

Minutes of the **Regular Meeting** of the Planning Board of the Village/Town of Mount Kisco held on **Tuesday, December 8, 2020** at 7:35 pm via Zoom Teleconference

Members Present: Douglas Hertz, Chairman  
John Bainlardi, Vice Chair  
Ralph Vigliotti  
Michael Bonforte  
William Polese  
Crystal Pickard  
John Hochstein

Staff Present: Jan K. Johannessen, Village Planner  
Peter J. Miley, Building Inspector  
Anthony Oliveri, Village Engineer  
Whitney Singleton, Village Attorney

Chairman Hertz stated All right. Welcome ever Jan Johannessen, his is the Mount Kisco Planning Board meeting for Tuesday, December 8, 2020. We just concluded our work session and this begins our regular meeting. First item on the agenda is PL Property Management Corp. for 18 Britton Lane and 20 Stewart Place. They've been before us before we have in front of us the draft resolution, draft neg. dec. of SEQRA, a lot line plots, site plans. So Jan, would you just briefly give us an overview of this?

**A. PL Property Management Corp. – 18 Britton Lane  
PB2017-0340, SBL 80.24-2-1  
Site Plan**

Mr. Len Brandes, Architect and Mr. Gus Levy, property owner, were present.

Jan Johannessen stated yes, sure. It's a – as I mentioned it's an application for Preliminary and Final Subdivision Plat Approval, Site Plan Approval and a Change of Use Permit. It involves two pieces of property on 18 Britton Lane and 20 Stewart Place. 20 Stewart Place is developed with a three-family residence and 18 Britton [Lane] is developed with a four-family residence and an unauthorized basement office. The proposal includes the conversion of that office to one bedroom apartment, it includes a Lot Line Realignment between the two parcels to convey land from 18 Britton to 20 Stewart so that the driveway and parking area that exists for 20 Stewart is on its own lot. A lot line between the parcels currently divides that driveway. The applicant is also proposing modifications and improvements to off-street parking area for 18 Britton that includes lighting landscaping, and land banking of two parking spaces. There's some improvements to the rear of 20 Stewart including a walkway and patio deck, I believe. So, that's the crux of the application, you've reviewed it on a number of occasions, public hearing has been closed. And the resolution that's being considered tonight again is for a subdivision site plan to change a use permit that includes a negative declaration of significance under SEQRA.

Chairman Hertz stated thank you very much, Jan Johannessen. I see Len Brandes here for the applicant, welcome.

Mr. Brandes stated thank you.

Chairman Hertz stated we have a resolution of approval for this project. Have you and your client had a chance to review that?

Mr. Brandes stated I did have a chance to review and I had a couple of questions, if that's okay.

Chairman Hertz stated sure.

Mr. Brandes stated on number 25, I know that was actually brought up during your work session referring to the lighting of the property. And this is a residential, not a commercial space, I didn't want to could keep half level until four o'clock in the morning. I thought that would go until midnight and then activated by motion sensor. I don't think we need to keep lights on that whole parking lot the whole time especially since it's residential on both sides.

Chairman Hertz stated yes, I think that's totally, I mean from our perspective we're trying to just limit the bright light if you want to turn off lights that's always, I think a positive. Yeah, so we're just trying not to make sure we're not over lighting things in residential neighborhood we're...

Mr. Brandes stated Okay.

Chairman Hertz stated but I think, you know so let's get to the resolution and let's talk about 25 for a second. So the first 21 things are really sort of boiler plate and 22 through 28 are specific to this application. 25 as currently written says, the pole mounted lights located on Lot 1 shall be reduced to 50% of their normal operating illuminance after 7:00 p.m. and shall remain at this reduced illuminance level until 4:00 a.m. Let's, so let's make that change unless anyone has, objects to that on the Board that these lights of course may be turned off but shouldn't be operating, shouldn't be left on at more than 50% of their illumination levels for any length of time. And you know if you want to use a motion sensor to bring them at onto full level based on usage that's fine. We just don't want them to stay at full level, you know, they can either turn off or drop down to, down to half level.

Mr. Brandes stated that would be fine, we would like.

Chairman Hertz stated okay.

Mr. Brandes stated we can stop at midnight and then let it go, let it be activated by motion sensor.

Chairman Hertz stated okay, we can make those changes to the resolution and when we vote on it we'll have that oral change. I just also want to bring your attention and the public's attention to item 27, condition 27, the two land-banked parking spaces shall not be installed without Planning Board approval. So at the two front of the parking lot, there are two land banked spaces meaning that should you, should the applicant decide in the future that they need additional parking on-site or should Village, you know, should this come before us, that you can't just you know convert those spaces because you need them. You have to come back to the Planning Board, the applicant would have to come back to the Planning Board for that.

Mr. Brandes stated and my question on that is because that was my other question, is that I thought the whole purpose of having the land-banked spaces is so that we don't have to go through the time and expense of coming back to the Planning Board that has been discussed many times at our meetings. So what would be the purpose of coming back that's approved?

Chairman Hertz stated so I mean, the whole idea is we're trying not go through a process where, I mean if we approve this this way, you could turn around and change it like the day after, you know, you put it in place. We want to make sure that we're you know that there's a reason for it. You provided us with a reason that you don't need the current spaces zoning, requires you to put them in. So therefore the compromise is to land-bank those spaces and should you come back with a business case that you need those which is absolutely appropriate but should you need those, you just need the Village Board, sorry, the Planning Board's approval to install those.

Mr. Brandes stated so, we wouldn't expect a long term six month process to get approval on that.

Chairman Hertz stated correct.

Whitney Singleton stated I think we're kind of looking at backwards. What the Code permits under 110-28G is a waiver of the installation of spaces based upon your representation that they're not needed.

Mr. Brandes stated okay.

Whitney Singleton stated and it's within the Planning Board's discretion to require the installation of those spaces in the event that they subsequently determine that they are needed. It's not the opposite Len, you don't get to decide, well we decided we need him so we installed them. That's not, we're trying to mitigate the amount of impervious surface and you know based upon your representation that it wasn't needed Planning Board has waived the installation of a few spaces which they can impose later on or of course you could always come back and say that you determine that they were needed and asked the Planning Board to require their installation.

Mr. Brandes stated thanks. I appreciate that explanation. Thank you, Whitney.

Chairman Hertz stated all right, with that said, are there any questions or comments by Planning Board members or discussions on any of the items contained within the resolution?

Jan Johannessen stated would condition 25 be revised to simply state, at midnight the pole mounted lights on Lot 1 shall be activated by motion detection. Couldn't it be that simple?

Chairman Hertz stated sure.

Mr. Brandes stated works for me.

Chairman Hertz stated okay, alright. Hearing no other questions by Board members or comments by staff, would member make the motion to approve this application, this resolution?

**Vice Chair Bainlardi stated I'll make the motion that we approve Preliminary and Final Subdivision site approval, Site Plan Approval, Change of Use Permit for 18 Britton Lane and 20 Stewart Place. See 80.24, Block 2, Lots 1 and 2, dated December 8th, 2020. As modified with respect to condition 25.**

Chairman Hertz stated thank you. Do I have second on that?

**Mr. Bonforte stated I'll second that Chairman. I'll second that.**

Chairman Hertz stated thank you, Mr. Bonforte. Any questions? Hearing none. Michelle, would you poll the Board?

**UPON ROLL CALL VOTE:**

<b>Vice Chair Bainlardi</b>	-	<b>aye</b>
<b>Mr. Bonforte</b>	-	<b>aye</b>
<b>Mr. Vigliotti</b>	-	<b>aye</b>
<b>Ms. Pickard</b>	-	<b>aye</b>
<b>Mr. Polese</b>	-	<b>aye</b>
<b>Chairman Hertz</b>	-	<b>aye</b>

**The motion carried by a vote of 6 to 0.**

Chairman Hertz stated great, congratulations and I know it's been a long longer process than you had hoped but we did get to the end and I think this is going to be an excellent project, so.

Mr. Brandes stated thank you very much. I appreciate all your help.

Chairman Hertz stated thank you for everything you've done and good luck on the Project.

Mr. Brandes stated thank you all.

**B. 2 Morgan Drive, LLC – 2 Morgan Drive  
PB2019-0370, SBL 80.55-1-2.1/4  
Site Plan and Subdivision**

Mr. Mark Millsbaugh and Mr. Tyler Sweet of Sterling Environmental were present.

Chairman Hertz stated yes, the next item on the agenda is 2 Morgan Drive. This is on, this is a formal application for Site Plan and Subdivision. I'll let Jan introduced this application and then we have a consultant who we'll hear reports from.

Jan Johannessen stated sure. The project is 2 Morgan Drive located at the corner of Morgan Drive and Radio Circle Drive. Proposal is, or the application is being considered are for Subdivision, Site Plan for Lot A, have a Steep Slopes Permit for Lot A. It's a 5.7 acre parcel, it's undeveloped but had previously contained a wastewater treatment plant facility which ceased operation in 1960's, several related structures that remain on the property. There is some contamination on the parcel that we'll go into further detail later on. The applicant's proposing a two lot subdivision Parcel A and Parcel B, Parcel A would be proposed to contain a 325 by 112 foot wide, 70,000 square foot building to store a private automobile collection on two levels. It is a permitted use within the RDX district. There's 10 off street parking spaces proposed, a paved terrace area in the rear of the building and some stormwater facilities. Lot B is just over three acres, it contains the majority from what we understand of the contamination[indiscernible] and it is undeveloped and [inaudible] while we're evaluating lobby for zoning compliance and make sure it's going to be a zoning compliant lots or buildable lot, there is no development proposal for Parcel B at this time. So your applications and your SEQRA evaluation are really for a lot A and the subdivision. We have some technical comments on the application, if we could get into. But back in the summer the application – the Planning Board declared its intent to be Lead Agency determining that it's an unlisted action under SEQRA and because of the number of involved agencies wished to declare its intensity Lead Agency. That process has gone through the cycle, 30 days, well past 30 days without an agency objecting to the Planning Board being lead agent, we only received one piece of correspondence from the DEC. So you are in a position to declare Lead Agency and we prepare the resolution for your consideration this evening. From a SEQRA standpoint the Part 1, the long form EAF is complete, the applicant is to submit Parts 2 and 3. Part 2 of the

EAF is you know really the responsibility of the Planning Board but the Planning Board is often asked applicants to take the first crack at Part 2 and the member will review it at a meeting and make sure it's complete and prepared to their satisfaction. And then if any of the questions in Part 2 were answered moderate or potentially large impact those impacts have to be further evaluated in Part 3. So you know, I think we've got a lot of new information with this last submission, it also Staff has met on site with the applicant, walk the property and kind of collaborated on comments. So I think we're underway and Paul Woodell of Geo Designs is on board with us and is present tonight so he can kind of get into the meat and potatoes of the environmental review. But we're moving along.

Chairman Hertz stated great, thank you, Jan. So before we get to move forward let's just get this Lead Agency Resolution out of the way. We have resolution dated December 8<sup>th</sup> for the Planning Board declare ourselves as Lead Agency. It's the resolution so we needed to vote on that. **I'll make the motion that we approve this lead agency declaration.** Do I have a second on that?

**Mr. Vigliotti stated I'll second that.**

Chairman Hertz stated thank you, Mr. Vigliotti. Any questions? Hearing none. Michelle, would you poll the Board?

**UPON ROLL CALL VOTE:**

<b>Chairman Hertz</b>	-	<b>aye</b>
<b>Mr. Vigliotti</b>	-	<b>aye</b>
<b>Ms. Pickard</b>	-	<b>aye</b>
<b>Mr. Polese</b>	-	<b>aye</b>
<b>Mr. Bonforte</b>	-	<b>aye</b>
<b>Vice Chair Bainlardi</b>	-	<b>aye</b>

**The motion carried by a vote of 6 to 0.**

Chairman Hertz stated great, thank you. Okay, so we do has our consultant here, Paul Woodell, we also the applicant here. So let me first turn it over to the applicant for any presentation they may wish to do on information, they want to present to the Board and then we'll get into Paul's, memo and his report. So who from the applicant, is there anything you'd like to, present us before we dig in.

Mr. Sweet stated yeah I mean, I think just a quick rundown of the site is, you know warranted, just to bring everybody up to speed. Make sure we know, you know everyone knows you know the full set of plans on what we intend to do. I apologize if my audio cuts out. My internet's been a little, a little slow, so.

Chairman Hertz stated your video is frozen but your audio sounds fine.

Mr. Sweet stated okay, I'm going to share this here. Okay, so this is 2 Morgan Drive, as it exists, we have the old wastewater treatment plant, which would be on Lot B, Lot A is the lot we're currently intending to develop, which will include this 36,000 square foot, two story auto storage facility. This will be a private facility. There will be no – there will be no commercial development. There will be no, you know visitors other than the occasional visitor that the owner brings in to show a single vehicle that kind of thing. So there will not be excessive traffic in and out. This is going to be a pretty passive site.

Mr. Bonforte stated Tyler, Tyler.

Mr. Sweet stated yes?

Mr. Bonforte stated I don't mean to interrupt but just you might want to correct, you know, it clearly says, there's about 30,000 square feet lower and 30,000 upper. It's not – it's sort of representing that's 36,000 total in the – in the bolder print. I think it's more like 70 something, right? For the verbage.

Mr. Sweet stated yes, yes.

Mr. Bonforte stated which is, you know, I mean ...

Mr. Sweet stated and the footprint, that's why it says 36,000 square foot footprint building. So that's the footprint.

Mr. Bonforte stated okay.

Mr. Sweet stated the actual square footage of the building is, yes, it's all ...

Mr. Bonforte stated I was referring, you left the word footprint out, but anyway go ahead.

Mr. Sweet stated yup, there will be an upper and lower level parking in the front. There will be a single security guard that will be their present, I believe 24 hours a day. Some of these vehicles require a security guard for their insurance purposes. So that is the only employee, is the only really constant presence at the structure. We'll be utilizing a number of different stormwater features around the perimeter of the building, in front of the building and on the rear of the building, including infiltration rain gardens and underground storage chambers, which will provide the retention for the extreme rainfall events. So yes, that's just a brief summary of the project so that everybody can see, you know, what we're, what we're doing here.

Mr. Millspaugh stated Tyler, could you clarify that the Lot B, it showed a proposed concept on top of the wastewater treatment plan.

Mr. Sweet stated yeah,,

Mr. Millspaugh stated the Board understood that when you refer to the wastewater treatment plant there was those faint lines in the background.

Mr. Sweet stated Yes, this was a under a prior submittal, we had shown a potential development on there just to show the lot was compliant. Based on the recent comment letters were going to be removing that from this because there's no proposed development on Lot B. Nothing will be proposed or done on that lot until the remediation is completed or as part of the remediation.

Chairman Hertz stated thank you very much. Okay. With that I'm going to turn it over to Paul Woodell. He is the Village's consultant, engineering consultant on this matter, was brought in as an expert in the contaminations that may or may not be on the site. So Paul, if you would just give us a report, I know you started to review you have met on site. You could just give us a report on your activities.

Mr. Woodell stated thank you, Mr. Chairman. So yes, I have reviewed a number of environmental reports, documents, letters, et cetera, that have been provided to me. And we've also made a site visit, walked the site which was very helpful for building the conceptual idea of the site. My overall impression based on the data available is that Lot A, the level of environmental impacts are very minimal on Lot A and that any soil that might exceed any kind of unrestricted use criteria will be removed as part of the development process but, my comments on my memorandum are at least in part focused upon the quality of nearby soil on Lot B, which is very close to the proposed subdivision line. Going down the list of comments, my first comment is with regard to a hot spot of radionuclide bearing soil that was identified in a report by Cophysics as consultants for the DEP draft report from last summer, it does appear to be very limited in extent however it is close to the proposed subdivision line, in fact the subdivision line takes a jog to avoid this area. The comment was with regard to the full delineation of this area...

Chairman Hertz stated Paul, just to be clear meaning, it's that hot spot is on Lot B but close to the line.

Mr. Woodell stated correct, correct. And my concern or issue is whether or not that area had been fully delineated such that the proposed subdivision line was appropriately located to restrict all of that soil exceeding the criteria to Lot B and none of that would fall on Lot A.

Chairman Hertz stated so before you go on, Tyler, do you still have that drawing and can you share your screen and put that drawing up for us?

Mr. Sweet stated yeah, actually I was going to pull up another figure, just for Paul to talk to because we actually have the previously identified hotspots shown on a figure with the revised lot line so that we can see that here.

Chairman Hertz stated that would be useful so we can all see what's going on.

Mr. Sweet stated so this is the front of the building. The proposed building here and these were a couple of sample locations that were performed during the last run, 15 is on Lot B and that is the hot spot location that they were – that he's referring to.

Chairman Hertz stated okay. If you could just leave that up.

Mr. Sweet stated yes.

Chairman Hertz stated yeah, so Paul, if you continue. Thank you very much.

Mr. Woodell stated thanks. So I had a conversation just this afternoon with Dr. Ray Han, who is the principal for the consultants for DEP Cophysics. And they are the consultant that has performed a number of radiological surveys on the parcel as a whole, whole of, all of Morgan Drive, in addition to neighboring parcels. He's indicated to me that a subsequent survey has been performed this summer in that a report summarizing that information is pending. He's also indicated verbally that there has been further delineation of this area that Tyler has provided a figure for us. And so I wait to see that report and to make a determination whether the area is delineated and whether the proposed subdivision line is appropriate.

Chairman Hertz stated thank you.

Mr. Woodell stated the second item on my memo again addresses the same area and it asks the applicant whether it would be appropriate to provide some kind of physical barrier, you know, under the assumption that this area is not going to be remediated prior to the development of Lot A. I would like to see some kind of physical barrier to prevent construction activities on lot A from impacting, impinging and treading upon any of this soil identified as sample 15, but to be further delineated. I envision, you know, a fence and I would question the applicant whether they would deem some kind of cap for some sort of just heavy polyethylene sheeting or something of that nature would be appropriate to protect workers, et cetera. The third item on my memorandum has again to do with this area. Tyler has provided the figure that shows a number of infiltration, stormwater infiltration structures in the immediate area, two rain gardens and an underground infiltration chamber. And my comment was to request that evidence or data be provided to determine whether infiltration would somehow impact groundwater quality in this area. Specifically, whether, vertically and laterally infiltrating water has the potential to encounter these nucleotides bearing soils or the mounting of the water table as a result of this infiltration whether that mounting may have the potential of raising water to the level of these radionuclide bearing soils. The fourth comment is with regard to groundwater quality. There's historically been one monitor well on Lot A. Lot A is an upland area, it has been characterized as never having been occupied by any wastewater facility equipment, really never been developed, that's the way it's characterize. And while the potential for groundwater impact under Lot A is minimal, the entire lot has been characterized by only one monitor well which has been sampled on a limited number of occasions due to the fact that the water that's available in this well is limited. And my fourth comment is with regard to additional groundwater quality characterization for Lot A. And I would like-, I have a phone call into the DEC project manager for the site as a whole and I would like to discuss this point with him as well, so that would require further discussion. The fifth item has to do with the co physics Radiological Characterization report from August of 2019. It's a draft report, not to get into the details of this comment but under that investigation, a radionuclide thorium was discovered which had not previously been identified as a site contaminant on the parcel. And there are some graphs and some calibration factors discussed in the report. Essentially my comment is whether or not taking this thorium into account would change in any way the conclusion of the report which is that the Lot A does not contain radiological material of a concentration that would be considered an issue addressable with remediation or hazardous issue or anything like that. That was the conclusion of the report and I'd like to have a little bit more input with regard to that. And my final comment was just I'd like to at some point have a better understanding of the construction sequencing especially the management and final disposition of the surplus construction soils. There's going to be a lot of construction soils generated from this project and I think it appropriate to be able to review any plans associated with the management and sequencing of these construction activities specifically with regard to appropriate disposition of the soils.

Chairman Hertz stated great, thank you very much, Paul.

Mr. Millspaugh stated may the applicant make a couple of comments?

Chairman Hertz stated you may.

Mr. Millspaugh stated on the last topic of management of the soil, I'm sure the Board appreciates that both Westchester County and New York State DEC regulate construction surplus soils. So the cut of material from this property needs to be characterized and managed in accordance with state and county requirements, you have to use license haulers, the soil has to go to authorized facilities. That's pretty standard practice, the plans and specifications for the, that we would put out to obtain bids. The contractor would be required to identify who they're using, where the soil is going. The county also has [inaudible] review to get a hauling license to move soils in Westchester County, you have to meet certain standards, it's a business. So my point on item six is, this is all on aspect of construction that's highly regulated in both the county and the state. I also wanted to remind the Board on item four that before proposing the subdivision, the entire property was characterized, there is a number of wells across the entire property. Lot A also received soil borings for geotechnical purposes and some of those borings, the soil samples were submitted for chemical analysis. The entire existing parcel on Morgan Drive, Lots A and B were the

subject of a surface soil sediment, surface water and groundwater characterizations. And we did all that with the hope that this site could enter the New York State DEC Brownfield Environmental Restoration program and what we came across this the sites is not contaminated enough. There's some legacy is associated with the wastewater treatment plant and the radioactive isotopes that Paul described at certain locations. But the site, the DEC project manager, his name is Dan [inaudible], determined that we were not eligible to go into the Brownfield Environmental Restoration Program. And he has determined and Paul will hopefully be able to vet this out with Dan directly, that groundwater was not an issue certainly for a Lot A and in my conversation earlier today with Paul, we talked about what would come of a concern about groundwater on Lot A. And I just wanted to remind the Board that the building is above the water table, so there's no contact with the foundation and floor slab with groundwater. And if there were any organic materials in the groundwater where vapor is a concern, this building is going to have granular floor slab. The engineering design of that floor slab can include a moisture barrier which would also serve as a vapor barrier. So even if there were a source of elevated groundwater somewhere on Lot A, which we don't believe to be the case from the extensive studies that were done, we don't see where it matters because the engineering and the development of the project would be protective of human health and the environment.

Chairman Hertz stated alright, Mark, may I just make a comment with that. So my concern, I'm less concerned by being sparsely occupied building or building primarily occupied by vehicles than I am about what Paul raised earlier is the idea that we're infiltrating water. We're going to take a great concentration of the water that would have, you know, been dispersed over, you know, a very large area coming off the rooftops and now concentrating it in a small area near, you know, a possible sighting of some contamination. So then you have the possibility of water than moving in that area and carrying off any contamination and moving that, you know, possibly further afield. And, you know, the Kisco, you know, the river system in Mount Kisco is very close to, you have wetlands and you have watercourses that are comparatively close there. So I think it does make sense that we look at those kinds of things very carefully. This is not an area that I'm an expert or involved but that's why we have, you know, Mr. Oliveri, looking at how water, you know, will move through the site and Paul, who can opine as to, you know, the companion side and combination of how those two things might interact. So you understand, you know, your position with regards to the building and I think that that's probably very accurate statement that the building will be safe. My individual concerns are that we're going to concentrate water moving potentially near and maybe onto or very close to some contamination and that could carry off some additional contaminants into an area that we don't want them to be, so.

Mr. Sweet stated I can comment on that if you'd like. So the structures that are proposed in the front, so the two rain gardens and the infiltration structure there, they will not be receiving any runoff from the rooftop. They are only there to treat the rain water that lands on the parking and asphalt areas in the front of the building. So we're not actually concentrating water in these locations that were not already been in that general vicinity. The entire rooftop is actually being directed to the other end where it would be treated in the rain gardens, swale and in the underground chambers at the other end of the building.

Chairman Hertz stated thank you, appreciate that.

Mr. Millspaugh stated we understand the expressed concern and we'll make sure in the recent middle that we address your concern. And I just wanted to add that at full development with the building regrading, removal of construction surplus soil heaving, the site will be substantially capped, you know, except for where the infiltration devices exist. So but we'll speak to your concern in the resubmittal.

Anthony Oliveri stated I think what might, if I may for a moment, what might be important is to determine if the DEC considers the contamination or the contaminated soils, or if the site would be considered what they call a hot spot in which case they wouldn't allow an infiltration system for storm water to be used so that the definition of what hot spot is a little ambiguous under the DEC stormwater regulations. So that might be something that you guys could maybe get a determination from the state, from the DEC on. I think when you go to DEP as well for the stormwater, they're going to have questions on this front as well as the other thing which we brought up which is, you know, use of infiltration practices in slopes greater than 15%. It seems you're falling within some of those areas if not all of those areas, so that's going to have to be determined that we might need some input from state and I'm sure you'll get some feedback from DEP when you go to them.

Mr. Sweet stated yeah, we have submitted the drawings and the plan set to the DEP to schedule those meetings. So we're just waiting on a final date to sit down and talk with them, go over the entire project, go over the sweep and get everything hashed out with them. So we have initiated that process and we're just waiting to get a final time to go through that meeting.

Anthony Oliveri stated and when we talk to DEC and DEP in this regard, it's the stormwater sections of these agencies who may not necessarily have had any communication with the remediation section. So there's got to be some interaction, some communication there.

Mr. Sweet stated yea, yeah, we'll, you know, we'll run everything through the full project with them so they're aware of, you know, the gravity of what's going on in Lot B and the whole situation of the remediation, the history of the project and we'll make sure that they're fully aware of, you know, the whole, the project as a whole and not just, you know, Lot A as a side development.

Chairman Hertz stated alright, thank you. Paul, would you just go through if you will what you expect to see subsequent information, what you need next and how you're going to be proceeding?

Mr. Woodell stated well the first and probably the most important I'm very interested in reading is the pending report from Cophysics regarding the further radiological work on the properties. And I think that will speak a lot to whether or not this hotspot area, hotspot four as it has been identified is a minor issue, little concern or whether it needs to be looked at a little bit more carefully with regard to the location of the subdivision lines specifically and additionally with regard to the infiltration structures in that area, you know, other than that I'd like to hear some feedback from the applicant with regard to fencing and covering that area. It doesn't seem like a big issue to perform that option, you know, feedback with regard to the infiltration whether or not that it threatens groundwater quality in that area. I'd like to hear more about that perhaps there might not be more information until the Cophysics report is available. We'll see with regard to that and I'm very interested to see the soil management plan that would be associated with the development to make sure it needs appropriate criteria.

Mr. Millspaugh stated and Paul, you were also going to reach out for Dan Lanners.

Mr. Woodell stated I have called into him. I hope to speak to him this week.

Chairman Hertz stated alright, so it sounds like the applicant has a little bit of work to do. We're waiting for some reports and then some review of those reports and that will further inform the process. And I think until that time, I don't see that the Planning Board is going to wait and hear back from the applicant and our consultants. Is there anything else that we need to do here or that I'm missing? Jan or Paul?

Jan Johannessen stated I guess I just like to, and we briefly mentioned it at the meeting. I believe that this last submission was the first mission I was able to view the tree removal plan. I only mentioned because I know in past applications on this particular piece of property that was concerned about that stand of evergreens. I would just like to have, you know, conversation about it, just understand where the Board stands for that particular issue, if it is an issue at all. Whether the exception of the flag that runs from the property to throughout the avenue, all the trees are going to be removed. There is a remediation plan but the applicant indicated that not enough property to the plants at the ratio is required by the Code that I don't think has even been fully calculated yet in accordance the Tree Preservation Law. So, I think you're going to end up with a substantial number of trees that will have to get replaced, that won't be able to fit on the property. And I just like to know from the Board before moving any further if you're okay with or if you're okay with the plan and the removal of those trees or if want to look at options.

Chairman Hertz stated is there a plan that those that, you know, the location of the trees, their sizes...

Jan Johannessen stated yeah, the tree removal plan in the packet.

Chairman Hertz stated do you have that accessible digitally to share right now?

Jan Johannessen stated so there is different symbols for the deciduous and evergreen trees. The front, you know, half of the property is really young, a lot of cherry and trees that are really not of significance, the back though we have a big stand of tall evergreens. And I think that's what we were dealing with, like the Maplewood project and others that we tried to work around but I didn't realize until walking the property and then looking at this plan, you know, how far back that building went and I mean, [inaudible] great at all. So I just wanted to have a conversation about that before we got to, too much further into the weeds here.

Mr. Vigliotti stated Jan Johannessen you're, this is Ralph Vigliotti, Tyler. We've had several applications on this property in the past and we tried as a Board to try to save that stand of evergreen trees and each of those applicants tried desperately to comply with the Board. I'm not sure, the building is quite long and because of that whatever is being used in the back whether it's parking or anything else, you're causing those trees to come down because the building length is dictating that. So I questioned that not necessarily for tonight we have three public hearings and I don't want to delay those with extensive questioning, but at

a meeting, at the next meeting I would like to discuss that in greater detail, discuss area coverage versus building coverage in buffers and so on. And I guess the decision on Lot A and B was decided how you would subdivide those properties and it may be water over the dam but maybe Lot A could have been a little bit wider to accommodate a saving of a stand of trees that's been there for a 100 years, I bet. We've lost a number of them to Irene, a number of years back but there is a stand trees, it's a buffer, it's a view skate buffer as you drive down Lexington Avenue. So I don't want to be belabor this but I would like to discuss as I said the area coverage and the building coverage and the buffers to Morgan versus Radio Circle Drive and all of that it appears to be a bit tight. I'm assuming that the buffers were in place and the landscaping will, and we'll take a closer look at the landscape. So I leave you with that and hopefully you will be able to really dig into this next time we meet.

Mr. Millspaugh stated Mr. Chairman, this conversation which would affect the placement of the building on the property seems that it would have been more appropriate at our first appearance. We've invested a lot to get where we are and to respond to the 12 pages of comments that are before us that we received yesterday. There's a request in here to substantially redo the drawing sets and to revise for yet another set of comments. And we certainly don't want to incur that cost if a discussion on trees and the subdivision until Lots A and B is still a moving target, I thought that was a done deal back several meetings ago

Mr. Vigliotti stated I'm sure it is a done deal, should the comment that I just I needed to make.

Jan Johannessen stated I think this is the first time our skin that tree removal plan.

Chairman Hertz stated so my comment to you would be you know this has been you know, a complex issue, we've certainly focused on you know, the contamination and the pieces of that was critical. But I think this is an important discussion we have you know, had prior applications here and those applications have all endeavored to preserve as much of this tree escape is possible so...

Mr. Millspaugh stated I understand that but that was development, that was going to occur over the full site and there were other opportunities. I'll remind the Board, the decision was made that if we paired off lot A we could run through the site plan review and subdivision process to allow a Lot A, to move at a faster pace than waiting for the remediation of Lot B and that's how we got where we are.

Chairman Hertz stated and I think that's absolutely correct, but it has a corollary action that you know, you're now have this long skinny lot and you're trying to, your development area that does have some significant trees that we've always tried to preserve, so I think it's a valuable comment that Mr. Vigliotti made this doesn't mean, this is not a stop entirely, but if they, you know, we're going to need some justification for you know, all of [inaudible] I mean, you're taking trees down right up to the lot line, where there's no building and so we really are going to understand, what's the absolute minimum match that you could do to be able to consider some of this preservation.

Mr. Sweet stated I will have a conversation with the landscape architect who prepared the tree removal plan and I will see a couple of these trees, as you mentioned are on the fringe of our limit of disturbance, so I will get his professional opinion as to, if those trees are salvageable and what we could potentially do to save you know, a couple of them along the property line that way you know, we are just still be planting a buffer of trees in that area but you know, this way you have at least some of the taller trees you know, in existence until what we plant reaches you know full growth.

Vice Chair Bainlardi stated thank you, I think we're, I just want to be clear too that I think that what's being suggested to be looked at here are trees that are in what, I'll call the setback or the buffer you know, whether this is a, whether this is a subdivision, where it was an entire site to be developed in accordance with zoning setbacks would be unchanged. And you know, we have zoning that allows the development of property, I know that we like to save trees where we can, but the flip side of that is you know, that we do have zoning, that allows for the development of property and that necessitates the removal of trees you know, where we can, where it makes sense, where they can be saved without it having an adverse impact to the use on the property. You know, the other thing that I've been paying closer attention to with respect to tree removal and the ability to take down trees in our community, has to do with safety you know, we're living in close proximity to some of these trees that have aged and are big and as we've seen in storms, have come down in places that if they've fallen 15, 20 feet one direction or the other will take somebody's house out, take somebody's garage out and can kill people. Well, you know, that's the balance that we've often talked about, preserving trees, where it makes sense, where it does not, where people are not in danger and also you know, where it allows people to utilize their property in accordance with what the zoning allows for. So you know, I think the question has been raised, the applicant has indicated that they'll take a look at it and see where they could be preserved, but you know again it's a balance.

Chairman Hertz stated thank you John.

Jan Johannessen stated Doug, can I just make a comment?

Chairman Hertz stated of course.

Jan Johannessen stated Tyler, have you thought about it all shifting the building you know, the same size building closer towards the street? I know you have a common driveway that serves the two levels, but the more significant trees are in the back, could you slide that building towards the street almost eliminate, you know, really reduce the length of your driveway area and stormwater [inaudible] and you eliminate that stormwater infiltration issue next to the hot spot, maybe you have some parking inside the building instead of on the outside, but maybe there's something that could be done, you can achieve your goals but also try to preserve some of the back here.

Mr. Sweet stated that the issue there arises with the slope of the driveway to the upper level, there's a section of that driveway that's already at the maximum driveway slope. So by pushing the building more towards the front, we're steeping up the driveway of more and it doesn't make it feasible to get the trailers up there to unload the vehicles within the building, make their turns on that sort of thing, so we needed that additional length to make the traffic for work in the front of the building.

Jan Johannessen stated the trailers are going to enter the building with the cars on them?

Mr. Sweet stated yes, all unloading and offloading will be done inside the building, these are going to be covered car carrier trailers similar to what like, NASCAR drivers use. They'll pull into the building, unload the vehicle, the vehicle will be basically hand dollied into parking spaces, where they will be, sit and be presentable and then the trailers will leave, so there'll be nothing going on outside.

Jan Johannessen stated but if that building was up at the front yard setback and you had separate almost, separate driveways to each of the bays, one up or one lower, you don't think that could work? If that wouldn't really have a driver in the building would be all the way up, you have a small apron.

Mr. Sweet stated I would have to check the code on that there is a restriction on two driveways for certain parcel sizes and I'm not sure we would meet that and the separation from the intersection for the driveway to the upper level would not have the required distance, it might, I'd have to double check that though.

Jan Johannessen stated I think it's only 20 feet.

Mr. Miley stated its lots over an acre. Tyler how are the trucks turning around and you know egressing the lot once they dropped the car off, just sorry, Doug to interject here, just, we talked about this one time, Tyler and you said that they were offloading with what size truck is it and how is it getting out of the building to egress?

Mr. Sweet stated it would basically utilize the intersection of the two driveways as a K-turn area, so that it could back into the building. It would pull forward then back up the ramp into the upper level or it would pull up towards the upper level and back around to the lower level in a subsequent application submittal here, we can provide a traffic flow plan that will show how the trucks will back in and out maneuver in that area, so that they can get into the building and do all their unloading and offloading inside.

Mr. Miley stated alright, thank you, sorry to interrupt, Doug. I just with in...

Chairman Hertz stated no, not at all, it's a good question. Alright, so I think you can look at some of these things and I would at minimum, I think you have some good suggestions here, we obviously want you to be able to move forward, but if you could seriously look at whether you did nothing here, what trees could be preserved because right now, you have basically everything designated As coming down. Okay, other questions, other comments for the applicants? Alright, earring none, it sounds like you have, there's some work to do on the remediation side, so we'll see you back...

Mr. Millsbaugh stated I had a couple questions, there was one comment about the need for curbs, are curbs a code requirement?

Anthony Oliveri stated I think actually the Code does mentioned curbs surrounding parking areas, concrete curbs to be exact. The comment you're probably referring to was mine, particularly the slope driveway to the upper level, looks like water will be shedding off to the shoulders, if you're not going to use curbs there, I would say do something to minimize you know, rutting and riling of the shoulders.

Mr. Millspaugh stated and there was a comment regarding snow removal, we just planned to you know, plow the roads we have, we weren't going to designate a dedicated location for snow stockpiling.

Jan Johannessen stated so I think that is a Code requirement that you identify where you intend to stockpile snow, just so you could see that it would work.

Anthony Oliveri stated the intent is not to diminish required parking with piles of snow and have a place to put it.

Mr. Bonforte stated and then, Anthony, I just wanted to add to the curbing comment you made in the parking are. The driveway to me there's a wetland while there's a stream right next to the driveway, so I'm just interested to see what final grading and maybe there's curbing there I mean, I'm not looking to add that necessarily, but I'm just looking to preserve that you know, there might be a wetlands permit required which is...

Anthony Oliveri stated the stream is towards the rear isn't it, Mike?

Mr. Bonforte stated my apologies, I thought that was an operational driveway, is that correct?

Mr. Sweet stated no.

Mr. Bonforte stated okay, well thanks for clarifying, that's going to be closed often on Lexington Avenue?

Mr. Sweet stated there's going to be no, there'll be no proposed traffic in and out from the back the existing flag that extends to Lexington has zero proposed development on it. We're not intending to touch that there's the existing town road that is used to access with the Pump House Road that you've referred to it as.

Anthony Oliveri stated yes.

Mr. Sweet stated yeah, so we're going to, we have no intent to do anything along that backside there.

Mr. Bonforte stated thanks for bringing me up to date. Thank you.

Mr. Millspaugh stated and when we prepared the existing drawing set, we followed the Town requirements with village requirements regarding scale and contours and things like that. There's a comment I believe it's one of Jan's comments, about the river does not show in its entirety along the general vicinity of the site and that's because we can't fit everything, we'd have to go to like double the drawings, I don't think the 100 foot with [inaudible] we're looking into that today Tyler?

Mr. Sweet stated yeah, we'll update.

Jan Johannessen stated it's within that same viewport, it wouldn't be an issue to show that stream.

Mr. Sweet stated make sure that there's a line on there that you can see that the 100 foot buffer does not extend to any of our development or disturbance. To that comment though, would the Town consider if that 100 foot buffer does extend into the buffer area where we would be planting trees, is that considered a ground disturbance, where that we would require a wetlands permit?

Jan Johannessen stated technically yes, any disturbance within the buffer would require wetland perfect, but it would be incorporated into your approval of the site plan, if it was vegetation only it's not going to be a significant issue, but it looked like to me, it looked like, it was coming pretty close.

Mr. Millspaugh stated so are we in a position to schedule the public hearing for the January meeting?

Chairman Hertz stated Jan, what do you think?

Jan Johannessen stated well, as I've said in the past, I never think it's too early to get public comment, but you're going to be in a position where it's not going to be able to get closed until you have everything in place including some comments back from the DEP and responding to all the comments and such, so while you may want, it's not something that's going to be able to be closed that evening.

Mr. Millspaugh stated I'm sorry, we are getting comments direct from the DEP as part of their permit approval process. For the purpose of the local code though and to allow neighbors and residents and the public at large, can't we have that meeting in January, and close it in January.

Jan Johannessen stated no, you can't close a public hearing unless all of the information that's due to the board available for a moment. So you're not going to have that...

Mr. Millspaugh stated so the practice in Mount Kisco then, if you don't approve site plans unless you have the DEP approve SWPPP, you never make that a condition of site plan approval.

Jan Johannessen stated as I've mentioned a couple of times Mark, that we usually get comments back from the DEP. Yes, we have that as a condition of approval, but we have one or two [inaudible] letters from them that indicates you know, that it's approvable you know and we get to a point, where you're crossing your T's and dotting your I's and that we're confident that there's not going to be substantive plan changes as a result of DEP, of other agency comments, I think I've been pretty clear about that.

Chairman Hertz stated so Mark, we're happy to open...

Jan Johannessen stated I'd also like to point out, we do not have legal counsel and I would strongly advise that we have somebody on board before we start the public hearing process.

Chairman Hertz stated yeah, makes sense.

Mr. Vigliotti stated Jan, agree with you on that.

Mr. Oliveri stated I think what's, sorry Doug. What's important on the storm water and not even just DEP, I mean under the regulations that we follow and this DEC design manual which the Village is designated to enforce, right now you've got infiltration practices proposed in slopes greater than 15%, that's not allowed, so that needs to be looked at and I'm not sure how we get around that at this point.

Mr. Millspaugh stated can you clarify the, I mean, the 15% is pre development.

Anthony Oliveri stated that's right.

Mr. Millspaugh stated we're benching the site, so the infiltration practice is...

Anthony Oliveri stated they're not my regulations Mark, the New York State DEC, the Village is a designated MS-4 that enforces those regulations. So I suggest you guys take a look at the design manual and see, if there's any exceptions to that rule and how we would go around about you know, making an exception there and you're going to hit the same issue with the New York City DEP.

Mr. Sweet stated we're going to based on our site walk and looking at the slopes out there, I'm going to be going back over with the surveyor and their slope designations to confirm some of those 15% slope areas, because many of them, when we were walking out there they're flat and so...

Anthony Oliveri stated I'll admit to you Tyler, it kind of looked the same way to me. I would take a look at that.

Mr. Sweet stated I want to double check those slope categories, that they put on their subdivision Platt, just double check to make sure every one of those is properly categorized. I'm pretty sure some of those 15% areas are not, I just want to revisit that with him and verify that, so that we can be sure that you know, our locations are properly.

Anthony Oliveri stated I think that's a really good idea, I think you're going to definitely hit some in the rear area you know, maybe you do more of the storm water in the front, if you've got flat areas in the front, maybe that helps with the stand of the trees in the back as well in terms of disturbance, so all that should be looked at together obviously.

Mr. Sweet stated yup.

Mr. Bainlardi stated has an application been submitted to the DEP?

Mr. Sweet stated I've submitted all the current set of plans for them for their pre-conference meeting and I'm just waiting on them to get back to me with the date and we can schedule and sit down and go through the entire project with them.

Mr. Bainlardi stated that's good, so I mean you know, once you get past that initial hurdle, if you get some positive feedback, you may be able to get something out of them, they may not be necessarily formal but you know, we'll let you know that you're going in the right direction and that there's no major hurdle for

you. You know, once you made my experience wants the DEP issues, it's notice of complete application that's pretty much, the foreshadowing that you're going to get your approval, once you get through your technical you know, the rest of your technical review. So as far as the public hearing is concerned you know, problem with getting that going, can we start the public hearing before we spend before the 30 days has passed them were lead agency.

Jan Johannessen stated well your lead agency as of tonight made that declaration earlier.

Mr. Bainlardi stated oh so that's done because we had already sent out a notice of intent.

Jan Johannessen stated yes.

Mr. Bainlardi stated alright so then yeah, we should get going.

Chairman Hertz stated so Mark, I'm happy to schedule that public hearing and just you know, be aware that will probably continue that public hearing until all the information has been received.

Mr. Millspaugh stated no, I understand and are obviously we're anxious to keep the process moving, will be prompt in our response to these comments, to have those back before the Board in a timely manner and we will get the EAF and ideally, if the boards in a position to act on SEQRA the next meeting. What's driving us is, the need to commence construction, this construction season and you know, you're down to one meeting a month for some period of time. So we'll try very hard to do our part and just looking at the critical path and the timeline, it seemed getting the meeting started would be a good idea because there's notices and things that have to happen, but what would the seeker review of the SEQRA EAF be something, that could be accomplished at the next meeting.

Chairman Hertz stated I'm going to differ that to council that we don't have here tonight. So I'm sorry, but I can't give you a definitive answer on that typically, we don't make a secret determination this early and I think there's still some real questions for us on the environmental impacts, so.

Mr. Bainlardi stated well, depending upon the information that we have the next meeting, we may be able to take some action or not. But I mean I think for my view of the world is one Board member here you know, I think the applicants looking for some both, from a timing standpoint, they're looking to keep things moving and we're looking to do the same. But they're also looking to have some comfort, that they could complete their work and not get you know, be spun right, be back to modifying you know, the plans dramatically, so the comments been made for them to look at saving, some of these trees there you know, we're going to take a look at that. But big picture in my mind you know, this site is, and the proposal that's been presented a zoning compliance and is you know, we've gone through several meetings on this site plan, I think the site plan is in relatively good shape. And what I've heard tonight with respect to the environmental concerns about contamination is that the DEC has made a determination that the site is not dirty enough to become a brownfield site, which is good news that there is not groundwater contamination, which is also good news you know. You currently have a sites that's infiltrating water every time it rains. And when you were not finding groundwater contamination currently, so you know the pointed issue, I think that's been raised is there anything that they're doing storm water wise, that could have you know, could change that it doesn't appear to me you know, based upon what we've seen that going to be the case, but you know, there's some additional work that needs to vet that out. So I see this application as one that's you know, is pretty far along here, yes, there's some more work to do and we've got a public hearing to hold, so let's get that going and keep this moving forward.

Mr. Vigliotti stated I have to kind of have to weigh in and I, as one member of the Board, I think we've met twice with the applicant, I don't feel I'm ready. I've asked questions that this evening that I didn't need to have a response to because I know that we have several public hearings ahead of us. I want to see the building coverage, the area coverage, the setbacks, the buffers, the landscaping, we talked about, the stand of trees were getting close, but I think we need one more meeting before we moved to a public area, our Planner is kind of indicating that we don't have...

Mr. Bainlardi stated our Planner has indicated that there's no problem in starting the public hearing. He's just saying it can't be closed, so there's no reason to do why, is it absolutely zero reason to delay.

Mr. Vigliotti stated John I guess you, I don't have enough information in my head, right now.

Mr. Bainlardi stated well, you'll have enough information in your head, when the public comments and the rest of the information comes in. We're not looking to make a determination on this application, we're just simply looking to move it along procedurally and there's no reason to delay, zero.

Mr. Millspaugh stated and this I believe is our fourth appearance, just for the record.

Mr. Vigliotti stated okay.

Chairman Hertz stated so Ralph, I hear what you're saying and I understand that you have questions and that...

Mr. Vigliotti stated that still need to be answered, by the way.

Chairman Hertz stated I understand.

Mr. Vigliotti stated we could do that this evening, if they're ready.

Mr. Bainlardi stated other than the comment about the trees every question that you just asked, that you want to see is on the site plans, look at the site plans, read the memos and let's move on.

Mr. Vigliotti stated John, a public has a right to see with the site plan looks like...

Mr. Bainlardi stated yeah and they're going to see it at a public hearing, so let's get it scheduled.

Chairman Hertz stated alright guys, let's take it down a notch, but thank you everyone. So I think it is in the best interest to open the public hearing, we will clearly not have the information to be able to close the public hearing, so the public hearing will start. We will then have continued public hearings until all the information has been provided to us and we feel that we're suitably and all the public is at its chance to weigh in and we get through that so...

Mr. Bainlardi stated that's what we always do.

Chairman Hertz stated right, so there's no reason not to open a public hearing, clearly is a good reason not to close a public hearing, so...

Jan Johannessen stated hey Doug?

Chairman Hertz stated yes.

Jan Johannessen stated I wanted to offer to Mark, if you wanted to have a conference call maybe with staff and go over the Part II EAF together before you submit it, so we were on the same page in terms of what's going to be identified as a small or moderate to large impact. And that's a document that should go be going over with the Board at the next meeting. So you can evaluate its completeness and then therefore determine, what needs to be evaluated in the Part III. So just in terms of schedule, the Part II has to be submitted, needs to be reviewed by the Planning Board for completeness, the Part III has to be reviewed for completeness, before the Board can consider a negative declaration or declaration of significance, I just want to you know, just everybody's understanding the processing.

Mr. Millspaugh stated we'll take you up on the offer because you know we'll want to be submitted for this to be in the packet for the January meeting.

Jan Johannessen stated yeah, just want to kind of...

Mr. Bainlardi stated just in that vein Jan, the applicant needs to understand as well, that if there are things that are outstanding, if the plans are not completes, it's in your best interests to move that forward. I think your concern prior was, do we have a plan that is moving in the right direction, so you're not wasting money advancing the plans, but there are comments respond to them and the more complete deep, this mission is the quicker we can get to the finish line.

Mr. Millspaugh stated thank you.

Chairman Hertz stated alright, Jan, do we need to vote on scheduling a public hearing?

Jan Johannessen stated absent of counsel I would say yes, they are...

Chairman Hertz stated okay.

Mr. Miley stated you need to set it to a date certain, Doug.

Chairman Hertz stated okay, Michelle what's the next, what's the date of the January Planning Board meeting, first meeting in January?

The Secretary stated January 12th.

Chairman Hertz stated January 12th. Alright, so we will schedule a public hearing for 2 Morgan Drive site plan and subdivision and possibly steep slopes for January 12th, so put that on the agenda, alright.

Jan Johannessen stated sorry to interrupt, let's confirm that it doesn't need a wetland permit before the notices go out, if we could just show Kisco River with a buffer on it, on your grading and landscape plan.

Mr. Sweet stated we'll go over that, and we'll make sure that we confer with you. And we'll work on that to make sure, you know that's clarified prior to anymore submittals.

Chairman Hertz stated alright and Tyler, please work with, Michelle, on the notice requirements, the list distance, etc. and also the timing. So, even though it's over a month away, you know notice, public notice is a large required.

Mr. Sweet stated yep.

Chairman Hertz stated and timing. Okay, gentlemen, all of you, thank you very much. We'll see you on the meeting, on January 12<sup>th</sup>. And hopefully you'll have some substantive meetings in the meantime, thank you. Alright. The next item on the agenda is a public hearing for The Park 333 North Bedford Road. Before we get into the need of this, there are three public hearings in row. There are, I just want to announce their number of ways for the public to weigh in and ask questions or comments on public, on all these public hearings. You can, yeah, if you're on zoom meeting, I believe there's a way to indicate that you'd like to speak. If you're on Facebook, there's a method you can call in and the Building Inspector will read the phone number in a moment. And you can also go to Village Hall, and be heard at the microphone live at Village hall. Mr. Miley, would you just repeat the phone number for people who call in, to make public comments.

Mr. Miley stated sure, the phone number is 914-420-0383. And as far as the zoom, all they need to do is raise their hand, and Facebook, just put a comment in the comment section, we'll be able to read it publicly to you, Chairman.

Chairman Hertz stated thank you very much. Alright, that goes for all public hearings tonight and also, for the foreseeable future until we move away from zoom meetings. Okay. 333 North Bedford Road, this is a continued public hearing for site plan, special use permits changing subdivision and steep slopes. Let's see, Jan, would you just give us an update as to where we are. And in the interest of trying to not keep everyone past midnight. Let's see how fast we can go...

**C. The Park (ShopRite Expansion) – 333 North Bedford Road**  
**PB2018-0365, SBL 69.50-2-1**  
**Site Plan, Special Use Permit, Change of Use, Subdivision, Steep Slopes**  
***Continued Public Hearing***

Mr. Neil Alexander of Cuddy & Feder and Mr. Stephen Spina of JMC were present.

Mr. Bonforte stated Chairman, excuse me. Just a little admin, Ralph lost his connection, his laptop crashed. He's been waiting to get in, waiting to get in for a few minutes...

Mr. Vigliotti stated okay we're back.

Chairman Hertz stated yeah, Michelle, Michelle, does that.

Whitney Singleton stated are you going to behave, Ralph?

Mr. Vigliotti stated well...

Whitney Singleton stated we will have to cut you off again.

Mr. Vigliotti stated that's the feeling I got, I was cut off.

Chairman Hertz stated I wish we had that level of power ...

Mr. Vigliotti stated it felt like I was on the Gong Show.

Mr. Mr. Bainlardi stated I had nothing to do with, so...

Chairman Hertz stated alright, we have bad electrons and good electrons to who knew. Okay...

Mr. Polese stated and free electrons.

Chairman Hertz stated and yeah, exactly. Okay. So, we're in The Park continued public hearing 333 North Bedford Road. Jan, would you introduce us and then we'll turn it over the applicant. And I'll just make a comment that we do not have any additional documents that were submitted in the package, tonight. Jan?

Jan Johannessen stated yeah, I'll be brief. As you mentioned here in the midst of a public hearing, the last meeting, the Board directed staff to start preparing a resolution to be considered potentially at the January meeting. The focus in the last few weeks offline is been on the site plan for 383 North Bedford Road. The proposed retail facility and parking specifically within what's referred to as easement three. I think there's been a lot of progress over the last couple of weeks. I'm sure the applicant will fill you in on modifications that are being proposed to increase the buffer along the property line with what I'll refer to as the Sleepy's building. They're kind of a variety of different things and changes are being made to kind of increase that buffer while still maintaining at adequate parking and zoning compliant parking. And allow, you know certainly, Whitney, to step in and discuss the legal implications of parking within the easement and all. But you know staff's been working hard with their team to try to put this parking issue to bed on 383, and expect that the applicant will be making a full re submission of the entire plants set with the modifications 383. So they could be considered at the January meeting.

Chairman Hertz stated thank you, Jan. And just to summarize our discussion in the work session from the last meeting, the biggest hurdle that we had were some legal issues regarding these been three area whether or not it could properly re-used for parking et cetera, et cetera. We heard from Counsel that he was satisfied, that the applicant had properly shown that those issues were resolved. And now there's some as, Jan said. Now there's some modifications being proposed to friends to see, if we can improve that area of the site beyond what it was currently at. But it sounds like the major hurdle where we stumbled at, the last meeting has been overcome. So, Whitney, unless you want to say something further on that I'll turn it over to the applicant.

Whitney Singleton stated no, it's fine. I'm good.

Chairman Hertz stated so, Neil Alexander for the applicant if you want to, you have the floor.

Mr. Alexander stated sure. Thank you very much, Chairman. So it's, Neil Alexander from Cuddy & Feder on behalf of the applicant I'm on actually, going to very quickly punt over to Steve Spina, because the issue with which I was involved have been addressed as Whitney noted. And I think Steve position at least to update you as to the discussions and he may have a sketch to show you this evening as to the improvements that we've been able to make. Any consistent with comments from Jan Johannessen and from Whitney and from you all at the last meeting.

Chairman Hertz stated thank you.

Mr. Alexander stated hopefully Steve's connections better tonight than last time.

Chairman Hertz stated Steve, you are, from what I can tell you're muted.

Mr. Spina stated sorry, I'm here. Well, hello. My daughter picked that exact moment to kick the door open on me. I have been here for two hours, listening. Okay, so, let me just share my screen. I'll just go over quickly the sketches we made, as Jan good job basically describing those, and I'll show you kind of, a before and a after. Okay, so, this one if you can, can you see?

Chairman Hertz stated we can.

Mr. Spina stated okay, this is the previous layout plan for 383 North Bedford Road. And it just shows quickly the red line mark ups that we worked through with Peter, Whitney, Jan and Anthony, and Neil over the phone on some a couple of meetings over the last you know few weeks. Basically, what we came up with was, you know eliminating a little sidewalk we had here, losing one foot in the drive aisle, of we previously had it at 25 feet just to make it a little wider. Really only needs to be 24 [feet]. And then we had 18.5 foot deep stalls here before. And you know, when you move everything over you now, allow for a vehicle overhang. So, Peter agreed that we could have a shorter pavement length on the space but then

make sure that we provide a clear space for vehicle overhang. So, it's still effectively the same length, you know the car could overhang, whereas before we had no overhang because the curb was right against the property line almost. We had the little bumper blocks, and then a little wall here so, you know, those changes basically allowed us to shift everything over and provide this extra green space here on and basically what we did, we eliminated two of the spaces here, so now we have 13 spaces. And we relocated the loading area over here in front of the building, and then this just kind of as a result shifted everything over a little bit. The new edge that'll show you is here and it just kind of shifted, oops, that kind of just shifted this information over here. And this is the clean, you know, the new plan showing those changes. So, you can see, you now have at that corner where the building is, you have 9 feet to the property line. And you know, maybe another foot here, so about 10 feet to the curb and then, you know, that obviously grows as you move in easterly direction towards North Bedford Road. So, you know provides a lot more room for us to provide landscaping there. We were going to provide some already but it was only in a little limited area. So, essentially that's the changes we've been working on just, you know with Staff over the last few days to finalize and we think we've come to a good solution here. And you know, that coupled with, Neil and Whitney coordinating the, that the parking is allowed in the first place in this area. So, this you know, doesn't result in anything in terms of variances needed, you know we didn't add any variances or worsen anything, it basically just reduces impacts in this area, everything's further from this property line. So, that's what we intend to move forward with, unless there's any comments.

Whitney Singleton stated Steve, are you showing on the development coverage as part of the 333 parcel for road three?

Mr. Spina stated yes.

Whitney Singleton stated and that doesn't trigger or alter any variance applications at all?

Mr. Spina stated no.

Whitney Singleton stated that's all. That's fine with me, I just want to make sure that I'm not chasing moving target with resolutions.

Mr. Spina stated no, no, it actually has more green space in this, in the area now.

Chairman Hertz stated right but you weren't, it doesn't minimize or lessen of variance. You weren't going for development coverage variance anyway?

Mr. Spina stated not in this zoning district, no. I believe we're going for one in the ML district. So, the main part of there, is there in the CL district.

Chairman Hertz stated okay, gotcha.

Jan Johannessen stated it's still, I mean 333, if I remember correctly, it historically had a development coverage non-compliance, right? Then, haven't they gotten development coverage variances in the past, on the existing condition? We're dealing with that Cosentino Tile, they had like a patio out front that you know they had a, that was a non-compliance because of development coverage.

Mr. Alexander stated Jan, it's Neil and I haven't been involved with everything. My recollection is the only variants, this property has gotten was actually related to vehicles parking in the front yard down and the ML portion of the property with the storage facility. I could be wrong for sure because I haven't been involved with every application. But I think there was a lot of for lack of a better word machinations with the math about lessening the existing legal nonconformity of the site. And it kept getting less as to the nonconformity but not getting more, previously. I may have missed an application or two, but I feel like we've taken away stuff as time has gone by while it continuing to exceed the limit but lessening the nonconformity.

Mr. Spina stated right and this is the cover sheet with the zoning table on it, and you know, I think I guess the answer is that in existing conditions in the ML district, it is above the 70% allowable and proposed it also is, so we still need that variance. I guess this may reduce it, you know by maybe a 10th of a percent I'm not even sure, it's that little strip, so, it's probably, I don't even know how, you know what, effect that would have but it would go down, you know this 72.3.

Jan Johannessen stated but you re calculated all this stuff when you got rid of the subdivision and you went to the easements, right? Although all those numbers shifted? Okay.

Mr. Spina stated right, right, yes.

Mr. Miley stated myself and Whitney went over a number of variances and I think we reduced, we eliminated three or four and reduced others, Steve. I don't know how my memo in front of me but there's no change as far as any substantial increase in the variances, they all are less or no longer required.

Mr. Spina stated correct.

Jan Johannessen stated so, when, if you're looking at that finger in easement three, it is in a different zone in district that is in CL. Are you looking at that, as a standalone in terms of coverage?

Mr. Spina stated no, the figures we submitted, yeah, previously or in the early November we had, you know, it's, it was all one lot, we did a lot.

Mr. Miley stated but we did break it down by district, Steve.

Mr. Spina stated let me see, well, the zoning table breaks it down by district but the figures when we did them, you know, here they are. You know, when we did with this figure for 333, it was, you know, that, you know, everything the figures, you know, they are, sorry, the fingers.

Jan Johannessen stated right, okay.

Mr. Spina stated so, this would have a green, you know, this, this would turn into a green, more of a green strip.

Jan Johannessen stated yeah.

Mr. Spina stated I mean that's basically it.

Jan Johannessen stated it might go slightly down because of the green space.

Mr. Spina stated that's what I'm saying. Yeah, these number, the 72.3%, maybe 72.2. You know when we make it, when we make the new submission to you on December 21, you know, if we're going to go forward with this layout, well, we'll look to, you know, clean up those kind of things that just, you know, are kind of the trickle-down effect on tables and charts and figures.

Jan Johannessen stated yeah, to Whitney, 72.3 takes into account the development of the easement three?

Mr. Spina stated yes.

Mr. Miley stated right, but, Steve, you are before the Zoning Board next Tuesday. So, you should have that number before then at least, if it's going to be reduced.

Mr. Spina stated okay, I'll check it. I – it may not even round up or down. You know what I mean because it's so small. But I'll check it.

Chairman Hertz stated alright, math aside let's move forward to substantive issues. So, what else have there been any other changes, Steve that on the site other than in this one area?

Mr. Spina stated no, not since, no, not since the November submission.

Chairman Hertz stated okay, alright, so...

Anthony Oliveri stated excuse me, Doug?

Chairman Hertz stated yes?

Anthony Oliveri stated the only other thing I would just add is we discussed in the meeting just to kind of prove out the driveway slopes by submitting a profile showing compliance with the driveway requirements. So, the only other thing in that area in easement three, I think that we need to see if they could potentially, we felt I think that they could meet the slopes, but the way it was shown last, it really didn't, which would possibly require a variance. So, that, that was something I don't know, if Steve looked at that yet.

Mr. Spina stated we did the grading before was the 10% started a little too soon, you know, in terms of like, the Town code says you have to be 20 feet from the right of way before you can start a 10% slope. We

were maybe 16 feet or 18 feet so we just pulled it out a little bit more. And then we kind of shifted the contours around a little bit and it's actually less than 10% now.

Jan Johannessen stated aren't there minimum or maximum slope percentages, but then certain feet of the intersection?

Anthony Oliveri stated there's like an apron slope and then a subsequent slope after that in the next 16 feet or something. And yeah, so if you just produce something to kind of put that to bed and show compliance.

Mr. Spina stated okay, yeah.

Anthony Oliveri stated that would be good.

Mr. Spina stated right, I didn't do the profile yet, but we did look at the grading and we can – it's a little bit of and, and just a little adjusting and make a profile. It's going to be really flat profile. I mean, the roads, it...

Anthony Oliveri stated that's better.

Mr. Spina stated yes, it is a really flat road when you look at it, and we're not, you know, in existing conditions, and we're really not changing it very much.

Anthony Oliveri stated well that's fine. I think it's just on your last grading plan, the way I read, it looked like it was in violation.

Chairman Hertz stated alright, are there any other open items from Staff that need to be addressed?

Anthony Oliveri stated we had a memo last, last meeting. So there were a few things on there, I think including the final SWPPP. So, I would expect with the next submission, Steve will be addressing those.

Mr. Spina stated yes, yeah, the next submission would look to address anything leftover from those two memos received from Anthony and Jan, after our November submission. We've been really focusing on this, you know, before we got into any of the other items.

Chairman Hertz stated okay, Board members, do you have any outstanding issues or questions that you want resolved before we send them back to the drawing board to finish up, dotting their I's and crossing their T's?

Mr. Bainlardi stated the only comment I would like to make is that on what they've presented tonight, these modifications that they achieved what we suggested that they try to achieve. And I'm satisfied with the modifications they think, it's a better layout and an improvement.

Chairman Hertz stated thank you and I'll second that. Will you be providing, Steve, will you be providing a landscaping plan for the section that, you know, will you be modeling with this? Will you be modifying the landscaping plan to show thing what's going to go on in this area?

Mr. Spina stated yes.

Chairman Hertz stated okay, all right. Very good. So with that, I think Jan Johannessen has what he needs to then finished drafting the resolution, we'll expect, you know, a complete submission, or complete revisions, and then any updated stuff for the next meeting in January. And hopefully, hopefully, we can get you moving along and obviously, you still have plenty of things to do with other boards, but you'll be before the ZBA gets, hopefully get your variances and get this project moving forward. So thank you, I appreciate the work, that Counsel for both parties have done resolving these issues quickly. And you know, that Steve, you and your guys have done these, getting these plans, you know, continuously revised and improved. So, I think we've come a really long way I think is this is going to be an excellent project. Thank you for all your continued hard work on this.

Mr. Spina stated thank you.

Chairman Hertz stated with that, we'll plan to see you. We will adjourn this public hearing to the meeting on January 12th, where we will hopefully be able to close it. And before I do that, I am going to ask the Building Inspector if there are any people who wanted to comment on this application.

Mr. Miley stated yeah, I am checking Facebook Live now. I don't have any comments other than myself requesting a test.

The Secretary stated no raised hands.

Mr. Miley stated no raised hands and zoom the phones in front of me, it has not rang and there's nobody in Village Hall to speak.

Chairman Hertz stated great, so with that we will adjourn the public hearing to the meeting on January 12th. And hopefully we'll have a draft resolution before us and you'll have final plans. All right.

Mr. Bainlardi stated good luck with the ZBA and the Town of Bedford.

Mr. Spina stated yeah, I'm going over there right now.

Mr. Alexander stated likewise. Thank you, see you in the New Year.

Mr. Spina stated thank you everybody.

Chairman Hertz stated alright, the next items on the agenda as we may have mentioned earlier, both myself and as Planning Board Chair and Vice Chairman Bainlardi are recused from so the person who will be chairing matter D and E on the agenda is Acting Chair Mike Bonforte, with that I will turn it over. Thank you very much.

Mr. Bainlardi stated Happy Holidays everyone.

Chairman Hertz stated yes, Happy Holidays.

Jan Johannessen stated I'm recusing myself, have a good night.

Mr. Bonforte stated thank you everybody. Can Peter, can you hear me? Okay. I'm assuming that everybody can.

Mr. Miley stated I hear you fine, Michael.

**D. SCS Sarles Street – 180 South Bedford Road  
PB2020-0395, SBL 80.44-1-1  
Site Plan**

Mr. William Null of Cuddy & Feder was present,

Mr. Bonforte stated good, thank you, Peter. Okay we have two applications to look at. One is a continued public hearing for the SCS Sarles Street Solar farm. Peter or Michelle, I'm not sure who's keeping track but do we have any public speakers looking to speak either the three formats.

Mr. Miley stated we'll confirm. Just that Michael, your volume on your microphone is low. I don't know if it's not close to your mouth. Now I'm having a problem hearing you.

Mr. Bonforte stated yeah, I'll just repeat if we have anybody willing to speak for the SCS Sarles Street application.

Mr. Miley stated yes, we have Mr. Pietrobono would like to speak. He has his hand up via zoom.

Mr. Null stated could I use the applicant speak first only?

Mr. Bonforte stated hold on a second, Mr. Null. Peter, what is the schedule look like for both, this public hearing and the next applicant? Is there a, is there a list for the next applicant?

Mr. Miley stated no. There's not a list yet. They typically raise their hands in Zoom. We only have two hands up so far.

Mr. Bonforte stated okay.

Mr. Miley stated you know, during the meeting I'm sure that may increase.

Mr. Bonforte stated sure, Mr. Null why don't you go ahead and then we'll go back to the public hearing although I would say you need to limit your comments or input in and there's an administrative issue at hand that hasn't been resolved yet. So I don't know what you're looking to...

Mr. Null stated Mr. Chairman, we're on the agenda and I think as an applicant we should be able to at least frame why we're here. And I will keep it limited, I assure you. We don't have anything to present but I wanted to update the Planning Board on the status of where we are and what we'll be bringing back to you, if I may.

Mr. Bonforte stated that's wonderful, thank you. Go ahead.

Mr. Null stated my name is William Null, I'm a member of the firm of Cuddy & Feder and I represent SCS Sarles Street, the applicant on this matter. Rich Williams from Insite Engineering is here with me tonight. We have been listening and looking to respond to comments that have risen, both from your professional consultants and from the public during the past several days of a public hearing. And we were preparing to submit a wildlife habitat assessment which had been requested. Also we have a tree assessment with further details to the types and conditions and sizes of the trees that are proposed to be removed. And we also, like other things wanted to respond to questions that arisen as to the sufficiency of the drainage on the site particularly with regards to Sarles Street so we are working on that. I wanted to assure the Planning Board that we are working on that. And I wanted to, if appropriate, if there's time I wanted to just raise one question concerning the BFJ Planning memorandum that we received this morning. As you know, we understand fully the importance of examining cumulative impacts of both the solar system, particularly solar energy system project that I'm representing and the adjacent cell power project. However, in the memorandum and also during the discussions that we had that the memorandum summarizes or seeks to summarize. Both, these two different projects were referred to as a single action and with due respect, under SEQRA that is not accurate or correct. It's totally appropriate to consider cumulative impacts to simultaneously review the two projects so that the Board has information from both projects side by side and we have no objection to coordinating as had been suggested in the BFJ Planning memorandum, plans and other reports so that the aggregate information is available for the Planning Board. But it's critically important that there be two separate determinations on the actions themselves not only because well, mostly because they have different timing proposed for them. One could end up not going forward, the other could end up going forward. One could end up being challenged. The other one could end up not being challenged. And for that reason there's no benefit to the Village and there's a significant detriment to each applicant to combining them as a single action with a single environmental determinations or findings at the end. There really should be two separate environmental findings resolutions adopted and they should be treated as two separate actions that are having combined review. I'm open to discussing it but that's my presentation and I think I'll wait to comment back on anybody who speaks other than me.

Mr. Bonforte stated well, I'm going to defer to our Counsel and even Simon Kates with BFJ Planning but to myself, practically speaking, whether you call it a single action or not, we're trying to accomplish the same thing. It's just a couple of words. I don't know if there's a legal impact to those two words single action but I do know that we see it as a very practical matter to look at the, for example, steep slopes which there needs to be a variance and what could be coming downhill from the solar into the other applicant's plans and site plans. The trees being removed and et cetera, the overall disturbance to the site. So, whether you call it that or we just look at the cumulative impacts like has been discussed in this staff meeting last week. And you know, each applicant denotes what those potential impacts are on each other's plans, separate plans. I think we're saying the same thing but with Whitney maybe you want to clarify it from misspeaking..

Mr. Null stated there is a significant legal issue here. It's not really practical issue.

Whitney Singleton stated we've determined basically and I think it's been made known to you Bill, that for purposes of SEQRA and to avoid impermissible segmentation, we were going to review the impacts on the site as a single action and that under the secret tests and that under the test for segmentation under the secret regulations, this qualifies for such and it was recommended for such by the County Planning Commission.

Mr. Null stated with due respect, you can consider them as two separate actions and not violate segmentation. They can be considered together and treated as two separate actions. They each have different standards. They have different, they are distinct projects and it wouldn't take away from the consideration as I said of the impacts as in the aggregate but at the same time in a coincident simultaneous presentation et cetera. I'm not suggesting otherwise but calling them a single action, with due respect, has other legal implications that are detrimental to the two projects.

Mr. Bonforte stated okay, thank you Whitney.

Whitney Singleton stated I'm not going to debate with Mr. Null here. I'm not saying he's correct or incorrect. It's a public hearing, it's an opportunity for people to speak.

Mr. Bonforte stated Simon, did you want to say anything in regards to this matter before we go to the public hearing portion?

Simon Kates stated I would just reiterate the same points that Whitney made. You know, I've been given a, you know, a directive by the Planning Board to review the applications in this manner as a single action with regards to SEQRA. And that's based on our conversations with the Planning Board's Counsel and the two letters received by Westchester County Planning Department one each for each of the two applications.

Mr. Bonforte stated okay, thank you Simon and Mr. Null, we're glad you're back. Really, we want to take a look at this as much as yourself, I believe. But right now you need to contact the office, take care of the administrative paperwork and then we can move forward. So, with that I'd like to go to Peter Miley or Michelle or both if there's anyone here to speak on that application from the public.

Mr. Miley stated yes, Acting Chair, we do have three people that have raised their hand in Zoom. The first one is Rex Pietrobono, the second one is John Rhodes and the third one is John Stockbridge. So, we're going to allow Rex Pietrobono to start, he was first.

Mr. Bonforte stated Rex, before you start, its Michael again. Just please contain your comments to this application because I think it will be better for everyone involved. And then please come back and speak on the next application. You're welcome to do that, okay? Thanks, I know it's going to be hard but...

**Rex Pietrobono** stated which application's first now?

Mr. Bonforte stated this is the SCS Sarles Street's Solar Farm project. So it's a continued public hearing. It's not going to close, we're going to leave it open. You're welcome to come back and speak again on that project. And again, I just don't want to confuse anybody with the two different projects. They're being looked at separately as Mr. Null said because the site plans are being prepared separately meaning separate site plans. But again, when we come to the SEQRA and the environmental impact, we've already made those statements so that's to be taken care of. But if you follow me, this is about SCS Sarles Street only.

**Rex Pietrobono** stated well, okay. I was prepared to speak to them combined but what can I say? I don't want to repeat everything that's been said before. You know, one of my biggest, there's just so many things and they all are interrelated. It was mentioned that the possible, the tree screening for the cell tower has trees that's designed to be preserved and yet they seem to be marked for some purpose. I don't know what the purpose is but they're certainly marked by the solar farm at least Insite, I believe it's on behalf of SCS. So, you know, you obviously have to coordinate, if you were talking about trying to preserve trees you can't get these two projects going on simultaneously essentially. And I don't know how you'd separate them but you've got so much conditioned upon like, one giant tree that's supposed to be providing screening for Homeland and yet it's like right there they have to enlarge, if the solar has to marge to the driveway, it's going to cut into that very tree. So, I don't know. I mean, you know, that's just one part of it. You've got, you know, why is there a strip running down through the center of the project down to 172? There's a lot of trees that come out as a result of that and if they're doing all that cutting and digging, why don't they run their power cable right down the center of that rather than having to wrap it around the driveway right on my border and literally on my border of my property which is a huge hazard, potential hazard. You could say it's not but somewhat people make mistakes, they cut into the damn wires all over the place. That's why they're supposed to be checked first and when people don't, they don't have to be electrocuted for it. I'm not saying it's going to happen and what happens is unknown. Water carries down there and pools and as the water trickle up and electrify -- I don't know. Why does it have to be right on the border? Why don't they run that on the inside of the property right down the center of it and come out and tie into ConEd and they say ConEd said it's got to be here. That's not true, ConEd says that's the line it's going to be connected to, they didn't pick this exact spot, I believe. It's just following the course around the driveway. Stop trying to interfere with my space, my safety with the buffers and the setbacks and things. You know, I rely upon those. We relied upon those, they just ignored us. They said all right, well, they're going to put, and you know, here's this buffer zone. We're going to come in and we're going to put a water retention basin in there, it's just a water retention basin. Well, you know what? That brings the distance, it shortens my distance between, and you know, our parcel and the disturbance, the main area of disturbance. And it also removes tress to put in the water retention basin, so that removes screenings. Now it's closer, it's more visible. And then there's all the accoutrement that goes with a water retention basin. Next thing you know it, what the hell is the purpose of a buffer zone? They're building it right here wherever they want. Get out of the buffer zone all right? You know, be considerate of some of the surrounding properties. Is that so

much to ask? And when I say considerate, is it so much to ask to say comply with the statute, the Code? You know, the screening proposed is so minimal now, you know, in view of the entirety of the project. And so that's some of the things that come to mind, it's almost completely separate from the Homeland Towers but they still have you know, an overlap which I will address when I do Homeland Towers at least, very minimally. But you know, I think that they should be cognizant of the neighbors here for a change. It would be nice. Thank you.

Mr. Bonforte stated thank you Rex. And Rex, to answer you briefly, what we've agreed to do with the applicant and was just stated prior to your speaking is we're going to receive separate site plans, separate storm water, separate say tree removal. And if there's an overlap then the Board will be able to evaluate the cumulative impacts from both plans in that manner. And so if you follow that reasoning, I think we'll get to the same end result looking at these projects separately because they're independent in that manner. But yet, we do and will chart, we will evaluate on a combined basis, especially for the environment okay?

**Rex Pietrobono** stated I appreciate that. I will say this, I mean, I hear you, you have to understand my position too. I literally have the Bedford Planning Board on right now because of the tree destruction on my east side. I've got a solar farm proposed for my south, I've got a cell tower on my west and I know there's been a rumbling about a potential sidewalk one day on the north so.

Mr. Bonforte stated understood.

**Rex Pietrobono** stated excuse me if I can't keep everything completely separate. You know, it's just, they're all relative. They're turning this into a commercial industrial corridor. It used to be a bucolic entrance to Mount Kisco, it's going to be an industrial entrance.

Mr. Bonforte stated well Rex, thank you for your comments and ---

**Rex Pietrobono** stated thank you for your time everybody. I appreciate all your work.

Mr. Bonforte stated feel free to stay with us. Peter, is there a next speaker for the SCS Sarles Street applications?

Mr. Miley stated the next speaker is John Rhodes. John, are you with us? Mr. Rhodes, you are available to enter into the meeting.

**John Rhodes** stated can you hear me, Peter?

Mr. Miley stated fine.

**John Rhodes** stated great, I don't know that you can see me but that's not as important but better to start my video. Thank you. Thanks Peter.

Mr. Miley stated you're welcome.

**John Rhodes** stated Good evening Michael and the rest of the Board and the staff. I appreciate you guys hanging in there. With this, it seems strange to me that – well, not strange so much but that the several times that we've discussed either one of these matters that they've been the last item on the agenda. And I've had several people say to me that, you know, they don't-- I mean obviously you guys and I have to stay up for all of this but it seems to me not very community friendly that for example, now someone who wants to speak on the cell tower application could be an elderly person, whatever is probably going to have to wait until, you know, 10 or 10:30 to speak. And the reason that seems strange and I know sometimes that the agendas get very heavy but even though, you know, Mr. Hertz, Chairman Hertz has recused himself in this matter, he's still the one that makes up the agenda. And so every time that we've been on the agenda it's been the last item and I know that's, you know, for the convenience of Jan and the other people who want to leave and don't have to stay for the whole meeting. But I would think that since there's much more community interest in these hearings than there are for example, in 333 North Bedford, that's very important one, also that it might make sense starting with the next meeting to try to schedule these hearings first so that especially the elder members of the community and a lot of the people who live along Sarles Street for example are elderly, that they would have a fairer chance to comment on this. But also I think it's a little bit unusual or distasteful to me that Mr. Hertz who has recused himself in this matter gets to decide where it is on the agenda and it always ends up at the end of the agenda. So that's just a little side comment about this because we're just starting to...

Mr. Miley stated Chairman, let me, I need to interject John.

Mr. Bonforte stated go right ahead.

Mr. Miley stated and I apologize for interrupting. The Chairman does not set the agenda so I will make sure that's clear.

**John Rhodes** stated okay, I thought for all the committees and commissions in the Village that the Chairman either sets or approves the agenda.

Mr. Miley stated no, it's reviewed with the Chairman but it's not approved. We set the agenda. Also basing it on who is available and you know, times of the meetings and individuals that are recusing themselves that would be otherwise waiting for two hours. And you know, those at the end of the meeting that are no longer part of this meeting are not waiting for three hours to, you know, prior to.

**John Rhodes** stated I understand that Peter, thank you.

Mr. Miley stated but then, I mean, of course we'll talk with Acting Chair. There's always consideration for a recommendation in place of meeting earlier. You know, I just want to make it clear that Doug did not accept it.

Mr. Bonforte stated thanks for clarifying.

Mr. Hertz stated and John, you can apologize whenever you like.

**John Rhodes** stated I'm not going to apologize to someone who shouldn't even be speaking during a meeting

Mr. Bonforte stated well, Doug, okay, duly noted. All right, John and it just makes sense, John. The other applicant, for example, the park, that's a project that's been with for us for -- I don't know how many months and maybe even years. It's a year and a half or something and so, you know, that makes sense to schedule that and they have a ZBA meeting to go to, you know, which they jumped too. So please John, go ahead, and complete your comments. And by the way, I'll mention I read your memo, your latest memo.

**John Rhodes** stated thank you.

Mr. Bonforte stated you know, you asked for an up-to-date tree and wildlife and you know, ecological survey or study. And Mr. Null stated that they're going to provide that. So I thought at that point –

**John Rhodes** stated I look forward to seeing that, you know, based on the several submissions they've done so far it doesn't address the specific questions that the members of the CAC had in terms of the, you know, both the completeness of the tree study and also the, you know, the up-to-date nature of it. I look forward to seeing that. I have one comment in terms of the tree study and that is after having examined, you know, the property, you know, from several different angles, it's clear to me as someone who has some knowledge in this area that there are a substantial number of Ash trees. And one of the issues with it, any tree survey that just covers the development footprint, is that it doesn't really deal with the site lines and the trees. And specifically, it doesn't deal with the very authoritatively predicted change in the nature of forest, nature of this area over the next five years. The United States, you know, Forestry Service has said that 99% of the Ash trees in this area will be dead sometime during the next five years as a result of the Emerald ash borer. And typically, we don't have the survey for this site and that's one of the things that we need, not just for the development area but for the surrounding areas because that speaks to the issue of site lines and buffers that anywhere between 13 and 20% of the trees typically in Northern Westchester on any particular property. We don't know the exact number for this one or their age or their placement are Ash trees. Now we know then from the forestry service that all of those trees will be dead within the next five years. This is virtually almost a 100% fatality due to the Emerald ash borer, so what that means for example, if you talk to Mr. Pietrobono's point saying that the visibility from his property for both projects is questionable and it is yes, protected by some trees. If you remove the 20%, 13-20% Ash trees, the visibility not only for his property but for the property across Sarles and for the Marsh Sanctuary has been increased dramatically. And I think this is something since its known science and it's very clearly predicted by the federal government that it's something that should be taken into consideration in terms of the cumulative environmental impact of both of these project. So I hope certainly that the updated tree survey does meet, you know, the qualifications that we've asked for which is for the complete property. Not just for the development area itself because additionally, some people commented. Right now, the tree removal plan says only 10 feet beyond the fence. Anybody can see that that's really unrealistic because if you have a 100-foot tree 10 feet beyond the fence especially if it's in bad condition which a tree survey would show, it's very likely that tree especially the present Ash tree will fall or will damage the fence, will damage the solar panels. So it's very clear at least to me that a 10-foot beyond the development area is not sufficient.

What the exact distance is something that could be discussed and argued. But as was done before, what you really need is a complete full site tree survey with species and size and that's what we strongly recommend for both of those reasons. I'm glad that they are working on a new one and actually, the issue with the, you know, with the tree survey, and by the way I don't know how they could have prepared a four season habitat study in just the past month or two but I'm looking forward to seeing that and having my members actually over carefully and examine it. Okay, so now just to get to the latest memo that I sent Mike and again, it's difficult, very difficult to separate the issues that apply to only one or the other application because in most cases the same issues apply to both and sometimes in interconnected ways and sometimes in separate ways. So, what I hope you get from this latest memo is this is a lot of research on the part and discussion on the part of the CAC and it has to do with a positive declaration of environmental impact. In our last memo which you referred to before, we listed I think some five or six major reasons why a positive declaration is necessary to evaluate the combined impact and also to combined remediation of this project. And this one, we just referred to a few short reasons why a positive declaration we feel is important for the Planning Board in terms of your process and in terms of the process for the people of the Town and for the applicants. We strongly feel that a positive declaration would expedite the process of these applications, we've had a number of delays, a number of loopbacks with both of the applications, the cell tower, you know, changing the location, the other applicant coming up with various different plans and different, you know, different tree counts and so on. And a positive declaration would enable you to in the scope of the declaration say these are the documents we need, these are the surveys we need, these are the completed update tree, habitat, wildlife studies all that. And in the past meeting I remember there was a little bit of a discussion between the lawyer for Homeland and Mr. Singleton about the leases. But there's been a number of different documents that-- if you'll pardon my expression it seems almost like pulling teeth to get some of these and eventually we get them. You know, like we're going to get a new tree survey after six months but after requesting it six months ago but is it going to meet the needs. So, all relevant documents, all relevant agreements, all relevant correspondence, surveys and verifiable data and again this applies more for the second half of the conversation, Mike. But there's one point, I want to say it now. Verifiable data on wireless coverage, dropped calls related issues, computer print outs, not just statements saying we feel this way or our expert says this. If you have a positive declaration, you can specify it in your scope what kind of documents you need and those basically have to be provided, there's no pussyfooting around it. Is it required in local laws, is it required in state law, is it required in this regulation or not. Basically, under positive declaration, you have a right to whatever documents you need to make a well-informed decision. That would also include verifiable data on noise which wouldn't just be a statement that was included in and what was presented by Sarles Solar. You know, we know it's not going to make a lot of noise. There are people that think it might, so the best way to do that is you actually do an onsite test with similar equipment and you present a certified engineering report on that. Same thing with drainage, the same thing with the statics, you know, because of the loss of probably several hundred additional Ash trees and all the related impacts. So, you are under the positive dec., you would have the ability to specify the documents that you felt were absolutely necessary, you know, for this press determination. The other thing is actually something that deals with a shot clock and we did a little bit of a research on this. And I've sent copies of one of the key documents we found.

Mr. Bonforte stated John? John?

**John Rhodes** stated you know, to Mr. Singleton for his check.

Mr. Bonforte stated John, excuse me. Sorry, you may not hear me clearly. I'm looking at your memo as you speak and I appreciate the thoroughness which all your memos have and their valuable input et cetera for the board. Number two, the shot clock, it really applies to the next application.

**John Rhodes** stated yes, that's why I'm saying it's difficult to come back. I can come back to it if you'd like.

Mr. Bonforte stated it has some overlapping impact or influences et cetera but just, you know, the board received your memo, this latest one. Again, if you want to jump to any of the items that you, you know, referred to this SCS Sarles Solar Farm in that regard, then you can come back on the next application for the cell tower and discuss overlapping or you know, give in all the impact. Would that be fine?

**John Rhodes** stated okay, I'll do that, thank you.

Mr. Bonforte stated okay, because you know, the birds, the wildlife, the trees, they were all, you know, potentially a cumulative impact from one project or the other or both so.

**John Rhodes** stated yes, some of these relationships are a little subtle. But I will come back to that point number two later since it primarily applies to the, you know, cell tower application. But, you know, I think what one of the points and then number three really says is that, you know, with this kind of jumping back

and forth it prevents the Board members it prevents the public from really getting a clear cohesive combined picture of what the impacts would be, and I think that with a positive declaration and the processes involved in that you would have a chance to say, okay, we're going to have one unified discussion of this because when you're interrelated impacts it really doesn't make a whole lot of sense to discuss them as separate items but, you know, you'll see how that proceeds and how that works for you. The other thing which again applies to both is the fact that there was a positive declaration before on this property and this is a much more complex application with the two applicants and all the other impacts. And we really think that speaks very clearly to the need for a positive declaration hospital, you know, I'll stop now. Let's another people get in and say what they have to say and I'll come back and just cover point number two when you get to the cell tower. So, thank you very much for your time.

Mr. Bonforte stated thanks, John. And I'll just add that your last point there on a positive declaration was reference to a residential development that was put before the board years ago. So, thank you for those comments, John. As always Peter or Michelle, is there anyone else next in line?

Peter stated yes, I can share we have Mr. Stockbridge, that would like to speak next.

Mr. Bonforte stated welcome, John. I believe.

Mr. Miley stated it is John.

Mr. Bonforte stated thank you.

**John Stockbridge** stated and when I start a video here, if you can get me, here you go. Hi, John Stockbridge here. Resident of Sarles Street, Member of the Board of the Marsh Sanctuary and I appreciate some of the dilemmas that the Planning Board goes through and appreciate their work. One thing that it's not the first thing to talk about but it wouldn't it be easy if the Planning Board said that we want one applicant and it is the owner of the property not the lessees and, you know, you basically then have the ability to look at the overall property as what it is and what the Village was trying to protect in its green space. What the Marsh Sanctuary values as being green space behind it, and it just seems to me that if we had one applicant we could go through the details of the whole project. In other words, you're not segmenting and I recognize why that's a problem but and one of the things that just happened here, you're not going to believe this but my little machine just went on low battery because I've been waiting as John said for a while. So I'm going to have to get a plug in if I can find my spouse to run up here or whatever. But I think that the Marsh sanctuary has been getting a whole new era going we have the Rewilding School coming in with a lot of their kids, we have the community garden and it's full. We have a lot of this is, sits right below where the, here we go, where the project would be for the solar plant and if we get a flank for this. I'm so sorry I got a low battery here.

Mr. Bonforte stated John, take your time. While you're doing that, what school were you referring to? I'm not familiar with that.

**John Stockbridge** stated oh, I'm sorry. It's called the Rewilding School, and it deals with kids that I think are 4 to 14 years of age and is giving them some education, if you will, in the outdoors and basically not just textbook but this is,

**Anita Stockbridge** stated yes, survival.

**John Stockbridge** stated just like my wife just said, survival. And I think that but you go by there now on Sarles Street at any day basically you'll see a number of kids there and they'll walk down on the pond they'll walk, they'll do some learning from the teachers they have and come back and it's really invigorating the Marsh Sanctuary and its right below where the solar plant would be. And, you know, as John mentioned before if a lot of these trees die or whatever, you're going to have much more view of something that is not green space, it is not complementary to the sanctuary. And Rex will tell you right away as he did before, here's a project, Chabad's project on 172 right across the Sarles Street where all these extra trees were taken down that weren't supposed to be and the applicants say, Oh, man I'm sorry, we've got- we didn't do that right. We're not always accusing the solar people not doing it right but the possibility of things increasing the broader viewer between this proposed plan and the sanctuary. I think are significant enough for the public to worry about it. Like John and Rex, I have comments on the cell tower as a separate item but I really think what would be ideal sort of dream is if the owner decided to gift the property to the sanctuary and sell it basically the people who would pay the money to do that. I mean, I think you'd find a number of neighbors who would come up and say, okay, here's a couple of bucks for this I think the Village has a fund, the state of New York has a fund, Westchester Land Trust has a fund. All of these people are interested in maintaining green space and to me it would make a lot of sense for at least to consider it and it would be considered that way if the Planning Board had it would be one applicant, which

was the owner. And so, I will just ask Mr. Rhodes, one thing he said about the elderly late at night and John you may not know this but I have four kids, the youngest of which is 48 and so it sounds to me like, maybe I might qualify as elderly and I don't mind being on the phone here at 9:30 or whatever it is because it's very important to try and preserve this green space. I respect what you guys were doing and I'd like to have a chance to speak on the cell tower as well on specifics on that but thank you.

Mr. Bonforte stated thanks for your comment, Mr. Stockbridge. Next, Peter, Michelle? Anybody?

Mr. Miley stated Yes. Ms. Bucu is on with us, she's the next speaker.

**Mr. Bucu** stated Oh, I didn't even know I had officially volunteered to speak but –

Mr. Miley stated you had your hand raised.

**Ms. Bucu** stated oh, okay.

Mr. Miley stated you want to speak or no?

**Ms. Bucu** stated I did want to speak so that's good.

Mr. Miley stated okay.

**Ms. Bucu** stated hi, everyone, thank you. My name is Robin Bucu and I am a resident and a business owner in Mount Kisco. I'll keep it short. When it comes to the solar farm development, I just think that in any situation we need to protect all the green spaces we have especially given the state of the climate crisis. We need to preserve all the trees we have, we can't afford to lose trees. Solar, obviously can be a wonderful green source of energy but not anti-solar, but like Rex had said in a past meeting don't replace green with green, replace brown with green or, you know, what I mean. So, I just think that we're at a point in time in history of a point that we've never been at as a human race that every decision that we make from here on out, needs to put environmental welfare at the forefront of our decisions. We cannot do business as usual anymore and only think of financial gains and that is pretty much sums up what my point of the solar project.

Mr. Bonforte stated alright, thank you.

**Ms. Bucu** stated thanks.

Mr. Bonforte stated we appreciate that, thanks for coming forward. Peter, Michelle?

Mr. Miley stated that's all the speakers that we have with their hands raised in Zoom. I'm checking Facebook right now and we have no comments for Sarles Street application and on the phone no text messages, nobody waiting and nobody at Town Hall. So we're good to go, Chairman.

Mr. Bonforte stated okay, so, procedurally I'd like to adjourn the public hearing on SCS Sarles Street to the next meeting, so it'll still remain open. The applicant has expressed a desire to come back and provide more information so we look forward to that. Do I need to-- what's the next meeting, Michelle? Can you –

Mr. Miley stated Chairman, January 12<sup>th</sup> is the next meeting.

Mr. Bonforte stated Whitney, do I need to make a motion to place it on the agenda?

Whitney Singleton stated yes, to a date certain.

Mr. Bonforte stated thank you, Whitney. **So I'd like to make the motion to adjourn the SCS Sarles Street Project Application to January, I wrote January 9<sup>th</sup>, 13<sup>th</sup>, I'm sorry, Peter.**

**Mr. Polese** stated I think it's a 12<sup>th</sup>.

Mr. Hertz stated 12<sup>th</sup>, yes. Sorry, it's not ready. Do I have a second? Do I need a second?

**Mr. Polese** stated I'll second that.

Mr. Bonforte stated hank you, Mr. Polese. Okay, let's move on. So the last item on the agenda tonight is Home Lantern.

Mr. Null stated excuse me, Mr. Chairman I think we need a vote after the second.

Mr. Bonforte stated apologies. Please, Michelle, poll the board. Thank you, Bill.

**UPON ROLL CALL VOTE:**

<b>Mr. Bonforte</b>	-	<b>aye</b>
<b>Mr. Polese</b>	-	<b>aye</b>
<b>Mr. Vigliotti</b>	-	<b>aye</b>
<b>Ms. Pickard</b>	-	<b>aye</b>

**The motion carried by a vote of 4 to 0.**

Mr. Null stated thank you very much. Stay healthy and have a good holiday.

Mr. Vigliotti stated thank you.

**E. Homeland Towers – Mount Kisco Wireless Telecommunications Facility – 180 South Bedford Road  
PB2020-299, SBL 80.44-1-1  
Site Plan and Special Use Permit**

Mr. Simon Kates of BFJ Planning; Mr. Michael Musso of HDR and Ms. Stacy Calta of HDR consultants for the Village were present.

Mr. Robert Gaudio of Snyder & Snyder and Mr. Klaus Wimmer of Homeland Towers were present.

Mr. Bonforte stated thank you, Bill. Alright, yeah, sorry for rushing, folks, I wanted to get to the last item on the agenda. This Homeland Towers, this is the wireless telecommunications facility or the cell tower. There's a few things we're going to do here, we received a memorandum from HDR, that's Michael Musso and Stacy Calta who were on Zoom with us tonight and we'll let them update the group. But first we'll go to Simon Kates with BFJ Planning. He's responsible for the overall planning and assistance on this application to the Board, to the Planning Board. Simon, before you start, I just want to mention something from Michael Musso, one of our members of the Board, John Hochstein wanted to have a comment about alternative sites, Simon, which is the nature of your memo that you submitted dated December 3<sup>rd</sup> which is in the record. He was asking and again if you haven't, you know, research this or have an answer that's fine but let's enter into the record. He wanted to ask if there's an alternate site like for example, on Mountain Avenue where Verizon has a location and also out by 684, I forget the location name right by the intersection of 684 and 172 East. I think it's on top of-- I think they call it the Castle Tower whatever. Whether if those towers were increased in height either one of them or both, could they provide a sufficient coverage necessary to eliminate this current location on 180 South Bedford Road? So, if you can comment, Simon when -- sorry, Michael Musso, apologies, I'm on alternate sites, after Simon Kates. I appreciate that and that's from our member who couldn't be here tonight. So, then we'll also then we'll take the public comments sorry to leave that last but I think it's important that actually Simon give us his update and Michael Musso and then we'll go to public comments.

Simon Kates stated great, thank you Acting Chairman, Bonforte, for the record Simon Kates, I'm an associate principal at BFJ Planning. Just I'll try to be brief here, the update that I have is that we had a meeting last week to coordinate between these two applicants and I think this speaks a bit to some of the questions that folks from the public have raised so far. This is something that we're working on the two applicants are both, are working on this and to briefly reiterate again. As you all know you've given me the directive to review these two applications as a single action under SEQRA to determine if there are combined impacts on the site and what the determination of significance would be based on that. This is based on the two letters that I mentioned before from Westchester County Planning Department one for each of the two applications our conversations with counsel, with Whitney Singleton in an effort to avoid impermissible segmentation. All of that is what led us to setting up this meeting that we had last Wednesday with the two applicants to coordinate the aspect of the two projects that we think could create combined impacts and so that's what that discussion was for. I think it was a good meeting. I think generally there was agreement among the two applicants to work together. I think we found some reasonable solutions where they could do that and I think in a way the meeting went exactly as I had hoped which is that the outcome for the most part was that the engineers, you know, got into a room on Zoom of course, and started thinking about what were the some ways that they can brainstorm a way forward and work together and I think that they were able to come up to some ideas there. I'll outline very briefly in a moment what I, you know, what sort of how we organize that meeting and the items that we discussed but before I get into that, I just want to start with and maybe pause for a moment with what I think is an

important takeaway for where we are in the process, which is that for my standpoint, from the standpoint of the secret process I think that there are a couple of items that need to be resolved. But before, I think that the Planning Board is on a position to make a determination and significance on this action. That, of course, is your decision but this is my sense of where we are in the process. Number one, the items that we discussed in this meeting last week where we coordinated with the two applicants, you know, we need the response from them on that coordination in order to understand whether there are combined impacts that that have a SEQRA, that raise SEQRA questions. Number two, which I think Michael Musso will talk about a little bit more in the moment is, as I think all of you know that the balloon test was conducted a few weeks ago, the Homeland Towers applicant as I understand it is working on visual stimulations based on the balloon tests. We've seen some photos, you know, folks may have been out there on that day a couple of weeks ago and seen the balloons but the applicants is working on photo simulations based on that. And I think that will be a key deliverable for all of you to review. And one last item here I understand that the Homeland Towers applicant is on the agenda with the ZBA next week to discuss some of the variances which I should know that Peter Miley has been highlighting in his previous memos. So, I'll just close just the outline the memos that I sent around this morning, the items that we've discussed last week for coordination where I think we made some headway with the two applicants. Number one was the site plan drawings themselves, we think there are some common elements on the site that we want to make sure are shown in the same way on both drawings. And most critically there we think is the access road. We want to see that access road, we want to know that it's the same it's one road and we want to make sure that's clear on both applicants' drawings. Number two is stormwater. How does the runoff interact between the two projects we want to make sure that the runoff from the two projects are not accumulating in a way that is creating a significant adverse impact on the environment if they're detailed questions on that I think Anthony Oliveri can answer that. But once again I think that the applicants in particular again the engineers were able to come up with, I think a workable strategy where they can demonstrate what the impacts are if there are any. Number three on my memo was the access road. I've touched on this a little bit. We ended up jumping around a little bit in the meeting but it relates to the site plan drawings and making sure that those common elements are shown in the same way. We talked about a couple of items that I think turned out to be more site plan questions, for example, security and maintenance plans. These may not be a secret issue but we did talk about it and at least in my notes the outcome was that both applicants are happy to provide condition of approval, their security and maintenance plans. I think both have provided some information so far. The next item is it concerns with the Fire Department raised with regard to the cell tower project and the reason we raised this at the meeting last week was to, number one, make sure that any changes that are made in one project are also made in the other, right? Just going back to this point about where there are common elements we want to make sure that those are addressed in the same way. There we raised the question of construction staging, how will the two projects if they are to continue on this generally similar timeline, how will they be constructed in a way that sort of recognizes each other? And I think both applicants were again happy to agree to that as a condition of site plan approval. I think again this might be an issue that it's more of a site plan issue than a SEQRA issue but we did talk about it. And the last one is just the visual impact which I touched on before and again, Acting Chair Bonforte, I think Michael Musso can talk about that in more detail.

Mr. Bonforte stated great and I meant to say that after Michael Musso that Mr. Gaudio, if you or your team want to, you know, comment or just provide any updates you'd be welcome to do so and then we'll hear from the public and hopefully that input will help also in the process. Michael, please go ahead.

Simon Kates stated Mike, you're on mute.

Michael Musso stated not the first time. Acting Chair, members of the Board, thanks for having me here tonight. Yes, so, let me leave with the first question on the existing Verizon sites which there are a substantial submittal by Homeland responding to a completeness memo that we put together in September. The November 4<sup>th</sup> submittal, we're reviewing that, we're drafting our tech memo that will ultimately go to the Planning Board. The question is a good one, in that there are existing cell towers one is in Mount Kisco. I worked on the Mountain Avenue Replacement Tower located at a distance north and east of the proposed site along Route 172. There's also a tower on 684 driving east on 172 eventually will turn up in the horizon as you go into Bedford, so my opinion on experience of working directly with the Mountain Avenue Tower where Verizon is approved to move in an array onto. My understanding is that they have not yet done that, they haven't built that but of course that tower on Mountain Avenue, the regional property has been expanded in height already now into a significant review with the aesthetics and the visual and the need for height and I think the Planning Board probably remembers that. I appeared before you in 2019 looking at that but a common thing with both of those sites looking at Verizon as being one of the providers, Mountain Avenue has another angle too with the MTA is co-located on top of that. But those sites are situated really to handle very high called traffic and capacity. And as part of this review, I'll certainly look back at the Verizon Service maps that were provided back in 2019 for the Mountain Avenue site but the coverage objective there is in for very high traffic areas particularly this on whole of a parkway. And, likewise, for 684 you can picture the line share that is very high vehicular traffic on 684, yes, both of

those covers of some of the areas but I would say increasing the height of those really is not going to get us much or service as a substitute to the gap that's been documented along 172. So, I hope that gives you some perspective on that and I appreciated the question that's come up. So if I could just update, you know, a couple of things on my end that had been going on we had the last meeting we recapped the balloon test a little bit and I think you from the Board and the public that we're acted in that and made observations. There are simulations that are coming together, I had a call with the applicants visual rep last Friday and we ran through a menu of simulations that are going to be coming together. We've seen some viewshed maps I've had those up on the screen. I used those for the scoping that went into the balloon test that was eventually conducted on November 21<sup>st</sup>. But there will be a full visual resource analysis report that comes together, and I think the after me or Acting Chair, you're, at your prompt the applicant rep will talk a little bit more about that tonight and maybe even share some things that are coming together on the screen. So, as noted in the prior application on and on this discussion so far for Homeland that's obviously a major item that the Planning Board's going to need to look at. The one other piece that's I think equally important is I did submit a memo last week and I think Verizon maybe will comment on that tonight. But in looking at the co-applicant with Homeland, it's Verizon Wireless, that's one of the providers that service our area that service Mount Kisco and as part of the due diligence for small alternate sites, I did pose a couple things in that memo and one would be looking a little bit deeper at the hospital site that's located a bit of a distance to the west as you know from the property the subject property in the proposed site but also to get a little better understanding of Verizon because as mentioned previously with the Mountain Avenue Tower even though that doesn't come into play directly with 172 service need. I think it's incumbent upon me as your consultant but also in the Planning Board to understand Verizon's plan within the village of Mount Kisco. So, that application has been approved the RF engineers noted that correctly. But there's also another application that was put in earlier this year for a rooftop site, 45 East Main Street. And we started the review of that. I visited the site I've provided some information needs to the applicant but there hasn't been much action or any action since July, early July in that application. So the number I submitted last week is for me to get clarity that I could translate to you regarding Verizon's plan and then specifically looking at one of the potential alternatives some coverage information, some maps, some technical information was provided for the hospital site. But I really need to take a closer look at that and literally get boots on the ground over there and I'd like to do that with the applicant reps as well. So, that's my recap for tonight for you and, you know, be happy to answer any questions or field comments maybe from the applicant tonight.

Mr. Bonforte stated great, thanks Michael and thanks for answering Mr. Hochstein's question. I thought it was good also. Mr. Gaudioso, you or anybody on your team want to give a quick update or any feedback?

Mr. Gaudioso stated we'll keep it very brief, Mr. Acting Chairman. Robert Gaudioso, the Law Firm of Snyder & Snyder on behalf of the applicants Verizon Wireless and Homeland Towers, we agree with Simon's explanation of this memo of what was discussed and we will work based on that memo that we received today with the other applicants to try and provide those cumulative documents. We did submit some additional information I'm not sure if you've had a chance to look at that yet. We also did receive very recently Mr. Musso's December 3<sup>rd</sup> memo. The only thing we'd ask on that is a couple of things. We want, you know if there are memos that were written or addressed to myself if they could be sent to me directly so I don't have to wait almost a week to receive them that would be very helpful. As far as the hospital location, we did submit it an expert report that showed it's basically in the wrong spot. It's too far from the gap area it's too close to the existing site over at the Oakwood cemetery. If there were to be a meeting at the hospital, we don't think that meeting is necessary in connection with this case based on records so far. But if, you know, if there was a name of someone with authority over the hospital that you had that to meet with us we'd be, you know, happy to consider that as long as it was a real meeting and there was a necessity for it but based on our experience, you know, we're a little bit skeptical about that and we certainly don't want to go on a fishing trip given the fact that we have submitted an expert report on the record already regarding the hospital but we're flexible, we're cooperative. We're happy to provide the documents that we discussed with Simon. We're happy to continue to respond to the questions. We do have a Zoning Board meeting next week. I'm not sure if my records whether the Planning Board has declared itself to the agency yet but that would be something that I think based on the timing of the notice that we'd be able to see would be something that's necessary to get done.

Mr. Bonforte stated good, thank you, Mr. Gaudioso and yes it is. Go ahead Whitney.

Whitney Singleton stated Rob, I just wanted to verify, what we have a difference of agreement just to whether not to shot clock is tolled right now. Do you have any objections to extending the regulatory time, and then what's to make a determination?

Mr. Gaudioso stated so we believe very strongly with the shot clock, is...

Whitney Singleton stated I'm sorry, I didn't hear you. I didn't what?

Mr. Gaudioso stated we believe very strong with the shot clocks clearly not tolled for example, we submitted full responses on November 4<sup>th</sup>, there were comments within 10 days of that, that's clearly under shot clock regulations, the FCC regulations, is not tolled. We would be happy to agree upon a date, that I think is reasonable and we could do a discuss at offline, but I think a March date would be consistent with the Village's prior position that initial shot clock was tolled, but clearly was untolled by our filing and not thereafter tolled to we be willing to agree to a March date that I believe is consistent in those dates, so we would be happy to do that. But at this point, anything beyond that I think it's premature. I would just like to re accurate for the record, I agree with Mr. Null and I would to put it on the record for this application that my definition two applications a separate applications, nevertheless the Acting Chairman said, you know we do agree to provide the documentation necessary to allow the board to conduct a review that allows us to look at the cumulative impacts or the potential impacts, but as far as extending the shot clock past the date in March that we found it to be premature.

Whitney Singleton stated that's it, I got some letters drafted for the Board and for Mr. Gaudioso and I'll share with the board and follow-up outside of the screen with Mr. Gaudioso.

Mr. Gaudioso stated and the only think I would ask is there wasn't a mention of a CAC memo to Mr. Singleton, again we ask it to be copied all those documents.

Whitney Singleton stated I don't have a CAC memo.

Mr. Gaudioso stated I believe Mr. Rhodes specifically mention that he had sent documentation.

Whitney Singleton stated he's [inaudible] from 2004, maybe it's in 1990s with regards to, it was a fairly older, it's a fairly old memo on shot clock.

Mr. Gaudioso stated if we could just, respectfully, we have a copy of that.

Whitney Singleton stated I'll be happy to forward to you.

Mr. Gaudioso stated thank you.

Mr. Bonforte stated good, good, glad we address that, thank you. Okay, I did want to say, I'm not deliberately like Mr. Rhodes had sort of implied that we're pushing this to the end of the night and so forth, it's getting late but meaning in regards to public comments, I just think it's good for the public to hear all the specialists and the applicant and the Board members provide their input. And then we can ask you know, in a few moments the public to speak to add you know, anything of significance that maybe we're missing, overlooking et cetera. I'll give you my example to this, we received a number of photographs from residents, good photos, color photos you know, take up a lot of megabytes on file space and so on. My plan is to wait for the visual impacts from the applicant, wait for the review from our specialist, in that regard and then take those resident photos and go out into the field and take a look. And, you know, have as much information as possible because the special, you know, what do we call the special site permit or the special permit, I should call it, special permit not the site plan, we have a steep slopes, we have a site plan approval to make and also a special permit to approve here. On the special permit, we've got to determine that this is the right location, you know, is it, you know Peter Miley's memo, I'll point to dated October 6<sup>th</sup>, I keep looking at, excuse me, you know goes into quite a good amount of detail and I think you know the Board and anybody else should be very focused on this for the special permit in terms of necessity, the co-location, the equipment, you know, the structural aspects of this application goes into minimum lot size setbacks of course. And the visual impact, you know, is there or should say we have to judge, does this project pose the minimum adverse impact, to not only the residences around the area but to the roadway and to the any other, you know, parks or sanctuaries et cetera, so that is part of our let's say, charged as a Board member. Alright, and so again I'm saying this in regards to the public input. Please, you're welcome to speak. We do read your memos but please keep it to sort of new information and you can skim over your, you know, your written information that's fully appreciated but you don't need to read your submissions, just please give us, you know, what new input you have. The other one last item before we move on, I wanted to recognize Mr. Skolnik, with I believe the Bedford Conservation Group or Committee, apologies if I get that off a little bit. We did receive a memo from Mr. Skolnik. I think this was dated, yes, it was dated back November 24<sup>th</sup>, but it was just, I just came across my desk again with more pictures, so again we received that. And also we received, well, John Rhodes, your latest memo, so thank you for that, all right, so with that I'd like to turn it over to Peter or Michelle or both for the public input.

Mr. Miley stated thank you Chairman, we have five people with their hands raised, in order we'll start with the first to John Rhodes.

Mr. Bonforte stated okay, John, welcome again, I just want to question John, it's getting late. We do appreciate all your input, your memos are well put together and thorough, but I also don't want to short cut you but try to please keep you, your time to, you know, a minimum to allow the other four speakers to speak also, okay? Thank you.

John Rhodes stated and like if you a few prefer, since I just give some specific things including that point two that you ask me to rest later, and given a fact that some of the other people you know, like, my name sake John, may be passed the bedtime, if you want to have them speak first, let me defer to the end.

Mr. Bonforte stated John? Mr. Stockbridge, that is?

Mr. Miley stated well, we have in order Mike, the next ten that was raised is Rex.

Mr. Bonforte stated all right.

Mr. Miley stated you can go ahead, I think we can put John towards the last...

Mr. Bonforte stated alright, that's fine.

Mr. Miley stated so your choice, how do you want to handle it?

Mr. Bonforte stated oh, Rex please go ahead and again, we'll just then go back to the regular order because Mr. Stockbridge has just responded. Okay, go ahead Rex, Mr. Pietrobono.

**Mr. Pietrobono** stated I trying to activate, my videos it's blocking me for some reason

Mr. Bonforte stated we hear you clearly.

**Mr. Pietrobono** okay, I really, I will try to be brief, I will take not more than five minutes. I don't really need to say much about the Homeland Tower balloon test in relations to our home. They say, a picture says a thousand words and you'd seen them. So my family's property always seem to be omitted from any conversation on visual mitigation by Home Land, which I consider to their credit is effectively their own concession that there really isn't any possible effective screening for that particular location. Yes, the propose tower primarily affects our home, Brookside Cottage, at the preserve and Route 172 roadway corridor as I've said before, that's one of several similarities with the solar application in that the aesthetic destruction is not enough of the project, both applicants have shown no hesitation to seek to dramatically encroach into the buffers and setbacks, which statutorily protect us and they are asking you the Planning Board to validate their terrible proposed intrusions against my family and the community. Our community is a collective of individuals, yes, we are only one home, but we are part of this community. Our laws focus on protecting the rights of the individuals and by so doing protecting all of our rights as a whole. So being one family in one home in this community does not make us a doormat for developers who feel they can push us all around. It's my request respectfully that the board deny the Homeland Tower's application outright. They have shown little or no proof of a significant gap in coverage there. There is a dedicated first responder's cell tower either up or in process of being up less than a mile away, so they can't claim this is necessary for emergency traffic going to the hospital. I've traveled that corridor on 172 for the last 24 years and never once have I had to drop call on that corridor. I mean, there are areas in these in this community, some of these back roads where that happens never happen there, doesn't happen in my yard either. I always have two bars every test we've walked, we've all checked the Verizon phones, we have two bars. I mean, Homeland is full of conclusory assertions, but where is the proof, the support that like, the roaming coverage test on esthetics, you've seen the area, it's a preserve and a residential neighborhood, you've seen the pictures. It impose it itself literally all over the place, the few trees, they are for screening could be removed or damaged inadvertently or purposefully, if they are not coordinated between the two projects. And as I was said by Mr. Stockbridge, I mean, there is something happen to those trees, let's say, you know you, got this for example you know, this narrow drive where there is supposed to be expanded in the fire truck, if fire truck comes around they hit this tree, that is, if it's somehow fits still there with this expanded drive way, it's right next to the drive way, and that is a giant pine tree that basically is the only screening on the east side to that pole. So you know, future apology is for any such removal or damaged wouldn't remediate the thing. These trees surrounded it may die a natural death soon enough too, like, I said before, there's been a 100 trees just to the right of it, they got blown down. This is the last work, you know for the next one, it will be the last world death, it will be the first for the next one, and we will all be left with essentially stand-alone cell tower for all the world to see for always as we come entering into Mount Kisco. So, honestly, it's not just me, but being just me, should be enough too, maybe an over statement to say, you know perception is everything in a real estate, but you know there is a disparate impact on my property. Perception has to mean something. Perception is that people don't want them in their backyards, right? That perception is that they admit some hazardous amount of radio waves to

humans, you know. The 500-foot minimum setback should have teeth and protect our health from known and unknown hazards you know, excuse me, if I'm a little skeptical of all the tests, you know, it depends on who's financing the studies and at least the perception, so it affects, you know, there's insufficient amount of proof the aesthetics and the devaluation of the properties enough for a denial of an application. We have as homeowners here, we have our rights to rely on in the Mount Kisco codes buffer and setbacks and other restrictions which back it up. We look to you the Planning Board, the Village Board, the ZBA to protect us in the community, in our environment since we brought our home back in 1996. We have always sought to improve our properties aesthetics and not just for us but for the benefit of the surrounding community, I'm not just looking at it from the view from our central location is, how is it view from outside, too. This project conversely seek to industrialize the largely undeveloped person next-door solely for profit with little or no concern for us. The damaged to my family's property would be irreversible and substantial. Thus, they seek to profit, essentially, at our expense and at others. A cell tower in that location, in my humble opinion, would be a monument to your failure or in its absence a lifetime of credit to your success. The precedence is yours to set, thank you.

Mr. Bonforte stated thank you Mr. Pietrobono. Okay, Peter, I'd like to go back to John Rhodes, since he was first and then we can...

Mr. Miley stated there are others also raising their hand, Chairman. So you know we have still five more speakers.

Mr. Bonforte stated okay, so, John, again, if you could just limit your comments to say new information please, and a brief overview of, you know, previously presented information, thank you.

Mr. Rhodes stated let's see, am I live? Okay, I think that you know in terms of the other memos that were submitted by the CAC, it's by the way I mean, people keep referring to them as my memos and certainly I had a large part in writing them, but the CAC is a group of very knowledgeable, very dedicated public servants including, you know, including engineers or naturalists and so on that, you know, carefully looked at these issues. And also, I want to say Michael, but I don't think that you or any of the members of the board, we're just trying to shovel these matters off to the end of the hearing. I just felt that there was an appearance impropriety on the part of Mr. Hertz and certainly his interruption of me before was inappropriate and in a violation of his recusal, but I know that you guys are honestly trying to get to the bottom of this and to get all the data and to make a good decision. Okay, so just to get back to the specific points, okay? You know, one was, what are the basic subject of our memo this week had to do with additional basically procedural reasons why we felt that a positive declaration was really necessary in this case, a previous memo dealt with the specifics in terms of the specific impacts community character, trees, and so on. But what we discussed and what we talked about in this memo with a procedural ones and I think one of the most important is what we call, in the case of the Homeland application, 1C, no 1B, excuse me, which is basically, as we saw last time, the one reason that I think that this proceeding have drag out was because Homeland was really not being cooperative in terms of providing all the document and information that was requested. The clearest of example of that has to do with the lessees, and the lease information. And that's why we said all relevant leases, agreements, and correspondence with the available to the Board if there was a positive declaration because the SEQRA regulations specifically state that you have a right to all the documents and information, which is necessary for you to make a proper decision, a proper finding. And so you know, there is additional if you want to call it power, I guess that's not a bad word, that the board gets when you make a positive declaration and that would be one of them, that you wouldn't have to ask several times and go through meetings and meetings and just to get one document that would clear up a simple point. The other thing that would be verifiable data, I know that there had been a number of claims by Homeland and Mr. Pietrobono referred to it before saying that he's never had any problem, neither have I, but I'm not a Verizon subscriber, AT&T, it's not an advertisement, but I've never had any problem on Route 172 with coverage. And he says, he's a Verizon subscriber and hasn't, well, you know, they just say well, we've seen this so we or our experts tell us this, but I mean you know, there is experience in terms of other proceedings where the proposed carrier was able to supply verifiable data on wireless coverage including dropped call logs, including and other things that were certified. And I, you know, I think that if you keep looking to get each one of these in a piecemeal way, it's going to take a long time and you may or may not get them depending how stubborn the applicant, you know, is in the particular case. Under positive declaration you would get those documents that you required or the applicant would not get a finding that they had remediated all, you know, all possible significant environmental impacts. And as far as the shot clock goes the document that I had sent to Whitney, I was hoping that he'd be able to clarify for me because it was, I think 2010, it referred to 2004 decisions, but it was a 2010 article by a lawyer. I'm not sure where it was published in some magazine, I have to go back and look at it. That you know, basically very simply went over the law including the split decisions by the federal appeals courts in it, regarding the whole concept of the shot clock and whether it should be 150 days whether the time should be up to the states and so on. But one of the things that were said in the article was that if the Planning Board or the other body that's involved, regulatory body notifies the applicant that

their application is incomplete, that basically holds or pauses the shot clock until the applicant is able to provide those documents. And certainly, I've heard members of the Board was Ralph or where, there was the staff, Mr. Singleton, ask numerous questions about for documents and I know that there was at least early on, there was an opinion from Jan Johannessen that there were some things that were missing, so basically that's another mechanism that the board has to avoid undue pressure under this so-called shot clock.

Whitney Singleton stated John, to cut you off for just a second, so you don't go down that road.

**John Rhodes** stated yes.

Whitney Singleton stated and there's been some subsequent rulings and court cases, I don't profess to be an expert in it, but I think what Mr. Gaudioso was saying that to the extent that there was any tolling of the limitations period, first of all the notification has to be in writing, which it was. It has to be within 30 days, which it was. And it needs to specifically identify shortcomings in our code, which it did. And I think what Mr. Gaudioso is saying that by a subsequent memo, which he provided that he feels, as though he has properly addressed those issues because the village didn't respond with a subsequent memo determining further incompleteness within a 10-day period.

**John Rhodes** stated okay, I understand that.

Whitney Singleton stated I'm sure, I'm not 100% correct, but that's roughly the position of what he has indicated as he has indicated a willingness to return the period so that we can meaningfully review the application.

John Rhodes stated yes, and I understand that.

Mr. Gaudioso stated and that is correct to our position, I will just point out two things because I think we were wondering here, number one Jan, has never request anything in this application because he refused himself. And number two, there's been significance changes in laws since 2010 typically the shot clock order in the FCC regulation since then.

**John Rhodes** stated alright, you know, that's definitely something that has to be looked into, my understand if you really and again I'll refer to Whitney and other lawyers who are more expert in this, was that a positive declaration and request for additional documents to complete the application with qualified but I'll leave that up to...

Mr. Gaudioso stated there's actually been a case in the past six months that is specifically held that a positive declaration under SEQRA process does not properly toll the shot clock or extend the shot clock time period, I would be happy to send a copy to the counsel.

Mr. Bonforte stated thank you Mr. Gaudioso. So really John, let's not get into a back and forth.

**John Rhodes** stated I wasn't intending to...

Whitney Singleton stated I just didn't want to go off on the shot clock.

Mr. Bonforte stated and this is good. We heard earlier that the applicants willing to work with us and that's good news on the timing with the expiration of the shot clock, so.

**John Rhodes** stated I again, I'm giving them benefit of the doubt, I was just like to see some you know concrete, I mean a number of requests for several times for, you know, more concrete documentation some of their claims. And you know, I like to say, I think some members of the Board would too but that's up to you. I think one other thing that's very clear hear, you know, quite a few delays you know, with postponements and certain documents not being available, you know, delays on the balloon test and so on. And this, in some ways is not fair with the applicant because this pressure, this time clock pressure basically says that you have to decide of this applications possibly before the combined environmental impact review is completed and then, if you decided in favor of this applicant that would necessary because of the forced times clock because the other applicant then will have an additional burden which we have to proof that they are not subject to the regulations under the CD Zoning which only allows for single unified application in a single, in a CD zoned parcel and that would create problems for them. So that just another thing again that was a topic was brought up in discuss by the CAC at our recent meeting.

Mr. Bonforte stated and John, I'm going to interrupt you and apologies and no disrespect, but we started public comments about 9:35. We've gone through two people. Again, your comments about especially the last points you made. I'm just going to ask you to wrap it up, so the other folks in line are going to get...

**John Rhodes** stated of course, you know, I'm willing to wait, wait, and to make these comments since they were comments of the local volunteer experts but not just my own.

Mr. Bonforte stated understood and let me just say, John, because I'm pressing you and I don't mean to be rude in any manner. You can come back and speak you know, the next session of public hearing will be open. And also just you know, some year submissions are coming in a little late you know, not necessarily this one, but we just, you know, we react to them one or two days before him, but it just means that it's going to be for the next meeting, but again we're giving this our full attention and focus on the Board and if you could just summarize and sort of end your comments for tonight, that would be appreciated.

**John Rhodes** stated of course, okay, that's basically it I think, that just want to remind you that in a previous memo, we had asked that when you did and you already have to declared this lead agency, in this application that the CAC would like to be named as an interested agency and would like to receive obviously you know, copies of the various correspondence and so on. That will also compress the time with, you know, the responsiveness, when we can give comments and hopefully be helpful to you and arriving at the correct decision. So, thanks a lot and I hope you all have a happy holiday and we'll talk to you soon.

Mr. Bonforte stated thanks again, John.

Mr. Gaudioso stated and Mr. Chairman, if we could just ask for a copy of that memorandum because we have not yet received that it makes it very difficult for us to come to a public hearing without having that.

Whitney Singleton stated I've sent both you, Rob.

Mr. Gaudioso stated you sent the newest CAC memo.

Whitney Singleton stated it was received today.

Mr. Gaudioso stated okay.

Whitney Singleton stated yeah, I've sent you two emails in the past 20 minutes.

Mr. Bonforte stated and for everyone's benefit mostly the public, we normally don't allow those submissions to become part of the current meeting because they've just coming into late, there is a submission guideline or deadline and its several days beforehand. So again we're trying to do the best that we can as a Board to serve the community and look at these and Mr. Gaudioso, so sorry you didn't get the copy because, again, it's coming in late and we're talking about it and properly, so please, Peter, who's next?

Mr. Miley stated Chairman, we have Mr. John Stockbridge, ready to speak. John, if you're available, you're ready.

**John Stockbridge** stated I am, yes, can I get in here, and I've got my audio.

Mr. Miley stated you're in, you're in.

**John Stockbridge** stated okay, there we go, thanks again. And yes, thank you of all I wanted to start when we're talking with cell tower about the balloon test if I might, and my wife and I and lots of other people took their own pictures and whatever and some were submitted to the Planning Board and received. I think though that what is clear is, when you're looking balloon test, you're looking at something is where the tower height, where the highest part is going to be? You're not looking at the overall tower itself. You're not looking at the power plant below. You're not looking at any of that because you know from a distance whether Rippowam Cisca School or your way up in West Patent Road further, you can see the balloons just a little bit you know, there they are, they are at the top, but you don't see what happens to Mr. Pietrobono's house, you don't see what happens to Brookside Cottage. And frankly, the Brookside Cottage from Marsh Sanctuary's point of view, this proposed towers I don't know what it's 200 feet exactly what it is, but the impact of the overall tower itself and the power plant will be right there and we're talking about an 1830 historic building that became in the early 20th century a spot for a very interesting woman named, Marsha Leonard who has developed the amphitheater there and it became a real spot key spot from the Village of Mount Kisco and I think that over time it has to go going up and down in the 70s I could

remember how Alex Shoumatoff having all these wonderful plays. And this last year with the Rewilding coming back and with other things in the community garden there we had more interest in in the amphitheater which is now under repair again. This summer we had a little wedding reception there. It's a spot for the community. It's a very valuable spot and to have a cell tower right there, not just a balloon test up there, is the tower itself all the way down to right almost to the amphitheater with the power plant, which would have to be below on all the trees so you could see it all. So it's really important from Mount Kisco's point of view to appreciate what Brookside is and what it was and what it can be, and particularly if you talk to, I think Harry McCartney's on CAC and his interest in the village of doing in a nature trails, we've talked about things that could link up Leonard Park and Brookside and things like that are important to the village and getting that amphitheater going again is going to be important but won't be without with that cell tower. It just clearly won't be. And so the balloon test is interesting is that maybe does not really talk to what the impact would be. And if you ever go around Byram Lake, you walk around Byram Lake and you get to Baldwin there's the huge cell tower right there and it's not just a little bit of the top, it's everything the whole thing is there and it has a major impact. I would say also that I think, again talking about separate project is difficult because the impact it could have on, if there were a solar plan, would have definite impact on the road going down and the tree coverage situation and also that potentially whatever wildlife was left So it's the two way I still think the Board is doing the right thing but I talk to them separately but there really should be viewed us an overall impact on the community. By way, Whitney just a question is whether or not the Village Board, excuse me, the Planning Board tonight could make a motion for a positive dec, is that possible?

Whitney Singleton stated based upon discussions we have there is not sufficient material in possession of the Planning Board to evaluate, to make a determination and significant. I understand and I can, Simon to weighing on this way. And Mike, you should weighing on this way. They are still waiting for the information from Homeland to enable the Planning Board to make the determination significance. Is that correct Simon or Mike?

**John Stockbridge** stated ok, well, I think it will save a lot of time for everybody if the Planning Board could say listen. We got a ton of information here but we need more and have the overall impact and let's have a motion to have a positive dec. I think that would be terrific for everybody.

Whitney Singleton stated John, I don't mean to prolong the public hearing process. But can Simon or Michael weigh in all that, is that correct? I don't want to say anything incorrect.

Simon Kates stated I agree with Whitney on this. You know, I think based on what I was talking a little bit before the meeting that we have with the applicant last week and still waiting on the visual simulations that the balloon test will lead to I think will provide the information the Planning Board needs in order to...

**John Stockbridge** stated Mr. Kates, can I...

Mike Musso stated well, can I add to that, please, John?

**John Stockbridge** stated yes, sure.

Mr. Bonforte stated Yes, Michael before you go and respond, Mr. Stockbridge, we appreciate your comment and input very valuable but I don't want to be too much back and forth it's a process. There are steps that have to be taken, Mr. Musso, please go ahead and...

**John Stockbridge** stated I do run a board I know what you are talking about but one last point. We live on Sarles Street, we never had a dropped call on Sarles or 172 and that maybe because we're AT&T customers not Verizon maybe that's the reason. But in any event you know there's not a day that goes by, though, that you know one of us is going down the road and says, oh, I forgot to get dinner. You know or something like that so that, you know, and we never dropped a call, no recollection of it. So I just would say that having a more serious total study of where it calls or dropped or whatever, is meaningful. And I think it would be very, very helpful to have that done because most people where we don't have a problem. And that's right by the corner. And the last thing I just say is that if anybody on the Planning Board we just go down to Brookside, just go through the parking lot up to the amphitheater and turn around and look at what it would be like, not, you know, the trees have to go, the power plant there, the whole pole there, I'm sure you would just say no way. Thank you.

Mr. Bonforte stated Michael, yeah, Michael Musso, did you want to reply, please?

Michael Musso stated yeah, just with the last two points for Mr. Stockbridge. I was pretty amazed when I was out walking the trails in the back up to the amphitheater, it is special spot, it does have a historical

significance. And there has been a lot of data provided which is important and which will be reviewed regarding service coverage capacity technical data. So that's not something that the applicant hasn't been forthcoming about that information's and it's under review. But I just wanted to talk about your idea about the concept of post-DEC tonight. It it's important for the Board to see the visual resource analysis and the photo sends, they can't, they're not ready to make that determination tonight, positive or negative. They just can't do that. I don't think that builds the proper record for the Planning Board to do things procedurally correct. I agree with Whitney and his point on that. But I also wanted to point out the promise of the balloon test that will be described in the methodology of the visual resource analysis report. The balloons are floated for the primary reason of confirming visibility that's modeled with software. It's binary. Yes or no? Do you see it? Do you not see it? There's also two different balloon heights and when you were in the field during the balloon test, for many locations not all just one of those balloons is visible. Now, Rex Pietrobono's property, obviously, is a very different example and I think that the carriage house at the Marsh Sanctuary, too. But the modeling that's done with the visual simulations that are coming together they're looking at the entire length of the tower including tree removal that comes out, including the ground based equipment that you noted, and the length girth texture of the pole itself. So we haven't seen those yet, but I want you to keep that in mind. It's not just the balloon that's not the end-all of the visual analysis, there's a lot of work that's coming together with that.

**John Stickbridge** stated thank you I'll buy you lunch, we'll walk up there.

Mr. Bonforte stated alright, Mr. Stockbridge, thank you. And just to cap of a couple of your comments quickly, the amphitheater just confirm it, please confirm this, it's the location the amphitheater is just off of Route 172, behind the structure there's a small home there, right? That's where the amphitheater is, correct?

**John Stockbridge** stated yes, you can see as you drive down or up 172 you will see some sort of a white circle of columns. And if you walk over there, you'll see the circle of about half a dozen rows of stones surrounding it so you could put in a reasonable population of people walk, looking at that amphitheater. You may remember a couple of concerts we had there where they're down in the amphitheater we're all sitting up above.

Mr. Bonforte stated yeah, I...

**John Stockbridge** stated and it's being repaired now.

Mr. Bonforte stated and I've been there and I just wanted the public to know where that is because the proximity to the tower is within, I don't know, 50 or 100 feet, don't quote me, let's not get into that. It's very close to the base of the Tower. The carriage house in perspective is around off of Sarles Street, right? You go down Sarles and turn right and is that the carriage house?

**John Stockbridge** stated right, that's correct.

Mr. Bonforte stated okay, good. And I would like to say I believe I received a photo from the amphitheater looking up and if not the amphitheater specifically from that entrance driveway where you either go left up to the, sorry, you go left up to the side, where you go right into the amphitheater. Okay, so there was a picture during the balloon test from a resident, I believe.

**John Stockbridge** stated yes, that was probably us, we've had a number of [inaudible].

Mr. Bonforte stated great, thank you.

**Anita Stockbridge** stated Brookside Cottage just lived in.

**John Stockbridge** stated it's what?

**Anita Stockbridge** stated it's a residence, Brookside Cottage.

Mr. Bonforte stated and we-- if you're referring to the caretaker, Mrs. Stockbridge. Is that correct?

Mr. Miley stated Okay, then no longer with us, Michael.

Mr. Bonforte stated that's fine again, yes, there is a caretaker that supposedly lives in that house in front of the amphitheater.

**John Stockbridge** stated it's the naturalist that lives there that does our trails and whatever else, and it's, Brookside Cottage is the one that has the-, is the 1830 structure, the other building is right there, used to be the library and is the storage area now but yes, there are two buildings there and then the amphitheater.

Mr. Bonforte stated tank you, John, goodnight. Peter?

Mr. Miley stated yeah.

Mr. Bonforte stated please connect the next person.

Mr. Miley stated Maryanne Tarnok is the next speaker Michael, Chairman.

Mr. Bonforte stated thank you.

Mr. Miley stated Maryanne? Not sure if she's still with us, oh, here she goes, I think she's logging back on.

**Maryanne Tarnok** stated okay, no video tonight, but good evening everybody. I spoke with the last Planning Board Meeting a little bit at late, addressing both the solar application and the cell tower. So I'm not going to repeat myself but I really just had one question for tonight, something that Mr. Stockbridge alluded to and I believe Mr. Musso answered and that's in regard to the balloon test and the impact of the removal of 600 to 700 trees if there's going to be any simulation of the result to the balloon test to reflect not just a trees that are going to be removed with the installation of a cell tower but removal of trees if the solar application is approved. How you're going to handle that on your balloon test results?

Mr. Musso stated yeah, so, I'm going to answer that but I would ask Saratoga Associates who's on the applicant wrap I think to add on. Maryanne one of the things you heard about earlier is coordinating review of those six or seven items from Simon's memo, you know, looking at both impacts. So, the cell tower area, there are trees that are proposed to be removed but remember the cell towers proposed at the moment on this property is really, I'm going to call it separate, we could argue that I guess but it is separate from the clearing to the south at higher elevation, that's contemplated for the solar project but that's one of the things that's important to do a cumulative review of both items and that's what Simon Kate is coordinating with. So, all I'm saying is that the photo simulations that will be done for the cell tower and I think there's 10 to 15 different viewpoints where that will be simulated. Some of them are very close by and this is where Saratoga Associates will come in, I think in the last planning board meeting they confirmed that the ground based area will be modeled also in some of those simulations particularly the ones that are very close to the proposed tower location. So, when you talk about, you know, 600 plus trees in my mind those aren't coming into play here because the lion's share of that is up at the solar location which is significantly separated from the tower location. I would see if Saratoga Associates says anything to add on to that or.

Mr. Gaudioso stated if I would just jump in Mr. Chairman, it would be very helpful if we had the opportunity to submit the report. We just spoke to Mr. Musso on Friday. We were very patient with the balloon test to get. We just received Mr. Musso's summary of exactly what he wants in the report. We will submit the report that will include the necessary tree removal. It will include the base of the facility which is not a power plant with some small equipment cabinets, there's fencing that we can design, additional landscaping that we've already proposed and continued to propose. You know, very early on in this process one of the speakers submitted a rendering of quite frankly something that was alleged to be the tower and it was so far off of what the tower location would be, what the tower would look like, it bore no resemblance whatsoever to the proposal. So I think it's unfair to the Board and the applicant, everyone listening with a lot of speculation allow us to submit the report, we'll follow Mr. Musso's guidelines as we have all along up until now and I think that would be the best way rather than the Board to be prejudiced with quite frankly false statements, false images, false, you know, analyses and characterizations of the facility. Let us submit the report, we will cover these issues and then as Mr. Musso and Mr. Kates and Mr. Singleton said then the Board will be in a better position to make its determination.

Michael Musso stated yes, no speculation on my end, I'm just trying to answer a question from a member from the public and I think Mr. Gaudioso, so you added to that confirming that the right types of visuals are going to be done including of the ground based area from close proximity. I agree, we'll stay patient to receive that information and then act upon it.

Mr. Bonforte stated okay.

Mr. Gaudioso and remember in August we did submit the viewshed maps that did include the tree clearing for the solar farm and that's been on the record since August. So, we'll continue to account for that.

Mr. Bonforte stated okay, thank you everybody.

**Maryanne Tarnok** stated thank you.

Mr. Bonforte stated and I know, ma'am, Mrs. Tarnak, we're not going to close over this, it's a valuable point, it is going to be addressed and I know Matthew Allen is here from Saratoga Associates. He has spoken before. Mr. Allen I'm going to say, let's not just reserve your comments to this at a future date and we want to go on to the next public speaker okay, but we're not dropping it. So we will come back to Marianne.

**Maryanne Tarnok** stated okay, great, thank you.

Mr. Miley stated Chairman, you ready for the next speaker?

Mr. Bonforte stated yes.

Mr. Miley stated It's Mr. George Coppola.

Mr. Bonforte stated welcome.

Mr. Miley stated George, you're not muted, can you hear us? His audio feed is not working properly. We could go on to the next and put him back in the waiting room.

Mr. Bonforte stated yes, please do.

Mr. Miley stated Mr. Lieberman, Robert Liebman would be the next person. Mr. Liebman, unmute. Neither is responding, Mr. Coppola and Mr. Liebman is able to connect for some reason.

Mr. Bonforte and what we'll do Peter if they come back to, you know, individually separately you know, just say look the public meeting will be opened, they'll be able to speak at the next meeting and they will not be, you know, ignored okay?

Mr. Miley stated we'll try and do a private message, to see if they can get back on.

Mr. Bonforte stated yes, if you can.

Mr. Miley stated we'll make an attempt from Village Hall. We don't have any other speakers, Chairman, nothing on Facebook, no phone calls at this time and nobody at Village Hall as well.

Mr. Bonforte stated okay, let me look at the agenda that was the last item, the public comments.

**Robert Liebman** stated excuse me, I raised my hand.

Mr. Bonforte stated oh, Mr. Lieberman, now we can hear you. You don't need to put the video on if you don't care to, please go ahead. We're familiar with you, so.

Mr. Liebman stated okay, I'll try to make it brief because it's very late. Yes, I was just doing summary, I'm just looking at this literature on the health effects of the stuff and I know you can't use it for stopping it but I found just an interesting article directed towards the telecommunications companies. It was written this year and it just wasn't possible severe financial consequences from liability because the amount of evidence although still inconclusive that radiation from cell towers cause various health effects, so I just like to read the abstracts I think it just gives it a nice overview of the situation. It was published in, let me see, it was published in Environmental researcher a peer-reviewed journal. It's titled, "Limiting Liability with Positioning to Minimize Negative Health Effects of Cellular Phone Towers". The use of cellular phones is now ubiquitous through most of the adult global population and is increasingly common among even young children in many countries. For example, Finland, where the market for smartphones is nearly saturated, basic operation of cellular phone network demands wide spread human exposure to radio frequency radiation, RFR, with cellular phone gas station providing cellular coverage in most areas. As the date in needs of these population increased from the major shift in the source of Internet use from personal computers to smartphones, this coverage widely, is widely predicted to increase. That's suppose the density of gas stations in a power output is expected to increase the human, global human RFR exposure. Although direct causation have negative human effects from RFR from cellular phone, gas station has not been finalized. There was already enough medical and scientific avenues to warn long-term liability concerns for companies' decline cellular phone towers. In order to protect cell phone tower firms from the ramification and the failed test of other industries had caused unintended human harm, for example,

tobacco. This current issues summarizes the peer-reviewed of literature of the effects of RFR from cellular phone based stations. Specifically, the impacts of citing gas station are closely examine or recommendations are made for companies that deploy and to minimize their potential future liability and to quote and I just summarize a few studies I found that were relevant to this. Okay, and then, yes, I'll just submit it and I just thought it was a little surprise to find something like that in the scientific literature but, you know, I think what concerns me was that this applicant was looking for a, that was not, trying to minimize, you know, I was clearly not following this, you know, they were looking for on a hospital, the place in a hospital and also on the school grounds of Cisqua Rippowam. So, and this location I think is about 400 meters or so from that elementary school. So that's, I saw it that's a concern at you know, I don't know if cell companies are going to take this into consideration but I just want to put it out there I just thought it is interesting, maybe it's a new development because this paper is just written this year. I'll just submit what I wrote.

Mr. Bonforte stated you're welcome to submit the link or the pdf or whatever it is, Mr. Liebman, that would be just fine.

**Robert Liebman** stated okay, that's all, I think.

Mr. Bonforte stated thank you for your comments. Peter, is Mr. Coppola available?

Mr. Miley stated yes, he does have his hand raised, we could see if he could come back in. Mr. Copeland, are you ready?

Mr. Bonforte stated wonderful.

Mr. Miley stated your audio is still not working and you are not muted on our end as well. Are you able to get in? Mr. Coppola, I'll give you a chance to call in, if you hear us call 914-420-0383 and I can put you through my microphone if that helps. Give him a chance, Chairman, to call in, seems there's a problem with his audio.

Mr. Bonforte stated he on, he's connected on Zoom.

Mr. Miley stated he is, he is connected on Zoom..

Mr. Bonforte stated maybe you could chat with him, you know, if not, if he does not hear you, I don't know, the phone doesn't ring.

Mr. Miley stated Oh, he's calling. Mr. Coppola? I'm going to try and put you through my microphone, okay? Okay, you're welcome, Chairman, I'm going to just try and put him through my microphone. All right, Mr. Coppola, go ahead.

**George Coppola** stated alright, I'll hope you're not getting any feedback here. You know, over these few months, you've heard a lot from the public and they'll probably half a dozen reasons, strong valid reason why either of this project shouldn't be accepted. It could anywhere from the visual aesthetic from apology from the environment, from the extreme financial damage during the Rex Pietrobono, that's just unbelievable and also the caretaker's house, both of those in essence are destroyed and it hurts, if you go opposite Brookside's house across the property, you will end up in my backyard. And yes, our houses will suffer financially too. There isn't a single house whose value has been raised by having a power plant or cell tower next building. However, one new thing and I haven't heard anyone mentioned this, was the fact that we are now in transition. We are on our way to 5G. Now, if you talk about 5G, the ideal infrastructure for 5G is dense array at a low height, like, you know, telephone poles, street lamps and short distance. If you actually put a 5G repeater on the top of that tower, it couldn't reach the next 5G signal. We're going to be stuck with the antiquated tower that does nothing, except maybe more dirigibles. Why are we going after 4G equipment when we're going to have 5G in another three or four years?

Mr. Bonforte stated okay, did you want to make any other points?

George Coppola stated sure, it's just something I think you should explore, what's this tower for? If we were exclusively 5G, you wouldn't be building this tower.

Mr. Bonforte stated and there's been conversations early on in this application regarding 5G and we'll raise it again with our specialist, HDR and BFJ Planning, but mostly HDR and let them respond in that regard to inform us all, educate us all. So yeah, it won't be overlooked. We'll raise that issue again. Okay. Michael, Musso, put that on your list.

Mr. Miley stated alright Mr. Coppola, have a good evening.

Mr. Bonforte stated thank you, George. And we can respond to that next meeting Michael, I'll keep that as an open item. Mr. Musso, you heard me? Yeah, great. Thank you, Michael. All right, in the interest of time, does Simon or Michael and then Whitney to finish up, but do you have any final comments or you know next steps or anything? I mean, we're going to continue to move forward. If you don't have anything, I don't see you making emotion or you know to talk. Whitney, do you have anything we need to consider meaning administratively now? Or else, I'll make the motion or else or ask for a motion...

Whitney Singleton stated no, I'm just sitting here working out some letters to working on letter to the Planning Board and working on a letter to Rob [inaudible] tolling agreement extension. And that's, frankly, I don't have anything else.

Mr. Bonforte stated anybody on the board have anything they want to add to this? Really appreciate everyone's, you know, time tonight.

Mr. Polese stated I don't have anything to add.

Mr. Bonforte stated thank you, Bill. Crystal, Ralph, you're all good? Then someone want to make the motion to adjourn the meeting for tonight?

Mr. Polese stated I'll make the motion to adjourn the December 8<sup>th</sup> Planning Board Meeting.

Mr. Gaudioso stated Mr. Chairman, is that to a date certain of the January 12<sup>th</sup> meeting just for notice purposes?

Mr. Bonforte stated yeahh, thank you, Robert. Yes, it is. Before we sign off, that is the next. Correct, Michelle? That's the next meeting, I don't have the schedule in front of me.

Mr. Miley stated that's accurate, Mr. Chairman.

Mr. Bonforte stated Yeah and the same, that would be correct, Mr. Gaudioso, January 12<sup>th</sup>. Do we need to poll the Board?

Mr. Miley stated you need a second, first.

Mr. Vigliotti stated we need a second.

Mr. Bonforte stated we have a second on a January 12<sup>th</sup> for Homeland Towers?

Mr. Vigliotti stated I'll second that.

**UPON ROLL CALL VOTE:**

<b>Mr. Polese</b>	-	<b>aye</b>
<b>Mr. Vigliotti</b>	-	<b>aye</b>
<b>Ms. Pickard</b>	-	<b>aye</b>
<b>Mr. Bonforte</b>	-	<b>aye</b>

**The motion carried by a vote of 4 to 0.**

Mr. Gaudioso stated Mr. Chairman, the only other thing was the lead agency, the designation of boards of the lead agency, I believe 30 days is run and no other involved agency is objected.

Mr. Bonforte stated do we have to notice anybody, Whitney, for that?

Whitney Singleton stated I think your Board objected, you didn't want to be lead agency, no, I'm teasing. I'll defer to Simon on this. The only, I believe the only other involved agency is the Zoning Board of Appeals. And I doubt very much that they're going to, they almost never serve as lead agent. So, I believe...

Mr. Gaudioso stated I believe Michelle could confirm, we sent those notices, were sent out with the packages.

Simon Kates stated I hope the notice went out, to my knowledge, nothing has come back from the ZBA or anybody else.

Whitney Singleton stated Simon, I don't have any objection, do you?

Simon Kates stated no.

Whitney Singleton stated okay.

Mr. Bonforte stated do we need to make a motion to place it on the agenda for next January 12<sup>th</sup>? Does a motion require in a vote?

Whitney Singleton stated yes, please

Mr. Bonforte stated alright, anybody please or I'll make the motion to determine, to appoint the Planning Board as the lead agency? Or Homeland Towers on January 12<sup>th</sup>? And we'll put it to a vote then?

Mr. Gaudioso stated wouldn't you just do that this evening? I guess that would be my point.

Whitney Singleton stated that's what he's saying.

Mr. Gaudioso stated yeah, I think the January 12<sup>th</sup> plan, I don't think it's necessary. And reason I think it's important because the Zoning Board is meeting on the 15th and they should know that you're the lead agency on a coordinated review.

Mr. Bonforte stated so long as we did the notices properly then all, can someone make the motion for Planning Board to be the lead agency and we'll get a second. Ralph, would you make the motion, please?

Mr. Vigliotti stated yeah, I could do that. I'll move on the motion.

Mr. Miley stated Chairman, Mike, you made the motion. Ralph, you are the second.

Mr. Vigliotti stated oh, okay. I'll second.

Hertz stated apologies, I'm not up on you know...

Whitney Singleton stated just for purposes of clarification, Michael, you made a motion for the Planning Board to declare them substitute agency. Correct? And Ralph seconded you?

Mr. Bonforte stated yes. And for the public's perspective, anybody on the line that is typical for the Planning Board to be the lead agency. Alright, then Simon, you know, you're fully supporting that, so thank you, sir. Okay, Mr. Gaudioso, thanks for bringing that up. I think that's important.

Mr. Miley stated Chairman, we still have to poll the Board.

Mr. Bonforte stated I know. Go ahead, Michelle.

**UPON ROLL CALL VOTE:**

<b>Mr. Bonforte</b>	-	<b>aye</b>
<b>Mr. Vigliotti</b>	-	<b>aye</b>
<b>Ms. Pickard</b>	-	<b>aye</b>
<b>Mr. Polese</b>	-	<b>aye</b>

**The motion carried by a vote of 4 to 0.**

Mr. Gaudioso stated thank you very much, have a nice holiday. The only other thing we had is we completely agree with Mr. Rhodes. We would love to be first on future agenda, so full agreement on that. Thank you very much for your time today.

The meeting adjourned at 11:20 pm.