

Minutes of the **Regular Meeting** of the Planning Board of the Village/Town of Mount Kisco held on **Tuesday, September 22, 2020 at 7:35 pm** via Zoom Teleconference

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

Members Absent: Crystal Pickard
John Hochstein

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

Staff Absent: Peter J. Miley, Building Inspector

Chairman Hertz stated welcome everyone, this is the Mount Kisco Planning Board for Tuesday, September 22nd. We have just concluded our work session, this is our regular meeting. At the beginning of the meeting we have two public hearings and as I see Frank Fish here, John, I think we'll take the public hearing in order. So I am recused on the first public hearing, the first matter SCS Sarles Street. So John Bainlardi, the Vice Chair will be chairing this matter.

A. SCS Sarles Street – 180 South Bedford Road
PB2020-0395, SBL 80.44-1-1
Site Plan
Continued Public Hearing

Mr. Rich Williams Jr., of Insite Engineering was present.

Vice Chair Bainlardi stated okay, good evening. The first matter, continuation of the public hearing for SCS Sarles Street 180 South Bedford Road. This is an application for a site plan for a solar farm. We have a number of documents in the Board's packet for this evening, there are a number of public comment letters which had come in subsequent to the last meeting on the 8th of this month. There is a memorandum from Cuddy & Feder, dated August 31st, a memorandum from Insite Engineering dated September 1st, a memorandum from the applicant dated August 31st. There is a coverage calculation worksheet, an updated SWPPP, development coverage plan prepared by Insite, the projects engineer. Vehicle maneuvering plan prepared by Insite Engineering and an updated set of site plans. We've also received some letters from some interested agencies as well as from members of the public, we have a letter from the Town of Bedford Planning Board dated 9/21, a letter from the Town of Bedford Conservation Advisory Council addressed to the Town of Bedford Planning Board which is comments of this project, there's a letter from George Coppola, resident of 5 Brentwood Court. Undated by received today, a letter from Ann Neiman, undated but also received today, the member of Marsh Sanctuary and Sarles Street resident. And then additionally there is a letter from Rex Pietrobono dated 9/9 and an additional letter dated 9/21, which addresses both this application and the Homeland Towers application and then there is one additional letter from the neighbor, Nancy El Bouhali, dated 9/17 and also addresses this application and the cell tower application. A few things to update the public on, the Planning Board's Planner, Kellard Sessions has recused itself from any further participation in this application due to Kellard Sessions prior representation of Homeland Towers, the cell tower application that is on this property as well, proposed for this property. The Planning Board has retained BFJ Planning, who we are quite familiar with and have done work for the Village in the past, both most recently the Comprehensive Plan review and an update to zoning Changes that resulted from that update. So BFJ Planning will perform consulting services to the SEQRA review of this application as well as the Homeland Towers application and technical review of the applications. I understand Frank Fish is here this evening on behalf of BFJ Planning and Engineering but also Simon Kates will be handling this matter as well. The Planning Board has considered from a procedural standpoint, the course its going to take in reviewing this application and the Homeland Towers application from a SEQRA review standpoint and has decided that we will perform a simultaneous SEQRA review, so we remove any doubts or any claim by any person going forward that the review was conducted in a manner that would make, give rise to impermissible segmentation under SEQRA. So that means then that the SEQRA review will happen simultaneously and we'll consider both applications, the applications themselves are independent of one another as far as the actual applications but from a SEQRA environmental review standpoint, they will be reviewed in tandem. Before we turn the mic over to the applicant to present their current materials that are before the Board and then open it up to the public for any additional public comment this evening. I just wanted to address some items that have been floating around regarding my participation in an ownership group that previously owned this property, specifically the Sarles property. I was a member of a

development group, ownership group, a small family partnership that purchased the property in 1999 and took the, an application before the Planning Board for a conventional subdivision under the CD regulations that are still in place today. That application was for a conventional subdivision and went through and environmental impact statement and the Planning Board, around 2004 accepted the, that DEIS, the draft environmental impact statement as complete, it was for a 16 lot subdivision with some alternatives including an 8 lot subdivision, a 10 lot subdivision with some access drives from either from 172/South Bedford Road and/or Sarles Street. We, when the recession happened in 2007, we did not proceed with the application and subsequently we sold the property to the current in 2013 or 2014, it's been 6 almost 7 years since I've had interest in the property, that was [inaudible] transaction, sold to the current owner and I have no current interest in the property but do have some knowledge about the property which I think is ultimately valuable to this Board. There has also been some questions raised about any interest in a piece of property that's located across the street on 172, which was owned by the same development entity but I have no interest in that property as well, that property is no longer by Realis Development which was the development company and in any event that property is in a different town and subject to different zoning. So, again, no interest in any property across the street. So with that being said, I did disclose at the start of the Planning Board on the Sarles Street application, I can't recall if I disclosed it at the start of the public hearing but remedying that now, so that's on the record. With that, who's here this evening for the applicant?

Mr. Null stated Mr. Bainlardi, members of the Planning Board, good evening, my name is William Null, I'm a partner with the law firm of Cuddy & Feder and we're here representing the applicant SCS Sarles Street and Sunrise Solar Solutions, LLC. With me tonight is Rich Williams from Insite Engineering, civil engineers on the project. And we thank you for your time and consideration, do you want to open the public hearing and we can commence?

Vice Chair Bainlardi stated yes, Whitney remind me, does that require anything more than the statement that we're opening the public hearing do we need a vote?

Whitney Singleton stated no, I think you can just open the public hearing.

Vice Chair Bainlardi stated the public hearing is now officially open. For members of the public that want to speak, there's a couple of different opportunities for you to participate and comment. Michelle, can you just list off those opportunities.

Secretary is without audio.

Vice Chairman Bainlardi stated Michelle, can you repeat that, you broke up on the audio.

Secretary is without audio.

Vice Chairman Bainlardi stated thank you and for anyone who is physically there in Village Hall, there is a signup sheet, I assume there's a signup sheet? Very good. Okay, so Mr. Null if you'd like to, if you want to start your presentation, why don't we start there and then we'll head up to...

Mr. Null stated thank you, okay, I wanted to highlight for the Board that since the last presentation at the public hearing, I think it was July 14th for this matter. The plan has been modified to some extent, only to the extent of reducing the variance that we need with regard to the buffer by 13 feet. So we had been at 128 feet, where 200 feet is required and we're not at 141 feet where 200 feet is required, along the Sarles Street side. That reconfiguration resulted from our being able to use and occupy space that had been previously understand as being where Homeland Towers was going to situated, so we pulled back the encroachment into that 200 foot buffer to try and improve what we could in that area and we will be notifying the Zoning Board as well of that change. In addition, as you know Hurricane Isaias passed through and there was some tree damage, there was also some, as a result of that reconfiguration that I just described, some reduction in tree removal. So the numbers that were in my August letter are at 646 trees being removed, we're down to 603 trees being removed by last count and we want to make that clear. By the way, as far as that goes, we're going to try to get further information for you as I had said, would be provided with regard the species type of tree but we do have information regarding the size of the trees. 275 of the trees to be removed at 8 inches or less in diameter, 384 of the trees to be removed are 10 inches or less in diameter and 493 of the trees to be removed at 15 inches or less in diameter, so it gives you a sense of the size of the trees that are necessary to be removed in order to accommodate the solar farm. As you know, the Village worked long and hard in how to provide the community with the opportunity for this renewable energy source that could be accessed by residents in the community without needing to put solar panels on their own roofs. And as a result of the study, they adopted the solar regulations that this project is subject to, this is a Tier III project. As part of that, Mount Kisco designated four sites in the CD district where it would be appropriate to have solar farms such as this and the site that we are before you to discuss, is one of those four sites. I think that's important because there was considerable study that went forward

by the Village and determination by the Village Board with input from the Planning Board before adoption of these solar regulations. So in recognition of the importance of renewable energy, particular in this time of climate change, we're proud to be able to present this application. We have a power point that walks through a number of the benefits of this sort of environmental justice action which is, has been accepted by the Village and I'd like to be able to share the screen and walk you through the power point and then have Rich Williams walk you through some of the details of the responses to your Planning and Engineering comments that have been submitted in plans that have already been filed with this Board. If possible...

Vice Chair Bainlardi stated yes, please, proceed.

Mr. Null stated thank you. Can you see that?

Vice Chair Bainlardi stated yes.

Mr. Null stated okay, good. So as I said, climate change we all know is real, we've had historical wildfires out west, we have heat waves and drought and the importance of renewable energy was recognized by the Village, as its recognized by many residents and others. Community solar as a farm is designed to be able to provide people who are renters or co-op's or others, with access to solar energy on a local community basis, so that it reaches across income levels, low to middle, et cetera, as New York State has focused on this being a key component in its climate leadership and community protection act, it was passed most recently. The goals of that act are 70% renewable energy by 2030, 100% carbon free energy by 2040 and 6,000 megawatts of solar power by 2025. That is a short time away, a little over four years, this system would provide 2.57 megawatts, which is a significant contribution to the area, particularly Mount Kisco. The solar farm itself is designed to provide a part of solution, sorry, I've got all these numbers, I'll submit this PowerPoint to you so you can have, I know that it's a lot to look at on the screen. But the power will produce um, 2.57 megawatts and it will be in a pollinator friendly environment, we are going to be planting pollinators and removing invasive planting on the property to the extent possible which will create a more biodiverse habitat for insects, birds, bees, small animals and larger animals that prey upon them. It will produce 3.434 thousand kilowatts annually, power over 400 homes or over 800 apartments and provide discounted energy to subscribers. As the CO2 offset, it's the equivalent of 3,171 acres of farms. The history of this site includes a mansion from the 1920's which had roads, garages and outbuildings, a tennis court, manicured lawns and gardens. There are a few foundations still left today in the area of the site that proposed to be used for the solar farm has been signed to occupy these previously developed areas to the extent possible. Which makes sense as the area is the flattest and it removes the fewest trees, it also allows us to preserve the bulk of the property as you see here. So there's about seven acres that are under lease and we're a little over three plus acres would be occupied by the actual improvements themselves. So we preserve a large area which Marsh uses for trails, even though it's private property and there has not previously been permission for the use of the trails, what we have done is we've brokered an agreement between Marsh and the landlord so that during the term of the lease, the 25 to 30 years or so, these trails will be legally available to people to traverse the site as in part as has been done but certainly with permission and to continue the use of it. We've also strived to make the solar project as visibly unobtrusive as possible, the National Renewable Energy Laboratory says that the maximum, the optimum angle for solar panels is 38°, as you can see on the right. If you do that though, the height of the panel is 11'-6", we've instead chosen to reduce the angle of the panel to 20° reducing the height to 7'-8 1/4", this allows the panels to be located around the site in a less obtrusive way, by reducing about four feet of overall height. This illustrated that again. When coupled with the 7 foot fence that we're proposing we install privacy slats and careful landscaping plan that we've setup with plants providing further screening. We've significantly reduced sight lines, with the benefit of the topography as well make these solar panels barely visible to those around the property. We've seen the letter from the CAC, from Bedford and we note that there was a request for two additional sight lines, which we will try and respond to and get back to you with as well. So comparing these panels in the size and scale is important because it's not as if this site is a preserved site, it was proposed to be developed with residential single-family homes which would stand 35 feet or so, in height, in all likelihood, or at least are permitted to. Comparing that to the 7'-8 1/4", is an obvious comparison that shows the benefit in reducing visibility, of course, for any homes you'd need to remove trees for the house sites for the driveways, for the backyards and the roadways as well. So, um, this is comparison of the height and then you can see a layout would expand upon the site in areas not just proposed to be occupied by the solar panels themselves. We're taking down the equivalent of three, about three acres of trees on a 25 acre site, which has approximately 4,300 trees and it part of a larger contiguous wooded area of almost 7,000 trees, that's by our estimate. The greenhouse gas equivalency calculator says that the solar energy would produce its equivalent to 3,171 acres of US mature forest a yard. And that is like taking the area of Mount Kisco overall and covering it with a forest. Having another 1,200 acres leftover, that's how important this is, you know Indian Point is shutting down in three months, there is an absolutely need to provide renewable energy in this area. We understand the sensitivity in removing trees, we're going to try and give further context to it as I said, 493 of three of them are 14 inches or less, 384 are 10 inches or less, some of these trees, but the main thing is, but the context of the overall site, there are, there's a forest surrounding this site as far as screening. And the CO2 offset is critically important to

understand because no energy comes without some tradeoff, and this tradeoff is one that is renewable, once you remove the trees and of course we're going to be doing replacement plantings as to be worked out with you but we have a proposal for replacement plantings off the site, in and around Marsh and other places so that we address these issues but we're also adding in native pollinators and grasses, as I've said and that provides for improved habitat overall. So the Public Service Commission calculates that the social cost of carbon of each kilowatt hour consumed has cost society about, almost three cents each, this system will produce over 3,434,000 of those clean kilowatts which equates to sharing \$94,000 plus the environmental benefit with all of us. I just want to keep in perspective that no develop occurs without some change in the overall site and the reason for this development is something that was well considered by the Village of Mount Kisco in deciding that renewable energy should be brought to more than just those who can afford to put it on their own roofs, it should be made available to the broader population and that making available so that we're not using carbon fuels, is something that is necessary and beneficial to the overall community. I've done with this presentation, of course open to questions but I will pass back the screen sharing if I can here and sorry, there we go and have a I passed that back at this point?

Vice Chair Bainlardi stated yes.

Mr. Null stated so I would like to ask Rich Williams, if I may, to go through the responses to the comments from your professional consultants and walk you through the submissions that we've made. Thank you.

Mr. Williams stated so good evening, Rich Williams, Insite Engineering and I am now going to share my screen. But essentially since our last presentation before you and again, this is application is for site plan, steep slopes and special permit, we've responded to the June 18th comment letters from Mount Kisco Fire Department, as well as the Village Planner and the July 10th memorandum from the Village consulting engineer. During the work session, I heard a request for us to add the specific comment above our response, that is certainly something we can accommodate.

Unknown Speaker stated thank you.

Mr. Williams stated and we'll whatever facilitates your review, we're happy to do it. As mentioned we've submitted updated site plans, truck maneuvering study in response to the comments from the Fire Departments, coverage calculation worksheets, the environmental assessment form parts I, II, and III which includes a series of supporting reports including a steep slopes narrative, stormwater pollution prevention plan, wildlife habitat assessment report, decommissioning and operation and maintenance plan for the solar farm, line of sight sections we're previously reviewed with the Board, a letter from the Office of Parks, Recreation and Historic Preservation, indicating they have no objection to the application and our development comparison tables so we can see how the application has morphed and transpired as a result of some of the comments we've received from the public and the Planning Board. Looking at my screen, you're looking at an aerial, north is to the right on this plan, you have South Bedford, Stratford Drive, Linden Lane, Sarles Street, Mount Kisco Chase, along our southern property line, with this being the limits of our 25 acre site. Just for the benefit of the public, we are proposing to use the existing access driveway, which runs through our property terminating here, we are going to be adding pull-offs along that access driveway as a result of changes to the Fire Code and comments from the Fire Department to make sure that we can create safe ingress for Fire Department vehicles. The other thing that we have really changes with respect to the site plan, I'm just going to zoom in on that now, is our requested variance for the buffer along Sarles Street, again a 200' buffer is required, we were able to tighten up our site plan and pull it to the west as a result of the relocation of the cell tower site and that allowed us to reduce our requested variance from 72' in our previous proposal to 59' which represents an 18% reduction which we believe is pretty substantial and we're happy to be able to do it. The other major revision to the site plan had to do with the end of the turnaround area and again as part of the relocation of the cell tower application, we were able to improve this area to respond to Fire Department comments. We provided the truck turning studies for the fire trucks, to show how the fire trucks can pull in, reverse, access potential portable ponds if needed and we've also continued to maintain the six parking spaces for emergency responders. Again, not to be formalized with gravel as the remainder of the turnaround area but to be graded out, leveled and maintained as lawn, so in the event we need additional emergency responder parking, we have it. Those were the major site plan changes, the other thing that we focused on as part of this application was the effect of the recent storm events on our tree counts as well as to provide additional information with the tree counts, not only within the tree survey which is something that we've been focusing to date but with respect to our entire property and the surrounding properties and what you briefly saw in the PowerPoint presentation from Mr. Null was this figure. To date, again, our 25 acre site are these two green shaded area, and we've only surveyed a limited portion of our site. We have a total of 7.95 acres of disturbance of that 7.95 acres, 3.83 acres exists as meadow, 4/10's of an acre exists as pavement and an addition 3 /10's of acre exists as non-vegetated area, that's a total of four and a half acres of existing non-forested area. When we proceeded with this application, we don't survey the entire property, we do a tree survey within an area slightly beyond our limited disturbance. That resulted in 1,486 trees being located on the site. What we decided to do is to take a sample area in that forest just random sample areas and we created, and we came up with a

number of about 157 trees per acre. Extrapolating that to the perimeter of our site and to the forested areas outside of our disturbance limits, you end up with about 6,700 trees estimated to be on the property. Of that, I'm sorry, 3,300 trees to be on the property itself, we also then took a look and said well what is the whole corridor look like of forested area, just to kind get an understanding and how it might relate to our site plan. Extrapolating that number to the two Marsh Sanctuary properties, the one to the west and the one to the south, as well as the forested areas along Mount Kisco Chase, you end up with a total of 6,700 trees based on that 157 tree per acre number, so again, our property, we approximate 3,300 trees and them on the entire surrounding corridor as contained by South Bedford Road, Sarles Street, Stratford Drive and Brentwood, we estimate 6,700 trees. To talk about that in terms of preservation, we're going to be preserving 2,700 trees on this property which when you look at that in context of the removal, we're actually saving about 82% of the trees on the property itself and as Bill mentioned earlier, we've arranged this solar farm on site to maximum the existing 4 1/2 acres of development and really are focusing our tree removal along that perimeter which I think as we've read in some of the other letters submitted, happens to be the area that is starting to be overgrown with invasive species. You have a large meadow corridor that hasn't been maintained, where you're starting to see vines spread from the meadow out into the surrounding forested area. So again, looking at what we are preserving, we focused on areas that we believe are most beneficial to our neighbors, the Marsh Sanctuary, as well as the existing paths their using. We decided to focus our development on the existing meadow area that's been developed and also the tree removal on the surrounding trees that are most greatly impacted by the meadow area and invasive species that are starting to grow out. As Bill mentioned, we also got a little bit more specific about the size of the trees that are proposed to be removed, 275 of the 603 are less than eight inches and that's equivalent to 46% of the trees that are proposed to be removed, being less than eight inches. 384 or 64% are less than 10 inches and 82% are less than 14 inches. And as Bill mentioned before, that really gives to an idea of the size and scale of the 603 trees we're proposing to remove and also, for the first time you're hearing how many trees we've estimated to save which is 82% of the trees on the site or approximately 2,700 trees. One of the other things that you heard Bill mention was we're proposing to plant trees, between the trees that we're proposing both shade trees, evergreen, understory trees and shrubs, we have 198 plantings and we're also proposing to us a specific pollinator seed mix within the limit of disturbance to help recreate habitat or more beneficial habitat than currently exists in the unmaintained meadow. So when you look at all of those aspects together, you know, the amount of trees that we're actually saving and the fact that we focused the tree removal in and around the perimeters of the forest of the unmaintained meadow which is resulting in the evasive species, the plantings to the tune of nearly 200 plantings that we're providing, as well as the enhancement of the existing meadow area which is roughly 3.8 acres with a pollinator seed mix, we believe we have provided adequate mitigation for the 600 trees that are being removed. Bill, I can turn it back to you or we can hand it to the Board and the public but those focuses on the changes that we've made since the last submission.

Mr. Null stated if there are questions from the Board before others, we'd be happy to answer those now.

Vice Chair Bainlardi stated I'll open it up to the Board for any questions, for the moment and before we open it up to the public.

Mr. Vigliotti stated well I have a few questions, I'd like you to show the ridgeline on the east side buffer side, from Sarles Street. So what we have is, I guess its 141 feet from Sarles Street to the fence line, there is a ridgeline and there's an edge to it, it looks like a cliff. I think we should see the line of that cliff on one of the slides and then the distance from the cliff which is the ridgeline to the fence that's being installed, so that's one thing I'd like to see, you don't have to answer that this evening. My understanding is that there will be some 10 feet of clear cutting of trees outside the fence line, 10 feet and you can answer that at some point. I am opposed to the project impeding on the 200 foot buffer on the east side, I think it impacts the ridgeline, it impacts some of the neighbors, I think the project to move forward with some expediency, should be within all of the 200' buffers, it needs to be made smaller, my opinion. This is a, a Type I action and in reading, I just read it during our break, a letter from Ann Neiman, who was requesting the Planning Board to move with a positive declaration, so I put that out early on, that this is a Type I action that should be followed with a positive declaration, so we can truly and you have made some inroads in erosion and sediment control and tree removal and steep slopes and viewsapes and impacts on the wetland, there's a small wetland but Bedford has quite a few wetlands. Visual impacts on the neighboring properties, including Marsh, so at some point we need to discuss how we're going to move forward with a positive dec. and what needs to be done and we don't have a Planner so I can't ask my Planner this evening, our Planning, my planner, our Planner this evening his professional opinion moving with a Type I action and then the positive declaration. So at this point, and now with these cell tower in place, it kind of adds to all that I've outlined, it needs to be looked at even further, so kind of leave you with that. And presentation tonight, I thought was quite thorough, thank you gentlemen, I appreciate it.

Vice Chair Bainlardi stated anyone else?

Mr. Bonforte stated I'll, Chairman, Mr, Chairman Bainlardi, I'll just bring up, the issue that came up in a number of letters was noise, could the specialists address the noise factor that is either present with this project or not, once its completed and you know, the different aspects, not just the panels themselves but in the power lines, you know the high voltage, is there a substation, is there a whatever, okay?

Vice Chair Bainlardi stated I think what should happen procedurally going forward, there are, there's been a lot of material that's come in from members of the public. I mentioned earlier that there's a letter that we received from the Town of Bedford Planning Board that I would just like to take a minute to read in part, this is dated September 21, 2020. "Dear members of the Village of Mount Kisco Planning, The Town of Bedford Planning Board would like to thank the Mt. Kisco Planning Board recognizing the Town of Bedford as an interested agency in the environmental review of the Sunrise Community Solar project which is proposed on the border between Mt. Kisco and Bedford. We appreciate this opportunity to comment on that environmental review on behalf of the Town. We believe that there are several questions which must be answered before any final decision regarding this projects environmental impact can be made. We therefore ask that the Mt. Kisco board require the applicant to answer" [the following]. There's five points, they ask that there be a calculation made on the effect or the impact, the carbon impact on the removal or loss of approximately 700 trees. They also ask that, they "recognize that the solar installation will provide clear energy that will help lower the community carbon footprint. We ask that the applicant be instructed to provide calculations to determine whether and when the carbon reduction attributable to the new solar farm will be greater than the carbon production as calculated above. Within that information the environmental benefits of the solar farm remain ambiguous." They make a comment "given both the proximity of the project to residential properties in Bedford, and the topography of the surrounding area, the issue of light spillage is a potential concern." They would like more information on the potential security lighting that may be necessary or installed at this project. They ask for a discussion about how the energy produced at the site will get to market. Will a substation be required, are any new transmission lines be required. Then they ask us to carefully consider the questions and comments outlined in the attached September 21 memo from the Town of Bedford Conservation Board. I will not go through that memo in details, it's quite extensive but what I think needs to happen and if these letters and correspondence have not already been submitted to the applicant, Michelle, please make sure that they do get submitted, including any letters from the neighbors. But I would like for our consultants to maybe have a work session with the applicant's consultant and go through and distill these various comment letters to determine what has been answered, what needs supplemental answering or submissions and what items that may have been raised that we're, that information has been requested, maybe its not necessary or is not appropriate. But I question whether or not its necessary to get into an analysis of a carbon impact on the removal of trees, it really begs the question, are we going to be looking at the carbon impact on tree removal on every project that comes before this Board going forward, I think it's a question that needs to be looked at by our consultant and we need some guidance on what we should be asking this applicant to address or not address. And what information is outstanding that need to make a final consideration of the environmental impacts and ultimately an environmental determination, as it relates to the need for a pos. dec. or a neg. dec. this issue was raised at the outset, there is information out there that's been put out by the DEC, I'm not sure if the applicant has provided that or if our own consultants have provided that information about the procedural process for reviewing applications, including solar farm applications. At the end of the day for the publics benefit, the most important aspects of the environmental review or scope, making sure that we have a full and complete scope to address each of the items that potentially the applicant may have an impact on environmentally and then the other component of it, is public participation, so that the public has an opportunity to hear what's being proposed to weigh-in with their concerns and any information they may want to bring to light and make sure that the Board has complete information to base its determination on. There's multiple ways to deal with this, the DEC has in the past has tried to steer these applications to a less impactful process where not necessary to do a complete environmental impact statement, the DEC has encouraged the use of an expanded EAF, which we're using here. And again, it's all about scoping the environmental review and we've used our Planning consultant and our Engineer and our Attorney, to help guide us to make sure we're thoroughly, we've thoroughly scoped the environmental review and of course we're being informed by the public as part of this public review process. The public hearings serve the opportunity for the Board, for members of the public to express concerns but also to inform the Board, so we're, the process is incomplete, we're continuing to gather the information, I think that the scope is substantially complete, it may need some additional tweaking here but again I'd like for our consultants in coordination with the applicant and the applicant's consultants to try to make sure that we have complete and full answer and study for the items that have been mentioned to date

Mr. Null stated Mr. Bainlardi?

Vice Chair Bainlardi stated yes?

Mr. Null stated we're going to respond formally, so it's clear in a detailed way for everyone but I do want to say that there won't be any security lighting, there won't be any power substation and I just wanted to

put that on the table right now so that it doesn't kind of take on it's own life apart from this meeting since it was raised. So we're going to put this in context and work with the Village on this and the fact that something might be a Type I action, doesn't mean that there are significant adverse impacts that merit an environmental impact statement process. Of course, that's something for you to determine in consultation with your professional consultants but I wanted to say that, it's important to note.

Vice Chair Bainlardi stated thank you. We understand that whether it is a type one action or not, does not require or preclude you know, a pos.dec. but this Board has discussed this at the outset and we'll make a final determination, a reasoned determination as required by SEQRA to support any findings that we do arrive at. I do also, for the benefit of the public and before we open it up to the public again because there's been a fair amount of comment in writing and verbal alluding to the Conservation Development designation of the zoning for this piece of property, which is a bit of a misnomer, in the sense that the property isn't zoned necessarily for conservation per se, the zoning allows as a principal permitted use, in addition to the solar farm application, a solar use, the solar farm use that's being presented. It does allow as a principal permitted use single-family homes. There is a requirement under the zoning that 35%, a minimum of 35% of the property be set aside as contiguous open space and but the, if you do the math and the zoning after they net out the various wetland and steep slopes as is required under the Code, would allow for 15 or 16 single-family homes. That's not to say that 15 or 16 single-family home would be approved by this Board, if such application were to come before this Board but it must be noted and it should be understood that such a development would be a permissible permitted use under the Zoning and such a development if approved, would require the removal of substantial trees, potentially more trees than are being proposed to be removed by the current application. I can speak with some intelligence about this because as I mentioned earlier when I was an owner of this property and we pursued a residential subdivision, we went through an environmental review and spent extensive efforts studying the property and laying out subdivision, potential subdivision of 16 lot, 16 parcels or home sites was one proposal for the site, there was an alternative which was 8 or 10 homes, to put that into context, if you were to pick up the Brentwood section of the Chase Development, which is about 8 homes, and there's probably room for one or two more there, essentially if you took that and put it into the middle of this property, in approximately the location of where the solar far is proposed, that's what you'd be looking at from, if you were to do, to contemplate a 10 lot subdivision on this site. Additionally though, it would require a roadway that could serve homeowners in such a subdivision and such road would have to come either from [Route] 172 which is required under the Zoning, the CD Zoning, or from Sarles Street, which is a collector road and is the typical location for a road for a subdivision. So that is the underlying Zoning that's out there, what people should understand is available to the property owner but that's not the application that's before this Board. The application that's before this Board is the solar farm application. Okay, any other comments from the Board or questions at this time before we open it up to the public. Okay, Michelle, who is first up. Thank you.

Mr. Pietrobono stated good evening, to the Planning Board, thank you for this time and opportunity to speak. Okay, I just, I took some notes to the point where my pen ran out of ink but it may seem like I'm jumping around.

Mr. Bonforte stated state your name, Rex.

Mr. Pietrobono stated Rex Pietrobono, 2 Sarles Street, Mount Kisco New York. Again, out of order, Mr. Bainlardi, I think on that application back in 2004, it was determined that the slopes were too steep to make an actual driveway that would supply access for 10 or 16 homes off of [Route] 172 and therefore they would have to make another cut off of Sarles Street and the reason I mention is because you know, this property has a unique history and has been acquired with full knowledge of that unique history. I'm the one that submitted that vintage photograph that was used by Insite showing the single-family home or mansion that was up there. I mean, that's a perfectly good use for that property and the footprint is there so if it was used a single-family home, I don't think you'd have to take out almost a single tree, including particular the giant specimen trees that were once around the home, that would, in my opinion rival the Bedford tree that they take so much care of there. There are beautiful gigantic trees that are adequately describe when they're just thrown in a breakdown of the numbers by Insite, with all due respect. For example, their encroachment to the buffer zone which was reduced now, it's 59', I mean in the 200' buffer, 59' is substantial and it's not just feet, what's within that distance? Well there's a line of trees on the ridge that was pointed out by member Mr. Vigliotti. So anything before that ridge is sloping precipitously downhill, so what's on top of that in that space that you plan to take out at least one giant trees that's there right on the ridge. But more importantly, if you look at the diagram that they have, within that 200' buffer is a rock outcropping that would provide very impressive screening for Sarles Street and the Sarles Street neighbor that would be looking out right over this solar farm every morning. It's, the rock outcropping itself is probably 15' high and strewn throughout that is probably 20 or 30 beautiful, big trees in that rock outcropping, so it's not just 200', let us get into it, let's encroach almost 60' you know it's no big deal. It is a big deal, it's a big deal because if you look at the way this property is set up, it should have been setup, well first this application really, in my opinion should never have seen the light of day in this Town by the

principal of the applicant being the Chairman of Board but I'm going to leave that aside for now and say it is perhaps solar, we're not controverting solar energy, perhaps it's a good idea, wrong place for solar energy. We talk about an exchange of green for green, green trees for green energy, I submitted documentation that saying you should exchange brown for green, brown property that hasn't been used as a commercial use, unused parking lots, the space, the attorney mentioned that there was three other spaces that's been approved for solar use and I believe one of them is the space across from the Mount Kisco Post Office, which is a flat piece of property, probably with no specimen trees whatsoever, used to be used as some sort of greenhouse because the structures are still there, commercial greenhouse. It's in a Radio Circle area which is a commercial zone, there is literally not a single residence there and it's flat and it's unobstructed view sunlight all day long and I have no personal knowledge of it but I have been told that there was a problem with the soil perhaps and that's why people aren't supposed to be walking upon it, it's been fenced in and that's what I was told a long time ago. But also on that fence, for like the last five to ten years, there's a sign offering to lease it or sell it I think, from the owner. So why wasn't that ever looked into, where is the due diligence in looking for that? Why not exchange brown for green and then you've got that green energy and the green trees still on the Sarles Street property, doesn't that make sense? Or use the property for a single-family use, which it has been historically. Am I muted, is that me muted?

The Secretary stated no.

Mr. Pietrobono stated as a single-family, they can still use the driveway then and you can save all the trees and the property owner still gets to use the property. This is not a taking of property. And I have to say the attorney mentioned, I mean interestingly, he was referring to the Village Board, they work long and hard quote well considered this property before rezoning it for allowing a solar farm. So the propriety of doing that whenever back it was, I'm going to leave that argument to people with more knowledgeable on that issue than I. I'm just talking about the fact that the Village Board who approved this, did so with some real diligence and they instituted 200' buffers for a reason, not to come later and have someone come in and just say hey look, I just want to maximize whatever we can do for profit on this parcel and for some reason, they keep pushing it to east and I don't want to see this encroach on the Marsh either nor the Chase. I will stand up for all my neighbors but I don't want it on my doorstep either because they don't want to put it somewhere else. The meadow that they refer to that they're going to reseed or whatever they're going to do, doesn't have trees in it but they don't even have solar array positioned in that, no they want to go to east, into the buffer that was designed and implemented by the Village Board of Trustees as part of this approval and the Chairman would know this and it's offensive that they're, that they just so cavalierly want to step right through this, oh, listen, we have to get into that. They're like a guest that asks permission to stay overnight and then they over stuff a bag, overstuff an overnight back with two weeks worth of clothes bursting at the seams. Why do they have to expand it to any buffer zone, they don't have to and they're going to give you a bunch of numbers from Insite and their counsel that have made this sort of application before and oh, they're saving trees, I mean you know, they should be heralded and awarded for tree preservation. Don't go into the buffers, why don't you reduce the scale of your application, is that so hard? Or balance it, why do you leave that space open to the left, is that for future development? Is this property going to be flipped and someone else is going to come in and then apply and say look, we already have solar array over there, we need to have more over here. It's offensive, you should be exchanging brown for green, not green for green, this is a beautiful parcel, its your last big parcel in Mount Kisco, you're going to destroy it just because, why? Because it could be done doesn't mean it should be done, where is the due diligence, and then along comes the cell tower, I mean look what the ca dragged in? You have the solar farm and now a cell tower, on a hilltop that's in its natural state and they're going to stand there and tell you with a bunch of numbers that this is a great thing because jeez the alternative could be disastrous, we could have 10 or 16 homes, and you know terrible, terrible, well you know, who says that that's even going to get approved? What can be approved is what was approved, a single-family home on a beautiful mountaintop, pristine, that has value for somebody and that doesn't impose upon the neighbors. We have those, those 200' buffers are for us, for Sarles Street, I have a 100' buffer, that's for me, I have a 50' setback, they put a parking lot at 51' in for six spaces that they said weren't going to be there before, now suddenly they need six space, I can look right out of my yard and see vehicles parked right there which used to be trees. They put a power line within three feet of my properties boundary line which I have a walking path that goes all around my property and we walk on that. I mean, we have to be electrocuted on top of it? What if someone digs in that in the future, I'm not around and one of my landscapers is digging and they hit this power line, they make a mistake, they have to die? Is there going to be sound? What about feeling, am I going to be vibrated, my windows going to be you know shaking all the time because of a hum I have to get used to or something? From a solar farm or a cell tower. How is that fair? Talk about a taking, what about my taking? Taking of my life, of my house, my families enjoyment of the property, we count on those buffers and who are they to come and say now we want to step on your buffer for our profit. We live here. My mom was born in this Town, my dad grew up in this Town, my whole family is from here and now suddenly it counts for nothing, I have to get dumped on and carry the weight of these guys for the family to do their due diligence and make it easy for them. I mean, if, I did file a memo yesterday and I'm not going to repeat because I don't want to take up all your time and everyone else's time but I will say just please look at that for this cell tower, I mean, my god, the trees they claim are going

to screen it, they're in the throes of death right now. And Insite just mentioned, you know, hey look guess what a lot of trees just got killed in the storm, so like, who cares. Well, that makes it all the more important to keep whatever trees exist, doesn't it. Don't take out all the rest of trees, we should protect the ones that are there and the fact is, these storms keep coming with more and more frequency, they destroyed a grove of 100 trees right next to where this cell tower is going to go. There is just thin strand of trees that were left and they're being choked to death and they're dead and they're dying and the storms come and they're going to knock them down and we're going to look at this behemoth of a steel structure, welcome to Mount Kisco, you can hang a banner on it for the traffic from westbound on [Route] 172, welcome to Mount Kisco, is that what you want? Why is this? This shouldn't even be here, this should be over in a commercial zone or on roof tops at the hospital when they were building their garage or in a parking lot behind a commercial building that doesn't have residences behind it. Not on top of a beautiful green mountain. Thank you.

The Secretary stated please state your name.

Ms. Tarnok stated hi my name is Maryann Tarnok, my family and I own and reside at 7 Brentwood Court in Mount Kisco, the Mount Kisco Chase. I am here tonight to speak in opposition to the proposal before the Planning Board to approve the installation of a Tier III ground mount commercial solar power plant within the property located at 180 South Bedford Road. My property is adjacent to this site and as such, I, along with my neighbors and property owners in the immediate vicinity are directly impacted by this proposal. Before I get into what I've prepared to speak tonight, first of all I'd like to say that I agree with 100% of what Rex said tonight and also with all due respect to the acting Chairman, the comment that you made about if we don't go forward with this solar farm project that there's a possibility of 16 homes being built on the same property, I mean, why is it if it's not one then it's the other? Each project or each concept should be handled separately, to me I took it a little bit like a threat. You know, if we don't go forward with this, you could have more houses, anyway. One topic I want to talk about this evening is the discussion of whether the solar farm and cell tower should be looked at separately or together, now I know Vice Chairman Bainlardi spoke about this but I'm still going to proceed. Normally, an applicant should develop a plan for that site, do the required environmental reviews and submit the site plan for approval. When Mount Kisco Chase was built, a comprehensive environmental evaluation was done for the entire site plan, when things are looked at individually, each individual component may be fine on its on but when looked at in total the answer may be completely inappropriate, like the famous General Motors disaster with the Corvaire. It is common sense that the environmental impact of both projects plus any other planned projects on this site must be evaluated in total. Continuing this thought, I'm asking for and could not feel more strongly about a positive declaration of significant environmental impact. The site needs a complete and current environmental review performed by an independent qualified company at the cost of the applicant. This firm must be selected without continuing the appearance of potential conflict of interest that we have seen in the proceedings to date, thus I request that the Village Board of Trustees certify that any firm contracted for the comprehensive environmental review is selected without any influence or involvement from Mr. Hertz or Mr. Bainlardi. There is also some question about the size of the site and whether it meets the minimum size required for the solar farm, various documents list different sizes for the site and some are less than the required minimum. Before proceeding, the site needs to be surveyed by an independent qualified company at the cost of the applicant, once again this firm must be selected without continuing the appearance of potential conflict of interest that we have seen in the proceedings to date. Thus, I require that the Village Board of Trustees certify that any firm contracted to survey this site is selected without any influence or involvement from Mr. Hertz and Mr. Bainlardi. Another item I want to discuss is the request for solar farm variances to intrude on the buffer zone and to have a higher fence. After the property was seemingly spot zoned for this project, it seems ridiculous to then even consider approving variances on top of this process. At the Planning Board meeting on July 14th, it was said that intrusion into the buffer zone would allow them to save some additional trees. The project should be designed and submitted within Code and if that requires felling more trees, it will be part of the comprehensive environmental review. I believe the members of the Planning Board were given copies of the petition that was put together by Beth Ronski and I read it many times and I just wanted to share a comment of, that one of the signers made on the petition, the bottom line is we were able to get 124 signatures within a few short days with 45 comments and I'm just going to read one comment that I think sums it all up in terms of how people feel about going forward with this project. This person wrote destroying a conservation district with a commercial activity that benefits private interest is not appropriate and the Village should never have allowed it to get this far. In regard to the cell tower proposal before the Board, I have a comment, when this proposal was presented on September 8th, I believe it was Mr. Vigliotti who asked the applicant's counsel how many Mount Kisco residents would benefit from the installation of a cell tower at that location. From my observation counsel responded with a rather arrogant reply which basically took the topic off the table, I feel that was a legitimate question asked by Mr. Vigliotti, it may not matter to Verizon how many Mount Kisco residents benefit but it certainly matters to those who will ultimately decide whether to grant approval to move forward on this project. Don't be intimidated by the applicant who's representative appears to be trying to steamroll this project through and who continuously threatened Federal Government involvement if met with any debate. Thank you.

Vice Chair Bainlardi stated I appreciate your comments.

The Secretary stated please state your name.

Mr. Romski stated good evening, it's Gerry Romski, I'm over at 8 Brentwood Court, I've been a resident of Mount Kisco for about 30 years or so. First of all, I wanted to thank you for agreeing that the solar farm or solar power plant at that location, together with the cell tower application needs to be treated together as one and thankfully that sort of has taken off the segmentation issue from the table, so thank you for that very wise but required decision. You know, we've already submitted a number of submissions here, I encourage you to read them, I think we've made some very, very substantial and important points related to the absolute necessity that a positive declaration be issued in this case. That even assumes that this property even qualifies for this application, given that in many, many respects its been established as less than 25 acres. So as the first point, I would really encourage and ask the Board to have its own consultants, whether it's the new consultant or another consultant to go back, go back into the chain of title because Mr. Bainlardi as you well know, that chain of title is very, very suspect and look at this meets and bounds descriptions to begin with, establish what those meets and bounds are and then determine whether its 25 acres because I'll note in the recent submission that was prepared by the applicant's consultant, he once again describes the property as 24.5 acres. So what is it? Once you get past that hurdle, I'm going to let my consultant, my environmental consultant, Greg Fleischer from Capital Environmental speak on some of the environmental concerns that we had related to the project but I think its clear that and after listening to the discussion here today that its clear that this a positive declaration. Mr. Bainlardi, I encourage you to go back and read the SEQRA handbook and then go back and read some of the cases, including a recent case from the second department related to a land clearing case where the town board and the planning board issues a neg. dec. and frankly the court overturned it and I fully expect that will happen here if in fact you proceed along the path that you apparently are on. I think that I want to just say in regard to some of the propaganda that's sort of been put out there in favor of solar power that we will submit to you that at the end of the day, that the net carbon will actually be increased as a result of these massive solar panels that are shipped, made up from mines all over Africa, shipped over from China, shipped over here, that the net carbon is actually more and I'll show that you as this application proceeds, hopefully by way of a full scope and full EIS. What else did I want to say... I think that you only have an opportunity to get this right once, this property, as you well know Mr. Bainlardi, actually has a rather long history to it, it was actually part of Mr. Green's 7 Fields Estate, we will get into that at some other point in the future but its clear that this property has a specific history to it and it requires that you guys study it carefully and at the end of the day, at the very least make sure that you do the proper environmental study because if you're going to look at us and tell us that not one of those identified impacts are not large or substantial, then you're kidding yourselves and you're kidding the public. Because you all know that what's required here is a positive declaration, nothing short of a positive declaration will be sufficient. You all know that, please do the right thing, let the applicant have its day, let the public participate, let us all study the various impacts and at the end of the day you very well might decide this is a decent project but until you comply with what's required by SEQRA, with all due respect Mr. Bainlardi, I believe your interpretation is incorrect and then maybe you will have a good project but until that's done, you cannot issue a negative dec. here and I encourage you to please do so. Thank you.

Vice Chair Bainlardi stated thank you for your comments.

Ms. Hull stated I'm a longtime resident of Mount Kisco and of Mount Kisco Chase. I've lived in Mount Kisco Chase for about 15 years, I am Anita Hull, 12 Rolling Ridge Court, Mount Kisco. Last year I was involved with protesting, thankfully, we stopped the cell tower being planted right up my street. And now I see that again a cell tower is proposed to be planted again, on the border of my neighborhood. No matter what you're talking about a solar farm and also a very dangerous piece of iron, metal, steel, called a cell tower. We stopped that from coming into The Chase last year and we need to stop that again from coming into The Chase this year, it's ridiculous. You're talking about putting a cell tower next to my neighbors, their families, their kids, as last year we stopped this, it's not any different, it's, the reasons for stopping this are the same. Number one, their property values as well as mine will go down because no one will but a house bordering on a cell tower, let alone attached to a solar farm, that's number one. Number two, their kids, their families are going to be growing up again next to a cell tower and a solar farm. The problems are not any different from last year, so I'm perplexed as why this is even proposed when we stopped this from happening last year. I'm just amazed, surprised and upset as I'm sure my neighbors as why you're doing this to us again, really. One big question I have is what good is this to me, my neighbors, Mount Kisco? Will we take advantage of this? Will our Con Ed bill go down because I know what I pay for my Con Edison heat and electricity, I need to know, is this going to help me with my financial heat and electric bill. I don't see where that's been mentioned or referenced, if I'm wrong, can somebody on the Board tell me? Can someone respond in the future to that? It's a logical question, you're putting up this invasive piece of metal, is it going to benefit me and my neighbors financially, economically?

Vice Chair Bainlardi stated please understand that the applications that come before this Planning Board are not chosen by the Planning Board. The Planning Board doesn't get to choose what the proposed use is, the application as in any property owner throughout this Village whether it's a single family homeowner who's coming into do something that requires an application before the Board, whether it's for steep slopes, whether it's for wetland impacts, whether it's to have a use approved, commercial, residential or otherwise. The applicants come before this Board, this Board has to do a complete and thorough review from an environmental standpoint and from a Zoning standpoint. This Board, members of this Board rely on some very smart people who have been doing this for a long time who are experts in their field. We have an attorney, we have a planner, we have an engineer and we have the Building Inspector, who is the Code Enforcement official for the Village of Mount Kisco. Code Enforcement Officials role in part, it to inform this Board as to whether or not the use that's being presented, applied for is permitted under the Zoning and whether or not the application is Zoning compliant. If the application has aspects of it that are not Zoning compliant, then a variance may be necessary and we have another board in this Town that hears those variance applications, called the Zoning Board. So this Board's job is to listen to all the input from the neighbors, to consider the lawful intended application of the applicant and then to look at the overall presentation, the overall submission and where we can suggest, based upon information that's provided by the consultants and the technical reports, help to potentially revise that application to address any potential impacts that need to be mitigated, environmental or otherwise. This Board does not get to choose, doesn't get to pick winners and losers and choose which uses they like or don't like, we have to review in good faith and follow the law which protects both the applicant and also has protections for the public generally, including neighbors. Buffers are an example of protection for a neighbor and so on and so forth. And this Board's job is to keep an open mind, hear all of the information and reserve judgement until all the information in and make determinations to the best of our abilities. That's what this Board is going to do with this application and with any other application as we've demonstrated for quite some time. You know, each one of these Board members spends countless hours reviewing all the letters that come into this Board. We don't dismiss anything that comes in, we consider everything and we've made a commitment to do so. So we don't know where these applications ultimately are going to fall out, how they're going to appear in the end whether they'll be approved or approved with conditions or modified, we're not there yet, we're going through a process and each applicant that comes before this Board has a right to due process. We don't have the ability to say you know what, before we've heard all the facts, we don't like what you're proposing, please go away, it doesn't work that way. And the Village Board is the Board that has the authority to create the Zoning, okay. So the Zoning that's been created, the uses that are permitted on this property were created through a legislative process, that's the way things work in the United States. So that legislative process had a public hearing, had its due process and the Village adopted some laws that allowed for these types of uses in the Village on different sections of the Village. So that's where we're on, that's where we're at. What I would like to ask you and any other members who may speak, any other members of the public when they speak tonight, this public hearing is for the solar farm application, we understand that there's going to be some cross over, there's going to be an opportunity for a public hearing on the cell phone, on the cell tower application. Separate application, they will be from a SEQRA standpoint, from an environmental review standpoint, we did indicate that they will be reviewed in concern but the public hearing that's taking place right now, is for the solar farm, so if you can limit those comments.

Ms. Hull stated I have another question regarding this, regarding this solar farm. So I've heard that solar farms are very susceptible to criminal activity that the metal is highly sought after. People come in, criminals come in, they break up the solar panels, the metal, the chemicals that are, I guess flow within the metal structures then leaks onto obviously the land and the environmental, I mean is the Planning Board taking that into consideration?

Vice Chair Bainlardi stated that's a comment that we're hearing from you and there's at least one comment along the lines of question of security that has been submitted in writing. So all of these items will be taken into consideration by this Board as it reviews this application.

Ms. Hull stated okay, thank you.

Vice Chair Bainlardi stated you're welcome. And before the next member of the public speaks, there was one comment that was made earlier and I want to set the record straight. The purpose of me laying out what's permitted under the Zoning was for informational purposes only, with respect to any potential subdivision, that's a Zoning use and again this Board is not in control of how this property is used or how this property proposed to be used, this Board's role is to review applications and determine whether or not they're Zoning compliant and to review them from an environmental impact standpoint, as SEQRA demands. So this Board does not control what uses a private property owner proposes for their property. There was, it's irrelevant but when we sold the property to current property owner, Mr. Seldin, his intention was in fact to build a single-family home, he was going to move there with his family, he retained the services of a local architect to design a home. It's not relevant that that took place, it's not an application that's currently before this Board, it's not the proposed use that this Board has been asked to review, so we,

all we can do is review the application in good faith and diligently and follow the law and that's what we're doing. Michelle, who's next? Okay, thank you.

Mr. Grunthal stated ladies and gentlemen, good evening, it's good to see all of you on the screen again.

Vice Chair Bainlardi stated you too.

Mr. Grunthal stated on September the 2nd, David Matsil passed away after a brief battle pancreatic cancer, he was a resident of Mount Kisco Chase and a respected and popular member of our community. Before he died, he wrote a statement that he planned to make to you, the members of the Planning Board at this public hearing, his wife Lisa has asked me to read his statement to you and I do so without alteration. After, I've read it I will make a short statement of my own. Here we go:

As the Chair of the Climate Smart Communities Task Force (formally the Energy Advisory Panel) and a former member of the CAC, I am very pro-Solar Energy. However, as a Homeowner in the Chase and a friend of many who would border this development, and as a believer in proper institutions, I am in opposition of this application. As I anticipate this meeting being quite long I will briefly tick off the reasons why, most or all of which have been addressed in some or much detail. In fact I have incorporated facts and certain phrasing from the many who opposed this project:

“First, I am pro- environment:

Comparing solar energy's positive impact vs the destruction of the environment is a false choice. There are many other placement opportunities to pursue that would not wreak havoc on the environment in the following ways:

- The removal of nearly a thousand trees, many on steep and very steep slopes, and many old Specimen Trees that provide shade, nourishment, and protection for younger trees, habitat for animals, critical support for the entire ecosystem, and play an important role in flood prevention and soil retention. They also have special protected legal status under our Village law. The applicant has not specified how many of these Specimen Trees they wish to remove and has not submitted a plan for the perpetual preservation of a specific portion of the land as open space, as required in the Village zoning code.
- The negative impacts on current existing habitats of animals already on the DEC's Special Concern Species list.
- The violation of Buffer Zones recently established in law by the MK Board of Trustees and for good reasons, despite the applicant's involvement in those deliberations.
- The significant negative impact on the trees, steep slopes, and other natural resources in the buffer area.
- The scraping, grading and earth moving necessary to prepare the site.
- There does not appear to be a plan or any intention to comply with the NRI Review process of this proposal as required under Village Code.

Second, I care about the neighborhood and neighboring areas:

- This would adversely affect the view scapes of Marsh Sanctuary, as well as neighbors in the Mount Kisco Chase and on Sarles Street.
- There may well be Storm Water and noise issues.
- The financial loss to residents who live on the periphery, based on home values once they border a solar farm and cell tower.

Third, I care about the rule of law and the faithful adherence to it:

I have a few of the Planning Board as good people who devote themselves to their roles and have the best interests of the community in mind. I've known Doug Hertz for a long time and work with him to this day on the Climate Smart Communities Task Force. I have found him to be smart, knowledgeable and dedicated. Which is why the application is so troublesome to me. I would have thought that Doug would work extra hard to make sure this process was completely proper, because even the slightest appearance of conflict of interest or favoritism is very worrisome. Instead, in many ways, the opposite appears to be true.

- There is a great rush to push this process forward without proper vetting.
- While I truly believe all involved believe there was sufficient notification, the facts on the ground are different. The applicant's apparent reluctance to inform and collaborate in a forthright manner with potentially impacted neighbors, including the residents of Sarles Street, the Mount Kisco Chase, and the Town of Bedford. Some or all of these insufficiencies might be understandable if the applicant was a homeowner looking to build an extension on their porch, but the applicant is the Chairman of the Mount Kisco Planning Board, an experienced businessman and developer of Solar installations, and knows very well how both the letter and intent of these requirements should be met.
- While Doug did recuse himself on this matter at the 7/14/2020 MK PB Public Hearing, he has continued to present to the Planning Board on behalf of the applicant, and actively participated in

discussions with the MK Board and staff. This appears to be a violation of our Village Ethics Code Law and related regulations and, at the very least, gives the impression or appearance of a potential conflict of interest.

- Worse, the individual now running the review process for the Planning Board in this case is apparently a member of the LLC who previously owned this property and who sold it to the current owner. He too should be recused.
- The consideration of these this project and the cell tower project in a piecemeal fashion appears to violate both the SEQR prohibition against “Segmentation of Applications,” and Mount Kisco’s local law regarding unified development on a property in a Conservation District zone.
- The applicant was not forthcoming in their discussions with the Planning Board, Marsh Sanctuary, the owners of neighboring properties, and I believe the CAC, withholding information regarding the intended construction of a cell tower on this property.
- The applicant’s apparent reluctance to identify or tag mature trees and specimen trees among the hundreds of trees proposed for removal.

All things being equal, I am for helping Doug out. But all things are not equal here and rushing this without proper vetting would be unethical and a dereliction of duty.

I agree with the CAC’s recommendation that the approval process be paused until such a time as all the serious procedural and substantive issues are resolved—including, but not limited to, a legal determination of the Segmentation issue, proper notification and participation of neighbors and neighboring jurisdictions (especially Bedford), resolution of any formal ethics complaints, lack of an NRI report, lack of an approved Open Space conservation plan, and lack of an adequate tree preservation and replacement plan. In fact I urge a full environmental impact statement being made under SEQRA.

I also feel strongly that the public hearing be held open for several more weeks or even months in order to be inclusive of all interested parties, including the Town of Bedford.

Or better still, I would like this application be rejected for all the above reasons.

Thank you for allowing me to share my concerns.

Respectfully signed by David Matsil

Read to the Planning Board on September 22nd, 2020. Composed by David Matsil before his death on September 2nd.”

I’d like to add a short statement of my own. In the first place, Mr. Null in his opening statement this evening said that there were four sites planned by the Village for solar development that is not a fair representation of what happened. The Village was looking to have a solar overlay over the Village and was particularly interested by a majority of 4 to 1 on the Board that solar installations could be placed on the cemeteries. I order not to do spot zoning of the cemeteries, a formula was which pulled in almost by accident this particular location on Sarles Street, so it was not cited by the Village as a solar place, it got pulled in as a general matter. I wrote a letter to you several weeks ago in which I stated that I am generally in favor of solar installations for all the obvious environmental reasons, but I asked that the 200 foot buffers enacted by our Village Board be respected. I want to add now that I believe that any solar array on this property that you might approve should be considerably smaller than currently proposed. It should completely respect the buffers and also the historic trails of the Marsh Sanctuary. And it should not extend as far down the hill towards the Marsh Sanctuary as proposed. It should stop far short of the southern buffer. This leads to the question, “what minimum size is financially viable?” In a previous meeting Doug Hertz said that the viability of a smaller array would be, and I quote, “iffy.”” The word “iffy” is not good enough. It is an evasion of the facts. I believe your Board should require a rigorous financial analysis of this proposal, and also for a development that would be smaller in scope. You need to know the development costs, the ongoing maintenance costs and the expected revenue flow. Let’s find out what level of profit really can be achieved. I have sat where you are sitting, and as always, I thank you for what you are doing.

Vice Chair Bainlardi stated thank you for your comments.

Mr. Stockbridge stated Michelle, Anne Niemann asked me to read for her, if she was not able to. This is John Stockbridge. Is that okay to do?

Vice Chair Bainlardi stated yes, please.

Mr. Stockbridge stated if that’s alright with the Planning Board.

Vice Chair Bainlardi stated yes.

Mr. Stockbridge stated the first thing I would like to say preface to that, thank you to Mr. Vigliotti for his comments and for recognition of the letter from Anne Niemann, I think it's a very good letter and I'd just like to read it. It's addressed to the Planning Board the Village of Mount Kisco. It says: "As a board member of the Marsh Sanctuary, a 61 year Sarles Street resident and, most importantly, a concerned citizen of the Mt. Kisco community, I am vigorously opposed to the proposed solar farm and cell tower project and request a Positive Declaration to conduct the necessary EIS. There is no question that this project has significant environmental impacts. A Positive Declaration is the only responsible decision and it is in keeping with the Mt. Kisco Conservation Development District law as stated in Section 110-7C-c-9 which speaks specifically to the "preservation and protection of all Open Spaces in Conservation District zones". An EIS is imperative, although even without it there is no denying the devastating environmental impacts of this proposed project. From every perspective - destruction of approximately 750 trees many of which are old-growth, rock blasting, soil erosion, loss of carbon sequestration, contaminated run-off, the view shed of neighboring properties and thoroughfares, the displacement of precious and increasingly threatened wildlife, and lastly, the protection of green spaces from Leonard Park to the Mianus River Gorge with no less than five other sanctuaries and preserves in between, all of which create precious natural resources and contiguous protected open spaces. The Village's own website describes in detail the Marsh Sanctuary and these contiguous open space as one of the natural resources that helps to give the Village its charm.

It is imperative that the Village Planning Board conduct comprehensive and exhaustive due diligence for the long-term good of its citizens and future generations. This is paramount for every environmental reason, of which there are many, but also to uphold not only the mission of the town's conservation district plan but, equally, to assure the trust its citizens have placed in the Board both as individual members and as a collective group who have sworn to uphold their best interests." That's Anne's letter and I think it is excellent. What I would add is a few thoughts if I might, one of which really is the views of the members of the Planning Board. In listening to Mr. Vigliotti recognizing the quality of Anne's letter, I get a sense that he for one is interested or willing to recommend a positive declaration to have as much information as possible, I don't want to put words in his own mouth but that's the kind of sense I have where as Mr. Vice Chairman, the sense I have listening to you is not that, it's more of a questioning whether a positive declaration is necessary but I think from the standpoint of the public and from everybody who's involved as a neighbor in the Marsh Sanctuary in particular where we have now a community garden for Mount Kisco, we have working with the children in the re-wilding project and Boy Scout projects and his all right in the viewshed if you will, and the noise shed and whatever else it is, that would be the case for the solar farm and it's important of being able to perform as if you were in the seat of the other side here and say okay, let's get the maximum amount of information we can, this is, we've coming up to the seasons where it's, these are not building seasons coming up but nevertheless the positive declaration is so necessary. Under the category of full disclosure, I do work in, on a Board where situations come up and it's always advisable unless it's totally recognized to be not the case, to have a positive declaration and to examine everything as best possible. So I guess I would, I'm adding to Anne's concerns because she's representing them all as far as neighborhood character, as far preservation, habitat, tree life and also the general neighborhood character and the intrusion there and the, part of what really, I think part of the things that make Mount Kisco have the variety of character that it has and this is, from Brookside Cottage up to the Sarles Street and going back into the Marsh Sanctuary itself and the trails that are there for the public, this is, I think extremely important to be maintained so to have any items whatsoever that are not examined, seems to me to be the incorrect way to go, so I really would echo that the idea of a positive declaration is necessary and I think if I were in your seat, I would make a motion to have a positive declaration and I think you would have unanimous votes, I would hope we'd have yours as well.

Vice Chair Bainlardi stated thank you for your comments.

Mr. Skolnik stated I'm here, I'm just trying to turn on my video. It says that my video is being stopped by the host. Okay, first of all let me thank you very much for allowing me to speak, my name is Simon Skolnik, I'm the Chairman of the Bedford Conservation Board. I am also tonight representing the Town of Bedford Planning Board, Vice Chairman Bainlardi summarized in parts the letter from the Planning Board, I would like to read some of those parts that were not specifically mentioned and then I'm going to go on to read the memo that the conservation Board submitted yesterday. I will actually be kind to you because it is a long letter, a lot of it has to do with references in our review so I will just summarize those, I'm not going to be, don't take this is a cherry picking report, you certainly have a full report, I just don't think its necessary for you to listen to all the documents that were submitted, this is the method that we use in writing a report. So I'm going to start off with the letter to the, from the Planning Board, and I'm just going to pick those items that I felt needed to be restated, so this is a letter written by our Planning Board Chairman to your Planning Board and item one states that the project will result in the loss of around 700 trees, many of which are large older growth specimens. It is our understanding that such larger trees are far more efficient as carbon sinks than the small saplings which may be planted as partial replacements. Item three Given both the proximity of the project to residential properties in Bedford, and the topography of the surrounding area, the issue of light spillage is of potential concern. While the applicant does not propose any lighting at this time, and this is me speaking now, I've since heard you will ban lighting. The Planning

Board letter goes on to say it seems likely that some type of security lighting will be proposed in future. Unless a ban on future nighttime security lighting is made a condition of approval the applicant should be asked to provide studies of the visual impact of such lighting on residential properties in both Bedford and Mt. Kisco. And then the last item five the Bedford Planning Board also urges the Mount Kisco Planning Board to consider carefully the comment sand questions outlined in the attached September 21 memo from the Town of Bedford Conservation Board. And I'll begin reading, now I'm reading the conservation Board's letter. It's addressed to the Bedford Planning Board regarding the site at 180 South Bedford Road, solar farm, Dear Planning Board Chair Courtney Batson and Planning Board Members, This is the Conservation Board's report on the application before the Mt. Kisco Planning Board to install a solar farm to be located at 180 South Bedford Road, Mt Kisco. This report is narrowly focused on the impacts of this application to residents and the Town of Bedford. The Conservation Board met at its September 10, 2020 meeting and discussed this application, and has reviewed this letter prior to it being sent to your Board. One, previously submitted significant correspondence from and tow the Bedford Conservation Board. I'm going to skip item since it's really not relevant, you have a copy of it, it's just an internal document without Town notifying the Director of Planning of this project but I'll read item two, Letter to Mt Kisco Planning Board, dated July 14, 2020, requesting the Mt Kisco Planning Board withhold any action on the solar farm application at 180 South Bedford Road, until the Town of Bedford has had the opportunity to review the application documents, visit the site, and present to the Planning Board Bedford's comments. Item three, e-mail to Ingrid Haekel, Conservation and Lane Use Specialist, Hudson River Estuary Program(NYSEC/Cornell University, dated 8/3/20. Requesting information on SEQR, including definitions on segmentation, role of Bedford in Mt Kisco's review, questioning if the applicant must provide a list of tree species and tree sizes to be removed, and a general description of the project. Four was an e-mail from Wendy Rosenbach, NYSDEC Region 3 Citizen Participation Specialist, dated August 4, 2020, in which she stated that A. NYS DEC has jurisdiction for the stormwater general permit, "...but as this is an MS4 community, review and approval of the SWPPP is the responsibility of the Town of Mount Kisco" B. "While DEC is charged with issuing regulations for SEQR process and other duties, such as lead agency disputes, DEC has no authority to review the implementation of SEQR by other agencies. DEC is able to provide informal interpretations and general guidance about SEQR; however, we cannot provide formal legal opinions about the conduct of SEQR by other agencies. C. Segmentation: "As a matter of general guidance, the same geographic location and same ownership are potential indicators of segmentation; however, these factors alone do not prove Segmentation is occurring. Additional questions should be asked, such as whether the projects are part of a common plan, whether the approval of one commits an agency to approve the other, and whether there is common environmental impact(s) that, if analyzed separately, would not result in potentially significant adverse impact(s). Pages 53-54 of the SEQR Handbook contain these and other additional test questions for segmentation. However, even if it is the position of an agency that segmentation is taking place, there are limited circumstances where a segmented review may be justified. This is outlined in the SEQR Handbook as well on pages 54-55." D. Listing the tree species and tree size: "Such a list may be a requirement of an involved agency for a specific discretionary approval, however SEQR does not have an explicit condition or regulation requiring a list of tree size/species be provided if a proposal involves tree removal. In the event that a coordinated review was taking place with a lead agency designated, the lead agency would be responsible for materials or documents created as part of the SEQR record and review of impacts; however, it may delegate activities such as the gathering of data or the review of material prepared for determinations of significance or EISs to other involved or interested agencies or staffs or consultants." I'm going to pass the other two because they've been subsequently answered by your Village. My next item two is a listing of all the applicant's 9/1/20 documents which I'm not going to read, I'm just going to mention that they came from Insite Engineering, Sunrise Solar Solutions and Cuddy & Feder. Item three was the Mount Kisco Inspector memos and I'm only going to read one out of the two To Mount Kisco Planning Board, dated June 8, 2020: Buffers in the CD Zoning District 10 SBR/Sarles St. Solar Project. One conclusion of the memo states, this is my writing, (italics and underlining is by the Building Inspector): "The Village Board of Trustees specifically conditioned its conferral of discretion authority upon the Planning Board by requiring that in addition to and this is again quoted "*effectively limiting the visibility of the development' there be findings that (a) 'each side of a common property line are generally similar in nature"* and he goes on to quote the section of the law and (b) "*upon determination provided that the intensity of development on the subject site is not increased by the modification or waiver."* And I'm going to say the next thing is item, section four was correspondence we received from the Mount Kisco Advisory, Conservation Advisory Council, which again I'm not going to read because it really is not going to add anything new to the discussion and item five was a miscellaneous document we read on the conveyance of the property which was recorded on July 1, 2013. Now I will being reading everything that we read, that we wrote to you and he first item is the site visit. The Conservation Board received permission to visit the site by Sunrise Solution. All members were required to sign a liability waiver, which had to be sent to the applicant's attorney by 3 PM on Friday September 18, 2020. The walk took place on Saturday, September 19, 2020 at 9:30 am and concluded around 11 am. The members, due to COVID restrictions, came individually and parked on the site of the Marsh Sanctuary's office on Route 172, wore masks throughout the site visit, kept socially distanced wand walked into the property on the adjoining driveway to the project temporary parking area where they were met with Doug Hertz, a principal with Sunrise Solutions. Members present included

Simon Skolnik, Chair, Janeen Sudaka-Karlsson, Leslie Dock, Frank Pizzuro and Susan Roos. Five, the weather conditions were clear and sunny, with temperatures in the mid-40's. Six, while we walked to different parts of the project site, we primarily walked along the perimeter facing Sarles Street, and the Town of Bedford. Seven, site observations, a. The area reviewed was old growth forest on areas of either flat or sloped land, as well as disturbed land near the northeastern portion of the site where foundations from a previous dwelling were noted. B. Recent tree damage from this past summer's Tropical Storm Isaias was noted. C. The vertical drop-off between the solar farm and Sarles Street is a severe rock cliff, about 60-70 feet high. Based on the applicant's documents, the slope of the escarpment (to be clear, not part of the solar farm) is calculated to be approximately 83%.

d. Mr. Hertz stated that the design called for the solar farm to mostly follow the existing elevations, which are rolling and flat in nature. Spot elevations noted from the applicant's documents show the following and I do list 9 locations, again I'm not going to go into them but I will say that they range from elevation 460 to 530. That indicates a 70 foot change of elevation throughout the site.

e. Our board could not see the El Bouhali residence from anywhere on the site, although we were able to see a partially obstructed view of an equipment shed on the downslope portion of the El Bouhali property.

f. Mr. Hertz described how power from the facility would be transferred to Con Ed. Feeders from the individual panels would go to a central aisle and run underground to an equipment pod located at the top of the driveway. From there it would run underground along the access driveway to South Bedford Road, where it would come above ground and run up a new utility pole installed by the applicant. From there it would run to an adjacent new Con Ed utility pole and then run across South Bedford Road to the existing utility service located along the north side of Rt 172. Mr. Hertz stated that Con Ed would not have to upgrade any of their existing wires or equipment to accept this service. He specifically stated that Bedford would not be affected by the installation of the solar farm, as it relates to Con Ed.

g. Mr. Hertz stated that since the fenced in area would constitute approximately 3.7 acres (mentioned both on Insite's DWG DV-1: Development Coverage Plan, and in the EAF) within a 25-acre lot, wildlife would be able to migrate through the property to and from Bedford and Mt Kisco in the surrounding open areas. The fence would be raised off the ground 6" to allow small animals to move through the fenced in area.

h. Mr. Hertz stated that there would be no lighting at the site. When asked about security lighting (vandalism in the form of litter was observed at several locations), he stated that they do not intend to install any lighting of any kind at the site. When asked if there would be need for lighting for emergency work during night hours, Mr. Hertz stated that they do not work at night.

i. Mr. Hertz stated that the noise level would not be an issue to adjoining neighbors, as the site is buffered both by land and by trees.

k. Mr. Hertz responded to a question about the extent of trees to be removed. He stated that the number of trees in the application to be removed (there is a difference between documents, regarding this issue. Insite's Alternative Development Comparison states that 603 trees will be removed, and Cuddy & Feder's 8-31-20, letter states that 646 trees will be removed) includes those trees within 10 feet of the fence. I just want to make that clear, I'll read that without the parentheses, he stated that the number of trees to be removed include those trees within 10' feet of the fence. The board observed a number of trees fallen by the recent summer tropical storm., Mr. Hertz felt that the amount of space provided would be adequate to protect the fence and panels from falling tree damage. He did state that the project is fully insured to handle any such repairs, if required.

j. Mr. Hertz stated that the NYS DEC considers the solar panels, even though elevated above the ground, as impervious surfaces in their calculations for storm drainage.

Then we go onto our last section which is seven, recommendations

Based on our review of the referenced documents and our site visit, the Conservation Board has the following recommendations regarding impact to Bedford:

Again these are directed to the Bedford Planning Board, not the Mount Kisco Planning Board.

1. Storm Drainage – Because of the severe height difference between the solar farm and Sarles Street, and that DWG FIG -2 shows an existing flow of water over the escarpment to Sarles Street below, we recommend that the Bedford Town Engineer review the storm water design documents either independently, or in consultation with the Mt Kisco Village Engineer. Since the NYS DEC considers the panels as impervious surfaces, the potential for large precipitation events to create flooding of the solar farm requires a close examination of how water will be prevented from flowing downhill to Sarles Street.

2. Aesthetics –There is a discussion in Evaluation of Impacts (Page 6) on how the El Bouhali residence will be ..."screened seasonally by existing vegetation and buffered in the winter through existing tree branches and screened by the proposed 7-foot high fence with privacy slats and plants outside the fence." In their Evaluation of Impacts (page 2), they state that "The project is located approximately 60 feet above adjacent Sarles Street to the east." What they fail to state is that Sarles Street is in a valley, where the land east of the road also rises 60 feet and greater. In their submission of sightlines to the El Bouhali

residence, they have incorrectly shown it to be a 2-story building. We visited the residence after our site visit, with the permission of the owner, and we've included a photo, showing that, in fact, it is a 3-story residence. The owner of this residence has supplied us with photos of the solar farm site taken in winter from the 3rd floor. We recommend that the applicant provide a rendition of the solar farm during the winter, as seen from the El Bouhali 3rd floor. In addition, we have examined the surrounding area, and believe that another residence may have a view of the solar farm. The residence, located north in the Penwood development at 25 Tucker Road, has an elevation at its entrance of El. 546. Not knowing how many stories this house has, the view from its top floor may have a clear view of the solar farm to the south.

Vice Chair Bainlardi stated Mr. Skonik?

Mr. Skolnik stated yes?

Vice Chair Bainlardi stated may I interrupt you for just a moment?

Mr. Skolnik stated please.

Vice Chair Bainlardi stated given that it's 9:40, we have another public hearing following this and a number of other matters that are on the agenda. Is it absolutely necessary that you read this verbatim? Because this letter is going to be entered into the record, it's going to be reviewed by our Planner and by the applicant's planner to be responsive to the information that's being requested and it will be available to anyone who want to read it. Is it possible that you could possibly paraphrase some of this and leave some of it to review so that we can keep this public hearing this evening to a reasonable time here.

Mr. Skolnik Vice Chairman, I sympathize with your comments and I will certainly do that, if I feel its necessary to state a sentence or two, I will and...

Vice Chair Bainlardi stated please do so and also understand this public hearing is going to be adjourned and remain open but if anything needs to be read verbatim that's missed, you feel in the future, you'll have an opportunity but we do want to try to keep and I probably should have said this in the beginning, I didn't want to limit comments but seeing here that we may need to so. So thank you for accommodating this request.

Mr. Skolnik stated again the understanding is that this will be entered into the record and I have no objection to that.

Vice Chair Bainlardi stated thank you.

Mr. Skolnik stated item three is concerning Mr. Hertz' comment that they only accounted for trees to be cut within 10' of the fence, the point we're making here is with the damage done through the store, there is a very good possibilities that trees will come down that are taller than 10' and damage fencing and solar panels and we question whether or not this a conservative count made by the applicant. Item four was just a question about 44 trees felled by the tropical storm, we'd just like to know, since we don't know the tree and species, we'd like to know if they happen to be ash since ash is presently being destroyed in our area by invasive species. Five, we, again request that the applicant provide a list of trees, however Cuddy & Feder in their August 31, 2020 letter said they would do so, so I'm very happy to hear that. Item six prior approvals, you know Sunrise is, there is no mention of ConEd in any of the documents as far as their approval. We were notified at the site by Mr. Hertz that they approved project. Bedford would like to see that approval and the backup on that approval to ascertain in fact what ConEd is requiring of the applicant as it pertains to Bedford. Will Bedford be impacted by this solar farm through ConEd's relationship with the applicant? Prior approvals, I'm sorry, that's what I just read. Seven, blasting and I'll say this, Mr. Hertz said that there would be no blasting so we're asking that the applicant categorically state that there's no blasting and we understand that things to do occur, if there is blasting but no blasting be done until the applicant reviews this with the Village Engineer and the Village Planning Board. Noise, again the applicant says that the project will not produce any above any noise levels established by local regulation. We are concerned not only by the decibel levels but the constant tone of the noise. We've read that that constant hum needs to be reviewed, so we're looking for the applicant to provide us with a noise report regarding Bedford. Light, again Mr. Hertz said again no light would be used but again we did see obvious evidence of vandalism, this site is being presently used as a location of a congregation and without light as a deterrent, we feel that light will end up being installed and if that's the case we are looking to, in that possibility we are looking for a study being done. Pollinator friendly plantings and tree buffers, we'd just basically like to know what the plan is for this. Mr. Hertz said that he anticipated two years of care, that's not unusual but we'd like to get a written plan how these plants are going to be maintained, including deer browsing. I do have 16, so I'm up to 11, so I'm moving quickly. So the question of natural community came up in the EAF saying that the project contains no designated significant natural community, the site is

surrounded by Marsh Sanctuary on two side, in an area that's been left undisturbed for decades, so we believe that there is a natural community on the property and that should be, they should provide evidence, the applicant should provide evidence to the contrary. Item twelve was agricultural lands, the applicant reported there were no agricultural lands consisting of highly productive soil present, we note that just to the south of the application, there is a community farm on Marsh Sanctuary's property that I assume is doing well and we are asking the applicant to consider possibly as a means of mitigation of putting a community farm in areas that are not part of the solar farm. Thirteen, undiscussed issues, we were surprised that the EAF does not include any questions regarding tree removal, wildlife corridor disruption, or loss of habitat and again we're asking the applicant to discuss in a report what those impacts will be. Fourteen, solar farms versus trees, again this has been discussed and I'm not really going to over it in more detail, there is clearly a case to be made that solar farms have, generate equivalency to CO2 sequestration, however trees and forest perform other services that solar farms do not perform and we recommend having the applicant provide a better reason for continuing the project as compared to citing it on alternative locations that don't impact the environment. Item fifteen is habitat restoration, again we're talking about all the native plantings that are being proposed, again they talk about 603 trees which need to be clarified. We believe that this will still be an impact on the wildlife corridor, we have included a plan, a plan taken from Westchester County showing the area and we've shown in that plan the corridor that would run from Byram Lake through Merestead which is a county park through the application site, through Leonard Park and south into New Castle. We believe that there is a corridor and this site is a choke point and if it's not developed properly we won't be getting that corridor continued. And last but not least the cell tower, we're not talking about the cell tower in this question, we're just asking since the applicant previously had the cell tower in their discussion located possibly at a certain point and now that point has been relocated, we'd like the applicant to address the relocation of the cell tower as it has figured in their impacts and computations including storm drainage, added destruction of the environment and further hindrance to the movement of wildlife, all of which impacts Bedford. And I think that's it, and I just wanted to again, just mention that in our report we did provide you with a photograph of the El Bouhali house showing three stories, we showed three views taken from the El Bouhali house in winter, looking across Sarles Street to the solar farm site from the north, facing southwest, west and northwest and as I mentioned we showed you the possible wildlife corridor. Thank you very much Vice Chairman.

Vice Chair Bainlardi stated thank you for your work.

Mr. Rhodes stated okay, this thing works, it always amazes me. Good evening Acting Chairman Bainlardi and members of the Planning Board and Staff, thank you for sticking with us so long. I'm John Rhodes, Chairman of the Mount Kisco Advisory Counsel and on behalf of the CAC, I'd like to thank you all for the hard work that the Board and the Staff have done besides tonight that has, to keep the wheels turning over the past very difficult months. I'd also like to thank you for deciding not to segment the environmental review of the two projects currently proposed for this site, thanks also for saying the hearing will be kept open after tonight since I know there are a number of people who could not join us tonight. And it also appears that the application is still evolving and I think the public should have the ability to comment on the final stable version of the applicant's plan. I believe you're already familiar with many of the concerns that the CAC has expressed regarding this application so I won't go over them again tonight or even as they relate to the new version of the application. Just to note that several of those concerns still have not been addressed. Tonight I'd like to look forward towards what needs to be done regarding this application, both procedurally and substantively, substantially. We have one key recommendation regarding this application and that is we recommend that you issue a positive declaration of significant environmental impact on the application to build a solar facility on this property. I think I disagree somewhat with what, Mr. Bainlardi, what you said about the positive declaration, I don't think it's anything really extreme. Here is what the DEC regulation says about this, it says a positive declaration is a determination by the lead agency, that's you, that an action may result in one or more significant environmental impacts and so we'll require the preparation of an EIS, environmental impact statement before the agency decisions may be made regarding the action. And it's very clear from all of the evidence that we've seen and everything that everybody said that there are a number of significant environmental impacts that, at least according to the current version of the plan, any version of the plan could not be fully remediated. So we strongly advise that you issue a positive declaration of significant environmental impact and require a full EIS because this Type I action potentially have numerous significant environmental impacts that would not full mitigated by the project as proposed. I just want to list very briefly and I'll just summarize them, some of these significant environmental impact that we see, you know coming from this proposal. One, that wasn't mentioned at least in these terms and this is included in the SEQRA Handbook as far as positive declarations, it would be a very significant impact on community character. This has been well documented by the numerous letters and presentations and statements by neighbors and other community members and also, it's indicated by the Village's own comprehensive plan and the NOI ordinance. You know, clearly a solar farm here would have an impact on the community character and that needs to be examined closely and that wouldn't necessarily be decisive but I think SEQRA requires it be examined very closely under a positive declaration. The applicant needs to be thoroughly evaluated, the application need to be thoroughly evaluated regarding these impacts and the questions raised by their dozens of neighbors and area residents

need to be clearly addressed, not just answered by an off-hand statement, you know from the applicant. They really need to be addressed in writing and comprehensively. As number of people have mentioned, there are very significant adverse impacts on viewsapes and other visual resources, including those related to Marsh Sanctuary. I noticed that even looking at the revised plan tonight, which again was revised from the last one, that the trail, the Marsh Sanctuary main trail, goes within a few feet of the retention basin and the fence and that would clearly be a significant impact. The other thing is that it seems, Bedford said this and a number of residents have said this that the visual survey that the applicant has provided up to this point, is somewhat deficient and doesn't really include view lines from all the homes, effected homes and properties, especially now that we're talking about in the Marsh Sanctuary trail. The second and very significant impact would be that on the trees located on the property including an indeterminate number of mature trees and specimen trees. Though the applicant has prepared numerous maps and narratives regarding the removal of somewhere between 500 and 700 trees, these are based on outdated or incomplete information, specifically on a 19 year old tree survey conducted by the previous applicant, even that survey showed more than 1,000 specimen trees on the property and that was 19 years ago. So how many specimen trees are there now? How many more trees have no exceeded, you know the critical measurement of eight inches? The applicant's latest tree update that was talked about earlier tonight is only a quote sampled estimate of their current project area and not a complete survey and report as is typically required and I believe is required under the Town's zoning laws. They also cannot guarantee that there won't be more trees removed because they only lease a portion of this property and I think this, their estimate becomes almost meaningless because in the future, additional uses could removal many more trees and that would increase the environmental impact. So we strongly, strongly recommend that as part of the EIS process, the Planning Board require that the applicant prepare and complete and up-to-date tree survey of this important property and then show how their proposal would impact this forest and how they plan to fully mitigate these impacts and prevent future, additional impacts whether those are cutting down more trees beyond 10 feet from their fence or from additional applications that might be made for use on the same property. The same holds true for impact on wildlife, plant life, you know both within the property and in the surrounding properties. The applicant's wildlife survey while it was pretty good as far as it goes, is not a full four season survey and therefore could not possibly adequate cover the impact of the project as planned, the impact it would have on all the species that use this property for nesting, for migratory food sources and for other seasonal uses, I think that should also mention this. The list of insufficiencies really goes on and on and the impacts really go on and on and it's pretty obvious to us and I think its obvious to some of the members, other members of the Planning Board that an independent information and complete mitigation plans are necessary, also necessary regarding steep slopes, drainage, buffers, noise, soil preservation and restoration, almost every area of the environmental impact. It seems that in their understandable rush to get this project through, the applicant has cut some corners, left out important information in a number of areas such as their knowledge of the cell tower plans or as I mentioned before the need to eventually cut down more trees beyond the 10 foot distance from the fence, I think that's a little bit disingenuous, that statement. We acknowledged that the applicant has during the past few months prepared new documentations as deficiencies were pointed out by the Board, by your Staff, by the CAC, and by members of the public. This piece meal approach of a full evaluation and mitigation of impacts, is really not substitute for a positive declaration and a comprehensive environmental impact statement that takes into account all of the discrete and cumulative impacts of the proposed project. So we hope that you'll be able to discuss and decide on a positive declaration. Thank you for your time and all of your work.

Vice Chair Bainlardi stated thank you for your comments.

Mr. Liebman stated my name is Bob Liebman, I'm a resident of Mount Kisco and a member of the Mount Kisco Climate Smart Community Task Force. Also, I served many years on the Mount Kisco Conservation Advisory Council, including many years as the Chairman. A solar farm of almost 6 acres has been proposed, clear cutting 603 trees would be necessary based on the latest revision and this would occur very close to a nature preserve, the Marsh Sanctuary and the residential character of areas of Mount Kisco and Bedford would be altered by the presence of an industrial type facility. Therefore when it comes to siting of a solar farm, I would label this proposal a worst case scenario. There are far better alternatives for deploying solar panels, some examples exist in Mount Kisco, there is a 10 acre rooftop solar farm at 333 North Bedford Road, there is also a solar farm being built on our former landfill, this is for community solar and I have signed up for it. There are also smaller examples such as the solar panels on the roof of the Boys & Girls Club. While I support the government subsidies and tax breaks that are driving the solar industry given we have a climate crisis and need rapid deployment of renewal energy, this subsidies and tax breaks have had serious unintended consequences, including the destruction of many thousands of acres of forest land in the Northeast. As an example, recently the Massachusetts Department of Energy Resources, estimated that about 2,500 acres of trees have been cut down in the previous 10 to 15 years for replacement with solar panels. The clearcutting has reached alarming levels and this has prompted several states to take action, New York State and other states are trying to discourage clearcutting forest land to site solar farms in various ways, for example, in Rhode Island, state legislatures have approved a new incentive for so called solar carports as part of a larger effort to direct renewal energy development away from forest, fields and other green spaces. In Massachusetts, the Solar Massachusetts Renewal Target Program which was

established to create a sustainable solar development program as a policy that increases financial incentives for rooftop parking lot and brownfield site programs and reduces incentives for projects on undeveloped land such as forest land. Massachusetts Department of Energy Resources has issued a model bylaw for siting solar that states quote “strongly discourages locations that result in significant loss of land, natural resources including farm and forest land, and encourage rooftop siting as well as locations in industrial and commercial districts or on vacant and disturbed land or vacant disturbed land. Significant tree cutting is problematic because of the important water management, cooling and climate benefits trees provide” end of quote. Here in New York State, SEQRA has been updated in Type II action which requires no further review under SEQRA, now include installation on solar arrays on closed landfills, cleaned up brownfield sites, wastewater treatment facilities, site known for industrial use or solar canopies on residential and commercial parking facilities. This provides incentive for fast approval for solar developments, developers if they stay away from forest land and farm land. Yet, this practice of clearcutting trees to make room for solar farms continues as we see all too clearly here in Mount Kisco with this current proposal which apparently did not take into consideration the intention of our State Government in Albany to protect forest land from being used to site solar arrays. This proposal for a solar farm at Sarles Street and Route 172, has a number of environmental issues such as stormwater runoff, visual impact, loss of wildlife, habitat, et cetera. However, I’m going to focus on just one such environmental issue, solar farm noise. I guess that most of us have never visited a solar farm such as the one proposed here, rows of solar panels, [inaudible] would assume that such the solar would not emit any noise since there appear to be no moving parts but that assumption would be wrong. Solar farms consist of not only rows of solar panels but also include various types of electrical equipment and this electrical equipment does produce noise. The main source of noise is the inverter which invert direct current generated by solar panels to alternating current, transformers also make noise but at a lower level. This noise from the inverters has been described as a steady noise which is distinctive and as a continuous humming. The inverters emit noise during daylight, when electricity is being produced by the solar panels. To get an idea of what a solar farm sounds like at various distances, go to youtube.com and search for solar farm noise and then click on the first listed video which is called “what does a solar farm look and sound like”. The applicant has submitted information and noise during solar farm operation but it is contained in a letter from Insite dated July 21, 2020 that was never included in a packet posted on the Village website because it was part of the August 11th Planning Board meeting that had a scheduled public hearing that was postponed. This letter was mentioned in the packet for this meeting, since the letter has not been posted, I will quote the most relevant paragraph quote the inverter for this project is a solar edge SE 100 KW-US, there are 20 inverters proposed for the entire length of the solar field, each inverter contains a fan, similar to that of a desktop computer. The inverters will be mounted on the backs of the tables along the center access aisle, the closest house to the south is approximately 650 feet away and the closest house to the north is approximately 520 feet away with 394 feet and 194 feet of natural woods in between. Combining the noise from the 20 inverters, using a logarithmic scale, results in a total noise level of approximately 73 decibels. Using the transverse, the inverse squares law, the noise levels associated with a single inverter would be approximately 19 decibels at the house to the south and 21 decibels at the house to the north. A pertinent question to ask is whether its possible for inverters to be a source of noise that can bother residents living near a solar farm. This question is certainly relevant to this proposed solar farm since it would be located rather close to some residents of both Mount Kisco and Bedford. The answer to that question seems to be yes, an example to illustrate how solar farm inverters can effect residential areas comes from Edgartown, Massachusetts, a town located on Martha’s Vineyard, a report about noise problems from the solar farm was published in the Vineyard Gazette in September of 2014. This solar farm is 5.5, 5.8 acres and is located in a forested area within a quiet residential neighborhood known as Smith Hollow. To build the project trees and other vegetation had to be removed, this Edgartown solar farm appears to be fairly similar to the solar farm being proposed here. Some quotes in the Vineyard Gazette article convey a sense of the noise problem that occur with a solar farm, the sound engineer who investigated the problem concluded that the sound from the inverters is clearly in violation of the Mass DEP noise policy and also constitutes are a noise nuisance in my opinion based on the sound level measurements report here end of quote. One resident said that even though he and others raised concerns about possible noise problems before the project was built, they were given assurance that noise would not be a problem. This resident said quote right from the start I suggested they move them, the inverters because of noise. We were told they weren’t going to make any noise, I think this episode of the noise problem from a solar farm that occurred in Edgartown provides some lessons that can be applied to the review of this solar farm application in Mount Kisco, to carefully evaluate the noise impacts of the solar farm would require a solar far noise assessment, given the proximity of this proposed solar farm to residents, it would seem prudent to require a detailed solar farm noise assessment for this project. The assessment could cover both notice from construction and noise from the operation of the solar farm which I believe would be expected to continue for about 25 years. As I previously noted, there would be some residences located close to the solar farm, the Marsh Sanctuary has at least two residences, the Brookside cottage near the Amphitheatre on Route 172 and a house on Sarles Street, the entrance to that was renovated several years ago. There is a house on the corner property and there are several nearby houses in The Chase subdivision Mount Kisco and there are houses in Bedford on the other side of Sarles Street. Possibly the potential for a noise problem from the solar farm would be greatest for residents in Bedford, and they’d be closest to the facility and the wooded buffer along the Sarles Street,

would be reduced to about 140' accordingly to the latest revision if the solar variance is granted. Also, the residents in Bedford would be east of the solar farm and the analysis from Insite only covers houses to the north and south of the solar farm. The situation needs to be analyzed to get a clearer picture of the potential for a noise problem. In addition to possibly nearby residents being affected by noise from the solar farm, because the Marsh Sanctuary's hiking trails in this area, noise from the solar farm could be a disturbance for hikers, the ability of hikers to experience nature could be interfered with by continuous humming sounds generated by electric equipment. This possibility also requires analysis. In summary, this is a proposal for a solar farm that would require clear cutting forest land which is the type of activity New York State is trying to discourage by using incentives involving changes in SEQRA which make it easier for solar developers to obtain approval to use other alternatives to solar power. Also, it appears that there is a possibility that the solar farm could pose a noise problem for the surrounding area, the solar farm noise assessment should be performed to obtain the necessary data to analyze this potential impact. Thank you.

Vice Chair Bainlardi stated thank you for your comments.

Mr. Coppola stated I don't know if I have video yet, am I on? Michelle is my video on? Okay, hopefully this will be short and sweet and entertaining. I'm not going to read from a script, I just simply want to encourage those on the Planning Board to read the letter I sent in to all of you, I guarantee you that you will learn things that are relevant to your decisions about such industrial applications that require massive tree cutting. Before I get started though, Mr. Bainlardi, I just wanted to say thank you for clarifying your position on the ownership of the parcel, you recognize the fact that [inaudible] and deserved some comment and thank you very much for clarifying your position. So the Planning Board here has been bombarded by a number of reasons why this application shouldn't go through and they include the vast negative effects on the flora and fauna, the aesthetic detriment especially considering that nature trails are going to go right by a solar farm and a cell tower, oh goodie, this is ridiculous, ludicrous, okay? There are objections by virtue of pollution and there are objections by virtue of noise...

Mr. Polese stated I'm having a hard time listening, it's cutting, it's very, it's of poor quality. Is there anyway you can improve this? Can you use a telephone.

Mr. Coppola stated I wish I could but I can't...

Mr. Polese stated I'm having a hard time following.

Mr. Coppola stated maybe it's on your end, I don't know. There's also noise complaints, there is the demotion of surrounding property value, there are improper procedures and the handling of these applications and there is inconsistency with the Town's Comprehensive Plan and simply put a lack of benefit to the residents of the community but the letter I wrote to you focuses simply on facts and figures surrounding the biochemistry of trees and the staggering amount of loss when you cut, actually when you clear cut trees. When you read this letter, you will understand that we're talking about tons of CO2 captures, 27 tons of CO2 for this number of trees that would be cut down, we're talking about oxygen production to the extent of producing enough oxygen for 3,000 people. We talked about the retention of water, we're talking about 1,000 gallons per tree, that's 750,000 gallons of water that's contained in these trees that will otherwise be splashing down to people on Sarles Street who have wells. But that's not even the big number, that big number is in the respiration, this number of trees would respirator 30,000,000 gallons of water, can you imagine that coming down the slope, this is like an insane, insanely negative impact on this piece of property. Why would you pick this site? There are so many better sites, I just don't understand it and all of the gaseous production of oxygen or capture of CO2, it's understand, the only thing I overlooked when someone mentioned to me was the fact that these trees, local residential trees, capture 50% of the [inaudible]. These are called in inhalables, they're up to 10 micron, they're from road exhaust, break pad wear, road dust containing metal such as iron and lead, 172 is fairly trafficked, okay? Its especially relevant to the current situation where the California wildfires are spreading pollutants, okay? People suffer because of these pollutants and trees easily take care of half of it. I don't want you to believe me, I want you to read the letter I wrote, click on the links I wrote and see for yourself. I don't expect you to believe the applicant, I don't expect you believe me. I expect you to do your own research and realize just what a negative impact this would have on the local community. In addition to the biochemical effects, I also put some facts and figures on the reality of [inaudible] deficiencies and what it costs and the benefits, in real numbers. You have a commenter earlier this evening saying, what happens to my ConEd bill, well guess what, if you read my letter I'll tell you exactly how little that means. If you look at production of oxygen and capture of CO2 and you tried to purchase that, the numbers the dollar numbers are off the scale. You would not believe how much money you would have to spend to reproduce what those trees are doing. So what I'm trying to say to you is based on biochemical and financial aspects, the bottom line is simply this, this solar power plant proposal or any other industrial application which destroys local, is just simply a lousy ideal. It is environmentally and biochemically unsound, its an aesthetic nightmare and a financial [inaudible] except the applicants. Okay, we're in a situation where we're dealing with climate warming, we want to do something environmentally sound, we all want to do something, okay? But sometimes the

best choice is to absolutely nothing, leave these trees in place. I'll finish with one little example, I hope you can see this, if I said to you all of the Planning Board members, what is this I'm holding right now? What would you say? Okay? A leaf, you all get a hundred but if I were to say to you to give me a name for this that describes its function, what would you say? Okay, I'll let you off the hook, it's a solar panel. But guess what there are millions of this solar panels residing on that hill right now, working for you for free and all you have to do is to continue allowing them to work for you for free if it prevents any application that clear cuts them. That's simple enough. Thank you very much.

Vice Chair Bainlardi stated thank you for your comments.

Mr. McCartney stated okay, can everyone hear me?

Vice Chair Bainlardi stated yes.

Mr. McCartney stated I just wanted to thank you for your time here. I just wanted to say I'm Harry McCartney, the Village Historian and I work on the CAC and also I'm the leader of the Mount Kisco Trail Team. And my interest here, you know and what our team have been trying to do with the three square miles that we have and the limited greenspace that we have. What we try to do is and our objectives have been to preserve this greenspace in perpetuity for the outdoor classroom educational projects that we do with the Boys Club, with the seniors, last week we just took out seniors on a little guided historic nature trip on one of our trails. Why are we interested? Because the way this particular project and application has been handled, there's been ethical questions that actually if this type of behavior is permitted to continue in the Town, our work, our volunteers, our constituents and our constituents of the whole community, all of that work is undercut because of self-interest. And here is the note I sent to the Village Board and I'm talking to the Planners here because you know the management of this has been the problem, you Planners who are here, fine, you know you do your job but I really want to make you aware of something and how do I find out about stuff, I find out because of work I do, the people I know, they come to me and say well this happening, oh yeah, yeah, well I looked into this and I sent this to the Village Board on July 14th. In today's where transparency and honesty are critical to the stability, viability and preservation of our fragile democracy, it is imperative that at all levels of government that the operations and execution of the various roles that government play are preformed without hint of conflicts between the public servants interests and the general publics interests. Now, with that being said, this plan, this project, this application has been going on for four months, five months, whatever it is, to me because of that type of behavior, anything that's gone on here has been mute in terms of the work that's been going on because it hasn't been done correctly, it hasn't followed the rules. So here's what I, and I've, to the Board I said you know my recommendation them was that based on their overall responsibility that this application should be stopped, there's an ethic complaint in progress, wait until the ethic complaint comes out or the results of the ethics complaint are published and the recommendations that are made because as far as I'm concerned, in these things, if we at any government level do not, do not act ethically, it's what are we, well I, we see what's happening in the world, we all have children, we all have grandchildren or some of us have grandchildren and this particular item and really needs you folks, in terms of your Planning, so you know I just want to say thank you for your work, thank you for your time. These type of meetings in terms of the times is pretty hectic but thank you again and I just want to let you know to keep your eyes open and listen. Thank you.

Vice Chair Bainlardi stated thank you for your comments. Next?

Mr. Fleischer stated good evening, can everybody hear me? Great, thank you. I'd like to thank Chairman Bainlardi and the Planning Board for the opportunity this evening, I'll try to keep my comments brief for the sake of time. Again, my name is Greg Fleischer, I'm an environmental scientist and a professional wetland scientist with 16 years experience conducting wetland and ecological investigations throughout the Hudson Valley and the five boroughs of New York City. I'm here on behalf of Gerry and Beth Ronski of 8 Brentwood Court, Mount Kisco, to review and speak about the wildlife habitat assessment prepared by Ecological Analysis which is part of the package you received from the applicant in the last couple weeks. What I really noted about the report and others have mentioned this, this evening was the limited amount of field time spent assessing the 25 acre site for ecological communities and wildlife. Typically in my experience, a natural resource assessment for a large project site such as this requires a four season assessment to adequate catalogue and observe vegetation and wildlife on a project site, at a bare minimum for much smaller sites, the assessments should be conducted in late spring, early summer and early fall and what's stood out to me on this project analysis is that and this is sort of incredible is that 60% of the analyses you know, of the field visits took place almost 20 years ago on the project site and they were for the most part, outside of the minimum windows which I just reported, right, which was late spring, early summer and early fall. And just to be clear for the record, at least from what I've seen in the reports that have been provided for the ecological analysis, they're based on Tim Miller field investigations of April 10th and 12th 2001 and July 11th 2001. So three days in 2001 were spent analyzing this site. Ecological Analysis was recently out there this year, they conducted two site visits, in March and May of 2020, so we

have two visits in April in 2001, one in July of 2001 and one in March and one in May of 2020. That's not a lot of analysis for a large site of 25 acres, regardless of the project that's being proposed for the site, whether it's a solar farm or its housing, you require more analysis than that. It's been stated and the numbers have swiveled back and forth here this evening but approximately 7 acres will be disturbed with this project site which you know, in essence is about 30% of the site, it's 600 to 650 trees and they're broken down per the ecological report it's, and just to be clear that the areas that are disturbed are about three acres of southern hardwood, that's forest and about three acres of old field habitat and just under an acre of Hemlock northern hardwood, so you're looking at about four acres of woodland habitat that's going to be taken out by this project and then again it was only examined you know, five times over the last 20 years. So this is significant in and of itself but especially in light of the presence of eastern box turtles which have been documented as being present on an adjacent project site by neighbors, that's been brought to my attention, I've seen some photos that some of the neighbors have taken adjacent to the property. It's noted in the Ecological Analysis report but I think it's important to understand the eastern box turtle is a species of special concern in New York State, meaning it warrants attention and consideration and there's continued concern for their welfare. I think it's important just to read briefly and I'll try to speed this up for the Board, you know, the New York City DEC EAF workbook says this about rare species or species of special concern which box turtle is a part of and I think this ties to be the importance of having a proper and thorough ecological analysis that spans multiple seasons. So it says habitats can be used by animal species or species of special concern for breeding, hibernation, reproduction, feeding, sheltering, migration or overwintering. The site may be used year round, seasonally or on a transient basis, passing through the area or during migration. Once animal species of special concern, species are identified on or near a site or if their habitats are on the project location, a field investigation may be necessary to understand how the species may be utilizing the site. This investigation should be thorough enough to understand the role that the project location plays in supporting the species and whether there will be adverse modifications to that habitat. I think that's critical when you're considering how to proceed with this project and the adequacy of the natural resource inventory, as been raised by other speakers in addition to myself. In that sense, I think we respectfully that the Board issue a positive declaration to request the application conduct additional seasonal, natural resource surveys to create a better picture of the vegetation and wildlife utilizing the project site to determine potential significant environmental impacts to vegetation, wildlife or species of special concern may occur as a result of the development. Thank you for your time, I appreciate it.

Vice Chair Bainlardi stated thank you for your comments.

Mr. Coleman stated thank you, this is Tom Coleman, I'm a resident and homeowner in Mount Kisco for nearly 20 years and I would like to thank the Board for its commitment, patience and indeed [inaudible] and I'll try to be very brief. I would like to express by strong support for the solar project application and I hope that my words will ease some of the tension in our Village. Over a year ago, I became involved in meetings at the Mount Kisco Village Board when it redefined its plan to speak to Zoning needs for solar power, a technology that it had no way of forecasting. Amending the Zoning Code was a long and despite what some recent media might suggest, a very public process that resulted in a solar zoning law that defined where and how solar would be allowed and in under what conditions. Thus many of the issues currently under debate were decided. The Sarles Street Solar project, not only fits the criteria in the Code but also the applicant respectfully tried to build a consensus by approaching key stakeholders. The applicant has brokered an agreement between Marsh Sanctuary and the landlord to allow the legal use of walking trails around the property, an issue that has festered for many years, as the Marsh trails currently pass across the private property without permission. The applicant has also pledged to donate to Marsh's project to remove invasive species on the adjoining property and replace these with native. The applicant has worked with the neighbor Pietrobono to design a planting plan that would screen his view of the project and finally the applicant has documented that one, the project will be nearly invisible from the Chase, Marsh Sanctuary and from Sarles Street. Two, it will be nearly silent. Three, it will produce no additional water runoff or pollution. And four, it will strengthen, not destroy, the bird and animal habitat. The preamble to the Village's solar zoning code lays out the many benefits of locally based renewable energy, and this project is no exception. This project will create a carbon dioxide offset equivalent to over three thousand acres of trees, all on a six acre lot of land. The project will provide clean, renewable energy to approximately 400 hundred homes, taken together, I believe this solar project falls well within the solar zoning laws and the applicant has made extensive efforts to mitigate any neighbors concerns. In fact, the process toward approval was moving well until Homeland Towers announced its desire to a cell tower to a different site on the same 25 acre plot. While the cell tower issue is entirely separate, I believe it's announcement had the unfortunate effect of derailing the solar project approval momentum as neighbors have equated the two projects a negatively impacting their interests and I think we've witnessed some of that tonight. I hope that the Planning Board and the Village will parse these two projects and deal with them as the separate issues and separate undertakings that they represent. In closing, I strongly support the solar project, it falls well within the Village's Comprehensive Plan and Zoning Ordinances, the applicant has worked hard to build consensus among many key stake holders and it will provide clean renewable

energy within our community in a manner that is not only consistent with the Village laws but also at the necessary scale to come commercial stable and viable. Thank you.

Vice Chair Bainlardi stated thank you for your comments.

Mr. Schwartz stated good evening, I will make this very brief due to the long time we've been having this public comment open. I want to thank obviously the Planning Board for the opportunity to hear the public. I've been living on Brentwood Court in Mount Kisco Chase for about 23 years, you've heard from some of my neighbors this evening speak about their concerns about the potential impacts to our environment, to the neighborhood, to the neighbors, my neighbors in Marsh Sanctuary and the others who will be impacted along Sarles Street. It's, you know, it's somewhat unfortunate that we have to have so much conversation to ask for something that seems so important to have an additional review of information that will give everyone the comfort of facts and circumstances around the environmental impact that this project may incur on the neighborhood. So, its with that and with the fact that the people that have written in and spent a lot of time on their comments and a lot of research that have been brought to the Planning Board to consider that I'd like to also lend my voice as well to respectfully request that this Board indicate that it requires a positive declaration and that a full environmental impact statement be completed and that we can all see what the potential, again significant environmental impacts that this solar project will do and I do also applaud the decision not to segment the application from the solar power plant and the cell tower, that was a concern that was voiced at the prior meeting, so thank you for that. And I thank you again, in advance for the diligence you've done thus far and the continued diligence you will do in support of the community and all of us that live here. Thank you.

Vice Chair Bainlardi stated thank you for your comments. This is someone in the chat? Let's ask Mr. Stockbridge to put it in writing and we'll give him an opportunity to speak again in the future, if he's so inclined, it's now 20 to 11. Alright, so I would like to bring this evenings public hearing to a conclusion and adjourn, before I do so, any Board member want to make any comment before we do so? The applicant, anything you'd like to say at this time before we adjourn?

Mr. Null stated no, we're going to respond formally Mr. Chairman, I do think it's important to address many of the comments, some of which, well we'll address the comments formally in writing, thank you.

Vice Chair Bainlardi stated okay. Just one thing I'd like to state before we move on, this is a seven member Board, one member who is the applicant on this particular application, has recused himself and is not participating as a Board member. We have three, we have independent counsel, we have independent planner, the Kellard Sessions for the reasons stated, because of the Homeland Towers applications has now deemed it necessary to recuse themselves and we've substituted a very respectable and capable planner and we have a Village Engineer. One thing this Board has done and anybody who wants to take the time or has the inclination to go and look at it, pull any application that we've reviewed over the last two, three, four, five years and I think it will clearly demonstrate this Board takes its job very seriously, it's basis its decisions upon the facts, those facts are arrived at with the assistance of experts and with input from the community. One thing that will happen and I stated this at the start of this public hearing and I will state it again, whatever decision this Board makes with respect to the environmental determination and ultimately an approval or denial of the application will be fully and firmly support by the record. This record has been established with the start going back to a conceptual application and then a formal application in February. There have already been thousands of pages of documentation that has been support that has been submitted by the applicant and reviewed by this Board with the capable assistance of its experts. Anything that has been submitted whether its by a, by the applicant', the applicant's consultants, professional consultants or by any member of the public, will be reviewed, will be given its due weight and will help to form the basis of decisions of the record and the decisions that this Board makes based upon them. So any insinuation at this point that people are doing something wrong or acting in an unethical manner, listen, if there's a complaint to be made, there's a process for that, please show us some respect and avoid the innuendo and the character assassination, that's just not necessary. We're all members of the same community, we're all trying to do our best to fully do our jobs and we do take it seriously, we spend a lot of time and effort, we do so because we care about our community and we care about our neighbors. So understand that this controversial and understand that we're in the times that we're in and there's a lot of short fuses out there right now but please, before you lodge the accusations, please do the due diligences that we would expect you to do and read all the documentation, read everything and understand that no decisions have been made here yet and no decisions will be made we've completed thorough application, a full thorough review and we're satisfied that we've done so with the input from our experts. There's not Board member on this Board who just flies by the seat of their pants and just goes with what their opinion is. Everyone's decisions are based and have to be because that's what's required for us to do, based upon the, our consultants and the advice of our experts and counsel. With that, if do we need a motion, Whitney, to adjourn to a date certain here?

Whitney Singleton stated yes but I, just because he hasn't said a single thing all night, I would like to get Frank to unmute his microphone and I just want to make sure for efficiency purposes not only for the applicant's expense and your Board's time, but also for purposes of the public, you know being able to comment. I thought it would be appropriate for Frank to give us some sort of input as to what would be an appropriate adjournment date since his firm is trying to get up to speed. You know, my personal view or my professional view and you could disagree with it, I think it would be more efficient for us to make sure that we have this site, not this application, this site, both applications, consistently on agendas and at a point in time where Frank's associate, Simon, could be in a position to advise your Board as to how to move forward with SEQRA. Any input Frank?

Mr. Fish stated yes, can you hear me okay?

Vice Chair Bainlardi stated yes.

Mr. Fish stated okay, great. Thanks Whitney and actually I would pick up on what the Acting Chair, what John said earlier in the meeting. I think it would be good if we had the opportunity not only to, we're obviously reviewing the material now, both Simon and I, but to meet, I think if I understand John correctly, to meet with, or we have questions, to meet with the Applicant's engineer and expert, Rich from Insite so that we get a full understand of the issues and then be able to come back to the Board. This meeting will be adjourned in any case because I think the applicant has to do some more work and I think also we can then, when that's submitted, we can review that and perhaps advise the Board also a little bit more on the SEQRA issues of the Type I action so that the Board can make again, a fully informed decision. So Whitney, in answer to your question, that's going to take probably two or three weeks to just get that initial read and meeting place, so I would say it would take, at least, if we can have that, say to an October meeting, we would then be ready.

Whitney Singleton stated so the two choices for that are the 13th and the 27th, the 13th is in two weeks and the 27th is in four weeks.

Mr. Fish stated I would pick the 27th.

Mr. Null stated Mr. Chairman?

Vice Chair Bainlardi stated yes?

Mr. Null stated we would respectfully request that the opportunity to meet with Mr. Fish and the other Village's consultants to review what is open and help bring everyone up to speed and be brought up to speed in the next week or 10 days so that that one month adjournment gives time for follow up after that.

Vice Chair Bainlardi stated that would be great. Frank, does that work for you?

Mr. Fish stated yes, that's fine, yes.

Vice Chair Bainlardi stated okay, so and again, you know this is all in the interest of making sure that we have full and complete scope, making sure that the studies that we have asked for and that have been presented and that a response to that scope are complete and accurate. Again, this is about making sure that we've fully scoped those issues that need to be addressed and reviewed and studied and that those reports and studies are then reviewed for adequacy so that decisions can be made. So that's the process, folks and there's, in the end the bottom line is a full and complete scope and the public participation. Alright, so I'll leave the consultants to work that out and meet offline and then I'll make a motion that we adjourn the public hearing to second meeting in **October, which is what date Michelle? October 22nd...**

Whitney Singleton stated 27th.

Vice Chair Bainlardi stated do I have a second?

Mr. Polese stated I'll second that.

Vice Chair Bainlardi stated any discussion? Michelle, please poll the Board?

UPON ROLL CALL VOTE:

Vice Chair Bainlardi	-	aye
Mr. Polese	-	aye
Mr. Vigliotti	-	aye
Mr. Bonforte	-	aye

The motion carried by a vote of 4 to 0.

Mr. Null stated thank you for your time and consideration.

Vice Chair Bainlardi stated thank you. I guess at this point, we should bring Doug back in. Chairman, you want to proceed in order here with what's, let's pick up the next public hearing.

Chairman Hertz stated yup, thank you, thank you Mr. Bainlardi. So we will...

Whitney Singleton stated Doug...

Chairman Hertz stated excuse me?

Whitney Singleton stated I just wanted to give you a little update, I sent that, I sent an e-mail out to the Zoning Board of Appeals with regard to a joint meeting and I've heard back from three of the five members already that they're basically available. They can't do Wednesdays but they can do the next three Thursdays. So if you wanted to pick one, I'm just wondering you can incorporate a joint meeting with the Zoning Board with some degree of review of the next application. If you wanted to...

Chairman Hertz stated yeah.

Whitney Singleton stated I don't believe there's going to be next much public comment on the next application.

Mr. Hertz stated well there hasn't been to date.

Whitney Singleton stated yeah.

Mr. Hertz stated so if we're looking at Thursday's, let's see...

Whitney Singleton stated I included you in the e-mail, it gives you the dates.

Chairman Hertz stated yeah, I'm sorry I don't have that e-mail open.

Whitney Singleton stated okay.

Chairman Hertz stated I am out of town which is next Thursday the 1st but I can do the Thursday after that.

Whitney Singleton stated and that would give you an opportunity to, that would give both you and the Zoning Board the opportunity to have met prior to 333 being on another agenda.

Chairman Hertz stated okay, so that's October 8th we're talking about. Does that work for Board members? If you can look at your calendars...

Mr. Polese stated yes, that works for me.

Chairman Hertz stated okay and also I guess we're going to want Jan, we're going to probably need our traffic consultant as well at that meeting, we're going to have to just see if he's available for that. Jan, is that something, do you know if your schedule is available for that?

Jan Johannessen stated fine with me Doug, yes.

Whitney Singleton stated and I see that Steve Spina is online there, I'm assuming you're going to want him present or no?

Chairman Hertz stated that's a great question, it certainly would be valuable to have the applicant there, so that they can answer questions, Stephen, I see that you've unmuted yourself, does that date work for you?

Mr. Spina stated yes, whatever date you guys put together.

Whitney Singleton stated don't sound so happy Steve.

Mr. Vigliotti stated it's getting late.

Chairman Hertz stated I know, believe me. Okay, so let's confirm for Thursday, October 8th and we'll try to have that joint meeting, we'll have the applicant there.

Whitney Singleton stated 7 o'clock.

Chairman Hertz stated thank you Whitney for pulling that together.

Whitney Singleton stated no problem.

**B. 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.

Chairman Hertz stated so the next item on the agenda is the public hearing The Park which is 333 North Bedford Road, this is the ShopRite expansion. The public hearing is for site plan, special use permit, change of use, subdivision and steep slopes and this is a continuation of a public hearing. So we have an updated memorandum from, we have a memorandum from JMC, project narrative, a DOT response, some information from land surveyors and some additional site plan information prepared by JMC, not some information, 54 sheets of information. So, Jan, if you would just, can you bring us up to date as to where we are and then we'll open this up to the applicant to go over what changes have been made on the application.

Jan Johannessen stated just a brief overview, as you mentioned we're in the midst of an ongoing public hearing, the applicant has made a fairly comprehensive resubmission of the site plans for 333 in addition to 309 and 383 North Bedford Road addressing staff comments and Board comments from the last meeting. There's still some outstanding comments both from my office and from Anthony Oliver's office and then in the work session I had recommended that we have another staff meeting just to go over the site plan details but I, from my perspective, I'm in a position where the majority of our outstanding comments are being addressed. We heard from the DOT through an e-mail from Steve Spina that the DOT is requesting that they submit their Stage II application, which is an indication that conceptually that the DOT is in agreement with the plan and they're requesting that they provide construction documents and details. So I think that was beneficial information, the applicant has also been working with the DEP to go through the stormwater pollution prevention plan comments and application. So that's where we're at, I would suggest that the Board have the applicant just walk you through any changes that have occurred since the last meeting. Changes that resulted from comments from staff and the Board and take it from there.

Chairman Hertz stated great, thank you. Steve, do you want to take it away?

Mr. Spina stated sure, good evening. There have been, thank you Jan for that summary, there really hasn't been a lot of changes since we presented in August. I think the majority of our responses were sort of just kind of cleaning up documentation and updating plans that you know we needed to reflect the changes we've made to the parking. So you know, we did do a phasing plan and added phasing notes and you know tried to you know think about the construction would be phased a little bit more in detail, things like that, some detail revisions, you know construction detail revisions but overall there really wasn't a lot of changes, I think the biggest one I can think of is we, we added a trash enclosure behind 309 North Bedford Road, I know some of the comments in this round were kind of geared more towards those front properties, so we took a look at adding some more landscaping. You know, we had an error in our landscaping calculation for the overall site, so we ended up adding a lot more trees. I think that's kind of it in a whole, in terms of the plan changes and I think and I hope we have addressed you know, most of the comments and we'll meet with the guys and we'll go through whatever is left and we'll get them addressed 100%.

Chairman Hertz stated okay, have you had any update with or any luck with meeting with the Bedford Planning Board?

Mr. Spina stated no, we submitted to them on the same day we submitted to you and all I've been told so far is we're on the top of their list and we may be able to be on their October 13th Planning Board agenda. That is the best they can do for us for an update.

Chairman Hertz stated alright, so we'll, so our joint meeting will be just prior to that, the Zoning Planning Board, I think we should schedule that for prior.

Mr. Spina stated that would be helpful for us, I mean anything we can get...

Chairman Hertz stated we obviously won't have gotten then input or you won't have gotten the input from Bedford, so...

Mr. Spina stated right, the thing with Bedford is really the big outstanding comment we have left with them was they wanted an adaptive traffic signal for Green Lane and you know, we coordinated that with the DOT and the traffic consultants and the DOT denied that you know, basically, you know in nice words, denied Bedford's traffic consultant of that comment and we're back to our design we already had. A letter was written to their Planning Board and we're just waiting to get back before them because we feel that we've addressed the traffic was basically their comments and now we have a DOT, you know conceptual approval and we're moving towards construction drawings for a phase two submission to them, so we're hoping Bedford can be there really close to a vote or whatever they see fit for the next step, we just need to get before them.

Chairman Hertz stated Jan, can you outline what process wise, where are we going from here with this application? What's missing and what are our next steps?

Jan Johannessen stated the SEQRA component of the project is complete, the Board issued is negative declaration of significance and that document being circulated to the involved agencies, so you're in the midst of the site plan and special use permit approval process and public hearing on both of those items. And you know, I think as the applicant ticks away at the comments and probably following in the joint meeting which makes it a good idea when the Board starts to be comfortable with the project, you're going to be looking towards some sort of decision...

Chairman Hertz stated okay.

Jan Johannessen stated I don't think that, I think we're at place where we need to hear formally from the ZBA from where the other, as that process unfolds. I think you should wait until you get that approval before making any decision. I think the DOT would be an approval that may be something that be a condition just because they've gotten through that first stage, [inaudible] documents. I'll let Anthony speak to where he thinks the DEP stands but it seems to me that they're addressing the DEP comments and they're just very technical at this point. So, you know, there's a lot of outside agency approvals including Bedford, so I think you have to maybe have a conversation or discussion about which of those approvals you want in hand before you make your decision and which ones you think could become potentially conditions.

Chairman Hertz stated right.

Anthony Oliveri stated I don't know if we'll have DEP, a decision from DEP, I think we'd be just looking to get the latest SWPPP submission to DEP and review it for ourselves and that would have to be a condition and I'd be fine also with the DOT being a condition since they're past that first stage.

Chairman Hertz stated okay, yeah, we want to, with DEP we just want to make sure that we're at a point where whatever comments they're going to make are not going to result in site plan...

Anthony Oliveri stated I think they've been in communication with them, they've done soil testing, they've been out there, so Steve could also speak to that.

Mr. Spina stated we just did additional soil testing on September 2nd and 3rd, it went pretty well, the soils were, they were suitable the first round, they wanted more testing, they're still suitable, so we're working right now on adjusting our design of the stormwater systems very slightly and preparing a full comprehensive SWPPP back to the DOT, we're waiting for our soil, you know our geotechnical report from the geotechnical engineer who did all the testing and of course everybody will be copied on that. You know, like Anthony said, there will be comments from the DEP but you know, we hope that they, we've been coordinating with them the whole time, they've seen our plans they know what we're doing. There shouldn't be anything that is significant that would change what we're doing here.

Chairman Hertz stated um...

Jan Johannessen stated the other item Doug...

Chairman Hertz stated yeah.

Jan Johannessen stated you know another component of the project is the subdivision, you know the moving of the lot lines to accommodate the drives and such and as we've discussed there's existing and proposed easements that are a part of the subdivision application and I think before you go into a decision making process, you'd want to know from Whitney that those items have been completed to his

satisfaction. I know the most recent application included a subdivision plat from TC Merritts, I don't know where we stand with kind of the legal documents that go along with the easements, so I'll leave that to Whitney.

Chairman Hertz stated so, I agree, we need to get those, have those duck in a row. And one other comment, so during the work session, one of the things we were discussing was a sign package for the site, so I think we're going to want to understand, not that we're the approving agency for the sign package, that will be the ARB but we do want to see conceptually what that's going to look like, signage on the building, freestanding signs that you're going to be doing at the entrances. So, if, I think it would probably be a good time to get started on that sign package, so that we can opine on it and then you can get maybe a jump with the ARB on that approval but I think that's something we would want to see as well. Now, I do want to mention that this is a public hearing, so if there are people who would like to comment on that, there is a dial-in which is 914-420-0383, you can also use Facebook and comment on Facebook and Michelle will answer there and on this Zoom function, you can use the Chat function and you'll be identified there as well. So, with that information, Michelle, have we gotten any comments from the public? Anyone who wants to... Alright, thank you. But you can do that and the public should know that this, that we will, this public hearing is not going to be concluded tonight, we're going to adjourn it to another day because there's still more information that we need to get before we do adjourn, we do complete this public hearing and you can provide your information to the Planning Board, via e-mail, via snail mail, or at the next scheduled hearing for this application through one of the methods I discussed, either phone in, zoom or through Facebook Chat. Okay, so next steps for this we're going, when do we think we're going to have enough substance to make this, to get some input at the next public hearing.

Jan Johannessen stated what I would like or what I would suggest Doug is that if we're going to have the joint meeting on the 8th, that some time before the 8th, that we have a Staff meeting to go over anything that's hanging out there from Staff comments and then have our meeting with the ZBA on the 8th and then whether you want to reconvene on the 13th which would be your next Planning Board meeting or the 27th, that's up to you, I don't have a preference there.

Chairman Hertz stated so, Steve do you, we'll be meeting, I like Jan's suggestion that you guys circle the wagons with consultants and just go over open items, we'll be meeting on the joint meeting on the 8th. Do you think you'll have anything substantive for the next being on the 13th or do you want to push it out to the 27th?

Mr. Spina stated well if there's, if we meet next week, let's say and we still have to resubmit with comments and we resubmit kind of right away next week, would we be able to be on the 13th?

Jan Johannessen stated there may not be a need to resubmit, maybe it's just getting together with Steve, going through the open items, having a meeting with the ZBA and you know we can discuss at the...

Chairman Hertz stated let's do this, let's, I'm going to recommend that we adjourn you to the meeting on the 13th, the 13th or 14th? The 13th. Because we will probably have input that you'll have both from your staff meeting and from the joint meeting with Zoning Board. If nothing else, we can just, if it doesn't look like there's anything to substance, we can simply adjourn that to the meeting after that but let's give you the opportunity to be on that agenda just in case there's some items we need to sort of check boxes on. And I think you know we're going to want to see if we can push this public hearing to a conclusion at some point, so I want to see if we can get all those open items kind of checked off and I think we've had the bulk of the information that we're going to be receiving. So unless we receive substantive comments from Bedford in this, you know, I don't, we're not getting any more input from the public at this point so we're narrowing down your window quite significantly. **So I would like to make a motion, so I will make a motion that we adjourn you to the meeting on October 13th, do I have a second on that?** Assuming that's good for you, Mr. Spina.

Mr. Spina stated that's good for us, we just, we may be on the Bedford agenda that same night, we may have to split...

Chairman Hertz stated you can always ask for an adjournment prior to the meeting.

Mr. Spina stated maybe what will happen is I will go to one and someone else will go to the other meeting and maybe we'll have updates before we get on to actually present. If we can get on their agenda.

Chairman Hertz stated we'll put you on, so I've made a motion that we adjourn to the 13th, do I have a second?

Mr. Polese seconded the motion.

Chairman Hertz stated Michelle, would you poll the Board?

UPON ROLL CALL VOTE:

Chairman Hertz	-	aye
Mr. Polese	-	aye
Mr. Bonforte	-	aye
Mr. Vigliotti	-	aye
Vice Chair Bainlardi	-	aye

The motion carried by a vote of 5 to 0.

Chairman Hertz stated alright, before we let you go, are there any other things we have to do with this application, Jan? I guess you'll handle that at the Staff meeting...

Jan Johannessen stated Steve, if you can just reach out to Michelle and coordinate a date for the Staff meeting.

Mr. Spina stated will do. Thank you everybody.

Chairman Hertz stated the next item on the agenda, 77 Smith Avenue has asked to be adjourned from this agenda. So the next item on the agenda after that is VKS Architects for Fortunato Cambareri, 151-155 Lexington Avenue. We have a memo from Jan, we have a memo from VKS and we have a site plan from VKS revised August 31. Jan, would you just take us through this and we'll have Viktor present.

**C. VKS Architects for Fortunato Cambareri – 151-155 (147) Lexington Avenue
PB2019-0387, SBL 80.32-2-10
Site Plan**

Mr. Vitkor Solarik of VKS Architect was present.

Jan Johannessen stated sure. The application has been before the Board on a few occasions, it's 147 Lexington, about .3 acres of area, it contains 4 buildings, one a restaurant, the rest residential multi-family dwelling units. And the applicant has applied to the Planning Board for a Change of Use and Site Plan approval to legalize some existing apartments and to make improvements to the site. There have been a number of comments by the Board and Staff, I personally feel like the applicant has addressed the lion's share of those comments. Our memo really just indicates two remaining comments, one dealing with the materials for the dumpster enclosure, it's going to be located on the northerly property line and the other just some screening and landscaping comments along the northerly property line dealing with the stockade fence and arborvitae plantings. I credit the applicant for responding to all those comments, I think it's a better plan than it originally had been.

Chairman Hertz stated thank you. So with that I'll have the applicant walk us through what changes have been done.

Mr. Solarik stated well good evening, thank you very much for hearing us tonight. It has been a long meeting and I'm everybody wants to move as fast as possible. The letter that we submitted with this latest submission, we tried to respond to the comments that we previously obtained from the Building Inspector from Kellard Sessions and from Rotfeld Engineering. If you want I can go through them but basically we understand all of the variances that are required and we'll proceed with the application to the Zoning Board, we were kind of expecting to get this sort of, the recommendation to move with that from the Planning Board but it is my understanding that we can apply at this point and sort of complete that process and then come back to you as necessary to complete the approval by the Planning Board.

Chairman Hertz stated that's accurate. We can also approve you subject to the variances being given but I think in this case, the variances are significant and we'd want to know that the Zoning Board agrees. And I would suggest that you know, that that, we vote internally or discuss at least at this meeting, when do you plan to be in front of the ZBA? Do you know?

Mr. Solarik stated well I'm going to try to get to the next ZBA that's available. Besides Jan's comments, which I have no problem with and I will do that accordingly. The one thing that's outstanding is the photometric for the site lighting and we have been able, although with some difficulty to get a lighting designer to actually work with us and help us in that process. So I would expect that the next time we see you, we definitely have that and we'll probably submit the same thing to the Zoning Board and they might also be interested in hearing that if it's part of their review.

Chairman Hertz stated Jan, can you go over what the variances required on this application are?

Jan Johannessen stated they're really, there's a number of them and they're specified in a memo from Peter Miley, which I don't have in front of me.

Chairman Hertz stated okay.

Mr. Solarik stated I can try to summarize it if you...

Chairman Hertz stated please.

Mr. Solarik stated so there's a variance required for building C, which is the one in the back that has had a studio apartment there for years and currently has never been approved and because it's above a garage, it requires a variance.

Chairman Hertz stated right.

Mr. Solarik stated the next variance is for the development coverage. Where we are currently at 77.5% coverage, we're down from about 99% but we're still 7.5% over the maximum. There is 20 parking spaces requirement according to the tabulation and the uses and we're really able to accommodate only 12 and that's kind of done at the expense or for the benefit of the reduction of the development [coverage].

Chairman Hertz stated right.

Mr. Solarik stated so we tried to kind of get somewhere in between and so there is a shortage of parking spaces.

Jan Johannessen stated Viktor, on that particular issue, I think that you had once shown a greater number of parking spaces but the Board felt that...

Mr. Solarik stated that is correct.

Jan Johannessen stated the greater greenspace would be more important than parking.

Mr. Solarik stated right, it's been a struggle to strike the balance...

Chairman Hertz stated I think its going to be valuable that we provide a letter to the Zoning Board indicating that this was done at our behest because we believe it's appropriate and makes a better site plan. So I want to make sure that when you are going to the ZBA, that this Board has agreed that we've gotten the Site Plan correct, so that we can make, we can really provide that support letter.

Anthony Oliveri stated one other thing, I think that has to be clarified, is I'm not sure the aisle width was clearly dimensioned on the back parking spaces. They may be substandard, so I'm not sure if that would need a variance as well.

Mr. Solarik stated thank you Anthony for pointing it out, I was going to get to it actually. There's two more variances required, one is for the parking space width where only 4 parking spaces can be 9 ½ feet wide and then the drive aisle, it's dimensioned around the corner of building B but actually I haven't shared the screen...Can you see it?

Chairman Hertz stated yes.

Mr. Solarik stated so the area driving around the northern, the northwest corner of building B which is this shaded here over here, is limited to about 20, 21 feet, depends on where you measure it from. The backside, likewise is somewhat limited, there's going to be about 21 feet, so that as correctly pointed out by Anthony, is a sore point.

Chairman Hertz stated Anthony, have you had a chance to review this for car maneuvering?

Anthony Oliveri stated I think that the, I don't know that Viktor has submitted a car maneuvering plan. I think we were close on the 24 feet in the back, I think it was 22 feet. I think he's probably going to be able to show that a car can get out, maybe with an extra maneuver or two for sure.

Chairman Hertz stated the only, I'm just slightly concerned about space 12 because it looks like we've added a, I can't tell what that item is as you back up just to the, I guess that's to the south on that kind of, well I think it's a capped well.

Mr. Solarik stated that's actually a capped well and it...

Chairman Hertz stated okay, so nothing that would interfere with car maneuvering.

Mr. Solarik stated no, actually, that's an existing railroad tie box, which I would reduce as tight as possible around the well to allow that parking space 12 to swing out into that turn around...

Chairman Hertz stated yeah because I think that's the only one that's going to be severely compromised. Well not severely compromised but it's...

Mr. Solarik stated somewhat.

Chairman Hertz stated its [inaudible].

Anthony Oliveri stated right, like I said, you can show the maneuvers, you're not doing it in, you know two maneuvers though, so it's something I think we kind of realized with those rear spaces from the beginning.

Chairman Hertz stated right, yeah, I just wanted to make sure we weren't putting, you weren't putting a planter or something else in that space that would further limit the ability to use.

Mr. Solarik stated no.

Chairman Hertz stated okay.

Anthony Oliveri stated the other thing, Viktor, why you're showing, you're showing a 20 foot deep space in the back instead of 18 ½ [feet], is there a reason for that?

Mr. Solarik stated they are 20 foot deep, you are right.

Anthony Oliveri stated so you should just look at that see if, that obviously is going to add a little bit to your aisle width.

Mr. Solarik stated I think the reason was the retaining wall doesn't actually allow the front of the car to overhang...

Anthony Oliveri stated right but 18 ½ would include the overhang of a car.

Chairman Hertz stated yeah, it should include that as well.

Anthony Oliveri stated yeah, if you're worried about impact with the wall, you could put wheel stops or something like that but usually 18 ½ is sufficient for the full car...

Chairman Hertz stated unless you're parking suburbans.

Anthony Oliveri stated at least that's the code that calls for 18 ½, so that obviously helps your aisle width, it's a matter of striping.

Mr. Solarik stated okay.

Chairman Hertz stated okay, so what's next for this application? It sounds like you need to get before the ZBA, likely you're going to need a recommendation or it would benefit you to have a recommendation from the Planning Board over to the ZBA that these changes have been made in consultation, by the way that 20 feet is the same thing in spaces one and two, so you may be able to gain a little bit there as well. Sorry, so...

Whitney Singleton stated can I ask Jan, where are we with SEQRA, have we, we have not adopted a neg. dec. or taken any action, have we?

Jan Johannessen stated I think it's a Type II action under SEQRA Whitney, there was no SEQRA obligation on the Planning Board's side, there may be on the ZBA side.

Whitney Singleton stated so Viktor, the Planning Board cannot act, oh crap, the Planning Board cannot act without an environmental assessment form being prepared...

Jan Johannessen stated you mean the ZBA.

Whitney Singleton stated I'm sorry, the ZBA, it's getting late, sorry. The ZBA, so make sure that's include as part of your application to the ZBA.

Mr. Solarik stated okay, good to know.

Chairman Hertz stated alright, Board members, are there any other, if you can go back to full screen or rather the un-zoomed version of that. Are there any concerns or questions on this site plan that we want to continue to give input to or have concerns about? I think you know, we've certainly been out to the site, we've seen the site plans, we've seen, these are now revised site plan, they appear to have addressed a great deal of our comments but if there's some more things that you think we can do to make this better, this is the time. Alright, hearing none...

Jan Johannessen stated Doug, just looking at the site plan, that space that Viktor was pointing to, where space 12 would back into...

Chairman Hertz stated yes.

Jan Johannessen stated I'm just wondering if that would benefit from some striping just in case, so it does appear to be a parking space in the field and then if its occupied...

Mr. Solarik stated this area over here?

Jan Johannessen stated 12 would have a hard time backing out if there was a car there.

Chairman Hertz stated yeah, just some yellow like, do like cross hatchings...

Mr. Solarik stated no parking here.

Chairman Hertz stated yeah, so its clear that wasn't a parking space. That's a good point. Alright, well it sounds to me like our next action is to ask Whitney to draft a letter to the ZBA, given the Planning Board's endorsement for the site plan as it stands and expressing the amount of work that's gone into it and the compromises that have been made that we think this now makes the best site plan that can achieved on the site.

Whitney Singleton stated so just in that regard, not having a list of variances before me, not having an application before me for those variances. I know invariably one thing that's going to come up is whether or not you're going to want it, whether its advantageous to have the applicant seek a variance from the spaces or whether you'd like to double count spaces based on the mixed uses of the property.

Jan Johannessen stated I think that we had a hard time demonstrating that the joint use of parking spaces was going to work and that there wasn't really any off-peak nature that...

Whitney Singleton stated between the restaurant and the, I mean, that's perfectly fine, just understand and I know Jan knows this and I'm just saying it for the benefit of the Board, once you give them the variance, that's permanent.

Jan Johannessen stated yeah.

Whitney Singleton stated so if they move forward with a more intense utilization of the property, you're not going to have any modicum of control over them.

Jan Johannessen stated I just don't think they can prove it out, I don't think it passes the red face test, that you know when the restaurant is busy, people are home parking, it just doesn't work. There's no ability of land bank on the property so...

Chairman Hertz stated I'm not sure we have much, I don't see this as a joint use application, they're just way to similar in their peak uses. So yeah, I mean, Whitney, do you want to wait until the applicant has provided an application to the ZBA and we understand the you know, the precise nature of all of those variances.

Whitney Singleton stated yeah, that might, I mean, that doesn't necessarily have to preclude you making a recommendation, you're going to have another meeting before the Zoning Board is going to meet. So perhaps, so perhaps Viktor can copy you on his application to the ZBA and it can be reviewed under correspondence at your meeting of the 13th and you can give any endorsement or opposition or qualified endorsement at that time.

Chairman Hertz stated that sounds like a plan. Viktor, does that work for you?

Mr. Solarik stated absolutely.

Chairman Hertz stated so it sounds like we will expect to get some communications from you prior to the next meeting, we're going to look for your application to the Zoning Board, assuming that we haven't had a change of heart. We'll expect that at our next scheduled meeting to make a recommendation to the Zoning Board in support of your Zoning application. The ZBA will need to adopt a SEQRA findings and ultimately endorse your variances and then you'll come back to us for site plan approval.

Mr. Solarik stated okay.

Chairman Hertz stated is that accurate Jan?

Jan Johannessen stated yes.

Chairman Hertz stated we have a plan. Thanks very much Viktor and if there's anything that changes, please keep us in the loop.

Mr. Solarik stated thank you.

**D. Charisma Associates, LLC -19 Kensico Drive
PB2015-0307, SBL 69.50-1-5
Amended Site Application**

Mr. Pietro Catizone of Catizone Engineering and Mr. Doug Ulene, Esq. were present.

Chairman Hertz stated the next item on the agenda is Charisma Associates, 19 Kensico Drive. They are on for amended site plan application, we have a draft resolution before us. This is the project as Jan had mentioned in the work session that we have approved multiple times before and very, very similar configurations. They've changed their, as we noted in the work session, they've changed their diagonal parking in the rear to come in from the other side. And Jan, do you want to just finish up anything I missed there.

Jan Johannessen stated sure, as we discussed in the work session, the Board has approved this previous application, I think one two previous occasions. It is on the agenda for site plan approval, 19 Kensico Drive, the property consists of two tax parcels, those parcels are going to be merged as a result of the of the application, [inaudible] condition of the resolution. The property is developed with a one-story building, it's used for the storage and detailing of motor vehicles for delivery to the car dealership. The site plan was originally approved by the Planning Board back in 2007, that's the site plan of record. That site plan showed a total of 23 indoor vehicles lifts and 6 interior parking spaces and 3 exterior parking spaces. The applicant had installed without approval 7 additional indoor lifts and they're seeking retroactive approval for those lifts, they're also proposing to expand some landscaping beds and modify curbing and traffic circulation to I think, for the benefit of how the site works and kind of the reduction in, what's going to be a reduction in development so that the development coverage is compliant, we mentioned it in the work session, access to this property is through the adjacent property to the south, Brooks Brothers the cabinet maker and that site and this site exits on the north side of the building and that driveway, the exit driveway is going to be reduced in width to accommodate the larger landscaping bed on the north side of the [inaudible]. It was mentioned that the crux of the application hasn't changed since our prior iterations and the resolution and its conditions are substantially similar to past versions.

Chairman Hertz stated very good. So the applicant is here, welcome. Do you have anything you think we need to add to Jan's narrative?

Mr. Catizone stated I think Jan described the project pretty accurately, we've reviewed the resolution, we don't see any issues or typos or anything like that in the resolution. Unless there's specific questions, I don't have anything to add.

Chairman Hertz stated Board members, do we have questions with regards to the site plan before us and the resolution or the draft resolution that's in your packet?

Mr. Polese stated I do not.

Chairman Hertz stated alright, hearing very little and as we have seen this application quite a number of times before and having approved it before. So we have a draft resolution before us, it is just for site plan

approval of 6 pages, it recites a couple pages of whereas' and then some conditions to be satisfied, starting in on page three we go into the conditions, they're fairly straight forward. Other conditions starting at number 18, I just want to make sure that the applicant is familiar with these all really relate to how you've explained to us that you're planning to use the site, outdoor storage of vehicles is prohibited, sale and service of vehicles is prohibited, yeah, good luck with that, et cetera, et cetera. That really, those conditions 18 through 33 really constitute how you're going to use the site. So if you are good with those conditions, I am going to say, I'm going to ask for someone to make a motion that we approve this site plan.

Vice Chair Bainlardi stated I make a motion that we grant amended site plan application approval for Charisma Associates, LLC, 19 Kensico Drive, PB2015-0307.

Chairman Hertz stated thank you, do I have a second on that motion?

Mr. Polese seconded the motion.

Chairman Hertz stated and he's unmuted. On the question? Are there any questions or comments from members of the Board?

Jan Johannessen stated was that Bill that seconded?

Chairman Hertz stated yes.

Vice Chair Bainlardi stated yes.

Chairman Hertz stated alright, okay Michelle, would you poll the Board?

UPON ROLL CALL VOTE:

Vice Chair Bainlardi	-	aye
Mr. Polese	-	aye
Mr. Bonforte	-	aye
Mr. Vigliotti	-	aye
Chairman Hertz	-	aye

The motion carried by a vote of 5 to 0.

Chairman Hertz stated thank you very much.

Mr. Catizone stated thank you, have a good night.

Chairman Hertz stated yes, good luck once again.

Mr. Catizone stated thank you.

Mr. Ulene stated thanks.

**E. Frito Lay Distribution Center – 1 Morgan Drive
PB2020-0401, SBL 80.55-1-1
Site Plan**

Mr. John Loveless, Esq., was present

Chairman Hertz stated alright, thank you, the next item on the agenda is Frito-Lay Distribution Center, 1 Morgan Drive. They are before us on site plan, we have a memo from the Building Inspector, memos from the applicant, a site plan application, et cetera, et cetera, a full EAF and site plan by Gallin Beeler. Jan, would you just introduce this and then we'll let the applicant present.

Jan Johannessen stated I didn't provide a memo for this application but I'll give you kind of an overview.

Chairman Hertz stated please.

Jan Johannessen stated the application is for Frito-Lay at 1 Morgan Drive, there is a site plan of record that dates back to 1989. There is are some discrepancies, minor discrepancies between the site plan of record and what exists today, most notably, there's some additional impervious surfaces that are on-site today that weren't shown on the site plan of record and those are shown on the site plan that the applicant submitted in yellow, light yellow indicates additional impervious surface, they still are compliant in their overall

development coverage and building coverage, its some little [inaudible] from what was constructed to what was approved. There was a minor change of use, there was a loading dock space with four interior loading dock spaces, that's also shown in yellow on the site plan, that's been converted to maintenance garage and it sounds like its used by a part-time mechanic, a couple days week, and he does repairs like brake replacement, oil changes, diagnostic work on the delivery trucks.

Chairman Hertz stated okay.

Jan Johannessen stated I think there's a wall, a fire rated wall that needs to be installed, so they're in here for a change of use for that loading space to a maintenance facility and then to clean up the site plan, you know those changes that have occurred from what was originally approved.

Chairman Hertz stated okay because the, on the formal application it just lists site plan.

Jan Johannessen stated I saw that they had checked every box on the application form that I saw, it's on for site plan and change of use.

Chairman Hertz stated site plan and change of use, so Michelle we should make that note on future agendas.

Jan Johannessen stated yeah, I met with the applicant and Peter Miley, pre-application, meeting, those are the notes that I have for site plan and change of use.

Chairman Hertz stated thank you very much. Alright, I'll open it up to the applicant to present.

Mr. Loveless stated good evening, my name is John Loveless, I'm an attorney with the law firm of Blakely, Platt & Schmidt, on the call with me tonight is our architect Frank Spataro with Gallin Beeler and Will Dolce of Rolling Frito-Lay. You know, that was a pretty good summary of what we're here for. It appears that right about the time this approval was issued, 1989, the this building as best as we can see, was built as it exists today and has been used as that since that time. Because of the fire rated wall, it came to our attention that it was time that is appropriate to legalize it, get the appropriate site plan in effect. There is a minimal amount of additional impervious surfaces, there's one correction on the upper right section, that's additional, that's actually addition pervious surface not impervious surface, so there's, it's about 16, just under 1,700 square feet of additional impervious surfaces. We're still within the permitted limits. The issue really before you now is the initial transfer of the three loading docks into a maintenance garage. To the extent, we can properly create that wall and use that as a light maintenance, it's used one day a week by a mechanic who works at a number of sites, he likes to touch up the trucks as they come and go and we just want to make sure that we're in compliance with the Code, with the rules of the Village and that's why we're before you this evening.

Chairman Hertz stated okay, that sounds pretty straight forward. Okay, so we have a memorandum from Peter, now I don't, Michelle, in my package, I do not have all the items listed in the agenda, I don't know why that's the case.

Jan Johannessen stated the application is towards the end Doug, I think after the photographs and such.

Chairman Hertz stated I was looking for Pete's memo, that's what I can't find. Okay. Jan, do you have access to the Peter Miley memo?

Jan Johannessen stated I don't have it at my fingertips, I could search for it.

Chairman Hertz stated well we got some input on this but I don't see it, from the Building Inspector.

Anthony Oliveri stated I don't have Peter's memo and from my perspective and the increase in impervious areas, look like on the original site plan, there was no requirement for stormwater detention at the time and it looked like from the aerial views that were provided from at least 1993, you know, they can document that those areas were built, it appears to be the same curbing. So my assessment would be that no additional stormwater detention would have been required for those spaces, the stormwater all directly goes out to the system in the roadway. So that would be the only concern from my perspective from an engineering point of view, it doesn't appear that it would be a requirement.

Chairman Hertz stated and I see that Bill is still on the call, Bill Seegmuller. Would Bill have that information, Peter's memo. Okay. Bill, are you able to synopsise what's in the memo because I don't have it.

Mr. Seegmuller stated can you hear me?

Chairman Hertz stated yes we can.

Mr. Seegmuller stated I have to take a look. I can tell you what the comments are at the end... It says the proposed site plan does not reflect the approved plan from 1989, sidewalks have been added to the property and additional 4,278 square feet of impervious surface including 7 additional parking spaces have been added to the site when compared to the approved site plan. The property is located in the Designated Main Street District and may be subject to DEP approval. The Building Department defers to the Village Planner for site plan compliance, environmental compliance, lighting and landscaping. The Building Department defers to the Village Engineer for all civil work, drainage and stormwater management. And he lists the approvals required, site plan approval, change of use and Zoning Board of Appeals.

Chairman Hertz stated why, Jan or Anthony, do you know why it would need ZBA, what variance would be required?

Whitney Singleton stated Chairman?

Chairman Hertz stated yes?

Whitney Singleton stated I have not had an opportunity to see Peter's memo yes but I think he's stating that the use that existing at the site is preexisting nonconforming and therefore any expansion of that use would require a use, a variance.

Chairman Hertz stated meaning the expanded use of that garage?

Whitney Singleton stated yeah.

Chairman Hertz stated or the creation of that garage space requires a variance.

Whitney Singleton stated correct.

Jan Johannessen stated that use is now permitted in the RDX.

Whitney Singleton stated correct. That's what I'm advised. Quite frankly, that's something that the applicant brought to my attention, I have not seen the memo yet and I would like an opportunity to review the application, I haven't, you know. I'd like to review and go over it with Peter and Jan.

Chairman Hertz stated okay.

Anthony Oliveri stated I think we should all do that because one thing that was in Peter's memo was that 4,000 square foot increase, I think the plan shows about 1,698, at least that's what it's stating, I didn't measure it but in terms of DEP approval, they would have to go to DEP to ask them if they need approvals, they may want to look at some of the historic aerial photographs and determine that but like I said, it looked like there was no stormwater detention required at the time based on the existing plan. So we can document whether there was code requirement for that at the time, so that's something we should get together with Peter on.

Chairman Hertz stated alright, so do you need a Staff meeting with the applicant or do you just need to do more internal review first.

Anthony Oliveri stated I think just a meeting with our staff at first.

Chairman Hertz stated okay...

Vice Chair Bainlardi stated for scope purposes, it sounds to me like the first issue is establishing factually what was added subsequent to the original approval and getting on the same page there, right?

Anthony Oliveri stated and that's usually done by the Building Department, so Peter may have some ideas to that effect. So I'm just, I wasn't involved in any conceptual meeting on this so I'm not sure, that's why I'm saying it would be good to have that meeting and get together on that.

Mr. Spataro stated Anthony, can you hear me?

Anthony Oliveri stated yeah.

Mr. Spataro stated hi, this is Frank Spataro, I think the number that Peter arrived at 4,278 was he, or someone in the office, just added all of the yellow areas together, not fully understanding that one of those areas was new pervious surface.

Anthony Oliveri stated okay, yeah, you mentioned that there was maybe a spelling error or something on the plan, there was an offset of some pervious surface, right?

Chairman Hertz stated you have to use a different color, sorry.

Anthony Oliveri stated whether it's 4,000 or 1,700, Peter mentioned the DEP in his memo so you may have to get a determination from DEP directly. I'm not sure if when that was built, if it can be established when it was built and if the Designated Main Street Area was in effect at that time, I'm not sure, that all has to be kind of hashed out.

Chairman Hertz stated okay, sorry...

Mr. Spataro stated I'm not sure if you saw this back here, it might have been light when it printed, but here is an image from 1990 before the site was developed and here's a picture here when it was built in 1993 and you can see it's got the angle here to the landscape, it's not yellow indented parking here, this is one of the reasons we believe it was built as drawn in the current plan.

Anthony Oliveri stated I'm just seeing the site plan, I don't know if you brought up something else.

Mr. Spataro stated oh, you're not seeing the aerial image?

Anthony Oliveri stated maybe whoever is sharing the site plan has to un-share it.

Mr. Spataro stated okay, let me try again. Can you see that?

Chairman Hertz stated yes.

Mr. Spataro stated so this is reference to, this is an aerial image taken in 1993, you can see here, here's the angle, there's no indented parking here, there's parking here and then if you go back to an aerial from 1990 before the site was development, there was nothing there. So we think in that three year period, it was built as shown in the current plan.

Anthony Oliveri stated was this established with Peter? I mean I wasn't involved in those meetings with Peter, right.

Mr. Spataro stated from what I recall, Peter said there weren't a lot of documents on the site, he had mentioned we could go and do some research on aerial images and maybe find something like this which we...

Anthony Oliveri stated so its a matter of getting together and just reviewing this I think on a Staff level. I don't want to speak for Peter.

Chairman Hertz stated yeah, I think Peter is going to need to make that determination. But and you've provided htat documentation to him?

Mr. Spataro stated yes, that was in the back of the letter from John's office.

Chairman Hertz stated yeah, yeah, okay.

Anthony Oliveri stated I think there were two aerial views that were submitted in the packet.

Mr. Spataro stated correct and another one from 1995 just a little crisper.

Chairman Hertz stated okay, are there questions from Board members on this application?

Mr. Vigliotti stated I have a question, Doug. Can you hear me?

Chairman Hertz stated yes.

Mr. Vigliotti stated okay, so they, the applicant wants to remove two of the loading docks and create this mechanics shop, is that correct?

Mr. Spataro stated already, four loading docks...

Mr. Vigliotti stated you're moving, was there four loading docks originally or five, that you're trying to convert into the vehicle maintenance shop?

Mr. Spataro stated there were four in this location and its being converted to a one bay service/vehicle maintenance shop.

Mr. Vigliotti stated so the question I have and there's been some history that tractor trailers parking in the drive-thru lane over the years and I think citations have been given to the property owner. So the question I have is you're not loading and unloading with the frequency that you had been? Is this going to cause a backup in the travel aisles because there's only going to be two bays left as opposed to four?

Mr. Dolce stated I can take that.

Mr. Loveless stated okay Will.

Mr. Dolce stated this is Will, I'm the region facility manager. So this mechanic shop, I believe it was just built like that in 1993, so it's always been like that. However, we did have a reduction of trucks going to the building. Originally it was a distribution center with lots of inventory inside and we had to maintain those level of inventories, where now it's a PEC where all the product basically comes in and is offloaded and sent to the stores within 24 hours. So we don't have any extra trailers stored in the parking lot...

Mr. Vigliotti stated okay.

Mr. Dolce stated there's usually one trailer per day, one, yeah, about one trailer per day to unload and that same product is unloaded, maybe four o'clock pm and it's on a truck by 2 o'clock in the morning to go to the stores.

Mr. Vigliotti stated alright, so things have changed with distribution, okay. That answers my question, I appreciate that.

Chairman Hertz stated yeah, so I think one of the things that we're going to want, is just to make sure that when we do change the site plan, that we have a narrative that goes along with that that will justify what Mr. Vigliotti just got into which is you know, how things have changed, what your deliveries look like at the site, so we can make sure that you know, the amount of loading dock space is appropriate and we're not inadvertently creating an issue.

Mr. Dolce stated absolutely and in that narrative, I believe we submitted it with that information in there.

Chairman Hertz stated yeah, I did look at that, I just want to take another look at that and make sure that's fully supportive of what's actually happening on-site.

Mr. Dolce stated okay, perfect.

Chairman Hertz stated but we'll also review that, there was a big package this week, so I didn't do the level of reading of every word, that I should have, I apologize.

Jan Johannessen stated Doug, Peter referenced in his memo landscaping, deferring to us on landscaping. I did look through the site plan of record, that package that was approved. There was a landscaping plan from you know '89, so what we'd usually do in this case is just go out with the plan and make sure things are still kind of what they're approved to be and if there's missing plants [inaudible] and it's natural over a period of time that they might be missing some plants if they get reestablished to be compliant with the landscaping plan. We discussed that with the applicant during our preconference and make sure we get out there before the next meeting around the landscaping.

Chairman Hertz stated okay, so because this is a change of use, is there a public hearing involved in this?

Jan Johannessen stated no.

Chairman Hertz stated no, okay. Alright, process wise, what's, what are next steps for this application?

Jan Johannessen stated we'll have a staff meeting, reconvene with the applicant, and back on an agenda. I think we need to clarify with Peter the extent of the variances.

Chairman Hertz stated yeah.

Jan Johannessen stated and that application can be made by the applicant simultaneous going through the site plan review.

Chairman Hertz stated and then we have to get clarification from DEC, DEP?

Jan Johannessen stated yup.

Chairman Hertz stated alright...

Vice Chair Bainlardi stated I think there's definitely a questions as to the variance as to use. I mean, is this an expansion of preexisting nonconforming use or is this just an accessory to the existing use that's actually been taking place all along? So I think the fact that's probably irrelevant but at the end of the day, that's a Peter decision.

Chairman Hertz stated okay, it sounds like we have a plan going forward, you guys will meet with Staff, we'll get this all going. Jan, you'll coordinate a review the site in regards to landscaping and...

Mr. Spataro stated I have a question for Jan, if that's okay.

Chairman Hertz stated please.

Mr. Spataro stated so I've updated the site that I'm sharing with you now to show the current trees located on the site. I'm not an arborist and I don't know what their species are but it is pretty accurate to the locations of them. Is this sufficient or do you want more detail than this?

Jan Johannessen stated I don't think you need to submit anything additional. I'm going to go to the site with the approved landscaping plan and just compare it and report to the Board.

Mr. Spataro stated okay, very good.

Jan Johannessen stated there's a lot of foundation plantings and shrubs and perennials that maybe won't get picked up. If you're showing the trees that's fine but I just want to kind of just get an overview of what's out there and then I'll report on any inconsistencies.

Mr. Spataro stated okay, thank you.

Jan Johannessen stated [inaudible] but I'll take a look.

Chairman Hertz stated okay, alright, so this is relatively straight forward but there are a couple of pieces to it and we have to make sure that drainage and all of the impervious does comply. Alright, we have our marching orders, we will see you when you're next before us, when you've gone to that next step. Alright, thank you very much, next and last...

Mr. Loveless stated goodnight all.

Mr. Vigliotti stated Doug, I have a question.

Chairman Hertz stated yeah, yeah, please.

Mr. Vigliotti stated can we get a status, what's going on, we had an application before us for what seems like over a year or so, the car storage across the street on Morgan. It's, can we get a status where it's at?

Chairman Hertz stated weren't they back before us...

Mr. Vigliotti stated probably 6, 8, 10 weeks ago. I'm just trying to get a sense, you know, is this still an active application.

Chairman Hertz stated I don't have that answer.

Mr. Vigliotti stated maybe we can get an answer for the next meeting, it's kind of getting late tonight or tomorrow.

Chairman Hertz stated Jan or Whitney, do you have any info?

Jan Johannessen stated there's an escrow issue...

Whitney Singleton stated there's not escrow issue, they've paid their escrow. They've been pulled off apparently for another reason, I'm not really clear what it is.

Mr. Vigliotti stated maybe we can get a status at some point, maybe for the next meeting, just to kind of get a sense where it's going.

Chairman Hertz stated that would be great, if we could. The last item on the agenda is Homeland Towers. As was discussed earlier, I'm an applicant on another application on the similar property, sorry, I'm using language. So Vice Chair John Bainlardi will be handling this application, thank you.

Jan Johannessen stated I'm recused for reasons stated previously, so I'm going to leave the meeting.

Whitney Singleton stated see you Jan.

Vice Chair Bainlardi stated thank you, have a good night.

**F. 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 Gaudioso of Snyder & Snyder and Mr. Klaus Wimmer of Homeland Towers were present.

Mr. Vigliotti stated John?

Vice Chair Bainlardi stated yes?

Mr. Vigliotti stated do you anticipate this going on for some time because you know it's after midnight.

Vice Chair Bainlardi stated no, I want to try to, let's hit what we need to hit and just get it done.

Mr. Vigliotti stated yeah, I want to do what just and right for the applicant as well as our self as the Planning Board.

Vice Chair Bainlardi stated let's accomplish what we can in a relatively expedited fashion here and then we'll go from there. Alright, so this is the Homeland Towers Mount Kisco Wireless Telecommunications facility application, 180 South Bedford Road, site plan and special use permit. We have a memorandum from or a letter from Snyder & Snyder, the counsel for the applicant, dated September 9, 2020. We have a letter from the Planning Board's consultant, HDR, Michael Musso, dated September 18th with initial review comments. We have letters from neighbor at 2 Sarles Street, Rex Pietrobono, dated 9/9/2020 and 9/21/2020 with comments and concerns as well as a letter from a neighbor, Nancy El Bouhali, dated 9/17/2020 which addresses both the cell tower and solar application. What I would like to do is hear from Michael Musso, just Michael, I'm going to ask you, if you would kind of summarize or just go through quickly here, if you can, your memo for the Board and for the benefit of the applicant, if the applicant has not received the memo, why don't we just ask. Has the applicant, is the applicant in possession of the memo?

Mr. Gaudioso stated yes, we do have that memo, thank you Mr. Chairman.

Vice Chair Bainlardi stated Mike, if you would spend some time here with us just to kind of take us through your initial impressions and concerns and any direction you may want to offer to the Board at this time. You're on mute... And Mike, just before you do that, I did mention this during the solar application, this Board has made the determination from a SEQRA review process that this application is going to be reviewed simultaneously, concurrently with the solar application for purposes of SEQRA and because of the recusal of Jan and Kellard Sessions as Planner here because of Kellard Sessions prior and ongoing of representation of Homeland Towers, we've retained BFJ to act as the SEQRA review and basically perform the, their planning consulting services for both applications. So they'll be ultimately responsible for working with the Board to draft any findings.

Mr. Musso stated appreciate that acting Chair. Mike Musso here working on behalf of the Village, thank you Board member and members of the public that are still around. Retained by the Village to do technical review of the application, I'm going to keep it relatively brief, I have been in receipt of the application materials that were filed in August. To your point, acting Chair, I was aware of the concept of combined review for both applications on the subject property, just to remind the Board members our scope is focused on the wireless application from Homeland and Verizon, however we're no stranger to site type of

issues and you know of course defer to the Board and also to Frank Fish and Simon Kates on you know, the coordination that might be needed and we can offer. But you know we did prepare a task order and a scope of work and that's what we moved into, I've reviewed the application materials in terms of your Code and I prepared, recently last week, dated the 18th, probably the first correspondence that we'll put in, first of a few correspondences with this. It's a, I titled it a completeness review and that's looking at the Code requirements, looking at the application materials against the Code requirements, also on things that we would normally look at for a cell tower. So it's really, two of the questions out there to the applicant, the long and short of it is we surmised the submittals, there is a cover letter with nine attachments to it that included Planning Board forms, a checklist, some data information from the property, a detailed set of construction drawings, 17 sheets with survey and not only the proposed compound and the tower, 140 foot tower is on the table at this moment but also the issues or the items related to access, fencing, security, things like that. So this type of memo that distributed on the 18th of September is really to get clarity on certain things but also to request information that wasn't provided. The important things that were provided are radio frequency emissions analysis report, it's also good to see that on record and a justification report in terms of coverage and capacity and service. So these are things that we've looked at, we don't have part of the review of the tech memo but everything was looked at to determine completeness. I do have a note in our memo, you may have seen alluding to the solar application and the aspects with these two proposed actions on the same property but essentially the punch line of this is we feel the application from Homeland/Verizon is incomplete at this time. We did put together a list, I guess I touched on 17 items, some of them were clarifications I think relatively minor, some requested some additional work both in the field and on the desktop. One of the things I wanted to throw out there and I heard this in the earlier applications regarding meetings and site visits, I do need to visit the site with the applicant just to get a feel of the property, I've certainly looked at it on maps and street view, I'm familiar with Mount Kisco as you know, having worked on some other wireless facility applications but you know one of the things is to really get a feel of the subject property itself and also looking and identifying which I started to do, potential alternate sites and in terms of the Code, you do have an overlay district, which this is proposed outside of. So I suggest that this something that I can coordinate with the applicant representatives before the next time they would appear before you and if that's permissible, I ask you to comment on that. I think just after my two minute review of what we submitted, one of the key aspects is a balloon float and photo simulations and those are what this facility would look like and there has been some visual analysis, there's a view shed map, you may have seen in the submittals, there's also cross sectional views from the nearby receptors or properties, how this, how a line of sight may be evident or not evident. We certainly need to have photo simulations of the facility and that's something I could scope during the site reconnaissance that I'm proposing. We do have some questions about some of the technical information, number one is confirming that there is no tower lighting, where that comes about normally for much taller towers and it's a Federal Aviation Administration order, it's not going to be required here, it's not proposed on the plans but I think it's the applicant's work just to confirm that with the local branch of the FAA. I have some questions that I think are a little more pertinent to the site plan and maybe the SEQRA analysis, the applicant did submit their own SEQRA form on this, as you know. You know things like an emergency generator, any facility or ground based lighting, how utilities would be situated which they appear to be underground based on the current configuration of the monopole. We also want a little more information on the surrounding and on air Verizon sites that would help us understand the application a little bit better and some iterations or some differences in the service propagation maps that are based on modeling. So, I did ask for some alternate height analysis, based on the code, I did also ask for some information on alternate sites but I think that will come together once or during the site reconnaissance which I envision happening in the new future.

Vice Chair Bainlardi stated Michael, when you say alternate sites, do you mean alternate sites on this property?

Mr. Musso stated both. Both on the subject property but also off property.

Vice Chair Bainlardi stated I think the Board had discussed the idea of wanting to look at, as part of the environmental review and the visual analysis, potential locations other than what's proposed on this site so we can evaluate the application thoroughly. The other question I have and maybe some of the other Board members have, I'm not sure I understand what this Board's role, the Planning Board's role is in evaluating alternative sites. Meaning, other sites in the community or the Village of Mount Kisco or outside of that. Is that an analysis that's done by the applicant and then you review and determine whether it's complete or adequate or what role does the Planning Board play in the analysis of alternative sites outside of the 25 acre site on Sarles Street.

Mr. Musso stated yeah, there was an alternative site analysis submitted by Homeland as part of this, I think its incumbent upon me but also feedback from the Board, I've seen that on plenty of municipal application's where we've worked where Planning Board members that know the zoning, know the Code and even if you're not modeling signals from cell towers or other wireless facilities, you may an inkling of what might be a decent site or at least something to look at however, I think it needs to be focused. I don't

think we should send them out and have them do modeling on numerous sites but looking at the Code, looking at preference, there is the overlay district where they've looked at, they were unsuccessful at this point in identifying something that would work within the overlay district and I'm referring to on your, the hatched area on your Zoning map but there could be some other attractive areas. So I think part of that are my questions and the site visit with the applicant, part of that is perhaps my work also, understanding topography, line of sight and where there service need it and I think looking at the propagation maps along 172, there are service problems there, I think many in the community might attest that. But to your point, alternate configuration on the subject property, 180 South Bedford needs to be looked at and we also put out there alternate sites, so I don't think that, I don't think that Board members can't ask those questions or filter them through me to articulate and ask and certainly I'll be looking to identify some to ask about.

Vice Chair Bainlardi stated so I think and I'll open this up to Board members and Staff but I think that having a site walk, including the Board at which your present Mike and the applicant, is the way to go here. I think we all need to get back out there, understand where the current proposal is located on the site and be able to hear you know the conversations that you guys have as you do your analysis [inaudible]. Anybody disagree, I think that's the way to go here and we might as well do this where we're all there together where we can be with our consultant and the applicant.

Mr. Vigliotti stated I agree.

Vice Chair Bainlardi stated okay, I guess scheduling, thoughts, probably a weekend morning.

Mr. Musso stated that would work. I think a question for the applicant and I think perhaps Mr. Gaudioso wants to give an update on his items as well, I'm not sure if the proposal location as it stands now on their site plan, if anything's been staked in the field or not. I don't know if you and Mr. Wimmer have information on that.

Mr. Wimmer stated I can talk to that, Klaus Wimmer with Homeland Towers, the surveyor was out there just recently and it's fairly well marked.

Mr. Musso stated the tower and the compound?

Mr. Wimme stated the compound is fairly well flagged out, it's not staked out but it's fairly well flagged out.

Mr. Musso stated okay, that's good.

Anthony Oliveri stated do we want to do the site walk when the balloon test is arranged?

Mr. Musso stated Anthony, that's what I was going to mention and I think that's a discussion with the Board, it's something that I put into my memo, normally a balloon is floated, your Code doesn't have any requirements but we could certainly scope that with this Board and with the applicant. The balloon test is important because the view shed maps have been provided largely on desktop monitoring, or modeling, I believe, it's always good to see where you know, what the visibility is and that gets back to the point of creating the photo simulations that assists the applicant team to create those photo simulations, so I think there's efficiencies there, it's getting up to a good time of year to do a balloon float and the questions would be if there's any specific noticing to do with that and then maybe schedule it at the same time as the site reconnaissance.

Vice Chair Bainlardi stated it just begs the questions, are you doing one balloon float for this one location or are we going to try to identify someplace else we'd also like to see the balloon float.

Mr. Musso stated that's, the application at hand is of course for this address...

Vice Chair Bainlardi stated no, I don't mean not on the subject property. I mean, is there another location on the 180 South Bedford Road...

Mr. Musso stated oh, I see.

Vice Chair Bainlardi stated that we should be looking at as an alternative to where the applicant is proposing the tower.

Mr. Gaudioso stated if I can speak to that Mr. Chairman, just for the record, good morning, Robert Gaudioso on behalf of the applicants Homeland Towers and Verizon Wireless. We are happy to have a site visit with Mr. Musso, consultants and the Board, let us know the time and date, we're happy to do that. We agree with Mr. Musso there's no requirement in the Code for a balloon test but we would be happy to

embark down that and provide a view shed map and viewpoints and confirm the methodology to do that for the balloon test, as far as the alternative sites, I think the Board really has to first you know, understand two things, you need to evaluate our proposed site and number two, we don't have access or we don't have authority for any other spot on the property at this stage. So our application is for a point on the property that we've filed and that's what we have access for, so I think it might be premature to even discuss an alternative spot on the property because I don't think this spot has been thoroughly reviewed and I also don't think we have the opportunity at this stage to even offer an alternative spot on the property. The only other thing I would say and I think I mentioned this last meeting, is that we would ask the Board to refer the matter to the County, to the Town of Bedford, schedule the public hearing, get the public's input on this, what we're faced with is a shot clock that expires in January. What we don't want to do is do a lot of work and then hear a bunch of comments that what we did was insufficient. So, if we're going to have a balloon test, we think public comments should be addressed prior to that so we can incorporate the comments, that way we don't file balloon test and viewshed renderings and then have comments that we didn't take certain things into consideration, so that would be our request with respect to that.

Mr. Vigliotti stated uh Mike?

Mr. Musso stated yes.

Mr. Vigliotti stated Mike, this is Ralph Vigliotti, what is the size, the diameter of the balloon for the balloon float, typically?

Mr. Musso stated typically like 3 or 4 feet in diameter.

Mr. Vigliotti stated okay, in talking about the diameter, if the top of the pole had a Verizon Wireless antenna that happens to be 8 or 10 or 14 feet wide, that's what you see at the top of a pole. You don't see a 3 foot diameter balloon and I, if we're going to do a test, I want to make sure the test is real, that you're seeing. You know and I know, you'll see a half inch fiber rope holding this balloon, meanwhile the pole is probably three feet in diameter at the base and the concern I have is what's going to be seen through the trees as a pole holding, not a balloon that's three feet in diameter but potential an antenna that's 8 or 10 feet wide, never mind the thickness. And we know that this is going to be very close to 172 and my concern is, its going to be so, I want to be able to see the visibility through the trees with some accuracy, not just a piece of rope holding a balloon, I want to see what we're going to see when you drive-by. Never mind if you are at Marsh Sanctuary and looking at this off in the distance, the pole itself, folks down at the Chase, Rex Pietrobono, who has been on air. So I want to make sure it's a real test, foliage down, not necessarily with foliage in place that's going to screen a lot of what we might see.

Anthony Oliveri stated Ralph, both Mike and in our memo, we mention also photo simulations, I think that's where that's going to, that will give you a more realistic view and that site visit, you know Mike can identify some good vantage points with the applicant, we all could.

Mr. Gaudio stated and we'd be happy to provide those photos.

Vice Chair Bainlardi stated I think the point is establish where the height is and to what extent the balloon is visible to establish the height. And Ralph's point is well taken that you'd have the rest of this pole that in certain situations the pole won't be seen by anyone because there's no one around it, the case in point might be the cell tower that's on the top of Captain Merritt Hill that we approved for the expansion of or heightening of, you know here, the pole itself is going to be within closer proximity to some residents and however we establish how that's going to be visible or not visible, we are evaluating this, we have to figure that out. I think the balloon, the balloon serves a good purpose and provides some information just not all the information. I guess the question the here is maybe Mike, if you engage with the applicant to try to figure out some dates that would make sense to go out on the site and then we can coordinate, we don't have to come up with a date tonight, we can coordinate a time that works for a site walk and you know, so we can kind of all understand what's being proposed, where its being proposed in the field and you know if we need a second site visit at some point so be it. Let's get something going so we start to gather some information, you know we can't finish until we start.

Mr. Musso stated yeah, I agree and that was the intent of my comment. Really a visit to get boots on the ground, to sound selfish, I need to get boots on the ground but I think it would be really beneficial to have Board members there along with the applicant and then we could establish and talk more about a balloon test or a balloon float, maybe for another date. So, yeah, I agree, I think it would be good to get started, the applicant can orient us a little bit, we could have the drawings in hand and kind of look around how this is situated and where it is.

Vice Chair Bainlardi stated Whitney, is there any reason at this point to be responsive to the applicant's request, is there any reason not to refer this to the Town of Bedford at this point or Westchester County, we might as well get them into the fold and get the information.

Whitney Singleton stated as we discussed earlier, you haven't had the benefit of any feedback from your Planner yet. And I know that you're going to be getting a memo from the Building Inspector detailing some other noncompliance issues and that's why I thought that the point that you raised was good. Why fly a balloon in a location if your Board is fairly confident it doesn't like and the Building Inspector determines in noncompliant.

Vice Chair Bainlardi stated well if there's a determination of noncompliance, which we haven't seen yet but if that were the determination, then we'd have to respond to that. If there's not a determination of noncompliance then I think we have to evaluate, so when is the next meeting?

Whitney Singleton stated the next available meeting? But again, the discussion was having this applicant trend with the solar application, which isn't going to be on until the 27th.

Vice Chair Bainlardi stated well yeah, we're talking about doing a simultaneous SEQRA review, that doesn't mean that the two have to be in lock-step throughout the process. If we can accomplish something in advance of that second meeting in October whatever it may be, whatever information we can gather and I certainly want to be informed by any memos that may be coming from our Planner and/or the Building Inspector.

Mr. Vigliotti stated and John, I propose that we get a site visit in, sooner rather than later.

Vice Chair Bainlardi stated yeah, so you know, with that, I'll go back to Mike, why don't you offline with the applicant, the applicant's representatives and come up with some dates that work...

Mr. Musso stated sure.

Vice Chair Bainlardi stated and then we'll get out there, we'll do a site visit and its information, it's information we're all going to need. We've all been out on the site but we have not been out on the site in this context, so maybe...

Mr. Musso stated yeah and you said Saturdays are preferred with the Board?

Vice Chair Bainlardi stated I think so, I mean, now we're talking, you know we're going to lose the light, so you know and it's tough for people working...

Mr. Musso stated sure.

Vice Chair Bainlardi stated I would say you know, Saturday morning, not ideal with it is what it is.

Mr. Musso stated sure, that sounds great. So with your permission, I'll coordinate with the applicant reps and then communicate through Michelle about a site visit date and time.

Vice Chair Bainlardi stated okay, and you know if any of the members, whatever members can, you'll give us a couple of dates, we'll all try to attend. As in the past, if a particular member can't make it on that date, they'll be informed by your report of what happens and they'll always the ability to go back out on their own and walk the site with the site plan in hand.

Mr. Musso stated and I'm available also to you, as you know.

Vice Chair Bainlardi stated Mr. Gaudio, anything else you'd like to add or...?

Mr. Gaudio stated let me just go back, are you referring the applications or not? I just, I really don't see any downside to not referring them, we did receive the Building Inspector's memo, there was only variance which was the height of the fence variance. If there's some other memo out there that we haven't received, if it now claims some new variances are required, as we mentioned at the last meeting, we'll see whatever variances we need. You know, this is an application that does have certain different State and Federal laws that apply to the variances and things of that nature, so we don't see any reason not to refer the applications, we've made that request. My only other request is, I would just like to see the variance consultants scopes of work just to make sure again, we know who is doing what and there is a minimization of overlap of scopes and so forth.

Vice Chair Bainlardi stated Whitney?

Whitney Singleton stated well I really don't have anything to say, I mean, I'm perplexed by the fact that the applicant is saying that they only have one spot that they're allowed to go on the property which is completely inconsistent with the lease that was provided for the solar farm.

Mr. Gaudioso stated well I don't know which lease or when it was provided but I can represent to you that we have one locations that's available to us on the property which is the location we've made application for.

Whitney Singleton stated okay and that seems to be inconsistent with...

Mr. Gaudioso stated okay, I'm telling you now, I'm making a representation on the record that we have a lease for one location on the property and it's the location we've made application. I can't be any more clear about that.

Whitney Singleton stated alright and that is not going to bind the Planning Board.

Mr. Gaudioso stated I'm telling you that's the location we have available to us.

Whitney Singleton stated okay, so that's...

Vice Chair Bainlardi stated I see no harm to sending, to referring the matter to the County and to the Town of Bedford. We can send them the information and if it turns out that we receive some determination from the Code Enforcement Official that tells us we have an issue, then we have an issue and that will be disclosed. In the meantime we should plod ahead and try to gather the information that we can gather, while we can.

Mr. Gaudioso stated we appreciate that, thank you.

Vice Chair Bainlardi stated so, I would suggest then that we put this matter on for the next Board meeting. We can always, if there's nothing new to report at that point, if we haven't been out to the site, I'm suspecting that we're going to get memos from our Planner and from the Code Enforcement Official that will help direct our decisions from that point forward.

Mr. Gaudioso stated thank you and I assume that's October 13th, was that the date.

Vice Chair Bainlardi stated yes.

Mr. Gaudioso stated thank you for your time tonight, I know it's late and appreciate you hanging in there and hearing our application, thank you.

Vice Chair Bainlardi stated thank you. Mike, do you have anything to add before we adjourn for the night.

Mr. Musso stated no, I didn't go through my memo in detail but I think I gave you the highlights, the site visit is great, I'll work on that. The applicant, I just want to bring up also, they mentioned some federal rules and regulations which I'm sure you've heard about, it's right in the preamble of their application for instance. I want to bring up to you and to the attorney that your technical consultant, HDR, feels the application is not complete and the idea of a shot clock...

Whitney Singleton stated correct.

Mr. Musso stated with inter play with a complete application.

Mr. Gaudioso stated and if I could just speak to that, the Federal rules are very clear. The application is, the shot clock commences when the application is filed, the only the way the shot clock can be tolled is if there is something stated in writing within the first 30 days of the application and in writing it has to be something that is actually required by the Code and that was not submitted. So because that did not take place within the first 30 days, it's our position that the shot clock is not tolled, it's 150 days with that said, we're happy to work with the Board, if we need to extend the shot clock, we're happy to do so in a reasonable manner, as long as again, we're moving forward in a reasonable fashion. So, but that is the Federal law, I would be happy to submit a copy of the regulations. The fact is we filed on August 18th, there was nothing submitted within the first 30 days that said that we didn't submit something that was required by the Code, therefore the shot clock is not tolled.

Whitney Singleton stated I don't know that I agree with you. I believe that the Building Inspector has previously given you information indicating the applicability of the Personal Wireless Overlay District regulations.

Anthony Oliveri stated I mean, I don't know if it will apply but my memo requested stormwater information that was submitted.

Mr. Gaudioso stated yeah, again it had to be something that was specific to the Code and that was not stated that there was some specific Code requirement for any of those items, so we feel pretty strongly that the shot clock is not tolled. With that said, we're happy to work with the Village to provide a reasonable period of time within that context to extend the shot clock to the extent necessary but it just reiterates the point of why we need to plod ahead, as the acting Chairman said, we appreciate setting up the site visit, we'll do that with Mr. Musso and with all due course we'll respond to the comments and we're happy to continue to move in that fashion.

Vice Chair Bainlardi stated so we'll be guided by our counsel and consultants thoughts on this but the bottom line here at the end is move forward in a thoughtful manner and [inaudible] information that we need to secure so we can make appropriate decisions. The fact that there's only one location on this site, may in the end prove out to be problematic but we're not going to know until we do the evaluation so we need to go through the process.

Mr. Gaudioso stated I think that's right, we agree.

Mr. Musso stated agreed.

Vice Chair Bainlardi stated alright, okay. Thank you everyone, I think this might a record for the longest one tonight. Apologies but it is what it is.

Mr. Vigliotti stated this has been the longest.

Vice Chair Bainlardi stated thank you everyone, good evening.

The meeting adjourned at 12:45 am on September 23, 2020.