the cap, you're asking them to formulate an average.

Mr. Diamond stated that was the other point I was about to get to. The original resolution, I just don't think any of us thought this through when it was drafted, we just didn't think about the details. It doesn't say whether it's a one-time exceedance or it's an average, it doesn't say it either way. It just says if you exceed 450 trips by more than 10%, you'll come into the Board, it doesn't say how those 450 trips is supposed to be calculated. For the last 10 years or 9 years or whatever, we were doing it as a one-time thing and we were not exceeding it, your traffic consultant this entire evaluation process thought that it was an average just because logically and it never made sense to me that we were doing it as a one-time thing, but it was never an issue so I never really thought about too much but because another thing can happen on a, you know on one particular day, it could just be a bad day but I think and I don't think I'm mischaracterizing the conversations...

Jan Johannessen stated no, no.

Mr. Diamond stated I think all the consultants felt that logically, it's very logical for it to be average, it's probably the way it should have been if it's not that way now, by clarifying that we're not necessarily asking for a change because it was not one way or the other, before it was essentially unstated.

Jan Johannessen stated in Maser's original...

Mr. Hertz stated what are you averaging?

Mr. Rieman stated can I, you mind if I talk for a second?

Chairman Cosentino stated can you please answer that question.

Mr. Rieman stated we did a series of machine counts on both driveways to the 333 property, so we have 13-days worth of data for the weekday, so we averaged out and these charts point out there...

Mr. Hertz stated so you're talking about an average for those 9 a.m. hours...

Mr. Rieman stated yes, we actually have it for the 24 hours here.

Mr. Hertz stated the hourly average...

Mr. Rieman stated but if you want to focus on 7 to 8 o'clock in the morning, here is the average of the two week period during the weekday. We're adding Mercedes traffic under the cap, the one hour in question, the peak hour from 9-10 we are under the cap on the average conditions, two weeks' worth of data and if

you add Mercedes, while we touch the 450 zone, we are still under the 10%, the 495. What I wanted to point out to you...

Chairman Cosentino stated guys, can we have one conversation, please.

Mr. Rieman stated what I wanted to point out to you, we're mixing two things up. We have a traffic study which analyzes the operation of Ice House Road and 117 intersection, that by default was done on a peak hour condition, so we picked whatever day it was, a Thursday, February, whatever day, I'm not sure. The cap was a separate thing, we did the cap and in the past Jim, when we've done the cap for you over the last 10 years, we've actually have used machines on both driveways and have done averages, we didn't look at it in a bubble, also looked at the peak and it was always under the 450 et cetera and the one thing I think we're all getting confused on and it's no one's fault, the traffic study is analyzing the operation of 117 and Ice House Road on a single day, peak p.m. hour, peak a.m. hour, peak Saturday hour, with that in our detailed traffic study the a.m., there is no change in level of service overall or on any of the approaches including Ice House Road. Saturday, which is mentioned we think there's a problem every Saturday, every hour, during that peak highest Saturday hour, doesn't change the level of service at Ice House Road the overall intersection, any of the approached, including Ice House Road, it's that one hour in the peak p.m., where our report, the April 11th report shows that during that peak condition that we can exceed the cap but based on a level of service, again we're looking at one peak hour there, that the overall intersection operation is not changing by a couple second delay, of course there's some change but the overall level of service remains the same, 117 remains the same, Park Drive, again we're very conscious of not impacting anybody, you keep on saying Mount Kisco people, unfortunately there's Bedford people 117. We're not impacting Park Drive so during that peak hour that we're forced to analyze from a traffic standpoint operation, we're changing the level of service from that E to F, we're not saying we aren't and then that change in delay was about 6 seconds, to be honest do we really notice two seconds, no but it was something to do to get it on paper to get it back to existing conditions where we can say in the a.m. and Saturday, we're not changing any local service. Again, the cap is a separate issue. We've come in the past for Jim, where we haven't had to do a traffic impact study because the cap when he came for a different use, Grand Prix, et cetera, I think at one time it was the health club, we never exceed the cap or if we did, the cap was increased. To be honest with you, if we came in front of the Board and we knew that the cap didn't exceed the 450 or the 495 more importantly, we would necessarily have done a traffic study, of course we would not have done that but theoretically we wouldn't even have to say because we never exceeded what was...

Mr. Diamond stated one other thing I just want to clarify because we're showing in green here again, this is the existing average, this is why we're not asking for an increase in the cap right now, we're below everywhere, there's one bar here which may be above but I think is and it may be which is why we're saying we don't need to adjust the cap, we can look at it in the future to see two years, three years from now if we really end up right there because we're still in the gap. This is in the important thing that I wanted to mention here, when we put this cap in place with this Board 10 years ago, it was a cap for 333 North Bedford Road, this traffic includes the back of 309, not the front of course, it includes the Simone Building, it includes the Carl Clement Building, we're capturing all the traffic on Ice House Road. Admittedly, the traffic from those three buildings is not dramatic, it may be five, seven, eight trips, ten trips during those peak times and you can see we're talking here at a relatively narrow gap, the only reason we're doing it that way is because there's only, it's just because of where they can put the traffic readers, they have to capture, they capture that traffic otherwise we'd have to have to like have people stand there for 13 days subtracting out those extra cars. Those numbers are in here as well, so the reality is we're a little bit better than this.

Mr. Bainlardi stated we've gone full circle and coming back to what Jan has asked us at the beginning and I just want to restate what I said earlier very briefly. My position is I have no issue with averaging, I think its fine and the other two things are I do not feel on the, from a mitigation standpoint that we have to impose a condition for the reasons I stated earlier, if Counsel or Planner are of the opinion that the two second delay that has to be a condition included in the conditional neg. dec. then I acquiesce to what their position is. Otherwise, I'm okay at this point in time with issuing a neg. dec. for all the reasons that have been presented. I think we're going to be fine and we're going to have conditions in a resolution of approval and we also always have the ability at the end to rescind the neg. dec. and put conditions in.

Chairman Cosentino stated thank you. Jan, I'm going to have to turn to...

Anthony Oliveri stated Mr. Chairman, if I could just, I know it's a question of the averaging and what's being average, I was just looking at some of the data and maybe just to illustrate we take the Saturday peak hour which on average the 10 a.m. hour, they're predicted an average of 491 trips total, with Mercedes. If you look at it individually, and its just two Saturday's that we're looking at, there is a March count and a June in 2015, if you look at it individually at the 10 a.m. hour, the March counts are at 482 in March and if you add the Mercedes vehicles to that, which are 49 vehicles, you get like 531 but if you look at the June Saturday at that hour, its 401 existing and when you add the 49 to that from Mercedes, you get 450. So if

you looked at them individually, you're going to see one spike at 531, whatever it is and another one at 450 and that's why, I think, we as the consultants, an average made sense to look at it. Now for the weekday stuff, you're looking at 5 other days, a total of ten days over those two weeks that they sampled, so it's the same idea except they'll be more individual spikes and some maybe that are a little lower. So it's just a question of do you think, does the Board think the average makes sense, or do you want to look at each individual spike and know how many times its spikes over that two week timeframe.

Chairman Cosentino stated if its over the spike...

Anthony Oliveri stated there was a statement that Seth said it will go over every day, I don't know that that's right.

Mr. Vigliotti stated I can only go by what Seth said, he's the consultant.

Anthony Oliveri stated just looking at the Monday peaks by themselves, I don't think Monday is going to go over if you look at them individually but the other days might.

Chairman Cosentino stated Anthony, my question is this, if its going to go over the spike, does that mean you're going to tell them that they have to do something other to correct that? That's not going to be done.

Whitney Singleton stated can I give you Seth's exact words, since he couldn't be here Joe. What Seth said was if there is a poor level of service that occurs rarely after a special event exceeding the 450 cap would be understandable but to exceed the 450 cap every weekend doesn't seem to be the intention of the original 10% over the cap.

Anthony Oliveri stated well are we going to exceed the 450 cap every weekend?

Mr. Rieman stated no, we won't. I'm not sure where he got that from.

Anthony Oliveri stated if look at the Saturday counts, there was one count, I looked at it, 401 and on that day, if you go to the next hour is 421 and you add the Mercedes numbers, which is something like another 50, so that one would exceed. It seems like Saturday could exceed every time.

Mr. Rieman stated I believe that's not true, if I, off the top of my head, again working with as you mentioned 13-days worth of day data, ten weekdays, two Saturdays, I believe we might go into the 450, and that's the green depicted here based on the average but you can just guess, one would have to be up here and then down here to get an average like this and it's pretty consistent except the one you mentioned. I believe out of the 10 weekdays and the two Saturdays, you might hit the 450 five times and we're not saying that's not true because in our report...

Mr. Mareschi stated would say that the average is between 400 and 450 on Saturdays.

Mr. Rieman stated the average on Saturday is between basically 10 a.m. to 12 p.m., maybe about 430, just on Saturdays. The green here is based on two Saturday averages and you can see, except for here where you're just under the 450, everything else is significantly lower. I don't want to complicate things with the weekday but I think maybe the Saturday is what we should be focusing on.

Mr. Hertz stated if I can help you for a second, I want to also mention Jim's statement earlier which is that we're going to have a significant reduction in truck traffic and that will be shifted to car traffic. I don't know, so I was on the Board but I was not sitting for that time, so I don't know when the 450 cap was put in, what percentage was imagined as car versus truck but I know there's been sort of a radical shift in those percentages at the site over the time, I mean cars make it through intersections at a much more rapid pace than trucks do obviously so, while I commend the accuracy of your prediction figures in the future, I'm not sure on sort of a gut level, almost how relevant this number is, I don't understand at the end of the day, unfortunately, this is recorded, at the end of the day I really don't care what the car counts are, I care what the functionality of the roads are and I think that's what we all do. Does the site work and do the roads work?

Mr. Diamond stated I was going to say something similar because we're getting really stuck on the cap and the fact is that what the traffic report said was that exactly what Ron already said was that the level service wasn't going to change, two seconds is, a six second change, that's really the functional important stuff. The purpose of the cap ten years ago was when this was an empty 600,000 square foot site, and the Board didn't know what was going to end up happening and we honestly didn't know what was going to end up happening to it, the Board wanted some mechanism to be able to say hey, if this ends up being 2,000 trips we want to know about it and come back in and let's talk about what's going on and all that. We're so far past that at this point, that I agree whether we're at 450 or 467, its like it almost doesn't matter, in terms of

the trucks, I'm just guessing because I don't remember exactly but I feel like the assumption at the time was that we had 20% truck trips, at the time we had 38 loading docks when we purchased the building, most of those loading docks have been filled, there's few left, there's one loading dock for Target left, there's Dasko, one for Ideal, there's like five or six for Wine Enthusiast which will not disappear. The way...

Chairman Cosentino stated you know something Jim, the bottom line is this, it reminds me of applications that come before us that say you only can have 50 cars parked in here and on Saturdays you only can have 40, who is going to monitor it? Who is going to monitor this? If there's 30 more cars going into there, that's 30 more going into there, nobody's going to count these, I think there's other areas that can be improved, this is what it is.

Jan Johannessen stated piggy backing on what Doug said...

Chairman Cosentino stated you're not going to do anything else to, there isn't one Planning Board member that's going to go down there and say Jim, you're 30 cars over.

Mr. Vigliotti stated we may be down to, if we assume, the caps and the averaging and all of that has kind of leveled out to some degree, we are down to maybe two conditions or two issues and I would like to present to my fellow Board members and hopefully they can weigh in either way or nay. I'd like to see a full blown engineered application to DOT for a left hand turn lane out of the north entrance, whatever they say is fine with me, personally as one member but I would like to see a full blown engineered application that DOT says follow the 19 points before you apply to have permission or for us to review that left hand turn, I'd like my fellow Board members to weigh in. The other item would be that Ice House Road and the improvement, instead of just saying 3-4 years down the road that perhaps we could see something in writing.

Mr. Monteleone stated Ralph, are you saying that the application to DOT and their answer has to be received before you're going to give approval to this project.

Mr. Vigliotti stated no, not necessarily because that answer could take months but the engineering and the engineered drawings, I just don't want, enough with the phone calls, it's a full blown application that's submitted and it is approved as being correctly submitted for review, I'm fine with that. If it takes them 6 months or a year to give you an answer, that's separate.

Mr. Monteleone stated does the Village want to share in the code of that application? That's going to be tremendous.

Mr. Diamond stated I think putting cost aside, I don't think that's necessarily the relevant point here, if it can be done, we would like to do it. We paid for the whole Ice House Road intersection, it's not like DOT did it or anyone else did it, we paid for it. I have no problem paying for a left hand turn signal out of the north entry way if we can get it. It's not a matter of cost, not at all.

Mr. Vigliotti stated okay, it never crossed my mind, cost, I'm sorry.

Mr. Diamond stated I think the challenge is going to be and I don't think, I don't want to speak for John or for Rob, but I don't think his engineers are going to be willing to sign their name to something, John has told me many times over the last 10 years, that it would be dangerous, that he would not do, I don't understand how we can put him in a position we're asking him to design something he can't do.

Mr. Rieman stated at this time, it's not practical. I agree with that.

Chairman Cosentino stated Ralph, can I rephrase that just a little bit?

Mr. Vigliotti stated absolutely.

Chairman Cosentino stated would you talk to somebody about it and find out if it could be done and get back to us?

Mr. Mareschi stated can we try?

Mr. Diamond stated that's fine.

Mr. Mareschi stated Jim, with all due respect, we like you, we love the project, Tony made a comment earlier today, we're not giving you a hard time or Mercedes a hard time. As one Planning Board member, I've lived in the Town 15 years, we want to improve Mount Kisco to no end, so we're not giving you,

Mercedes, 333, I use 333 myself, so we're not giving you a hard time at all, we're just trying to make it better for everyone. We could try, try to talk to other people, let's just try, if we can but with all due respect, I personally like you, I like the project, I like Mercedes. He made a comment earlier today which I was offended about that we're trying to give you hard time, we're not giving you a hard time. Myself, all of the Planning Board, we'll never give you a hard time, we want to improve Mount Kisco as a team, we're here as a team to make things better for the Town and for the residents. That's all I have to say Jim.

Mr. Monteleone stated I apologize if I offended you.

Mr. Mareschi stated well Tony, you said a comment like that that was out of line.

Chairman Cosentino stated is there anything that...

Jan Johannessen stated I'd like to just finish up on what Doug was mentioning earlier, and just as another idea in regards to the cap. I agree with you, I think the number 450, whether its 450 or 500, if the site works it works, if the intersections work, they work and I think the trigger back to the Planning Board in the future, should be tied to the level of service at those intersection and those approaches, not a number.

Chairman Cosentino stated exactly.

Jan Johannessen stated you know, if you would maybe then the condition then becomes if there is derogation of level of service on any of the approaches, then that would be the trigger back to the Planning Board, you wouldn't have to fixate on a number.

Chairman Cosentino stated in saying that, I want to rephrase this right. Is there any way, knowing what we know right now, what Mr. Vigliotti just said, what I just said, is there any way that there is a conditional neg. dec. or a negative dec. that could come quicker by you people getting all the comments and everything done for them so we can...

Jan Johannessen stated they've agreed to submit all the materials we've asked for by March 1st, we're in a position to prepare the neg. dec with the Board's permission then we can start drafting it, you could see what it looks like and then you can...

Chairman Cosentino stated fine, that's what I want.

Mr. Diamond stated I would just like to propose something which just occurred to me and maybe I'll regret proposing it but I think it's a good idea to demonstrate our long term intent. I'd like to propose that the condition that we're offering and I think it could just be in the neg. dec., or in a final site approval I don't know what but that we put 250,000 in escrow with the Village of Mount Kisco until we align that intersection of Ice House Road with the road across the street, however long that takes and that's motivation for me to go ahead and get it done sooner rather than later.

Chairman Cosentino stated that's a good offer.

Mr. Diamond stated maybe that gives the Board enough confidence that we intend to do it sooner rather than later.

Jan Johannessen stated do you have any opinion on a level service as a threshold to come back to the Planning Board as opposed to a number.

Mr. Rieman stated I think that's a lot tougher to put something down as a trigger mechanism because are you talking about overall service, are you talking about each individual movement, are you talking about a level of service B to a C, if that's a...

Jan Johannessen stated it went from an E to an F on one of the approaches that would be a trigger.

Mr. Rieman stated it depends on what the conditions are.

Whitney singleton stated but then you have an E to an F with six more seconds, eight more seconds...

Mr. Rieman stated that's another great point.

Whitney Singleton stated I that that we're starting to get a little circular here. I'm going to offer a suggestion for the Bard to consider or dismiss as you deem appropriate, a lot of good things have come up here, a lot of things are still unresolved, Jim, I have no qualms with Jim's integrity and commitment and everything else. There's no point in putting 250,000 in escrow unless we can pull that out to physically do

an improvement, there would be no basis for the escrow. I think what we should do is have Jan and I work to do exactly what he said, work on, prepare something, get the information from Pete to be submitted by no later than the first of March and have a draft to your Board of something to consider, even if there are blanks to be filled in...

Jan Johannessen stated or there might be conditions that we talked about tonight that you're going to end up removing but to have something in front of you where you can say I like condition one, condition two can come out, you should modify it this way and start having something on paper in front of us that will help us come to...

Mr. Catizone stated do we think that's doable, let's say the 8th, so we can...

Mr. Monteleone stated let me go through the timeline. If this Board tells the Board to draft a negative declaration, then on the 8th, we're back before your Board and you review that draft, can you prepare a resolution for approval or disapproval. Then on the 22nd we come back before and assuming that the neg. dec. is acceptable, you adopt a neg. dec and you advise the Bedford Planning Board and the Wetlands Commission in Bedford, so we can go to the Bedford Planning Board on the 29th and they will accept the neg. dec. and they'll look at the entire site plan, right now all their looking at is our application for the certified preowned, we have a meeting for the Wetlands Committee in Bedford on 4/4 and they can take action, if you do a conditional, it's not going to happen by then, we're not going to be able to go before them.

Whitney Singleton stated Tony, it's not going to be anything but a conditional, you can give me all of your timelines for whatever you want, it's not going to change it.

Mr. Monteleone stated so then we're 60 days to 90 days behind.

Whitney Singleton stated that's quite frankly of no consequence to me.

Mr. Monteleone stated well it does have consequence, it may not to you but it has consequence. And I think that this Board has the discretion to do either one.

Mr. Diamond stated its still not clear to me, why, as far as I can tell because we've now addressed the cap and the average, as far as I can tell, the only difference between the conditional and the straight neg. dec. is that seconds getting readjusted from 309 to Ice House Road, that's what we're talking about here...

Mr. Vigliotti stated that's assuming that we accept that as the full mitigation for the site, the two seconds. I don't know where the Board members are weighing in, but I think at some point we either vote we're going to accept that and move on or not. We're kind of going around, I'd like to take one item at a time and just move on it, I think that's what you want. If we're going to talk about the trip counts, either we accept and vote on it and move on, if we're going to talk about the north entrance, doing a full blown, either vote on it yay or nay and move on. If we're going to talk about accepting escrow and I agree with our attorney which is what's the purpose, you know, of holding money, if they're not going to move on it. If we're going to accept the two second mitigation as the full blown mitigation for the site, yay or nay, let's move on, done. So anyone of us can present any one of those items and put it in the form of a motion or not and get some information from Staff and vote on it because you know what, as we're going on and on, you want to know what you need to do to move this project forward. For me as one person, if I were to take anything it would be how do you use the north entrance to mitigate the traffic for 333, with an actuated left hand light similar to what you have at 309 to make the left. That would be my only piece right now and everything else for me, will work and I believe you Jim that at some point in time you will align and whether its 3 years or 5 years, it will be aligned but during that time period, we're going to have some difficulties. So we should take one item at time, otherwise we're going to be just sitting here going round and round and round and I'm trying to help this along. See Jim, I am trying.

Mr. Hertz stated so Ralph, on yours that wouldn't be a conditioned neg. dec., right because that's something they're going to look at, we're not going to wait until that's resolved.

Mr. Vigliotti stated no but I would propose that it's not just looking at it but that you truly sit down with your staff and if you have to bring consultants that have done this across this country, this has been done before, guys.

Mr. Rieman stated that would be John, by the way.

Mr. Vigliotti stated this has been done across this country, what I'm proposing for the north entrance, its been designed, its been engineered, whether it will be approved by DOT, I'm okay whatever they come up with but once and for all, I'd like to see it fully designed and engineered to work, DOT may say no, you've

got Ice House Road, that's working, you're going to do an improvement there, we don't need to do that but at least we have something on record for years to come that's in place. I can put that in the form of a motion, we don't have a full Board here but if you'd rather wait, we can wait, we can wait until John comes back, whatever this Board would like to do, I'm okay but I think on the three items we've been talking about for the last hour and a half or fourteen months, as Bedford has been working with you probably for almost the same amount of time. Let's just do this, I guess, otherwise we're just spinning our wheels, another night, another month...

Mr. Diamond stated I just want to let, two things, I want to let the Board know, so you have a little more background which you don't have because much of this stuff happens outside of you view. Since they're not here, I'll just tell you about my discussions with the Skriloffs over the last 10 years, I'm not going to go back the whole time how many times we've spoken which are several dozen. But within the last year we made a proposal to them, we own the land in between Sleepy's, we own that driveway that leads to the one in back. I offered to, they expressed some interest in remodifying their building because they recognize that it doesn't work, the north side is not good. He asked us about parking on our driveway, I offered to give him that land in exchange for his land, not his whole property but the portion of the property, the Bible store and contribute some dollars to reconfigure things and all that. I spent money with an architect, I did a layout, I mean I can even show you guys the layout, we don't just sit back, that's why we bought those other three buildings, we actively try to solve problems, I spend, I hired an architect, I did drawings. They decided they don't like it, I'm hoping at some point we're able to work that one out even if we aligned Ice House Road, if we also have the north exit great, if we also have Easement 1 at some point, great, we can only make it better, its terrific. Enrico, to your point before which I really want to address, my frustration is not and I'm really getting on a soapbox here, and I apologize for that in advance but my frustration is not that you guys like intentionally are trying to drive us crazy or anything. The frustration is about the process and the way its designed and the submission deadlines and the different agencies, its not limited to Mount Kisco, as we talked about as you guys have the EAF, we have about either different agencies we have to go to, you guys are the gatekeeper. Until we have the neg. dec. we're limited, Whitney's not wrong, we can still talk to the Bedford Planning Board, they don't want to give us any comments right now, we're trying to move that along but really until you guys start the process, we can't. The frustration is about the process itself, how long it takes. It is an existing building 333, its been there for 50-someodd years, does it really make sense that for a Change of Use and I know we're doing new construction of 7,000 feet or whatever in Bedford but does it really make sense to put a dealership in an existing building, where we're not adding or taking anything away, something we started in 2014, we're in 2016. This is what's wrong with New York and when I see those commercials on T.V. about the Governor making New York better for business, I'm like well we have a business person who wants to spend a lot money building a business and here we are a year and a half later and we're still months away, so that's the frustration. Practically, here we are talking about a specific issue, the difference between a conditional neg. dec. and a neg. dec, which seems extremely minor in terms of this two seconds one way or the other to me but the practical effect that we're talking about, here we are February 25th, you guys aren't talking about issuing this until the end of March, a 30-day waiting period after that is the end of the April, then we start getting in meetings, we're in May, right before the other agencies are really in a position to do anything, you see how time in this process disappears in gaps of weeks and months and that may not matter to Whitney but it matters to us. It matters to them, they're trying to run a business...

Mr. Monteleone stated because we have Mercedes USA on our back.

Mr. Diamond stated so to just say 60 days doesn't matter one way or the other, I understand it doesn't matter, if you guys have an obligation to protect Mount Kisco, so I'm not saying anyone, I don't object to a thorough environmental review of this project or any project but sometimes the process gets in the way of what makes sense and everyone can see this project makes sense, we just can't seem to get out of our own way to get it done and that's the frustration. Do we really need a conditional neg. dec, when we can't quite quantify exactly why we need it, maybe Whitney can but its escaping me, we're talking about minutia and with that I get off my soapbox.

Chairman Cosentino stated in a way, I have to rely on Staff and what can I say, it is what is right now.

Mr. Hertz stated let's talk about that, Whitney?

Whitney Singleton stated we've discussed this with Jim's counsel, Jan and myself and it has been vetted over the last two months and its coming up tonight. There is nothing wrong with you issuing a conditioned neg. dec., it means that if they don't satisfy certain conditions, you can make a determination that there are significant impacts and you don't go forward with the project. I wholeheartedly disagree with Tony's assessment, that you can do the same thing with a neg. nec. Because that information that he's talking about has to have been previously unavailable to you at the time you made your determination, we know what that information is.

Mr. Monteleone stated that information will be in your hands prior to the Board adopting the neg. dec.

Mr. Diamond stated no, Whitney's talking about 309. So let's identify what those conditions are.

Whitney Singleton stated that's what we were hoping to do two hours ago.

Mr. Diamond stated I think we're trying what's, other than 309, those two seconds, what else is there?

Whitney Singleton stated I think that the things that we talked about were the issues relative to DOT's approval of the intersection changes. Ralph has raised an issue and I'm not saying it will or will not be there as to whether or not certain things should be done at the north entrance, the number of bays, the trip levels, are we going to...

Mr. Diamond stated number of bays, what would be the condition there.

Whitney Singleton stated the Board has not given us direction, whether its 16 or 27 or some number in between there.

Mr. Diamond stated so let's try to resolve that one right now, because we can't do any, I mean we've had this conversation.

Whitney Singleton stated I know you made a representation that you can't do the project with 16 bays.

Mr. Diamond stated and what the traffic engineer said and if I get this wrong, Jan please correct me. What Seth said was that 16 bays means there's exactly no difference between Mercedes and Wine Enthusiast, 27 bays is what leads us to the six seconds and we can address it with the two seconds from Subway. So that's difference between 16 and 27.

Whitney Singleton stated and he said that you would in excess of the limit each and every day of the week. He said that today and the Board has not reviewed the memo yet, it came today.

Mr. Diamond stated new memos today, great.

Whitney Singleton stated we asked that he be here, he was not able to be here.

Mr. Diamond stated he sent a memo today saying that with 16 bays we'll exceed it every day of the week.

Whitney Singleton stated I read you what he said.

Mr. Monteleone stated but all along we've been saying 27 bays, that's unequivocal, there is no discussion, 16 bays we're walking away, we can't do it, Mercedes won't approve it, that's it and Tony is here to tell you, 27 bays is what we talked and I'm exasperated and I don't think, I think that your Board accepted the fact that 27 bays is what all the traffic studies were done on.

Mr. Assilone stated with all due respect, everything that has been said tonight, if you're thinking of lowering the number from 27, let's not talk anymore because we're wasting time. We're already lower the number from 36 that Mercedes Benz is demanding, so I think we're playing games now and unless you're willing to consider above 27, then let's not consider anything because 27 is the minimum. I didn't want to speak tonight but I need it for the record that unless we get the 27, there is no sense in reviewing anything else.

Mr. Monteleone stated this suddenly came up out of nowhere.

Jan Johannessen stated all we're identifying is that the 27 bays or some number of bays is going to be a condition,. It may be 27, the Board just has to identify the number of bays which it hasn't formally done.

Whitney Singleton stated and this has been discussed, Tony, the only one that said 27 is the number was you.

Mr. Monteleone stated the studies that John Collins did were all based on 27, at your request, twice.

Whitney Singleton stated right and what Seth has said and what John has acknowledge, is that once you go above 16, there is an adverse impact on the traffic on the level of service.

Mr. Monteleone stated that's phrasing it your way, that's not exactly the way that John phrased.

Mr. Diamond stated 16 is identical, 27 is the six seconds, no one is disputing that.

Jan Johannessen stated and the two seconds brings you back to the existing.

Mr. Diamond stated we're all in agreement there.

Jan Johannessen stated it's the same level of service but there's still that six seconds.

Mr. Rieman stated except on Saturday's.

Mr. Diamond stated and for context, Anthony correct me if I'm wrong, Estate Motors Goldens Bridge, you have 16 lifts, that building is 45,000 feet?

Mr. Assilone stated its 20,000 on the service end. Overall its 33,000.

Mr. Diamond stated so they have 16 lifts there, they're proposing to go to 113,000 square feet here with a major investment in order to improve their business.

Mr. Assilone stated plus an additional seven.

Mr. Diamond stated they're clearly not moving to have the same number of lifts that they already have in Goldens Bridge.

Mr. Assilone stated and as a businessman, I can tell you that going through this process, it indicates to me and with all due respect you said that you represent all of the people in Town...

Mr. Vigliotti stated no, I don't think...

Mr. Assilone stated we intend to be the people in Town, so I think its incumbent upon the Board to make it as easy as possible for the people that are coming into Town, which is us, a major tax payer and a major job creator, good jobs. So to start talking about two seconds and wanting to cut the bays, you should be looking to increase the bays, if we need 35 bays, you should be glad because we're bringing more business in Town. That is all I have to say, thank you.

Mr. Diamond stated so I think the studies are the studies, they should exactly that, the Board does have to decide, is it okay with the six seconds additional on Ice House Road to go with 27 bays.

Jan Johannessen stated that's the question.

Mr. Diamond stated that's the decision and that's not a condition, that is our application.

Mr. Hertz stated I don't think there's a discussion about the number of bays, the only time the 16 came up was when he was trying to do a comp for traffic, right, here's what you got out of the other site, that's where that number came from, we're all aware of that. So let's get back to the question at hand which is what would be the condition, if it's a conditional neg. dec, what would be in the conditions that we're looking at, it's the 16, so the number of bays is not up for discussion, it's just what the traffic impacts are for the allocation at hand.

Jan Johannessen stated well I think the number of bays would be in the neg. dec. it just may be 27. I think you're basing your determination on the certain number of bays.

Mr. Hertz stated correct.

Anthony Oliveri stated tied to the mitigation of two seconds.

Mr. Hertz stated understood.

Mr. Diamond stated but I don't think it makes it, and this stuff escapes me but I don't think that makes it a condition.

Jan Johannessen stated that is your proposal, I understand that.

Mr. Diamond stated it could be a neg. dec., that doesn't make it have to be a conditional neg. dec.

Jan Johannessen stated it sounds to me like, from my perspective anyway, the major condition that's forcing this into a conditional neg. dec. is the two seconds and if that is part of your proposal is...

Mr. Diamond stated right, we're proposing it, Whitney's only point is that its, I think the point is that it's a material issue, its not an insignificant issue. But we're proposing it and we own both properties...

Jan Johannessen stated and if it doesn't fruition, then the neg. dec. is...

Mr. Monteleone stated then you can rescind it or amend it.

Chairman Cosentino stated I'm getting people poking me over here, you guys you're whispering things to me that you want a neg. dec., do you want a neg. dec. or do you want a conditional neg. dec.? Tell these guys now, don't keep poking me.

Mr. Bainlardi stated for what its worth I think it's a neg. dec. I think that the two seconds, to me I don't think it's a significant impact, so once I'm there in my mind...

Whitney Singleton stated that's not the condition though, the condition is not the two seconds.

Mr. Bainlardi stated I understand what the condition is but first, in order for there to be a condition, you're recognizing that the impact is significant. Do we as a Board, are we within our rights with this under the law, are we within our rights to determine that that impact is not significant?

Whitney Singleton stated this is something, they're changing their application on the fly right now.

Mr. Diamond stated no we're not.

Whitney Singleton stated your now saying that this is now a part of your application, that you're putting this on the table. I haven't researched that. I have gone out of my way to speak to your attorney, we resolved on a conditioned neg. dec. today, so now you're changing what's already...

Mr. Diamond stated I saw the e-mail from Neil to you, he's arguing for a neg. dec., he was not...

Whitney Singleton stated and we followed up with a discussion.

Mr. Diamond stated you may have told him that there's no choice but it's not...

Whitney Singleton stated I told him what the law is and he said fine, I just want to move forward with an ultimate determination and we talked about the submissions that have yet to be made. The issue that Jan raised with me, you haven't even made all of your SEQRA submissions, how are they going to issue a neg. dec, any type of neg. dec without your SEQRA submissions being complete?

Mr. Monteleone stated because they'll be in before the Board adopts and the rest of the Staff is working with our staff.

Mr. Diamond stated we're talking about a light fixture, we're talking about landscaping, we're talking about things...

Jan Johannessen stated those are not significant issues, I never said that they were. The two main issues that we've been discussing are the cap and the traffic related impacts and mitigation and if the Board can get to some sort of conclusion tonight on those two items I am in full support of moving forward with the neg. decc.

Mr. Diamond stated it really comes down to and I think the Board has indicated the cap is not the concern, I think it comes down to these two seconds is the difference between a neg. dec. and a conditional neg. dec.

Mr. Hertz stated Jim, I would concur with that. So let's just resolve one thing because we were talking about, I think what everyone's concern is the functionality of all the intersections and all the roads and that's ultimately what it gets down to, that's why we're doing traffic counts, that's why we're doing analyses of intersections. You had a concern about using the level of service a measure, can you suggest an alternative?

Mr. Rieman stated well I mean, I still think maybe the cap is the best way, its worked for 10 plus years, again our numbers were pretty accurate. The problem I have with the level of service is what are you guys going to deem an impact, a B to a C, that's not really an impact but on paper you can say tis an impact. I think Whitney pointed something out that was great, was that you go from and E to an F, on paper that looks like an impact but that change in delay was only 6 seconds, within that level of service B, if it

remained a B to a B, you could theoretically change that level of service by 10 seconds, that's more of an impact than may an E to an F.

Mr. Hertz stated so you're arguing to keep the counts...

Jan Johannessen stated but with the average, my point of view, the average does make sense, if you're going to keep at the cap, I would suggest an average.

Mr. Rieman stated again, it was trigger mechanism to say are we approaching the cap, are we above the cap, let's do an analysis of the intersections and see how that operates.

Mr. Hertz stated I would argue that that's not that relevant a measure because if you have two working entrances, the number of cars in and out, you know might be fine if the rest of the roadways can handle that, it doesn't matter. If the intersections begin to fail and your site begins to be unwieldy, that's what we're trying to avoid.

Mr. Rieman stated okay, we're not talking about, if you decided to raise the cap, we were talking about raising it from 450 to 500, we weren't talking about raising it to 600.

Mr. Hertz stated I understand, I'm trying to get away from complexity, not add to it.

Mr. Rieman stated I can make it easy from a traffic engineering standpoint, and even I know you're referencing some other comments from Seth, which I definitely don't agree with but just from a level of service standpoint from the intersection. We both agree, we've done a lot of analysis together modifying the model but basically in his, the one memo we do have, based on review of the traffic study, he basically said that we don't have any impact a.m. and Saturday from a level of service standpoint and the operation of Ice House Road that there is a slight, maybe he didn't say the word slight, sorry, that there is an impact from E to an F at six seconds on the weekday, if you guys want to look at correcting that or improving that, one option was, he agreed with that, two seconds could make that go away. He's not saying that you need to do the two seconds, that's your opinion if, is there a difference between 6 seconds plus or minus or not, again I want to reiterate, I want to elaborate further. Our analysis is based on a one hour peak condition which if you look at the two weeks worth of data, it the highest hour. If we ran that with an average number, we wouldn't be talking about level of service.

Mr. Diamond stated so back to John's point, if the six seconds, if this Board feels that the six seconds is not a significant environmental impact, I think your probably right that it doesn't, the project doesn't is not contingent upon whether or not we're able to make those six seconds go away by getting two seconds from DOT, even though we do plan to go to DOT and get those two seconds. But the six seconds we would argue is largely irrelevant.

Anthony Oliveri stated does it make sense to draft the neg. dec., have Jan and Whitney draft possible conditions that could then be voted on individually and maybe they'll end up with no conditions with the two second mitigation, the improvements planned to the north entrance, they could all be conditions but they could come off...

Mr. Monteleone stated draft it as a conditional but it could resolve into a neg. dec. after review.

Anthony Oliveri stated and then it could end up being a straight neg. dec.

Mr. hertz stated that's a good suggestion.

Chairman Cosentino stated I think that's a good suggestion.

Mr. Monteleone stated as long as there's an understanding that those conditions aren't locked in stone, they're subject to further discussion.

Chairman Cosentino stated they're not, make a motion on this.

Mr. Hertz stated Mr. Chairman, I make a motion that we ask Counsel draft or Jan to draft a neg. dec./possibly conditioned neg. dec. and to identify, from what it sounds like the two conditions that we've talked about and anything else that you see as a condition, we'll vote on whether or not they are actual conditions with the hope that we arrive at either a neg. dec. or a conditioned neg. dec. at the next meeting.

Mr. Mareschi stated Chairman, I'll second that.

Chairman Cosentino stated on the question, will the Secretary poll the Board please.

UPON ROLL CALL VOTE:

| | | |
|---------------------------|---|------------|
| Mr. Hertz | - | aye |
| Mr. Mareschi | - | aye |
| Mr. Bainlardi | - | aye |
| Mr. Vigliotti | - | aye |
| Mr. Bonforte | - | aye |
| Chairman Cosentino | - | aye |

The motion carried by a vote of 5 to 0.

Mr. Monteleone stated thank you gentlemen, thank you for your patience and apologize for any exasperation we may have shown.

Mr. Catizone stated now working backwards from the 22nd, do we think that the resolution may be in a draft form by the 8th...

Chairman Cosentino stated work with Jan.

Jan Johannessen stated if its not available for the Planning Board at the 8th, we'll be in touch with your team.

Mr. Catizone stated thanks for the dialogue.

Chairman Cosentino stated we want to take a five minute break.

Five minute break ensues.

Chairman Cosentino stated okay, back to the meeting.

Side conversations, inaudible.

Task Force Document Discussion

Chairman Cosentino stated let's start this, so I can go over this. Maybe we can put chairs so we can face one another.

Mr. Mareschi stated these are Tony Sturniolo's comment, he couldn't be here tonight, he's sick.

Chairman Cosentino stated everybody, give me your attention for a minute. This is a draft on the proposal for discussion on the Task Force. The Village Board is going to get this, I think Ralph and I are going to attend it but I felt you guys should know what's going on before anything happens to this. In front of you, you also have Tony Sturniolo's comments, he sick and he sent these. Okay, on the draft where you have the draft, its dated February 17, 2016, its says Task Force Draft Proposals for discussion, develop and maintain join vision for the Village. Let's go the first one, review, these are the changes that the Task Force, consisting of Peter Grunthal who headed it, Tony Markus, Rob, the new Building Inspector Peter, myself, Whitney, these are the things that I guess came up, I didn't give my opinion on any of them. The first one is review and review Village Code, its reduce Planning Board members to five and two alternates and you'd only need a quorum of three. What they want to do is no longer seven members but reduce it to five members and there would be alternates of two.

Mr. Bonforte stated what's a quorum now?

Whitney Singleton stated four.

Chairman Cosentino stated so I ask you, in doing so, how do you feel about reducing it to 5 members and 2 alternates.

Mr. Bonforte stated I'll jump in there, I don't think its practical, I've already seen not only myself, not able to make, I intend to make every meeting but I am not always able to, so its not fair to any applicant if we don't have a quorum and I understand that three is lower than 4 but I feel like its still not fair to reduce the total number and therefore even the other numbers because we could be in danger of not having a quorum.

Mr. Hertz stated well what they're essentially doing is saying we're going to have a seven member Board with a three member quorum, right, by calling five official and two alternates, you get seven members with a three member quorum.

Mr. Bonforte stated so then the quorum is really the key figure.

Mr. Bainlardi stated you need three yes votes to pass anything and under our current situation you need four.

Mr. Hertz stated you know, I think is going to be hard to get two alternates, I mean it's a thankless enough job to sit here and then not do anything, so I don't know, just functionally, I don't know if it works. Whitney, you're shaking your head.

Whitney Singleton stated we have an alternate on the ZBA, there's no point in that person showing up. Those applications only go one meeting. If your alternate, this is your guys' determination but if you're going to be an alternate, you're going to have to come meeting, after meeting, after meeting, perhaps for years on some of these applications to be able to have the possibility of somebody not showing up to vote, so then you can vote.

Mr. Bainlardi stated I've been before boards that are composed of five I've been before boards that are composed of seven, they both have their pros and cons, I think the bigger issue in the immediate, how are they going to do this, its currently seven members, are they going to...

Chairman Cosentino stated they're going to get rid of Ralph and Enrico, their terms are up, they're up for appointments and Tony...

Whitney Singleton stated that's not what the current situation is because we don't have seven members now, currently John's an alternate.

Mr. Bainlardi stated so if there are seven members that want to be members of the Board, I guess I would not be in favor of jettison two members who are on the Board and want to be on the Board but...

Chairman Cosentino stated the other thing is this, traditionally, a Town has five members, a Village has seven members, am I correct in saying that Whitney?

Whitney Singleton stated that is what is traditionally done. But the law allows a village to go to five, if it so desires, those are the only two numbers you can have.

Chairman Cosentino stated so John, you feel you want to keep it seven.

Mr. Bainlardi stated listen, if there were two members who are on the Board currently when we're down to five, then to me it's probably six of one half dozen of the other but I agree with Mike, I think it just might be easier to get to a quorum when you have a seven member board than a five. I think a five member board, you need to make sure you have some dedicated people. Not that anyone here is not dedicated but we all have lives and stuff comes up but we all try to make this a priority.

Mr. Vigliotti stated I have Tony Sturniolo's comments here, he says leave it at seven, I've been known to keep very things very simple in my conversations and I would say keep it at seven.

Mr. Mareschi stated Chairman, I agree with the same thing, keep it at seven.

Chairman Cosentino stated okay, so we all agree that we should all keep it...

Mr. Hertz stated I think its going to be very difficult to get two alternates who are going to sit, I mean and you can't just jump into these things, you have to be at all the meetings.

Chairman Cosentino stated so the consensus is that the Planning Board unanimously wants to keep it seven members.

Mr. Mareschi stated agreed.

Chairman Cosentino stated also, they want to continue, we usually have one meeting in July and one meeting in August, they want it that we should have two meetings in July and two meetings in August. I disagree with that, I think everybody is entitled to extended vacation if they want. Even the Village Board has vacations.

Mr. Vigliotti stated doesn't the Village Board only meet once in July and once in August, Whitney would know, is that correct?

Whitney Singleton stated I believe so.

Mr. Vigliotti stated push on a volunteer Board...

Whitney Singleton stated can I comment on that? This is something that came up at the Task Force discussions, there's two things operating here that have some bearing that are left out of these comments. I don't know if it was a recommendation of the Board that is go to two meetings a month, each and every month, I think what was said at the meeting was that there has been, that when you have it once per month in the summer months, care should be taken that you don't have one on July 1st and August 31st, that's took long a hiatus, that they should be put closer together and depending on what the particular demands are at the time, the Board has been known to call special meetings. Those were what the discussion items were at the Task Force. This is something that is being proposed and I don't know [inaudible].

Chairman Cosentino stated for all the years that I've been on, it was one meeting in July, one meeting in August and I think the Planning Board members are entitled to take an extended vacation.

Mr. Mareschi stated yes, I agree with that, Chairman.

Mr. Vigliotti stated I think Tony Sturniolo puts it perfect, the Chair should direct and establish the meetings.

Chairman Cosentino stated and I feel that July and August should stay the way it's been for the last 40 years.

Mr. Hertz stated I'd like just one meeting a month throughout the whole year.

Whitney Singleton stated and the practice also, not only is that part of your rules and procedures, but the practice of your Board has to consider each of those meetings in July and August to be both a regular and work session, so anything can be conducted at those meetings.

Mr. Bainlardi stated and do you want to just acknowledge that the Board of course, given that the work load that may be present during the summer and given the willingness of enough members to attend a special meeting, you always have that flexibility to add.

Chairman Cosentino stated have a new Task Force review the Village Code, especially for Change of Use and procedures of the Planning Board and Architectural Review Board, including when Change of Use maybe significantly addressed by the Building Department without Planning Board review. In particular, review of site plan requirements to simplify where there are Change of Use or minor variations proposed for the site. Whitney, you want to translate that?

Whitney Singleton stated it used to be decades and decades ago, that you could change from one use to another, so long as there wasn't an increase in the parking requirement. That proved to be insufficient as what was happening is stores were carving themselves front entrances and back entrance, deliveries were coming through the front door instead of the rear door, stockrooms were becoming retail space, people were being left to their own devices. So what we did was, I asked to draft a new section 110-38 to say that in the event that there was a Change of Use from one permitted use to another permitted use, that under certain conditions the determination could be made, a recommendation could be made by the Building Inspector to authorize it without the need to go to the Planning Board, so long as the Planning Board Chairman so authorized it and provided your Board with written confirmation of what was authorized. The reason for that was it was originally designed and drafted so the Building Inspector could make the decision and while I don't wish to speak ill of the dead, the Village Board said absolutely not, we're not entrusting Austin to do, he'll give the store. So instead of the Building Inspector making the decision, the Village Board specifically said we want oversight, we want the Village Attorney to approve it, we want the engineer and I said I'm not getting involved in approving or putting the kibosh on determinations of the Building Inspector. So they said, okay, then have the Planning Board Chairman be the person. And that's the way it currently reads, so when somebody comes in and says I want to do X to the site, I want occupy the site, there's no increase in traffic or deliveries, there's not pedestrian safety issues, there's not major alterations, the Building Inspector says, okay, this sounds reasonable, let me double check with the Chairman, if the Chairman authorizes it then a memo is supposed to be created, it's supposed to be put in your package, acknowledging to you what has been done and a notation is to be made in the Building Department file. I don't see anything wrong with that, apparently the Task Force would like that have power rest solely with the Building Inspector.

Chairman Cosentino stated so they're eliminating the Chairman...

Whitney Singleton stated and I don't have a problem with the Building Inspector doing that either, it's just this is completely contrary to what I was told to draft 8 years ago.

Chairman Cosentino stated so leave that the way it is, then.

Whitney Singleton stated it's up to you guys, you're making the recommendations.

Chairman Cosentino stated well do you want the Chairman to be involved like it is now or do you want to change it. Right now it's the Building Inspector and myself.

Jan Johannessen stated it keeps the Planning Board in the loop a little bit by having you be a part of it. And it becomes part of the Planning Board packet, at least you're aware of what's going on.

Chairman Cosentino stated well I was reporting back to the Planning Board what was happening.

Jan Johannessen stated I think it works very well the way it's drafted in the law now. I don't think, it has been historically used, if it goes the way it's supposed to go as written in the law...

Anthony Oliveri stated I don't see why it's a problem.

Mr. Bainlardi stated I think two things have to happen for it not to be a problem, the Building Inspector has to have confidence to take a position in the first place that something should not come, right?

Whitney Singleton stated yes.

Mr. Bainlardi stated and if that Building Inspector is not comfortable in saying listen I don't want to usurp what the Planning Board has to say, I don't think this is a big deal so what ends up happening in the first instance is they may just never avail themselves of the possibility of not sending it here because if you're the Building Inspector, why would you do it?

Jan Johannessen stated it happens all the time and we use it all the time.

Mr. Bainlardi stated I don't know Joe, how often this has come to you and have there been times where you've said no, just let them go or does everything end up coming...

Anthony Oliveri stated it's not that subjective, I don't think. It's pretty clear in the Code; it's about intensity to park, it's about changing entrances of buildings...

Jan Johannessen stated there have been numerous Change of Use permits that have been handled administratively.

Chairman Cosentino stated yeah we would together pretty close.

Mr. Mareschi stated I'd leave it the same.

Jan Johannessen stated having the Planning Board Chairman involved creates a check and balance.

Mr. Bainlardi stated you know, I hope there are things that we say to the Building Inspector, knock yourself out, we don't need to be wasting time.

Jan Johannessen stated I think the other part of this comment here, is perhaps there should be a similar provision for site plan amendments. Some guy wants to change out his light fixtures, why should, maybe there should be an expedited, administrative...

Chairman Cosentino stated alright, so you want to keep it the way it is.

Jan Johannessen stated but perhaps the Planning Board wants to make some sort of recommendation on waiver of site plan.

Whitney Singleton stated which we already did, that's a good point but we already did that in the committee and its not in here.

Mr. Vigliotti stated Whitney, you're keeping a record of all this.

Whitney Singleton stated yes. Thanks for reminding me.

Chairman Cosentino stated alright the next one is Village records, the Village Manager and the Building Inspector should be given authority and funding to confirm and give the Building Department records, that's good. Assessment records, skip that's internal. Instructions for applicants, under the, provide instructions and checklists for common applications at the Building Department and the website, also set forth any changes and procedure, as a result in these recommendations on any further changes, include one or more, I don't, flow chart, due process under different, I see no problems with that myself, I don't know if somebody else does.

Mr. Hertz stated I think those are good recommendation, basically just make the process easier to understand for the average Joe.

Chairman Cosentino stated pre-submission meetings, applicants shall be required to meet with Village Staff as determined by the Building Inspector and equally to ensure that each application is complete and applicants are fairly prepared prior to their first appearance before the Planning Board. Note, informal discussions between the applicants and Building Department Staff, have been held for many years during which Staff has advised applicant of approval requirements, the pre-submission meetings will be with the applicant and notes will be taken, there's actually nothing wrong with that, anybody else...

Jan Johannessen stated that's kind of happening now.

Mr. Bainlardi stated what's good about that too is that when it comes time, when an applicant comes before you and says you've been holding us up, you have the hammer to now say, guys we told you how to do this, it was clear...

Chairman Cosentino stated okay, conceptual review, give applicants an option to waive a conceptual review, guidelines for conceptual review, based on the pre-submission meeting may include requirements for, well they list four of them here.

Jan Johannessen stated I think the current law allows the Planning Board or Chair to waive conceptual, correct?

Chairman Cosentino stated yes.

Jan Johannessen stated so there is a waiver provision, it's not up to the applicant, it's up to the Board.

Whitney Singleton stated yeah, I mean it doesn't require rocket science, the whole concept of this was to make sure the applicants were getting candid feedback from Planning Board members before they spend oodles of money on professional engineering and architectural plans and then they come in complain like they did tonight, oh you want to pay for that study? Is the Village going to pay for that study? You don't want to get into a situation where you required somebody to do something and then requirement to do something else and make changes and its expensive, that's why you give them the candid feedback up front, so...

Mr. Hertz stated right but I think its fine, if someone wants to waive their conceptual review, I have issue with it, as long as its made clear to them,. If they're having a meeting with consultants beforehand, with consultants and staff upfront, that risk should be made clear to them, you can come in for no money and discuss the project at a very conceptual level or if you know you're going forward with this project come hell or high water.

Anthony Oliveri stated if they want to come with fully engineered plans.

Whitney Singleton stated I agree with you Doug but invariably what they do, is they say, just like they come in here and say the Architectural Review Board told us this, we were told this by the Building Department, they're going to say that they were told everything that they prepared was okay by the Building Department, otherwise it wouldn't have been put on your agenda. And then you're going to be defending staff.

Mr. Hertz stated well is it staff or staff plus consultants?

Whitney Singleton stated it depends, the people that are reviewing this are to be determined by the Building Inspector and Jan, so Anthony and I may not be invited to meetings. And your Board and the Chairman are prohibited from meetings under this proposal.

Mr. Hertz stated I still think, I understand there is risk to us, if someone wants to waive their conceptual review, so long as those rights, if you want to waive your Miranda rights, you know...

Mr. Bainlardi stated if there is a clear explanation saying the purpose of the conceptual review application is as follows, you're free to waive it but you proceed at your own risk.

Mr. Hertz stated right and we need to get a signoff, maybe we want a waiver, sign this waiver if you're waiving conceptual review.

Anthony Oliveri stated put it on the application, a check box, knowingly waiving conceptual review...

Whitney Singleton stated realize you will have no more conceptual reviews...

Jan Johannessen stated I don't know, I think a lot of applicants will want the candid feedback at a minimal cost.

Anthony Oliveri stated the pre-submission conference, I think staff would advise them they should go in with a conceptual, if it's an iffy kind of situation.

Mr. Bainlardi stated can you remind me how you get out conceptual under our Code?

Jan Johannessen stated Whitney, correct me if I'm wrong. I thought that the Planning Board Chair or the Planning Board has the ability to waive conceptual...

Whitney Singleton stated whether you say it's by Code, I can look up what the Code says or not but the practice has been the Planning Board Chairman waive that requirement.

Mr. Bainlardi stated if you come in on a conceptual application is it basically one meeting and then you're permitted at that point to, so it's one meeting...

Mr. Hertz stated its one meeting and basically what we generally tell people is okay, here's the feedback...

Whitney Singleton stated we have had applications where there were so many recommended modifications to what they proposing that we told them we thought it would be a good idea if they came back for another conceptual.

Mr. Bainlardi stated but that's a recommendation.

Jan Johannessen stated yeah, there's not concept approval, there's no sketch plan approval, it's more of review...

Mr. Hertz stated you know, generally speaking they come in, we give them our comments and then we say make a formal application.

Mr. Bainlardi stated because I've been in towns where you have a hard time getting out of conceptual and it get used as a club but that's not the case here, you come in once, it's for your benefit and then you can move forward.

Mr. Hertz stated I don't think we've ever required anyone to come back for a second time for conceptual.

Whitney Singleton stated we've encouraged it.

Mr. Hertz stated we've encouraged it but we haven't required it.

Jan Johannessen stated I think sometimes the applicants come back as another conceptual because they're not paying the escrow fees associated with formal.

Chairman Cosentino stated so what do you want to do on this? Keep it the way it is or go to the change?

Jan Johannessen stated it sounds like you want, you're okay with the recommendation provided that there's some sort of waiver sign off.

Mr. Hertz stated I want that box checked, Whitney wants the box checked.

Chairman Cosentino stated so I don't have anything to do with anymore.

Whitney Singleton stated that's that it can be waived, it can be waived...

Chairman Cosentino stated leave...

Mr. Hertz stated I'm really kind of offended by the tone of the document, I mean I'm really offended by it.

Chairman Cosentino stated I'm glad you picked I up, two other people did too.

Whitney Singleton stated I think the phraseology uses in his comments is its dictatorial.

Mr. Vigliotti stated speaking down to us.

Mr. Hertz stated assuming we're...

Whitney Singleton stated are guys following Tony's?

Mr. Bonforte stated yes, it's right here.

Chairman Cosentino stated okay, the next one is when the Planner and Building Inspector have determined that the applicant has provided enough information for a conceptual review but not necessarily a formal review, the applicant shall be placed on the next Planning Board agenda, subject to agreement by the Planning Board Chairman.

Jan Johannessen stated that's kind of how it happens now.

Chairman Cosentino stated that's how it's happening now.

Jan Johannessen stated yeah, we're meeting with them and making sure that the information submitted at the conceptual level is adequate for review.

Mr. Vigliotti stated did the Task Force review what we're doing now as opposed what they're recommending because it sounds like...

Jan Johannessen stated I don't know, I was not a party to that.

Whitney Singleton stated I think there's just one caveat on that where it says shall be placed on the next Planning Board agenda, that should be next available.

Jan Johannessen stated or on a Planning Board agenda.

Chairman Cosentino stated next one, the Planning Board Chairman must ensure genuine appraisal of concept by every Planning Board member at the conceptual review appearance. Every member shall give his or her genuine opinion at this appearance, with reservations as necessary.

Mr. Vigliotti stated reservations at necessary, you're allowed to do that.

Chairman Cosentino stated this must be done to ensure that applicants are not misled into believing that their plans will be approved. If the chances or low or significant, changes will be required. If the applicant wishes to provide...

Mr. Hertz stated Mr. Chairman, let's not go through this line by line because I will get so pissed off that I will walk out of here.

Whitney Singleton stated you're only starting, you're only at the beginning.

Mr. Hertz stated I've read the document, so I'm already pissed off. Let's just talk conceptually about the major things, we do conceptual review, there's no difference in what they're saying already, except they want the guy to go back and meet with the Building Department again before a formal submission is put in, so that's fine, right...

Whitney Singleton stated but that's done now, because once an application is submitted, I take that second paragraph as taking out all the [inaudible], you're basically saying just make sure you give your candid opinions because that's what conceptual is for.

Mr. Hertz stated and unless I'm missing something, having sat on here for I think 17 years, that's what we do.

Mr. Bainlardi stated and frankly you can only give the candid opinion to the extent that you have all the information that is necessary to form an opinion.

Mr. Vigliotti stated but when you give your opinion, they're upset with individual Planning Board members for being so candid, I mean it's like this is nonsense, it really is. Be honest but not too honest.

Chairman Cosentino stated one of the things they do not want me to go to staff meeting anymore...

Mr. Vigliotti stated where is that in here Joe?

Whitney Singleton stated you're going out of order now.

Chairman Cosentino stated well Doug, I don't want him to throw up.

Mr. Hertz stated no, let's just touch on the major things without having to go through each...

Chairman Cosentino stated well that's a major thing...

Whitney Singleton stated just going to number four Joe, keeping some semblance of organization, do you think that there should be a formal differentiation between applications. My opinion is that you know when you see a minor application, they come in you say draft a resolution of approval for the next meeting.

Anthony Oliveri stated like 87 Beverly, that steep slope I think we bypassed conceptual and went straight to formal...

Whitney Singleton stated but the question is if you create a separate category, everyone is going to say I want to be fast tracked.

Mr. Vigliotti stated or why wasn't I fast tracked?

Mr. Bainlardi stated and how do you create an objective set of...

Mr. Hertz stated you know, the only thing that I can say with regards to fast tracking, I don't believe we should have in general, I don't think we should have a second track because I think it's dangerous but I think we can have and this is going to put pressure on Anthony and Jan and you more than anyone else but I think its not unreasonable to think about minor submissions and major submission, where we give major submissions have to fulfill the 15 day, however long we need so that everyone can review. But the minor submission, if it's a memo, if it's a this, we're adding one drawing, we're doing, you know, we don't need to have 15 days to review whether or not they dotted the I on the last plan set. So I think that's a way to fast track people...

Jan Johannessen stated but the Board has, historically, been allowing expedited submissions you give that latitude when you think it's necessary.

Mr. Hertz stated but I think if we codify it, then there's at least the semblance that we're trying to make this a better, faster, easier, more seamless process.

Jan Johannessen stated I think if anything, my personal opinion, reviewing these materials, if we're being asked to provide a review memo for something, I'm not okay with anything other than the 21 days, 21 or more...

Whitney Singleton stated because our memos have to be in...

Jan Johannessen stated because our memos are due to a week before, it's not 21 days, its 14 days.

Anthony Oliveri stated that's not the delay, it's really more the whole process.

Mr. Hertz stated no, the whole process, it's the whole process, the next time someone needs to get information in, then it skips a month or skips a meeting or two because they've got to answer the thing and it has to get in by 21 submission period...

Whitney Singleton stated I'll give you an example and I don't know if it actually came to pass. But we had a staff meeting the other day with Pete Catizone on behalf of 369 Lexington Avenue but we told him, I don't know whether he actually submitted anything but we told him make sure you're prepared to discuss with the Board what you're going to do with regard that one space per 500 square feet is appropriate for

your proposed use and be ready to address signage here, that you're not going to be going in and out with the public hearing it will be solely for employees. If that could have, let's just say he was going to submit to you a picture of a sign, if that can happen informally, get it in, we don't need a comment or review, get it in and it will be on the agenda without the Planning Board or somebody at the front desk saying absolutely that cannot happen, you didn't meet 21 days. We handle that okay, if you codify it people have a sense of entitlement to it, if you codify it and say I got in under the 2,000 words, I only have 1,997 words and its down to X many pages and here it is and I got it by 4:59 on a Friday afternoon, even though it's a long weekend, all of a sudden it creates a burden on the rest of us and when you start to work backwards from the date you get your project. The meeting occurs on a Tuesday, you get your packages on a Thursday, we have to get our submissions in, Michelle's got to put them together and we have to have their submissions in order to comment and have adequate time to respond to them

Anthony Oliveri stated it really has to be a case by case basis, depending on how much review it needs.

Whitney Singleton stated and we see things that walk in the door and say we might as well have a resolution of approval for the first meeting.

Chairman Cosentino stated I have to address these to the Village Board, what number are we on, what are we doing here?

Whitney Singleton stated this hampers your flexibility, Joe. If you say that certain things, as John pointed out, what are your objective criteria for fast tracks?

Mr. Bonforte stated I want to make a motion, if I could make one, that we strike four all together, its too many words, it goes on and on like a textbook.

Mr. Bainlardi stated I want to make a motion that we go over this letter together with the Task Force and have this conversation in this way. How do we get here and they didn't come and talk to anybody on the Planning Board?

Chairman Cosentino stated let me explain what happened, okay. This is the final draft of the Task Force, which Peter Grunthal did, he was in charge of this and Anthony Markus was also a member of this. He wants me to meet with the Village Board to go over this to approve everything.

Mr. Vigliotti stated at a Village Board meeting?

Chairman Cosentino stated Village Board meeting, okay, I chose to share this with my Planning Board members before I went before the Village Board and of course I will go with either Tony Sturniolo or somebody else, okay. So this is why we're here because I wanted to have this meeting to let you know, I represent you guys and I wanted to be fair, if you didn't like something in here, I wanted to tell the Village Board, my members don't like this, why do you want to change it? That's why we're here, they may have a case of the ass with me because I'm here doing this instead of going before the Village Board but I have no other choice, I consulted with Doug because I couldn't get a hold of Tony and a couple other Board members and they said yes, we want to know what's going on before you represent us before the Village Board, which is should be that way. So if there's something you don't like here, I need know, now is your...

Mr. Hertz stated I think it would be easier to say if there's something we do like here.

Mr. Bainlardi stated we're going through and we're saying okay to a bunch of things but there are a handful of these that there's not an easy yea or no answer to...

Chairman Cosentino stated John, is your request that you want to meet with the Task Force.

Mr. Bainlardi stated listen, we are where we are and I don't know if there's any going back but if I were the Task Force, what I would have done is I would interviewed or had a conversation or given the individual Planning Board members and opportunity to participate in the process, I don't think that that's occurred.

Chairman Cosentino stated no, they didn't want that to occur.

Whitney Singleton stated I don't know that that's, they want to have a joint meeting with you but I think they wanted to present it as, I don't want to say a complete, but they wanted to make sure that everyone else was on board before they presented it to you.

Mr. Hertz stated they didn't ask for input, is the point.

Chairman Cosentino stated yes, let me correct you on one thing Whitney, I love you but I've got to correct you. They didn't ask for the rest of the Planning Board's input, I brought this to the table, okay.

Mr. Bainlardi stated if you didn't, it wouldn't have happened.

Chairman Cosentino stated it just would have happened. My question is it the Board's wish to meet with the Task Force, does the Board wish to meet with the Village Board...

Mr. Bonforte stated or let them know that this if going to cause more problems than are currently being, let's say proposed to resolve, that's what I see it as. So somehow they've got to get a message...

Mr. Bainlardi stated can I make the suggestion, listen, we could go through this and I think that there's probably 10 or 15 or maybe more items that we're going to say okay, okay, okay, eliminate those, because where we can say okay, we should say okay, if there's 5, or 6, 7 items, where we think that listen there's not a yes or no answer here, this is something that we should discuss together. Have the discussion, at the end of the day they don't need our permission, they're going to do what they want to do.

Chairman Cosentino stated the other thing that I wanted and they took out, I always went to a staff meeting and reported back to my Board what was happening, they eliminated that now. I think that the Chairman whoever it may be, should attend the staff meetings.

Mr. Bainlardi stated I've seen that in many towns where typically the Chairman will attend the staff meeting, I think it's perfectly appropriate. What I've also seen in some towns which work and you may not like this but it works, is I've seen Planning Boards have what they call project readiness meetings, and they have it an hour immediately before the meeting starts. What they'll do is, it's an open meeting, so anybody can come and sit in the audience and listen, they don't participate but sometimes the Board may engage but basically what you're doing during that hour is you're going through with your staff...

Chairman Cosentino stated they don't want that, I suggested that.

Mr. Bainlardi stated this is where we were and it works very well and the reason why it works very well is one, it cuts a lot of time out of the meeting, so you're saying I've got to be here an hour earlier but you're going to knock an hour off the backend of the meeting and you've organized your meeting in advance and everybody who's there an hour before is not now in the middle of a meeting asking the question what are we doing and why are we doing it.

Whitney Singleton stated that's actually a very good idea.

Anthony Oliveri stated Greenberg kind of does something like that.

Chairman Cosentino stated they don't what happens now is that before we used to sit down and hat did you do today, they considered that a meeting and we're only supposed to come here now, meet no place just come right here and start the meeting.

Jan Johannessen stated Joe, this would be an open meeting, it would be here.

Chairman Cosentino stated that would be great.

Anthony Oliveri stated Greenberg called them work sessions but they sit around the table and the applicant sits down with them and then they'll go into a formal session.

Jan Johannessen stated I don't think you need to invite the applicant unless you want to.

Mr. Bainlardi stated you don't have to invite them.

Chairman Cosentino stated what do you want to do? How do you want to handle this, you want to meet with the Board, you want to meet with the Task Force?

Mr. Vigliotti stated we should, we can't go through all of this tonight but we probably should...

Whitney Singleton stated what did you call it, John? Project readiness?

Mr. Vigliotti stated we should finished the document...

Mr. Bonforte stated pre-meeting project readiness.

Mr. Hertz stated the one thing in here that I think is a really good suggestion...

Mr. Vigliotti stated a pre-meeting is fine, we just have to public notice and just do it.

Mr. Hertz stated that I've made before and it ties into the rest of this process is this thing that, I guess the last sentence or the titles at the bottom of page 7 and the substance on the top of page 8, presentation to the public and minutes. Abandon the raised platform and table, go to floor level, setup tables at floor level in the Board room, with a table for the applicants. So whether or not you do that, if you could drop down and divide Planning Board forgetting the second paragraph for a second, project the applicant's plans on a screen that visible to everyone in the room, so I'm at Planning Board and Zoning Board and ARB meetings across the county and that is the absolute simple standard, I personally would like a lot of these documents digitally anyway, I don't necessarily want to be able to pull this open, I prefer to read a lot of these memos electronically. I mean this is a very awkward setup because you guys have to duck, it doesn't really work but if the screen were over there or if they're presenting from there...

Jan Johannessen stated flat screen T.V.'s...

Mr. Hertz stated but more than one of them quite frankly because we should be able to see it, the public should be able to see it and if we have control of the, you know if there's a laptop that comes up here, and then we can page up and down with the documents, it makes life so much easier.

Jan Johannessen stated my personally opinion is that staff should sit down at that table all together, the Planning Board should be up here, the applicant shouldn't be coming up here, they should be presenting down on the floor and then project up onto that wall.

Mr. Hertz stated right, I completely agree.

Mr. Bainlardi stated I've seen it done that way, I've also seen it done where this table is moved out more with a space behind, when it comes time for them to make their presentation, they do it on this wall here, everybody can see it and all you do is you turn around in your chair and you face this way.

Overlapping conversation.

Mr. Hertz stated I think at minimum we should be requiring applicants to submit electronically as well.

Mr. Bainlardi stated if an applicant doesn't have the wherewithal to do it, if it's a small person doing something, you have your easel...

Jan Johannessen stated all it is is a PDF on a thumb drive, you buy a 50 inch screen...

Anthony Oliveri stated you need a point person coordinating this, having it ready, and getting it up on the careen, who is going to do that for the Village...

Jan Johannessen stated Michelle.

Mr. Hertz stated why couldn't Michelle do that?

Jan Johannessen stated most municipalities have a requirement that when you make a submission, you provide a CD, everything is in PDF on the CD.

Mr. Bainlardi stated and they're starting to implement that now anyway because everyone has to go digital...

Chairman Cosentino stated can I have your attention for a minute, none of that is one here, let's get done with this and know what we're going to do with this.

Whitney Singleton stated I agree.

Jan Johannessen stated I think the fast tracking thing, I think that takes its natural course, based on project to project, you're going to fast track the projects that need to be...

Chairman Cosentino stated Whitney, are you writing this all down?

Whitney Singleton stated yeah but I don't want to be responsible.

Mr. Hertz stated the thing that I find offensive in this is its basically saying we have to figure out all our questions and problems on day one.

Whitney Singleton stated day one.

Mr. hertz stated its like the applicant hasn't even presented the project yet, they've given us a piece of paper and a little bit of explanation but until we do our fact finding, until we start discussing it, until we start asking question, you don't know what the problems are and the problems that you think on day one, are not the problems that end up, because they did a really nice picture and they glossed over it.

Mr. Bainlardi stated can we ask for a little time, can we just ask for a little time...

Chairman Cosentino stated go back to the old way, we've had no problems, we're reviewing everything.

Mr. Hertz stated I agree with the overall concept that the applicant should be more prepared and that they should get more staff time to get all their ducks in a row before they bother to come in front of us...

Chairman Cosentino stated that was my idea.

Mr. Mareschi stated and be able to submit it online. They should be able to submit it online, its 2016.

Jan Johannessen stated our website isn't...

Mr. Mareschi stated redo the website, get an IT guy in here...

Jan Johannessen stated they are working on it.

Mr. Bonforte stated from the Finance Committee, because I'm on the Finance Committee, there's already proposals, there are two consultants that have been interviewed, there's actual specific plans to...

Jan Johannessen stated submissions are tough because there are fees that need to get paid, a lot of that needs to be done in person.

Mr. Mareschi stated oh yeah.

Whitney Singleton stated somehow we got off track again.

Chairman Cosentino stated yeah, what do you want to do, you want to continue or you want to go over it with the task force.

Mr. Hertz stated I mean I don't think there's anything else in here, the rest of it is just criticism of us, you know here's the way you should behave...

Mr. Vigliotti stated tone and conduct at the Planning Board meetings.

Mr. Hertz stated there's no other substantive discussion here, it's only fast track or not and we already decided that.

Laughter.

Mr. Vigliotti stated members should provide constructive criticism. This is bullshit really.

Mr. Hertz stated if they want fewer Planning Board members, they're doing a good job.

Rob Melillo stated [inaudible] that guard dog.

Chairman Cosentino stated you think I worry about that.

Whitney Singleton stated one of the things...

Mr. Hertz stated I don't care, they can record it.

Jan Johannessen stated what about the resolution before the first appearance of the Planning Board.

Whitney Singleton stated that the resolution of approval should be prepared before the first meeting.

Jan Johannessen stated have a resolution prepared before the first...

Mr. Vigliotti stated what?

Mr. Bainlardi stated some of this is clearly written by someone without an understanding of the process.

Anthony Oliveri stated contrary to the SEQRA process.

Mr. Bainlardi stated and to me...

Mr. Hertz stated I mean its being written by the concept of the guy who comes in here with one little thing, that's not the applications, we see one or two of them but we also see...

Whitney Singleton stated The Hearth.

Mr. Hertz stated yeah.

Mr. Bainlardi stated in these types of situations the focus of my point of view always has to be that we never put ourselves in the position as a Board of them, having them criticize us and the way you do that is by clearly documenting everything that you're doing, going through that extra step and saying it at every meeting, this is what the expectation is for the next meeting, this is what we need for you, and you have to just constantly beat the drum and be organized in that and that's a two way street here from our end, our obligation as the Board is to be giving them then answers that they're asking us for and making sure that we don't dawdle about that and the Staff's obligation is to make sure that they keep beating us over the head to say guys, these are the things that we need to get done today, we don't leave here until these things are done. And when we do that, then we put ourselves in a position of, otherwise you gets this he said, she said, we've been here for 8 months, what happened, we can pull it out, on this day we did this and this...

Mr. Vigliotti stated you know what the problem was for the last year and half we didn't have minutes, so you couldn't go back in the minutes and say...

Chairman Cosentino stated alright look, I have two questions, I need two questions answered.

Mr. Mareschi stated go ahead, sir.

Chairman Cosentino stated I need two questions answered here, do you want to meet with the committee...

Mr. Bainlardi stated I don't, yeah, I don't...

Whitney Singleton stated explain who the committee is because the committee is not really a committee, the committee is staff members...

Chairman Cosentino stated committee, were you on...?

Whitney Singleton stated the committee is Joe as the Planning Board Chairman, Don Rose as the Zoning Board Chairman, whoever the ARB Chairman is and Peter Grunthal, Tony Markus, Patti Tipa, myself, Jan came along half into the process...

Jan Johannessen stated I've only attended one meeting.

Whitney Singleton stated and Ed Brancati and the Building Inspector.

Mr. Hertz stated and who drafted this?

Chairman Cosentino stated Peter Grunthal.

Whitney Singleton stated I'm assuming he did.

Mr. Hertz stated I mean, I think, you know, this needs to be broken down into you know, if you want to talk about Code and conduct and behavior whatnot, that's one thing. If you want concrete proposals on process, they're mixed up together in here.

Chairman Cosentino stated yes.

Mr. Hertz stated you know, you have to break out process related things from, it's not a well drafted document, should I say that again?

Chairman Cosentino stated I have another part of that question that I just asked.

Whitney Singleton stated so the point of meeting with the committee is...

Mr. Hertz stated is to yell.

Whitney Singleton stated as far as I'm concerned, these, this report does not embody my personal, professional recommendations, I won't speak for the rest of the committee but meeting with them that's just meeting with staff.

Chairman Cosentino stated well who do we meet with, I have a Board here that's not...

Whitney Singleton stated if you want to meet with anybody, I would think you would meet with the Board of Trustees.

Chairman Cosentino stated okay, so we want to meet with the Board of Trustees, okay, that's fine. Supposedly, the Board of Trustees, they have the power...

Mr. Vigliotti stated in a work session as opposed to...

Chairman Cosentino stated right, suppose the Board of Trustees, they have the power say look at, we took your comments and stuff but we're going to pass it anyway...

Whitney Singleton stated well certain things they can't pass.

Jan Johannessen stated some of this is zoning amendments, it's changing the Code.

Chairman Cosentino stated how do you feel about that?

Whitney Singleton stated well there's not only that, some of the stuff is contrary to State law, only the Planning Board Chairman can set the agenda.

Mr. Bainlardi stated but that will all work itself out, you're counsel to them, you're going to tell them what they can do, can't do, but at the end of the day they're a legislative body...

Whitney Singleton stated yes.

Mr. Bainlardi stated so we need to have a dialogue with them to go over some of these things, some of these are as simple as that's a good idea yes, some of them are not that simple, we can't just say yes or no, we need to have a dialogue so they hear our opinions and they're clearly expressed.

Chairman Cosentino stated am I hearing you want to meet with the Village Board in a work session.

Mr. Bainlardi stated yes.

Mr. Hertz stated yes.

Chairman Cosentino stated Whitney, can you write a letter or yeah, can you write a letter to the Village Board that we would like to meet with them in a work session, the complete Planning Board would like to meet with them in a work session at their convenience.

Whitney Singleton stated I think, if I'm not mistaken, didn't somebody ask Jan if he was contacted to setup a joint meeting?

Chairman Cosentino stated but only on a one to one basis, I want...

Whitney Singleton stated what I'm saying is I think that's what the point of that request was.

Jan Johannessen stated I think so too, I think the Village Board is looking for the same thing.

Chairman Cosentino stated with the complete Board, fine, if that's the case fine, in a work session, fine but I hope everybody makes it, so it has to be a date where everybody can make it, I'm leaving on the 2nd to go back for another week and then I'm coming back for good.

Whitney Singleton stated we also have a meeting of this committee on the first, correct?

Chairman Cosentino stated yeah. No, I thought Grunthal said everybody's in favor of this, so we don't have to meet.

Whitney Singleton stated no, he said if everyone's in favor of this, we don't have to meet.

Chairman Cosentino stated I think he called me back and said everybody is in favor, he didn't ask me. We'll have to ask him. Okay, so the consensus is we're not very happy with this...

Whitney Singleton stated I think it's going to lend itself to an awkward meeting.

Chairman Cosentino stated yeah, it is.

Jan Johannessen stated with the Village Board?

Whitney Singleton stated yeah.

Mr. Vigliotti stated well this is their document, this committee.

Whitney Singleton stated specifically with Peter Grunthal.

Mr. Vigliotti stated yeah, he's a committee of one, he wrote, he authored this.

Chairman Cosentino stated and he's going to feel that its egg in his face now because we don't like to go along with...

Jan Johannessen stated well I think there's a lot of it that you like.

Mr. Bainlardi stated do we have to say that we're not happy with this? Can't we set up a meeting and then just go and have a dialogue...

Mr. Vigliotti stated just like a process of working something through.

Mr. Bainlardi stated exactly, the process of talking this through, we'll have a conversation. I don't think we need to start the conversation with them by saying we're not happy with what you submitted, that will come out when you get into the nuts and bolts.

Mr. Vigliotti stated I agree with you.

Mr. Hertz stated we love what you've written, let us rewrite all of it.

Mr. Vigliotti stated let's talk about what you wrote.

Chairman Cosentino stated I gather you're not happy with it.

Mr. Bainlardi stated again at the end of the day, they'll either accept what we have to say or they won't.

Mr. Vigliotti stated they're going to have to accept some of it.

Whitney Singleton stated Doug, that's certainly another way to go, to further, I see the red light, so I'm conscious of what I'm saying here, the other way to go is to take a copy of this memo in word format and ask if the Planning Board can work on a revised version of it.

Mr. Bonforte stated that would be less contentious...

Mr. Bainlardi stated it certainly would.

Mr. Bonforte stated and that may smooth over some of the areas.

Mr. Bainlardi stated until it's all redlined.

Whitney Singleton stated I mean that could easily be done.

Mr. Hertz stated I don't have another five seconds in my life to do that and if I started, I'd be at it for hours and I don't have it.

Whitney Singleton stated I'm trying to do it in the most conciliatory but...

Mr. Bainlardi stated on the first two pages before we stopped, I marked in the margins 5 or 6 okay's...

Chairman Cosentino stated all in favor.

Mr. Mareschi stated motion.

The meeting adjourned at 10:15 p.m.