

Minutes of the **Regular Meeting** of the Planning Board of the Village/Town of Mount Kisco held on **Tuesday, October 13, 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  
Simon Kates, Consulting Planner

Chairman Hertz stated very well, welcome everyone. This is the Mount Kisco Planning Board for Tuesday, October 13<sup>th</sup>, we've just concluded our work session and this begins our regular Planning Board meeting. The first item on the agenda are the minutes for September 8, 2020, we do have a quorum for those minutes here tonight and I noticed that at least one member has given notes on those minutes. Are there any other notes or any other comments that need to be addressed by Board members? Hearing none, would someone make the **motion to approve the minutes of September 8, 2020?**

**Mr. Hochstein stated I'll make that motion.**

Chairman Hertz stated thank you, do we have a second?

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

Chairman Hertz stated thank you. Michelle?

**UPON ROLL CALL VOTE:**

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

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

Chairman Hertz stated alright, the next item on the agenda is a public hearing for The Park which is the ShopRite expansion, this is 333 North Bedford Road. This is a continued public hearing, we've had many of them. They are on the agenda for this public hearing for Site Plan Approval, Special Use Permit, Change of Use, Subdivision and Steep Slopes. I will note that we had a special joint meeting of the Zoning Board of Appeals and the Planning Board last week which was very useful as this application is such a significant one and it has quite a large number of variances being proposed as well as tremendous number of moving parts to it. We thought it important to have the two boards discuss issues, so that happened last week and we're back before the Planning Board and the public now for a continued public hearing. Jan, if you would, will you just, is Jan here yet? Jan is not here. Okay, so we discussed this during, unfortunately the Planner has a conflict for the next short while but we did give, he did give notes during the work session so at this point, I will open it up to the applicant just to give a brief summary of what, if anything has changed in a short while, since we've last met. Mr. Spina?

**A. 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. Stephen Spina of JMC was present.

Mr. Spina stated hello, can everyone hear me?

Chairman Hertz stated yes.

Mr. Spina stated good evening, Steve Spina from JMC. Not much has happened since we spoke or had our meeting on Thursday, the joint meeting. I guess we've continued to work on addressing some of the comments that Jan had given us verbally during a meeting we had on September 29<sup>th</sup>, so we are working through some comments on lighting and landscaping things like that. I thought the meeting with Zoning Board went well in terms of the variances but obviously we need to figure out that potential issue with not allowing parking in that easement. Since Whitney had brought that up, I did receive some information from Diamond Properties and I'm reviewing that, we hope to get back to the Board on what we need to do because if we cannot park in that area, then we have to revise the site plan for 383 North Bedford Road to essentially eliminate 15 parking spaces and then we would need another variance because currently we don't need one there for parking, we would need a variance for parking on that lot because we cannot park in that easement if that is the base. So that is something that we're working on to try to figure out really soon.

Chairman Hertz stated okay, thank you. Have you made any headway with Bedford Planning Board?

Mr. Spina stated no, we found out on Friday that we were not on their agenda for tonight, they have their meeting at the same time as this meeting. So they wouldn't put us on, we were told that we should be on the next agenda. We've been trying, we submitted the same time we submitted to your Board, September 1<sup>st</sup> and still not on an agenda there, they just claim that they have no room on their agenda for us and...

Chairman Hertz stated they make us look good.

Mr. Spina stated yeah, if they were like you guys we probably would have been done a long time ago. It's just, we can't get in front of them to get their feedback on, you know, we've made quite a bit of changes since the summer, we were last before them I think in July or, I believe July, since we made the site plan changes. So we really need to get back before them, as soon as we know we'll inform the Board and Staff that, which agenda we're on for them and we'll provide an update you know, with whatever happens there. We're also trying to have their traffic consultant to scheduled to attend the meeting, whenever we're on the agenda. So they're board will, you know, kind of like this Board, will feel more comfortable hearing information from their own traffic consultant rather than from us, as it pertains to the results of the DOT meetings. So we hope when we get on their agenda, it will be a very productive meeting.

Chairman Hertz stated so we know that there is an easement question that Whitney brought up with regards to the specific area that you're addressing, you'll work on that. Anthony, are there substantive comments that you're still waiting to get addressed?

Anthony Oliveri stated the main thing was the final SWPPP report. In the last submissions there were a few changes, configuration of the stormwater detention systems and that report just has to be brought up to speed. I don't believe that's been submitted, at least the final version, so we'll just need to see that.

Chairman Hertz stated okay, and then a comment to Pete from, I think there needs to be a discussion between the applicant and your office because there was a discussion based on the memo about what were variances and what were decisions or things that were subject to Planning Board such as some of the parking discussions, length of the retaining wall et cetera, so I think...

Mr. Miley stated yeah, Chairman, I still need to, I'm in the process myself and Michelle, looking at the minutes. What we're looking at is whether the Board accepting parking study as the, as to the number of spaces being acceptable without the need for a variance. I don't have the information, we have to sift through the parking study and some of the minutes from previous meetings over a year ago.

Chairman Hertz stated okay.

Mr. Miley stated okay, I don't want to shoot from the hip, I want to make sure there's a clear understanding whether that was an acceptable number of parking spaces.

Chairman Hertz stated understood.

Mr. Miley stated and the other item correct, was the wall, whether it would require a variance or not.

Chairman Hertz stated so the only other item that was mentioned at the work session that I want to bring up is, Steve, there was discussion that the applicant has been in discussions with someone regarding one of the, I guess it's Rivera Toyota, about the possibility of using one of the lots and how that might impact site plan and while its early, clearly it was mature enough to have a meeting with the Village and explore that. So can you just bring us up to date on that, please?

Mr. Spina stated I unfortunately, don't know a lot about that, I learned about it from Jan, Peter and Whitney when I had the meeting with them on the 29<sup>th</sup> and then I don't know if it was coincidentally, but later that day when I did speak to the applicant, they told me about it. So maybe they just hadn't gotten to tell me but I've heard that its very initial conceptual, just you know talks between I guess the two properties, I haven't seen a plan, we have not revised anything and we don't intend to. The applicant, Diamond Properties, has made it very clear to me that you know, we are continuing forward with our current proposal and there's no plans to change it, you know, anywhere in the near future.

Chairman Hertz stated okay, I'd like to get that confirmed from Jim and from Diamond, you know what the status is of that because obviously we're still in a public hearing process, so we do have the opportunity, this is a moment to make changes before things get locked down. I would hate to go through all of this public hearing, get all of this nailed down and discover that we have to just revisit site plan again...

Mr. Spina stated are you looking for a letter to the Planning Board? Something like that?

Chairman Hertz stated I don't know what I'm looking for and obviously, you know, this has to, this is a business arrangement, they have to go through their normal business procedures and you know there are multiple parties that have to go through but we've like to be kept informed and more than anything else, if there's inkling that the use of that property by Rivera, would result in a significant change to site plan that's worth our understanding. If there's going to be a minor change here or there, it doesn't change our process but because of access and you know to that property, there's a significant change, we want to understand it particularly of a vehicle use like that. You know because you know, that address, things like tractor trailer deliveries, all those sorts of things which are related to, you know, a car dealer usage can have significant impacts if this is a satellite facility that's just going to move cars behind the scenes but to the extent that we can be kept informed on an ongoing basis of what's being imagined to the extent that those discussions continue to move forward, I think that would be useful.

Whitney Singleton stated Chairman, maybe I can weigh in a little bit. I received a phone call from the applicant following the work session just to go through some of the items raised with regards to easements, apparently they were not aware of certain easements that affect their properties. So in any event, they've gone back and taken a look at them and I'm playing phone tag with their attorney right now. And I was able to have a discussion with Jim Diamond, that he is not going to do anything with regard to the 309 property or a portion of the 309 property that you're discussing which would in any way negatively impact this particular application. When we did sit down with them, we saw and I'll, you know, I'll let Jan and Anthony and Peter weigh in on this to the extent that they want to. We actually saw it as an opportunity to eliminate curb cuts and to move things further away from the intersection and to access from the rear of the property where there's an existing easement. So there were some positive things that might result from it but you know, the point being that Jim Diamond did make it very clear to me that he's not pursuing anything at this point in time with them until this entire process is done and they're going to have to take subject to whatever restrictions or conditions are imposed relative to the site plan of 333.

Chairman Hertz stated okay.

Whitney Singleton stated alright.

Chairman Hertz stated that's certainly their right, I believe...

Mr. Spina stated and that matches what I was told.

Chairman Hertz stated okay. Board members, we had a pretty thorough discussion with the applicant last Thursday night. Are there other items that we need, want to broach with them at this point?

Vice Chair Bainlardi stated I left the joint meeting the other evening with the impression that we were pretty close to the finish line here and you know this application has been before us for some time. A lot of hard work has gone into this by the applicant and by this Board and would to see us try to move this to a conclusion because I think we're close. I do recognize this issue that's come up about northern property that fronts on 117 and you know, possibly figure out a way to resolve it so they don't have to remove the parking spaces. If not, they may want to consider doing something in the short term to either reduce the size of the building or you know to, so they can get this bigger picture completed, you can always come back, as long as they're not going to touch the access drive as far as I'm concerned, what happens inside that property is going to, would be subject to a full review by this Board and if it's not satisfactory, then this Board won't approve it. I think that I would like to see this try to move to a conclusion in the near term.

Chairman Hertz stated yeah and John, I would echo that statement. I think we've done, we've reviewed volumes of data and the applicant has done a tremendous amount of work here, so I know that they have

work left to do with the DOT, they have some things to finish up, so if we can get this of the easements resolved, so we know that the site plan is not going to shift here, I would agree that I would like to see if we can get this to the finish line. So I would encourage the applicant to work as quickly as possible to provide all the missing information and resolve the easement issue because I think most of the other substantive issues are there. So once we act or once we get to a certain to a point, I guess you know once this is nailed down, you can probably go to the ZBA for it's actions as we've already made our SEQRA determination here so, and I think we would probably vote you a letter of support assuming there aren't any other changes.

Mr. Spina stated thank you.

Chairman Hertz stated questions? Anything else for this applicant? And I might, before I move further, let me just state publically, this is a public hearing, so I apologize if I didn't give the proper notices but you can, if you're a member of the public and wish to speak on this application, you can show up at Town Hall, there is an open mic there and people can process you there, you can comment on Facebook and you can call in and Michelle or Peter, can you provide the call in number?

Mr. Miley stated we have a change in number for this evening, the number would be 914-925-9985.

Chairman Hertz stated thank you very much. You can also provide an e-mail to these Boards and we will read your e-mails into the record, or to this Board rather. And this application or this public hearing I should say is not going to be concluded tonight so there will be an additional moment, at least one additional meeting to comment on. So don't feel you missed your opportunity this evening that you won't have an opportunity to speak. That said, Peter do you have anyone wishing to speak at Village Hall?

Mr. Miley stated nobody present, the phone is not ringing, anybody on Facebook?

The Secretary stated no.

Mr. Miley stated and no comments on Facebook, Chairman.

Chairman Hertz stated okay, thank you very much. Okay, any comments from Board members or Staff? Alright, hearing none. We need to continue this public hearing to a date certain, Stephen, will you have anything substantive for us for the next meeting or when would you like to be heard again?

Mr. Spina stated I guess, at this point in time we probably missed the deadline for the next meeting...

Chairman Hertz stated for submissions, but...

Mr. Spina stated for submissions, right. I think it would be beneficial to come back, maybe by then we will have coordinated further with Whitney on the easements and Jan and Peter as well on those and then at that meeting, if that's the direction we're headed, at least maybe you know, we can discuss a conceptual change to the plans that need to take place because of that. I guess it wouldn't be a, a formal submission because we wouldn't have gotten it in, in time for the next meetings deadline but it would be helpful to show the Board where we're at and get feedback.

Chairman Hertz stated okay.

Mr. Spina stated if it's okay with you guys, to keep us on the agenda for that.

Chairman Hertz stated I would prefer to keep you on the agenda so we can move this forward. Our next regularly scheduled meeting is on October 27<sup>th</sup>, **I will make a motion that we adjourn this public hearing to the meeting on October 27<sup>th</sup>. Do I have a second?**

**Vice Chair Bainlardi stated I second.**

**Chairman Hertz stated thank you. All in favor?**

**The motion carried by a vote of 7 to 0.**

Chairman Hertz stated okay, so we will see you two weeks from tonight and obviously you'll be in touch with counsel in the meantime and see if you can resolve those issues.

Mr. Spina stated yes.

Chairman Hertz stated if not, hopefully have a discussion at that meeting of any changes you think may need to happen.

Mr. Spina stated definitely. Thank you everybody on the Board and for even last week, having that meeting with the Zoning Board.

Vice Chair Bainlardi stated you're welcome.

Mr. Spina stated thank you guys. Have a good evening.

Chairman Hertz stated thank you very much, you too. The next item on the agenda is NY Luxury Motors, they have asked us to adjourn to October 27<sup>th</sup>, that is both for 299 Kisco and 41 Kensico. The next listed item on the agenda was PL Property Management for both 18 Britton Lane and 20 Stewart Place, they have as well asked us to adjourn. And I'm sorry, Michelle, are they adjourning to the October 27<sup>th</sup> meeting?

Mr. Miley stated November 13<sup>th</sup> Chairman.

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

**PL Property Management – 20 Stewart Place  
PB2019-0379, SBL 80.24-2-2  
Site Plan**

Chairman Hertz stated November 13<sup>th</sup>, so PL Property Management has been adjourned to November 13<sup>th</sup>. Do we need a motion for that? Or can we just, Whitney?

Mr. Bonforte stated is that a yes, Whitney?

Whitney Singleton stated you need a motion.

Chairman Hertz stated okay.

Mr. Bonforte stated I will make the motion Chairman.

Chairman Hertz stated thank you. Do we have a second?

Mr. Polese stated I'll second that.

Chairman Hertz stated thank you, Michelle, poll the Board.

**UPON ROLL CALL VOTE:**

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

**The motion carried by a vote of 7 to 0.**

**C. PL Property Management – 77 Smith Avenue  
PB2020-0398, SBL 80.41-1-3  
Change of Use**

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

Chairman Hertz alright, thank you that concludes the public hearings for this evening, we now move on to formal applications. The first item on our formal applications is PL Property Management for their 77 Smith Avenue location. This is a Change of Use, submitted tonight were, we have a draft resolution provided by our Planner, they have also submitted lighting specifications and some revised site plans. So with that, Jan, would you just introduce this and get us to where we are on this application?

Jan Johannessen stated you mentioned its 77 Smith Avenue, it's in for a Site Plan, Change of Use permit and Special Use Permit. The applicant is proposing a professional office to occupy the lower levels and a single-family residence on the first floor and second floor. That will [inaudible] the need for a variance from the ZBA for the location of the residence on the first floor, I'm not sure if they've received that yet...

Mr. Brandes stated yes, we have received that.

Jan Johannessen stated okay, great. The public hearing has been opened and closed by the Planning Board, we've been reviewing the site plan, they have really addressed all of our comments to this point except for lighting. They did retain a landscape architect who prepared a landscape plan, that's not in your packet this evening, it was in a previous packet, you don't have it handy, the improvements we reviewed and I thought it was in good order. That's where we are, we talked about the lighting plan at the pre-meeting work session, we can discuss that further.

Chairman Hertz stated okay, thank you Jan. So we have a draft resolution before us tonight, Len, have you and the applicant had a chance to review that?

Mr. Brandes stated yes, we have.

Chairman Hertz stated do you have any comments at this point?

Mr. Brandes stated no, we will update the lighting plan as requested in item 8, I believe it was and bring all the information in terms of the lighting and emergency, not emergency, night lighting situation, security lighting, we will mark it all up for you.

Chairman Hertz stated okay, so I think during the work session, the discussion was yes, we acknowledge that in the proposed resolution, the draft resolution, there is a condition 8 that talks about taking the lighting photometric that was submitted, doing an overlay onto the site plan, et cetera, et cetera and making sure that everything is in compliance with the Zoning Code. The question and then we go to condition number 24 that says with the exception of security lighting, all exterior lighting on the subject property, shall be turned off after business hours. And I wanted to hear from you about what you think is reasonable and appropriate for this location, given its sort of mixed use. We want to make sure that both, you have adequate, you know safety lighting and security lighting so that you can park in the back and walk up to the home and enter from the front but also that you're not over lighting this back area because that would spill into adjoining properties and down across the back to, you know a residential neighborhood, businesses, you know [inaudible], can you talk about that please?

Mr. Brandes stated certainly, can I share the screen?

Chairman Hertz stated you may.

Mr. Brandes stated okay, can everybody see the site plan over here?

Chairman Hertz stated yes.

Mr. Brandes stated well the site plan and I will put the lighting system on, we'll get that to the Building Department next week, and we'll have that ready for him. I guess the question was in terms of lighting but we have lighting and we have our neighbors, the residences all the way down here and our lighting is all the way up here, an area for the parking lot. Let's go to the lighting, to the metric that we have and what we have for security, for most part the security lighting, we have high hats that are underneath an awning over here, on the top, underneath in the back of the house and we have bollards on the side going down the area over here and some wall sconces. Now, this is a residence and the people will be parking back here, so we feel that although our offices close at basically three or four o'clock, we would like to keep these lights on until about seven o'clock and then have half lights for these larger light fixtures, just the two large light fixtures the half-light with a motion sensor so if a car does come down that they're not in complete darkness for residents to come into the house. And that was our plan for that, motion sensors for the bollards as well so that they will not be on all the time affecting anybody on the side.

Chairman Hertz stated okay, it seems like a reasonable plan, can you update, it would be useful to understand at those half levels and with other things off, you know what that photometric would look like.

Mr. Brandes stated yes, I can do that.

Chairman Hertz stated okay.

Mr. Brandes stated but the bollards themselves will turn on with a sensor so they'll be on, so people can walk on the stairs because this is a staircase getting up from the parking lot to the front of the house.

Chairman Hertz stated okay and you're imagining that those two other lights would come at half level, you said?

Mr. Brandes stated those would come at half level.

Chairman Hertz stated thoughts or questions by everyone? Comments? Okay, so with that information, I think that's what we were looking for, let's just go quickly through this resolution if everyone is ready. Page one, we recite the whereas', talk about what's happened at the property, who everyone is, what diagrams we've looked at, et cetera, et cetera, what plans we've gone through. And then we have a series of conditions starting at the bottom of page two, a great deal of them are boilerplate, most important we did talk about, so you have to do, there are a number of things that need to be changed to this but they're all fairly minor. So far it looks to be the item 8, lighting and photometrics and the Village Planner, Engineer and Building Inspector will be reviewing those to their satisfaction. Many of the rest of these have to do, are boilerplate having to do with construction compliance, et cetera et cetera. And then other conditions, Planning Board will [inaudible] original jurisdiction and with the exception of security lighting, all exterior lighting on the subject property shall be turned off after business hours, I think we need to amend that to reflect the statements that were just made by the applicant. So Jan, if you could indicate...

Jan Johannessen stated if I had it, if I followed it correctly, we can add language that would state in essence that the pole lights would be reduced to 50% illuminance levels after business hours and that...

Chairman Hertz stated and come on via motion sensor.

Jan Johannessen stated and that the light poles and bollards would be motion sensor.

Mr. Brandes stated correct.

Chairman Hertz stated and that by the high hats on the, the sconces on the building would be turned off after business hours, is that accurate?

Mr. Brandes stated the high hats would be turn off to the entrance, the offices in the basement. But the house entrance is over here up the stairs, I would keep the sconces on.

Chairman Hertz stated okay, so if we can make that change. Any other Board members...

Ms. Pickard stated excuse me...

Chairman Hertz stated yes...

Ms. Pickard stated the 50% lighting in the back, I'm still kind of processing this. This is somebody's backyard, the lights are going to be on at 50% all night, is that what I'm hearing?

Mr. Brandes stated no, they're going to be on with a light sensor...

Ms. Pickard stated okay, okay.

Mr. Brandes stated and the distance to the next property is way back and down hill.

Ms. Pickard stated I'm very familiar with the distance and how light travels.

Chairman Hertz stated so Crystal, my understanding and from what was just discussed is those, the lights and the light pole will be controlled by a motion sensor, not a light sensor, so after business hours they would come on only if a vehicle drove down...

Ms. Pickard stated okay.

Mr. Brandes stated right and I don't want it to be bright light coming on afterwards at that time, I think that would be too harsh.

Ms. Pickard stated so all of the lights are on sensors after dark, the bollards and the poles.

Chairman Hertz stated that is correct.

Mr. Brandes stated the pole lights and the bollards will be on sensors.

Ms. Pickard stated okay, great.

Chairman Hertz stated okay, any other questions? Any other comments? Alright, if there are none, would someone make a motion to approve this resolution?

**Mr. Vigliotti stated I can make the motion, so I'll move to approve the site which includes the Change of Use Permit, Special Use Permit for PL Property Management at 77 Smith Avenue. Sheet 80.41, block 1, lot 3, 2020-0398, October 13, 2020.**

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

Chairman Hertz stated thank you very much. We have a motion and a second, any comments? Hearing none, Michelle would you poll the Board?

**UPON ROLL CALL VOTE:**

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

**The motion carried by a vote of 7 to 0.**

Chairman Hertz stated alright, good luck and we'll probably see you back on the other applications.

Mr. Brandes stated have a good night.

Chairman Hertz stated you too. Alright, the next and last item on the agenda is Homeland Towers, the Mount Kisco Wireless Telecommunications Facility at 180 South Bedford Road. I am recused on this matter and I will turn it over to the temporarily acting Chairman, John Bainlardi, I believe he has a statement.

**D. 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. Robert Gaudio of Snyder & Snyder and Mr. Klaus Wimmer of Homeland Towers was present.

Vice Chair Bainlardi stated Jan, I believe you're also recused on this as well.

Jan Johannessen stated I'm recused, I'll see you at the next one.

Vice Chair Bainlardi stated good evening, this is the Homeland Towers, Mount Kisco Wireless Telecommunications Facility application, 180 South Bedford Road, Site Plan and Special Use permit. I have a letter that I will read into the record, it is dated today October 13, 2020. Honorable May Picinich and Trustees of the Village of Mount Kisco, as you are aware, I have been acting in the capacity of Acting Chairman with the respect to the Planning Board's processing and review of (i) the SCS Sarles Street Application to develop a community solar farm; and (ii) the Homeland Towers Application to place a public utility wireless telecommunications facility, both on property located 180 South Bedford Road (the "Subject Property"). During this review process, concerns have been raised by community members regarding my prior derivative ownership interest in the Subject Property, as well as my possible ownership interest in another parcel located at 201 South Bedford Road in the Town of Bedford (the "201 So. Bedford Rd Property") and the alleged impact which same might have on my ability to carry out my duties as Acting Chairman, with respect to these Application, in a fair and impartial manner. Notwithstanding my prior disclosures on the record, these concerns, alleging the existence of purported conflicts of interest, appear to persist and have been recently amplified. Accordingly, I deem it both appropriate and necessary to state the following for the Record: **I have no interest of any kind in the Subject Property or the 201 South Bedford Property.** As I disclosed on the Record at the commencement of the Planning Board's proceedings on the SCS Sales Street Application, I did have an interest in a development entity, Realis Development LLC ("Realis"), which entity previously owners the Subject Property and the 201 South

Bedford Rd property. In 2013, the Subject Property was sold by Realis in an arms-length transaction to the current owner; who at such time planned to utilize the Subject Property for the construction of a single-family estate residence. Such sale was not conditioned on the municipal approval of any development or any kind on the Subject Property, and no such agreement was ever contemplated, discussed or entered into at any time. Seven years have passed since this transaction closed. Realis was dissolved in 2017. **To be clear, I have contractual relationship or other agreement, express or implied, of any kind with the current owner of the Subject Property or the Applicants.** The 201 So Bedford Rd property is currently owned by the Town of Bedford and neither I nor Realis have any interest in same. Realis did pursue an application for the conventional subdivision of the Subject Property during the period of 1999 to 2004 in accordance with the CD zoning requirements and a DEIS was accepted as complete by the then Planning Board. Realis unilaterally decided to withdraw the application and the proposed project was not denied by the Planning Board or the Courts. As set forth above, Realis sold the subject property to the current owner in 2013 and at such time, the state intended use by the current owner was to build an estate home for himself and his family. In fact, utilizing an engineering firm, the current owner too steps necessary for the development of the Subject Property for that use, prior to a change in his plans. The intended use at the time of the sale is clearly a matter of record. What is most important in this regard is that such sale took place 3+ years *prior to* my appointment to the Planning Board and 5+ years *prior to* the adoption of the zoning laws by the Village Board which allow for solar farm uses on the Subject Property by Special Permit. According, any inference of any alleged understanding regarding approvals of the future use of the property are completely and utterly baseless as confirmed by reference to record facts. Notwithstanding the foregoing and my strong belief that I could and would fully, fairly and objectively comply with my obligations as a member of the Planning Board in the review of these Applications, after careful consideration I decided to recuse myself from these matters so as to allow the Planning Board and its professional consultants to continue their good and honorable work without this wholly unnecessary distraction. I believe that this decision is in the best interest of the Planning Board review process, the Village which I and my family love and call home, those neighbors and stakeholders who may be impact by the proposed uses, and the Applicants and the owner of the Subject property. I am equally confident in the abilities and commitments of our volunteer Planning Board members to fairly and objectively carry the full and comprehensive review of these applications which the law demands, assisted in this regard by the expert guidance consistently provided by the Board's very competent and capable professional consultants, Village Attorney, Building Inspector and staff. I respectfully ask that, going forward, all involved stakeholders make good faith efforts to understand and respect one another's rights, objectives and points of view, avoid personal attacks, and honor the site plan review process, administered in compliance with the law. I fully trust that this review process, without my participation, will continue to be fully and transparently carried out by the Planning Board and any decision reached be fully supported by any objective review of the record. Sincerely, John R. Bainlardi. I've cc'd members of the Mount Kisco Planning Board and the Village of Mount Kisco Zoning Board. That is my statement and with that I will turn this matter over to the capable hands of the Planning Board and Michael Bonforte who I believe may step into the role of acting Chairman. Thank you.

Mr. Bonforte stated thank you John, very much, Vice Chairman John Bainlardi, thank you. Whitney, I'm going to just move over to yourself, if you could outline the administrative portion of this meeting that needs to take place.

Whitney Singleton stated sure, when the Board does not have a Chairman or an Acting Chairman, Village Law Section 7-718.1 provides for a process for the appointment, it says in the absence of the chairperson, the Planning Board may designate a member to serve as chairperson. So it is incumbent upon the remaining members of your Board to determine who shall be the acting Chairman for the purposes of these two applications. Consistent with what we discussed in the work session.

**Mr. Polese stated Whitney, I'd like to make a motion then to nominate Mike Bonforte as Chairman for these applications, just so we can move forward.**

Whitney Singleton stated Ralph, you're muted.

**Mr. Vigliotti stated I will second that.**

**Whitney Singleton asked for all in favor. The motion carried by a vote of 5 to 0.**

Whitney Singleton stated alright, you're in charge Mike.

Mr. Bonforte stated alright, well thank you everyone. I'd like to point out just some administrative and other facts regarding this application tonight. This application and mostly for the public's benefit, is for Homeland Towers, this applicant, as we know there is a co-applicant or another application before use but what we have on the docket tonight is just Homeland Towers and that's the wireless telecommunications facility as John pointed out at the beginning of his letter to the Board. I'd like everybody to just review it

really quickly, Homeland Towers needs, well we require a Special Use Permit, a Site Plan Approval and a Steep Slopes permit from the Planning Board and there's also a Village Zoning Code approval that needs to take place with this particular application. As part of this process, the Village and the Planning effectively have hired Michael Musso's firm, HDR, they've already been a part of the record for another application and now they'll be part of the record for this one, I believe. Right Whitney, maybe they haven't been formally introduced for Homeland.

Whitney Singleton stated I believe that they have, at the past meeting, Mike Musso was present at the last meeting and I believe, I'm looking at our screen here I believe he is present or soon to be on the call, on the Zoom meeting. His associate Stacy is present.

Mr. Miley stated Mike is not present tonight.

Mr. Bonforte stated not yet and Stacy Calta, that's C-A-L-T-A, for everyone's benefit, with HDR and Stacy, I'm sorry, please introduce yourself.

Ms. Calta stated yeah, so as Mike was saying, Stacy Calta with HDR, I am a landscape architect working with Mike Musso on the review of the cell, the wireless towers, specifically when it comes to the visual assessments and pending balloon tests.

Mr. Bonforte stated great, thank you Stacy. In addition, we've hired, or I should say as a result of our normal Planner, Jan Johannessen, having to recuse himself also along with some others on the Board as you've heard, we've brought on Simon Kates, and that's K-A-T-E-S, Simon Kates with BFJ Planning. Simon and his firm have also been part of prior Village business, I think our Master Plan, Simon, is that correct?

Mr. Kates stated yeah, that's right. Our firm, BFJ Planning working on your Comprehensive Plan which we finished just a little under two years ago. I was the project manager on that project, so some of you may recognize me, for those of you who don't, I'm very happy to be back working with the Village.

Mr. Bonforte stated thank you Simon and that's great, we welcome you. And also, I want to state for this Homeland application, there's not yet a public hearing but we will be having that take place as soon as possible. In the meantime, for the record, a number of documents have been submitted along with this application and I'll just go over those really briefly. So most notably, there was a memorandum from Peter Miley, our Building Inspector, it's dated October 6<sup>th</sup> and it's quite comprehensive, I of course, won't go through this in detail but I just want to mention a couple of significant aspects that again. A Special Use Permit, a Site Plan Approval and a Steep Slopes Permit is required, there's a lot of information and one of the bigger or some of the major items, adverse visual impact on any residential areas, that's a part of this review overall that Peter points out. So there is specified buffer lengths or dimensions that per the Village Code, concerning wireless facilities and that's no meant to be an all inclusive list but these are some of the major items that we have to take into account as part of this application before this Board. And again, it's all in writing. We also have site visit notes, now we received that October 9<sup>th</sup>, it was per a October 2<sup>nd</sup> site visit that was with, on the Homeland Towers, the wireless facility specifically with HDR, with Mike Musso and Stacy Calta and I'll get through my list and I'll ask Stacy to comment if she will, after this. The Mount Kisco Volunteer Fire Department submitted a letter dated October 6<sup>th</sup> also and I just want to point out that they need essentially, their letter states they need adequate, they essentially need adequate access and staging to the site to fight a potential fire. So it gets into some detail with turn arounds and width of the driveway and they're all things that the applicant is now aware of and needs to respond to. Westchester County Planning Board provided a letter also, I note in that letter is the fact that the Westchester County Planning Board is recommending that the application be looked at in a basis because of the same driveway and same property owner and that's the only way to appropriately the measure of the cumulative impacts those proposals. Again, we're just talking about Homeland tonight but this letter from the Westchester County Planning Board also goes on to recommend a sidewalk. Now, I won't go into any detail but the Town of Bedford has the Westchester County, is making it known to us and now the applicant that there is talks of a sidewalk being installed just east and again just to put that in perspective, east is going towards Sarles Street from this proposed project site toward interstate Route 684. And there's applications before the Town of Bedford that are [inaudible] a sidewalk, so I don't want to speak too much to that because again it's just a recommendation and notice from the Westchester County Board, Planning Board that is. Also, we received an updated memorandum from Saratoga Associates on behalf on the applicant, with updated visual assessments, let me just check my notes here. And there's a number of pages to that report that need to digested by all parties involved, we've looked at it and we appreciate that information. One second here, I just, and there's also a photo location/viewshed map submitted by the applicant, Homeland Towers, that was received September 29<sup>th</sup>, we have that in file. A line of site profile location map also prepared by Homeland Towers also from the applicant. So I would like to point to Peter Miley's memorandum dated October 6<sup>th</sup>, to the applicant, there's a number of items on that list, I don't know if Mr. Gaudio's had a chance to review all that, but he can certainly speak in a moment, I was going to ask

Stacy Calta from HDR just to provide a quick update on the status of her firm's involvement with this application. Please, Stacy...

Mr. Miley stated Chairman, not to cut off Stacy, I just want to let you know that Michael Musso has joined the meeting as well.

Mr. Bonforte stated yes, welcome Michael, I see you now, thank you. So if either Mike or Stacy can comment on the current status of their involvement with this application, again Michael, just the Homeland Towers application and the site visit that took place recently, on October 2<sup>nd</sup>.

Mr. Musso stated yeah, sure, Acting Chair, members of the Board and public, thanks for having us. Mike Musso from HDR, Stacy is also online and I think at the end of brief update, I think she can give a little bit about the next steps that we have. So I just wanted to go back in time a little bit but we did submit a completeness memo in September and a number of those aspects addressed a site visit, as you noted occurred on Friday, October 2<sup>nd</sup>, I submitted notes in advance of this meeting and the notes aim to summarize our discussions, I think the important take aways from that is we walked to a potential alternate location for Homeland on the subject property, so as you know they're about 127 feet from Route 172. We looked at that site, that's what's on the plans now, that was within the visuals and the lines of sights that they provided on September 29<sup>th</sup>. I did flag that location and a possible alternate location up gradient, up the hill and without going into too much detail, I did bring up some of the other, some of the major points that we discussed at the site visit. I gave you a map in that brief memo, that had both the proposed location flagged down on viewshed and this potential alternate on the property that we discussed during that site visit. Our conclusion of that is that we are working on a visual assessment scope that will include balloon test and importantly the need for photo simulations. So before I turn that over to Stacy, I think that's the brief update, I think the applicant is working on numerous items from our completeness memo from September and the October site visit memo focused to a large degree on logistics but also visuals and this concept of a possible on-site alternate and then with that, it was in your packet but technically attached to that brief memo from the site visit, I did get a copy from visual resources assessments that were done a couple years back for some other locations off of this property, so that was discussed during the site visit and Homeland provided those. Now those attachments that were done a ways back, they're not the subject of this application but they were properties that were looked at, they did have photo simulations in them so if Board members are interested in looking at kind of what those look and feel like, there was some assessment work that was done on other properties. So, how I wound up the site visit memo was that we're assembling and Stacy is taking the lead on this but assembling essentially, a scope of work about what needs to be done in the field and then what outputs need to be submitted so that we could assess visual impacts to a much greater degree than the information that's been provided so far. So if I may, if I could turn over to Stacy, you could walk through the draft and perhaps we can get some feedback and questions tonight and that would be a submittal that would you know, follow tonight's meeting, we will wrap the draft that we have and then work with the applicant to A. float a balloon at the subject locations of interest on the property, working out those logistics and then talk about the data that we need that results from a field test. So Stacy, I think maybe if you can step in and describe our work or even share a screen if you think it's appropriate.

Ms. Calta stated alright, thanks Mike. Yes, as Mike said we've been preparing a memo of the next steps to conduct this balloon test and finish off the visual assessment. So we did review the preliminary viewshed maps and the balloon test photo locations that was submitted by Homeland Towers prepared by Saratoga Associates. And we reviewed those 29 photo locations against the New York State Department of Environmental Conservation policy for assessing and mitigating visual and aesthetic impacts to make sure that we're hitting all of the locations that would be required for that guidance. So we've looked at that and we do have a couple of next steps and recommendations based on that. One of which is the viewshed maps that were provided for the locations where the tower would or would not be visible, includes buildings and tree heights, so we're requesting that we have another viewshed map done that's done just based on topography alone, just the bare earth representation of that map and then from there we might be adding a couple of photo locations just to field verify that assessment of the building, the building and tree heights that are shown on the viewshed map. In addition to that as Mike mentioned, there's a second location on the subject parcel that has the potential for locating the cell tower, so we'd request to have a viewshed map done for that location as well to see if that would impact any of the photo locations since there's the potential to fly the balloons at both locations at the same time. In addition, due to the number of trees that are on the site, we plan to ask the applicant to provide a methodology to get the balloon test completed, whether that is actually solely a balloon at the locations for the cell towers or if we need to incorporate the use of a crane or something else if there is too dense of trees to be able to float a balloon in that location. In addition, we are asking for an alternative height at the proposed tower location, the proposed tower I believe is 140 feet, we're suggesting an alternative height of maybe 125 feet at the same location, just so we can get a different, the views of the different heights. So we're also then suggested that the balloon test, since we are the beginning, middle of October at this point, that we wait until leaf off simple because that would be the worst case scenario for any visibility of the cell tower and the balloon. From there we just go

through a, the recommended steps to get the field work actually done, just having a list of who's going to be out in the field, what is the context, for that day, whether there is any kind of a weather delay or that kind of information. If we're looking to have the Town present, I'm sorry, the Village present at the balloon test, what hours we should be having the balloon flown, how long should it stay up, should it be up for four hours, should it be up for eight hours, I think that's a discussion point for the Village. We also walked through the type of camera and the wind speeds that are allowable for a balloon test, obviously, if it's too windy, the balloon is not going to fly straight up and down and that would affect the height that the balloons are flown. We'd also suggest a different color balloon so we'd know which balloon is which location or which height during the balloon the test. From there we already have asked or plan to ask for a couple additional photo locations two of which being at National and Historic register, historic place, while the viewshed map that we have right now says that those locations, the tower would not be visible, again, we want to check that against the viewshed map with bare earth, just to make sure and then since we're going to be out there anyway, just take the photo to field verify that. We have a couple of additional photo request to the west of the Village outside of the one mile radius that was shown on the viewshed map, while the one mile seems appropriate for the topography of this area, the area to the straight west of this site out towards the Saw Mill and the cemetery that's on the west part of the Village are outside of that one mile but based solely on topography, have potential to be able to see the tower. And in addition, some photos from the Marsh Sanctuary, right in front of the parcel on Route 172 and from the neighboring properties and then from there we go through some suggestions for the assessment report itself and this is where we might suggest having alternative tower types in some of the photo simulations. I think we can work with the applicant after the balloon test to even see how many of those photo locations actually have visibility and from there may be a select couple of those would get alternative tower types verse, you know the conventional tower versus the mono-pine tree tower. And that basically wraps up our recommendations for the balloon test and the next steps to get that completed.

Mr. Bonforte stated thank you Stacy. Before we go to the applicant, I want to just do a couple of things, ask if anyone on the Planning Board, any other members would like to add to what's already been presented to the applicant, et cetera, please, anybody? Okay, I think if that's the case...

Mr. Vigliotti stated Mike...

Mr. Bonforte stated yes?

Mr. Vigliotti stated I have some questions, some of them were answered during our work session but this is as good a time as any. Stacy, thank you for answering my question with regard to certification that the balloon or the crane when it's raised or floated, is indeed 145 feet in height. So I don't know how you go about having that certified but questions have been asked by residents of the Village, how is that determined and I wasn't able to really give an answer. I had asked on the site that several balloons be floated as opposed to one three foot balloon and you had corrected me that the balloon may very well be a 5 ½ foot diameter balloon, or a crane. The height at 140 feet, the Verizon tower, the Verizon antenna is going to 10 feet by 10 feet square, give or take and a three foot diameter balloon certainly isn't going to capture that width at that height. So just a concern. We talked a little bit about the setback of the cellular tower mono-pine tower, it's 127 feet and that was shared with us on the site visit, from South Bedford Road. I drove up after the inspection, actually pulled into the driveway and what I noticed and I'm just going to share a noticing, that it was about 10 feet from 172 to the driveway, the driveway was about 10 feet or so and then from the driveway heading due south, you would actually climb to a ridgeline and that area, all those trees came down during Hurricane Irene, so what you have is a clearing of no trees at all, leaving about 70, even my measurements could be off, between 60 and 70 feet in from the ridgeline, the pole will be mounted. That seems to be very visible from 172 and I somehow would like to have that confirmed with a visual showing X number of feet to the ridgeline and then how many feet in the pole would be situated because that will become very, very visible, not only to the passerby on 172 but very visible to the two property owners to the east and the west there. So the and I don't recall, there's been so much paperwork coming in, the rendering of the pole, I've seen with Verizon at the top of the pole but I don't recall if there's a rendering showing the other carries, the colocation of the other carriers on the pole. Is that, has that been produced or just a singular Verizon antenna? So that would be the question that I have, is do we have a visual, a rendering showing the future colocation of the other carriers. I've seen the one carrier, Verizon at the very top, we know that they are talking about two or three colocations for other carriers, we need to and that will become more of an impact as you're driving by, you may not look up to the tippity top of the pole but down 20 feet is another colocator, down another 20 feet, down another 20 feet, so I think, I believe that the Planning Board should have that visual. Otherwise, that's the few questions I have at this point. Thank you.

Mr. Musso stated Mr. Vigliotti thank you for the comments, just to address a couple of them. Some of the simulations that you saw in your packet are not from this property, so there haven't been any photo simulations presented yet for the proposed. However, aside from a stealth trees and a conventional

monopole, we do as for colocation scenario in those simulations as a worst-case. So that is something that would easily be provided by the applicant.

Mr. Vigliotti stated great, thank you.

Mr. Bonforte stated great, thank you for that clarification. Anybody else on the Board would like to add or question? If not, I think we can turn it over to the applicant, Mr. Gaudioso and Mr. Wimmer, who are here tonight. Is there anyone else with you, Robert?

Mr. Gaudioso stated yes, good evening Mr. Chairman and members of the Board. Robert Gaudioso on behalf of both applicants, Verizon Wireless and Homeland Towers. We are also joined by Manny Vicente who's online, he's the president of Homeland Towers. First and foremost, we have no problem working with HDR to nail down some of the specifics on the methodology for the balloon test, I think the quicker we get their memo, we can certainly reach out to them and clarify any of the details. As far as the, a couple things that were said, just to clarify, the tower is not 127 feet from the property line, it's actually 157 feet plus then there's the distance to Route 172, so I just wanted to clarify that. As far as the colocation, again, we're proposing the tower as a mono-pine so the antennas for the colocators have been shown on the drawings. Mr. Musso's correct, we haven't submitted any renderings yet, so that's the point of doing this exercise, to see where visibility will actually be and what it will look like if there is visibility but the antennas of the colocators will actually be concealed by the tree branches, so whether there's a second or third colocator will not change essentially the aesthetic of the tree branches. The only other point I would like to point is that we're unable to analyze by a balloon the second location that was discussed on the property. If I may just share my screen for a second, I believe this was Mr. Musso's memo and as you can see the proposed second alternative location is actually within an area that is within the solar farm. So I believe I mentioned this last time because we do not have lease rights and I heard during the work session, there was actually a letter submitted by the property owner, we'll certainly FOIL and get a copy of that but number one, its within the area of the solar farm, number two its our understanding that the property owner will not allow the tower in that location and number three, trying to float a balloon at a location that's not a feasible alternative will only create I think confusion for both the Board members and the residents, so to the extent that we do not have access to that portion of the property, we would not be able to perform a balloon test there. If there was any other location, whether on this property or off this property that was available to us and I think we said this at the last meeting and I think Klaus' alternative site analysis where we looked at numerous alternative sites but if there's any other alternative location, now would be the time to let us know. One that is feasible for us to obtain rights to, be able to construct and most importantly work from a technical standpoint, we'd be happy to analyze it. But this particular location, as I just shared based on Mr. Musso's memo, is not available to us, so that's not a feasible alternative.

Whitney Singleton stated Rob, can I interrupt you for a second? I just wanted to vet that out a little bit.

Mr. Gaudioso stated sure.

Whitney Singleton stated when the Planning Board first became aware of there being a second application on this property, we asked the property owner and the solar applicant to provide us a copy of the area where the solar tower would be located and it was within this area that we're now discussing that you're saying you have no rights too. That's the area that they identified as the area where the cell tower was being proposed. So are you telling us that the owner and the other applicant are telling us it's a different location than what you're telling us?

Mr. Gaudioso stated what I'm telling you is the truth, what I'm telling you...

Whitney Singleton stated Rob, I'm not suggesting that's not the truth.

Mr. Gaudioso stated we had this discussion last time. Sure, Mr. Vicente would like to answer.

Mr. Vicente stated let me answer that. The original location was not on the tennis courts, the original location was at the very top of the current access drive, it was not at the tennis courts. So that is not the same location. The tennis courts were never leased by us, it wasn't ever contemplated that we would go in that area.

Whitney Singleton stated I'm not suggesting that it was the tennis courts, what I'm suggesting is higher up on the hill.

Mr. Gaudioso stated we do not have lease rights to that location. We have lease rights to the location where the proposed tower is located and that's all we have lease rights to.

Whitney Singleton stated okay.

Mr. Bonforte stated well I just want to say, I've been on the site many times and that location is quite close, meaning the tennis courts to the original location that Manny just described, so I don't know. I'm just saying that that is my impression, initial thoughts on that but...

Mr. Gaudioso stated so the original location was at the end of the access drive and let me just state it very clearly, we do not have lease rights to any location on the property other than the location where the tower is proposed currently.

Mr. Bonforte stated okay, thank you. Alright, would you like to continue, were there other points you'd wanted to respond to?

Mr. Gaudioso stated no, really, we look forward to Mr. Musso's memo, we'd like to get the balloon test date scheduled, we think that having a date is important because the residents should also be involved in knowing when the date is, offering photographic locations if they wish to, we don't want to run up against the end of the shot clock and have the residents not to have the ability, so the last two meetings I have asked for the public hearing to be scheduled. I'd reiterate that request, at a minimum I'd ask that we pick a date with a backup date of each date thereafter in case of inclement weather, as Mr. Musso said, he intends to provide some parameters on what the weather has to be, so what we find is if we pick a date, maybe in the middle of November and each day thereafter, if within 24 hours the weather looks like it will not cooperate. But we think that's important to get the photo view point locations from anyone else that has a suggestion and to give as much time as possible for everyone to know what the date and what the methodology would be.

Mr. Bonforte stated just a minute Robert. Whitney, I want to ask an administrative question then in this regard. For the Board and everyone else, yes we want to honor that public hearing request and do so as expediently as possible, how does that, Whitney, how does that interact with the environmental reports or report, I should say for Homeland that would be, that is going to be conducted regarding the stormwater, regarding any other environmental aspects and does that play into the timing of the public hearing? How does that all work, Whitney?

Whitney Singleton stated if you want to, well first of all, we haven't circulated, what I learned this evening was because of the recusals that were occasioned by kind of the staggering these applications, we now have a new Planner on board tonight and that the Planner needs to circulate our Notice of Intent to be Lead Agency, the Planning Board is not even definitively Lead Agency at this point in time. Another agency could potential seek to be lead agency. Additionally, with regard to the environmental review, there is a very good chance that you, especially considering that the County Planning agency recommended it, that your Board has indicated your desire to review these applications simultaneously from an environmental perspective and we haven't vetted that out completely and while Simon is working on the application now, he's kind of coming late to the game unfortunately because the recusals, he's going to be providing you with some information by the, prior to the next meeting and potentially some advice on how to arrive at a determination of significance. That is not necessarily going to preclude you from conducting a public hearing and perhaps you want to keep the public hearing open long or shorter. The sooner you open it, the longer you potentially could have opportunity for people to comment and as far as the flying the balloon, if that's the proper terminology, your consultant, was I correct in hearing her say the beginning of the December so that the leaves are off?

Ms. Calta stated I did say that the leaves should be off but when that is...

Whitney Singleton stated I don't know when that is, maybe, I think I'm conflating your statement and the submission by the applicant of some of the visual impacts from the prior years. But in any event, there's not prohibition from starting it but it may be that you will end up keeping it open longer given the fact that you don't have a lot of the information that's currently necessary to review the environmental impacts of both these sites.

Mr. Kates stated yeah, I could...

Whitney Singleton stated both these sites, the two applications within the one site.

Mr. Kates stated yeah and if I could add one thing to that Whitney and just to reinforce one thing that Whitney said, I'll be providing on environmental review and the SEQRA process and initial thoughts within the next couple of weeks but just one thing that came to my mind and I'm certainly interested to hear what others think is whether it makes sense to have a result of the balloon test before the public hearing is opened or is there a reason to not wait for that?

Mr. Gaudioso stated I guess my point on that, having done this enough times, I will foreshadow for you, if you do not give the public the opportunity to comment on the methodology of the balloon test, they will take you to task for it and I'm giving you warning now that we are trying to incorporate that to be as transparent as possible and the concern is that if you don't allow them to have input, they will have concerns about that in the future. They will say that we didn't take into account what we ought to have in the balloon test methodology, the view points and things of that nature. So it's up to the Board, its your discretion, we've asked for it and that's our reasoning behind.

Mr. Vicente stated and if I may add, I think its very important that we move to do the balloon test, we can work with your consultants on the methodology, to find the methodology, we really want input on the locations, we want to do this, we want to get, be as thorough as possible and to do it as soon as possible and I don't see anything wrong with getting input from the public as soon as possible on the application for the reasons that Rob said about the methodology, the balloon test, the views that we simulate, et cetera. But also to get their understanding and have our opportunity to explain certain things to the public and to this Board. So I think we all gain from number one working hard to get this balloon test and visual analysis completed and done correctly and number two, probably more important, get as much input from the public as possible. One of the things that I stated at the site walk, clearly this is the time for us to be discussing any alternatives as Rob said that are technically suitable that are available to us, this is the time for us to hear that from the public and from the Board, so I'd rather be doing that earlier than later, I think its in everyone's best interest to do that. Unfortunately, the tennis courts, as we walked and I stated clearly at the site walk, we don't have rights to it and I've been looking at the location and its part of the solar project and its not available to use. I think it would be misleading to try and float a balloon there and use that as alternative because its not viable. However, this is the time for us to understand from the public and the Board and anyone, where at the alternative locations that we should be looking at. So I think it's really important that we work hard to get the video, the visual resource analysis will [inaudible] as well as possible and to get all that input from the public.

Mr. Bonforte stated okay, understood Manny, thank you. Manny, just as an aside, you have like feedback from your verbal, you know voice, maybe you have to mute either the phone or the...

Mr. Vicente stated I think my cellphone was too close, I'm going to turn that off.

Mr. Bonforte stated I mean, yeah we could follow you and we should be fine with transcripts. I guess my thought on this is a lot of moving parts, we're all coming to bear here. And I don't see any reason why we can't open up a public hearing as soon practically possible but, and again, I'll have to defer to Staff. My concern is that we haven't talked about too much is we can go to public hearing stage and get that input but I'm concerned about the environmental and aspect of getting one environmental for the Homeland application and then there's another application onsite, you know the solar tower nearby that is separate application. Because you've clearly stated more than once in your letters to us, which are on file, that you want to pursue these are separate applications and that's your right to do so but we from a practical perspective and from our specialist and from others that are involved in this process, are saying, like the Westchester County, sorry, regardless, it was the Planning Board, Westchester County who evaluate this on a joint basis because of the close proximity to each other, you know, for stormwater treatment and so on. And you've heard this from our engineer, Anthony Oliveri, also. So I just, I'm just trying to portend that we go ahead as well as possible, we respect your recommendations and requests as you're, for public hearing but how do we get that information before use and not have it hanging out there, meaning the SCS Sarles Street application and that stormwater prevention plan for, you know, slowing us down. I hope I'm making that clear...

Mr. Gaudioso stated if I could just speak to that, I think it's an excellent point. So we had submitted a letter and I think Mr. Oliveri had questioned it at the first meeting but we submitted a follow-up letter. We intend to do our own stormwater report. The solar farm and the wireless facility are you know, hydraulically in two different places on the property and what we will do is we will submit our stormwater management plan that will be independent of the solar farm for really two reasons. One, they are physically independent from a stormwater perspective, number two, they're independent from an applicant perspective and number three, there's not guarantee that both facilities will be improved. Meaning that if the wireless facility is approved and the solar farm is not, we want to make sure that we're treating our stormwater independent of that facility. Now, there may be other instances on the property where there is overlap, for example, the access drive, I know since we've filed our site plan the solar farm has proposed some additional improvements to the access drive which I believe are related to the fire department, we now have, as of Monday, a fire department memo, so we'll take a look to see what the solar farm is doing with respect to that and incorporate whatever they're doing and make those conditions of our site plan as well as anything we need to do for our independent facility. So in that regard, I agree with you that we need to look at those independently and with your permission, I'd like to reach out to Simon and go through a list of things that he thinks are the most important that we make sure, where there is overlap, we're making sure our reports are consistent, that our reports are cumulative to the extent they need to be

cumulative, and to where they need to be independent they're independent and we make that clear. So I agree with you, I don't think that any of that work in any way impacts you know, your ability to open a public hearing and keep it open, dependent upon receipt of that additional information. Again, you know, the Board will do as the Board sees fit, we're fine with that, our recommendation though is to get the publics on the balloon test, your other way to do is to put out a notice to the residents that if they do have input, to provide it in the next couple weeks so that we can incorporate it into our methodology and let everyone speak now.

Mr. Bonforte stated okay, understood and please do so with Simon and Stacy and the BFJ Planning firm that we've hired. If you need their contact details, Michelle Russo has that for you, Robert.

Mr. Gaudioso stated thank you.

Mr. Bonforte stated Whitney, going back to Robert's response, is there anything you would like to add because I might have left some elements out of this, so scenario, you know lots of moving parts. I'd just like to get your advice, if needed.

Whitney Singleton stated is there, is your question anything I wish to add to Rob's comments or to somebody else's?

Mr. Bonforte stated well initially [inaudible] is around the joint application perspective that the Board undertook, versus the applicant's independent and separate application approach, so is there anything...

Whitney Singleton stated I do not, in any way, shape, or form digress from my original position that this would be segmentation if you treated them separately from an environmental perspective. From, beyond that there is little relationship other than a common lessor between the two applicants, I'm not disputing that. They have no vested relationship with one another as far as finances or anything else but from an environmental perspective, the impacts to the site are the impacts to the site and that's why I had recommended to you that it would be impermissible segmentation and I believe that the County Planning Agency has corroborated that position. To tell you the truth, I welcome Rob's input and Simon's, one of the things that we're going to have to tackle, I've never been involved in a situation where we have two applications on the same property for different projects and how to properly view their impacts on a cumulative basis, where they are separate applications existing. You know, we'll tackle that and it may be, depending on what the outcome is, if you determine it to be a negative declaration, it's really of no significance, but if there's a pos. dec., then there's a significant impact there. How to coordinate the analysis on a cumulative impact and Simon will guide you through that, if that's where it goes. But again, Simon is still just getting caught up with the application, he's working on it hard and it's put us in an unfortunate situation that the application came in during summer months, the application came in and put us all on our heels as far as having to do recusals and everything else and it's unfortunate that it happened this way.

Mr. Gaudioso stated I agree with Whitney, the first part, the first part of Whitney's statement which I think a discussion with Whitney, myself and Simon and you know figure out somewhat what I said before, you know what documents...

Whitney Singleton stated admit it Rob, you agreed with everything I said.

Mr. Gaudioso stated I agreed with that one little sliver. No, all kidding aside, I think Whitney is right, I think a discussion and a game plan at least for the next few steps, if not you know, ultimately all of the steps but you know the steps are clear, declare an intent, figure out who lead agency is, figure out what documents need to be submitted, how to go about evaluating cumulative impacts and the extent they are cumulative and giving the Board the information it needs to properly take a hard look at the environmental impacts.

Mr. Bonforte stated okay, thanks and while Robert I know we're not ignoring the fact that you said there is an, the intricacies of the two different stormwater plans and the pieces that are truly independent and pieces that are joined, I follow you, I think there's some elements there that we [inaudible] look at and see exactly what we think but from a practical perspective, all of us see it as a joint application on the Board.

Anthony Oliveri stated if I may, from the stormwater perspective, obviously they could be designed independently but from the standpoint from the stormwater regulations, they would be looked at cumulatively. I don't think, you can separate them that way, there are stormwater practices proposed by the solar farm along the roadway, presuming the same place or in close proximity to where the cell tower practices would be and those discharges might be cumulative on that side of the property. So that is something we have to consider and look at and that's going to be a little tricky to parse out, I think.

Mr. Gaudioso stated and look, we still owe Anthony some information we may, now that we have the fire department memo, I think we have a better understanding of what some of those additional areas may consist of, I think we may need to have meeting with Anthony, our engineer and possibly the solar farm engineer and again, similar to what I was saying with Whitney and Simon, parse out what needs to be parsed out and figure out where it overlaps and where it doesn't.

Mr. Bonforte stated okay, well good.

Mr. Musso stated and Acting Chair, if I can just add to that from HDR's perspective. We're looking and focusing on the Homeland application but are completely respectful for the combined review that Simon and Whitney and your Board are going to lead. My recommendation on that alternate location on the property, I don't know where the solar farm exactly is at, it's not part of my direct review of this, I don't know if the footprint has been tweaked, I don't know what can happen or not but I'm really. And there could be things that could happen during the course of the coordinated reviews, I think I need the suggestion about submitting the scope and I absolutely agree with having the public, being able to review it before a balloon test actually happens but we still, right now where I'm sitting, unless I hear differently, I still would like to evaluate that second location, whether or not it comes to fruition, let's get it done now and I think it makes sense to do that. And I know we've heard testimony that you can balance with whether or not there's permission to do that exactly, I know Mr. Gaudioso gave a couple lines of evidence which are compelling but for my piece and where I sit, I do recommend that alternate location on the property to at least be assessed in the field during you know, a one day event, I don't think there's much harm in doing that and we can work out the intricacies later.

Mr. Gaudioso stated and just to be clear, if the landlord will not allow us to do that, he will not allow us to do that. Nothing we can do about that but we'll certainly talk to the landlord and evaluate that.

Mr. Vicente stated can you hear me now or is it still garbled?

Mr. Gaudioso stated you're garbled.

Mr. Vicente stated I hope it comes out okay but right, you know you have already, we shared with you the VRA's that we did with the two Village sites and I think you know, we have to do it for our location. My concern is if we we're going to do an alternative that isn't viable that it's going to cause confusion, there's going to be an awful lot of material out there and its going to be confusing, I'm very concerned about that. Especially, on a location, like I said, we'll look at any viable alternative, we're open to that and we want to understand that. I'm concerned about confusing the public with a balloon flown in a location that's not real.

Mr. Musso stated I don't disagree with that, I mean there would be two balloons floated at the subject location, perhaps with a crane, those are methods that Stacy and I are working on. The second location I would guess is 500 feet to the south, maybe a little more to that. I think we can get by that especially with engaging the public as was suggested, so I just want the Planning Board to have good information with this and I'm very respectful for agreements you have and don't have but right now where I'm sitting and my advice to the Planning Board is I would still recommend that unless that really gets nailed down.

Whitney Singleton stated I don't disagree, while you may not have the right, I mean it was represented to us that you have the right to put it up there...

Mr. Gaudioso stated we never represented that, so...

Whitney Singleton stated I didn't say you did, it was represented to us by the property owner.

Mr. Gaudioso stated its no longer the case.

Whitney Singleton stated didn't your lease pre-date the lease with SCS?

Mr. Gaudioso stated at the end of the day, we don't have lease rights in that location.

Whitney Singleton stated but Rob, by the same token you have a 25 acre parcel, if you're telling me the only location that it can go in is a 10 by 10 or a 50 by 50 spot, directly on the road front, on top of Pietrobono's house, that doesn't make it viable. The Planning Board is trying to look for viable reasonable locations and for you to take a tenth of acre parcel out of a 25 acre site and say it must go here, doesn't exactly leave them with a lot of alternatives.

Mr. Gaudioso stated so let me put that in perspective for you. We offered over a year ago to go on the Leonard Park site and that property owner, that property owner refused us permission to go there. So we

are at the discretion, the sole discretion of the property owner of where we can place the facility. So just at the Village Board determined that it would not lease space in Leonard Park or at the water tank, this property owner has determined that the only place he'll lease space to us at the location that we're currently at, that's the reality of it.

Whitney Singleton stated but it was something that was explored and you did fly balloons and you did provide simulations for it, correct?

Mr. Gaudioso stated for which location?

Whitney Singleton stated for Leonard Park.

Mr. Gaudioso stated because the property owner at Leonard Park agreed to let us fly balloons there. What I'm saying is if this property owner will not agree to let us fly balloons because he will not agree to ultimately lease the parcel, that's a different fact pattern. With Leonard Park the Village Board was still possibly interested in allowing us to place the facility within Leonard Park, so they allowed us to fly the balloons and they underwent an internal leasing analysis and they ultimately decided not to lease to us. This property owner has ultimately decided not to lease to us other than in the location where we're proposed.

Whitney Singleton stated Rob, would it be possible to get a copy of your lease?

Mr. Gaudioso stated I'll take that under advisement and discuss it with my client...

Whitney Singleton stated I'm requesting it, all iterations of your lease beyond just the memorandum that it's recorded.

Mr. Gaudioso stated I'll take it under advisement, I think the case law is clear we don't have to give it but to the extent we can work something out and detail for you where we have lease rights, we're happy...

Whitney Singleton stated it seems as though the lease rights are moving.

Mr. Gaudioso stated well the lease rights that matter are the lease rights today and the lease rights we have are the location where we're proposed and those are the only lease rights we have.

Mr. Vigliotti stated may I ask, Robert, at what point, how recent have you communicated or contacted the property owner with regard to any suggestion made by the Planning Board even on a site visit, so have you had any communication with regard to some of the old [inaudible] properties?

Mr. Gaudioso stated we've had ongoing communications, I'm not going to get into and vet out the specific details but what I can tell you we will do, is we will go back to the property owner and we will ask them if that location as shown on Mr. Musso's memo, is a location he would allow and we'll report back to the Board.

Mr. Vigliotti stated okay because as one member of the Board, I'm finding the location that's proposed to be problematic and I just want to leave it at that. I felt a little bit more comfortable and I have to be careful in saying that that the tennis court location may have been more doable. So, I think we have some homework to do and we need to get answers from Skull property with regard to your communication with them with regard to the alternative site.

Mr. Gaudioso stated I appreciate your comments, I hope you have an open mind to this application, I think again when the residents have the opportunity to comment, we think it's abundantly clear that the visibility would be greater particularly to the south of the Chase, at the top of the hill as opposed to be where we're proposed to be located but we'll do our additional visual resource evaluation, remember we did a visual, we did originally submit one back in August. We showed very limited visibility based on the viewshed maps and the site lines but we'll do the balloon test, although it's not required by the Code, we'll do the visual renderings, although they're not required by the Code and will help to be able to provide additional information so that ultimately the Planning Board can make its determination.

Mr. Vigliotti stated okay, well thank you.

Mr. Bonforte stated Bill, did you...?

Mr. Polese stated I was just...

Whitney Singleton stated Mike, can I go back, I'm sorry if I cut somebody off, I just don't want to lose the train of thought. I want to go back to the applicant's request for the public hearing. It seems as though by, if we put them on the very next agenda and I'm not advocating anything in particular but if you put them on the next agenda and they have a response for your Board and for Mike as to their ability to float a balloon on another location on the property. Perhaps that would be the appropriate time to determine whether you wish to open the public hearing, so like two weeks from today is what I'm saying and I think that would also coincide with Simon's statement that he would be ready to better advise your Board with regard to the SEQRA aspects of it.

Mr. Bonforte stated I think that is reasonable and practical.

Mr. Vigliotti stated just be mindful that the Sarles Street Solar Farm is scheduled, I think a scheduled public hearing on that night, it may be a little cumbersome to have both on the same night.

Whitney Singleton stated I wasn't suggesting, Ralph, I wasn't suggesting having the public hearing on that night. I was suggesting determining to schedule a public hearing.

Mr. Vigliotti stated okay.

Mr. Bonforte stated thank you Whitney. Bill, did you want...

Mr. Polese stated no, I was just going to reiterate what Ralph was suggesting and any courtesy by Skull Island for us to float the balloons at multiple points on the property much like the Leonard Park situation, would be appreciated. You know, as one member, I've got an open to this application but you know it's worth as Manny has mentioned a couple times, there are other former applications or properties that were under consideration, that you go back and beat the bushes and try to sell this thing on different, on properties, better your odds and I'm looking at, Mike had the map up before and I mentioned this on the site visit that it's my understanding that the campus, the Rippowam Campus, is you know, could be an opportunity. I don't know if its worth going back to the school just to see if its commercially viable to put it there. And again, just ideas at this point, I am keeping an open mind about your application but to Manny's point about finding locations, I just wanted to throw that out there and again any courtesy to our Board, to the Village, to you know explore different parts of the mountain just to get this over, I understand you've had conversations with the owner but you know, again whatever you can do would be great.

Mr. Gaudioso stated we will.

Mr. Polese stated thank you.

Mr. Bonforte stated alright, well there's a lot of sensitivities on all directions on you know this property and the locations, you know whether you go east, west or south and even north, even though that's somewhat to a lesser degree, it's just the 172 direction from the site. Robert, are you comfortable with your next steps now and I know I want to be able to review also with Staff, attorney and our specialists, both HDR and BFJ Planning but are you comfortable now with what we've discussed tonight and how we're moving forward?

Mr. Gaudioso stated I think we need to see Mr. Musso's memo sooner rather than later and then we can have discussions with him as far as answering his questions and fine tuning it so we can get a balloon test date scheduled sooner than later, we'll reach out to Simon and discuss with him, his thoughts. We'll have our engineer look at the issues that Anthony raised and to extent we need to have them have a conversation, we'll do that as well and we'll respond to those comments.

Mr. Bonforte stated okay.

Whitney Singleton stated Rob, was, I'm sorry, Mike are you doing an additional memo or the memo you've already done?

Mr. Musso stated no, it's scoping memo...

Whitney Singleton stated okay.

Mr. Musso stated for the field test, for the noticing, for the involvement of the public and then the visual resources assessment that's done at the back end of it.

Whitney Singleton stated okay.

Mr. Musso stated so I think what I would suggest to do is that we'll submit this as a preliminary final, we can get it into the applicant's hands, they can comment or question about it and I think it can be discussed

at the next Planning Board meeting as an agenda item and for balloon tests in the fall, I think Mr. Gaudioso touched upon this, it's tricky. You want the leaves down as the worst case, that's always the optimal time to do this and then you run into some weather and wind. So you know, late October and the first part of November is really the sweet spot to get into the field and there's plenty of other things to look at with the application, obviously, even things that HDR's not looking at but I think its important that we discuss and vet the balloon test scope. So I will be getting that into Michelle in the next couple of days, Stacy and I will wrap that up...

Whitney Singleton stated but the applicant has otherwise received the other five memos from the Building Inspector, the Fire Department, the County Planning Board and site visit notes, you've got all those Rob?

Mr. Gaudioso stated we received those on Monday.

Whitney Singleton stated okay, alright, thanks.

Mr. Bonforte stated okay, I think that kind of wraps up tonight unless Whitney, I'm going to again defer to you because I'm new to this role but you know if you think we've covered enough for tonight...

Whitney Singleton stated you're in trouble if you're deferring to me. No, I think that, I'm optimistic that we will be in a much more updated position and the Planning Board will be more informed two weeks from tonight.

Mr. Bonforte stated okay. Robert, do you plan, I mean Manny and Robert and Klaus, I should say, are you planning on being part of the next meeting, is that...?

Mr. Gaudioso stated I think if we can come to the next meeting and schedule the public hearing at that date and hopefully lockdown a balloon test at that date, I think that would be very productive.

Mr. Bonforte stated okay, understood, thanks for just reiterating.

Mr. Gaudioso stated thank you.

Mr. Bonforte stated alright, my role here is acting Chairman for just this application, so I think its time to turn back over to either, well the Acting Chairman or the Vice Chairman Bainlardi. But here's Mr. Hertz, thank you Doug.

Mr. Gaudioso stated and I'll guess we'll sign off at this point, so thank you very much for your time tonight, we appreciate it. Thank you.

Mr. Musso stated thank you acting Chair, I think HDR is good to sign off unless there's anything else.

Mr. Bonforte stated good night, thank you Mike and Stacy.

Mr. Musso stated thanks Stacy.

Mr. Kates stated BFJ will sign off as well.

Mr. Bonforte stated thank you Simon.

Chairman Hertz stated alright, Mike, thank you for taking the helm on that matter. So we're at the end of our Planning Board meeting, there are no other items on the agenda so with that, I'd like to make a motion that we adjourn the meeting. Do I have a second?

Mr. Polese seconded the motion.

Chairman Hertz stated everyone is eager to second that. Raise your hand if you say aye.

Mr. Vigliotti stated aye, aye.

Chairman Hertz stated I see everyone is unanimity, thank you all for watching, thank you Mr. Bonforte for the impromptu acting Chairmanship and we'll see you all at the next regularly scheduled Planning Board meeting.

The meeting adjourned at 9:25 pm.