

Town of Halfmoon Planning Board

November 10, 2008 Minutes

Those present at the November 10, 2008 Planning Board meeting were:

Planning Board Members: Steve Watts – Chairman
Don Roberts – Vice Chairman
Rich Berkowitz - *(arrived at 7:06 pm)*
Marcel Nadeau
Tom Ruchlicki
John Higgins
John Ouimet

Alternate

Planning Board Members: Bob Beck

Senior Planner: Jeff Williams
Planner: Lindsay Zepko

Town Attorney: Lyn Murphy

Town Board Liaisons: Paul Hotaling
Walt Polak

CHA Representative: Mike Bianchino

Mr. Watts opened the November 10, 2008 Planning Board Meeting at 7:00 pm. Mr. Watts asked the Planning Board Members if they had reviewed the October 27, 2008 Planning Board Minutes. Mr. Roberts made a motion to approve the October 27, 2008 Planning Board Minutes. Mr. Ouimet seconded. Motion carried.

Public Hearing:

08.104 PH Ruchlicki Subdivision, 362 Farm to Market Road – Minor Subdivision/Lot Line Adjustment

Mr. Ruchlicki recused himself from this item. Mr. Beck sat in for Mr. Berkowitz in his absence. Mr. Watts opened the Public Hearing at 7:00 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Mr. Gil VanGuilder, of Gilbert VanGuilder and Associates, stated the following: Mrs. Ruchlicki owns about 44-acres of land on the northerly side of Farm to Market Road about a quarter mile east of the intersection of Farm to Market Road and Route 9. Mrs. Ruchlicki would like to subdivide the property into two equal parcels of land. The westerly portion of the property would be going to Mrs. Ruchlicki's daughter Rosemary who lives in a single-family residence in the center of what was the frontage of the overall property. In 1998 a subdivision was done of the overall land to create the lot for this home. The property line at that point in time was directly adjacent to Lands of McFarland and Henderson and Rosemary's parents retained a 35 FT wide easement over the easterly portion of

the lot to access the remainder of the property that was a traditional access point. With this action, not only is the subdivision being proposed but also Rosemary would convey back to her mother the 35 FT strip of land that would become the frontage of Lot B. She will retain an easement to continue using that 35 FT strip to access her property but that would be the frontage for Lot B and that would become a keyhole lot consisting of 21.99-acres total. The lands to be conveyed to Rosemary would be 21.82-acres and this has about 315 FT of frontage on Farm to Market Road. There is also an access point that was left out of the Arlington Heights PDD that may be used for future access but it would need to be improved to Town specifications before that can be done. At this point in time no development is proposed for either parcel but if homes were to be built on the parcels they would have private wells and septic systems. Mr. Watts asked if anyone from the public wished to speak. Mr. Marvin Horowitz, 2 Spice Mill Blvd., asked if there was any development being proposed on this piece of property. Mr. VanGuilder stated the following: No, at this time no further improvements are being proposed. Mrs. Ruchlicki is subdividing the property and conveying each of the new parcels, one to her son and the other to her daughter. Mr. Watts closed the Public Hearing at 7:05 pm.

Mr. Nadeau made a motion to approve the Ruchlicki/Wysocki minor subdivision. Mr. Roberts seconded. Motion carried.

Mr. Berkowitz arrived at the Planning Board meeting at 7:06 pm and replaced Mr. Beck.

New Business:

08.106 NB Anthony Motor Car, LLC, 1516 Route 9 – Change of Tenant

Mr. Larry Wormuth, the applicant, stated the following: I own Lewis Henry Auto Sales located at 1516 Route 9 in Halfmoon. I am proposing to add a new tenant that would have 2 full-time employees. The proposal is for used car sales with the same hours of our operation as Lewis Henry. There would be no sign except for a DMV sign that is required to be placed on the building. The tenant would occupy an existing 18 FT x 20 FT unoccupied building on my lot. There would be no additional parking or any additional display area. There would be no repairs or bodywork of any kind done on the premises. No more than 15 cars will be added for display. The current site has available parking for 125 cars, but at the most 30 cars would be on display at a time. Mr. Nadeau asked if the business was retail or wholesale. Mr. Wormuth stated retail.

Mr. Roberts made a motion to approve the change of tenant application for Anthony Motor Car, LLC. Mr. Higgins seconded. Motion carried.

Old Business:

08.061 OB I Love NY Pizza, 1 Plant Road – Commercial Site Plan

Mr. John DeFino, Architect, stated the following: Dominika and George Lulgjuarj are the owners of the property located at 1 Plant Road. There have been several submissions for the I Love NY Pizza proposal that generated a number of comments. We submitted a letter to the Board on October 20, 2008. I think what I am suggesting would be to reduce the size of the building and move it over a few feet. The same problem that was recurring over the last months was trying to build on the existing footprint, which created all types of problems. Since the building has been demolished, the thought finally was to move the building over and have a two-way driveway, which was a comment that was generated by the engineers and again we would reduce the size of the building. The commercial site plan

proposal would be primarily a take-out business with a few tables. I only found out that we were on the agenda a few days ago so I apologize for not having a lot of information. I did want to present something that reflected some of the comments that I had in the letter to the Board. Another change that we have made was to bring the parking in the rear forward approximately 20 FT and this would allow for snow storage. We are proposing 6 parking spaces with 1 handicap parking space in the front for a total of 7 parking spaces that was reduced from 12 parking spaces. I think this solves a lot of problems that were recurring over the months. Since the applicant would have had to remove all of that unsuitable material anyway, this now allows him to build a one-story framed building with a cellar for storage of a freezer, a cooler, a furnace, a hot water heater and things like that. I would provide you with the design of the floor plan with the seating and everything else that would be going on there. I think most of the comments that have been generated over the months can be taken care of by making the building smaller with primarily a take-out business, a much smaller parking lot with a lot of snow storage and a two-way driveway. We now have the 50 FT setback front yard setback. If the Board feels that this is a good direction to go, I could develop this a little more for another meeting. I could show what the inside of the building would be in terms of seating and everything else. Mr. Watts asked Mr. Bianchino if this was the first time the Board has seen this plan. Mr. Bianchino stated the following: Yes, this is the first time we have seen this sketch. Our biggest concern with the site itself was in terms of the driveway and the two-way traffic, etc. at that location on Plant Road and Route 9 for a business use that is going to have a lot of in and out traffic. We have pointed out our concern regarding sight distance from the driveway with vehicles that would be traveling northbound on Route 9 that would be entering Plant Road at a relatively high rate of speed coming into the site. If vehicles are exiting the site, you almost have to look back over your shoulder to see the oncoming Route 9 traffic coming around the corner. A business use like this really isn't viable at this site. Mr. George Lulgjuarj, the applicant, stated the following: In the daytime it wouldn't be busy but at nighttime for dinner it would be busy. Currently there are 2 businesses near this site that close at 5:00 pm and I would be open until 10:00 pm. I have done pretty much everything the Board has asked me to do. I made a mistake knocking down the building and now I am \$280,000 in the hole. I work 12 hours a day and I think you should give me a break because whatever you asked me to do, I did it every single time. I cannot do anything about the traffic. Most of the business would be take-out and mostly deliveries at this location. I would only have 5 tables. Mr. DeFino stated the following: Most of Mr. Lulgjuarj's hours would be in the evening when the other 2 adjacent businesses would be closed except the barbershop is open on Saturday until 1:00 pm. Most of his business would be Friday, Saturday and Sunday when the other 2 businesses would be closed. Mr. Nadeau stated the following: Keep in mind that Friday, Saturday and Sunday are when most of the Town's residents are at home and they are traveling these roads. Mr. Higgins stated the following: Personally, the problem I have is that I am familiar with that site and I am familiar with the traffic coming on and off of Plant Road and off of Route 9. On Friday and Saturday nights Plant Road is a major cut-through because of the heavy traffic on Route 9. Also, you are saying that you are going to have 5 tables and you only have 6 parking spaces. Mr. DeFino stated the following: Right now I really don't know how many tables they are going to have because it hasn't been designed yet. I do know that working backwards and trying to solve all the site's considerations that CHA had, I have come up with a building that would be a maximum 26 FT x 67 FT for a total of 1,700 SF. Mr. Higgins stated the following: In my opinion because of the traffic considerations the site really needs to be an office or

something less intense that isn't going to have the traffic, isn't going to have a stacking problem trying to get out to Route 9. Any pizza place you look at around Town, there are people lined up on Friday and Saturday nights. Mr. Lulgjuarj stated I have seen the traffic and on Friday nights the traffic is only busy for about 2 hours. Mr. Higgins stated the following: But these businesses are all doing well. I am not concerned about the 2 businesses along side of your site because they can change at any time. I'm concerned about the amount of traffic and the stacking on Plant Road trying to get out to Route 9. As Mr. Bianchino has stated, the vehicles traveling north on Route 9 who are trying to make the quick turn onto Plant Road to get around the traffic on Route 9. Mr. Roberts stated the following: I agree with Mr. Higgins on this proposal. The size of the building is not the problem. This site is not conducive for this type of use and this use will not work at that location. Mr. Ouimet stated the following: I also agree with all the comments that have been made by the other Board members. I am really concerned about the public safety issues that have been raised for this site given the fact that there is a traffic light on the corner, cars exiting from this site as well as Plant Road have a tendency to stack waiting for that traffic light to change that would seriously impede the ability to move in and out of this site. Also, if it is predominantly a take-out business, I am not so sure that I think that people coming in to get their food would park in the back and will walk completely around the building. Mr. DeFino stated there would be an entrance in the back of the building. Mr. Ouimet stated the following: There is really no way for me to see that based on your sketch. It looks like the entrance is in the front of the building. Mr. DeFino stated there would be an entrance in the front of the building and in the back of the building. Mr. Ouimet asked wouldn't the tendency be for a car to pull in and park around the grass area and then walk in the front door? Mr. DeFino stated no, there is parking in the back and that is where everyone would be coming in. Mr. Ouimet stated if it were I, I would park in the front, walk in, get my pizza and back out into the lane. Mr. DeFino stated the following: You couldn't do that because you wouldn't be allowed. The only parking space in the front is 1 handicap parking space. Mr. Ouimet stated whomever parks in that handicap parking space would have to back out into the lane and I don't know any other way you could do it based on the configuration. I feel this should be referred to CHA because CHA had some serious issues with the original design. Mr. DeFino stated the following: Like Mr. Bianchino stated, there are a lot of things that I can control and that I can take care of with the site design and reducing the size of the building, how many tables are going to be in there, and changing it to mostly take-out. But I can't change the fact that this is a restaurant or a take-out and it is going to generate a little more traffic than what the previous use was, which was a house that was abandoned for years. It is an approved use as far as the zoning goes. All of the Boards concerns are well taken and I understand it. My honest feeling is that I don't see that much traffic or enough to be of any real concern. The Board knows the area better than me that there is going to be a real negative impact. I personally don't see it in the dozen of times or so that I have been here on the weekends and in the evenings and I just don't see the traffic at all. Mr. Berkowitz stated I live on that road and there is that traffic there. Mr. DeFino stated I'm sure there is at times but again Mr. Lulgjuarj's business is going to be open for the most part when everyone else is closed. Mr. Berkowitz stated the following: If that building was about 500 yards north of there, I think you'd be fine but it is right at the turn there which makes it more difficult. If the barbershop were to come to this Board today, it probably wouldn't be approved. Mr. DeFino stated the property line is approximately 58 FT back from the property line of the barbershop and then the driveway is another 51 FT so the driveway is about 100 FT back

from the corner. Mr. Roberts stated it is a tough site and based on all the comments from the Board I would like to make a motion to disapprove this application as presented. Mr. Lulgjuarj stated the following: I have done everything that the Town has asked me to do. I even figured out the hours of operation. Like I said, I have already spent \$280,000 for this property. Mr. Higgins stated the following: Number 1 - you bought the property before you ever came before this Board and you can't blame us for that. As everyone on this Board has said; we have to be concerned about the public's safety and safety of the residents that travel through that area and this is what we are concerned about. Mr. DeFino asked if we could somehow make an arrangement with Mr. Wojtowicz to have access on that road where cars could enter the site and leave the other way, would that help? Mr. Roberts stated then that would require a new application and we have to make a decision on what is before the Board tonight. Mr. Watts stated the following: What we have to make a motion on is the original application. Tonight we just received your sketch and it is kind of hard for us to digest. What was the County's response? Mr. DeFino stated the following: The County did not have any problems with it at all. The only comment the County had was regarding the location of the adjacent properties and they made a statement that they didn't think it was going to make much of an impact. Mrs. Murphy stated the following: The County's statement was: "Conversion of a non-conforming use to a permitted C-1 use does not in itself mitigate such issues as they relate to the public's safe use of the property". The County is saying there is no significant County Wide or Inter Community Impact because it is located squarely within the Town. Mr. DeFino stated I spoke with the County and they didn't have any real concerns. Mr. Watts stated at this point we have a motion and we are going to vote. Mr. Watts asked all in favor of the motion to disapprove: Mr. Watt – Aye, Mr. Roberts – Aye, Mr. Berkowitz – Aye, Mr. Higgins – Aye, Mr. Ruchlicki – Aye, Mr. Nadeau – Aye, Mr. Ouimet – Aye. Mr. Watts stated the following: If you have more defined plans and can address the comments, because we understood that you wished to appear before the Board to get a sense of approvability of the project that was on the original application. If you wish to come back with additional information with a more defined access looking at getting out to the Wojtowicz road, we would be willing to entertain it. Mr. Nadeau stated a low intense type business would fit fine on that site. Mr. DeFino asked if the Town had any sway or influence with Mr. Wojtowicz? Mr. Watts stated the following: If you would like to contact our office and set up an appointment for you to come for a conversation, we would be willing to do that to see what we can work out. It is a tough site and you have heard the Board and you have heard the concerns and you have seen the letters from our engineers. It is a difficult site for that use. Mr. DeFino stated the following: Everything has been addressed. There are things I can't change and that I have no control over. The traffic is what it is. Mr. Nadeau stated which is the worse part of the project. Mr. Watts stated the following: We are friendly when the businesses are appropriate and there are not safety and health issues with traffic. There have been applicants before us who did not get the size of the building they wanted or didn't get the building they wanted. This motion has been voted on and has been disapproved for the plan that was originally submitted. I have said if you want to come into the office, we would set up an appointment. Contact Mr. Williams and we will sit down and discuss a possible use at that site. This is the best I can offer at this point.

Mr. Roberts made a motion to deny the commercial site plan application for I Love NY Pizza on the basis that the site, as presented, has safety issues regarding access to the site and

its proximity to the Route 9/Plant Road intersection and interior circulation issues that cause concern over safety. Mr. Nadeau seconded. Motion carried.

08.074 OB Johnson Subdivision, 23 Johnson Road – Amendment to Approved Minor Subdivision

Mr. Gil VanGuilder, of Gilbert VanGuilder and Associates, stated the following: I am here tonight with Mr. John Michaels Jr. This Board approved this subdivision on August 25, 2008 with the stipulation or restriction that the homes would all be single-family. We did add a note to the plan as part of the approval that says that if any of these lots are proposed for 2-family use, we would need to come back before the Board for an approval. Mr. Michaels is here to seek that approval tonight. There was a lot of discussion on the Board's part and I have to say there was some confusion that was conveyed to the Board about which parcels were to be proposed for 2-family homes and single-family homes. Lot #2 is the lot that Mr. Michaels will be receiving title to and that is the only proposed lot that he would like to build a 2-family on. Ms. Amy DeMarco, a cousin, is already planning to build a single-family home on one of the parcels and her brother has also stated that he also wants to build a single-family home on the 4.78-acre lot. This parcel meets all of the spatial requirement. It has 150 FT width at the building line, it is 1.28-acres and it is about 30 percent larger than the minimum lot size. There is public water available on Johnson Road and there would be individual septic systems. I believe Mr. Michaels did a poll of the neighborhood to see how many other 2-family homes there were in the immediate vicinity. Mr. Michaels stated doing a survey over the weekend; I have three 2-family homes within ½ mile from proposed Lot #2 along with numerous 2 to 3 unit buildings across the street in Fairway Estates on Raylinsky Lane. I didn't feel that this would change the nature of the neighborhood that much. I was told that the changing of the neighborhood might be frowned upon but with three 2-family homes within a ½ mile on Johnson Road itself and with all the 2 to 3 unit buildings in Fairway Estates just across the way, I didn't feel that my 2-family would impose that much or change the outlook of the neighborhood at all. Mr. Berkowitz asked if the Board needed to schedule another public hearing. Mrs. Murphy stated legally they don't need another public hearing because they are not doing a subdivision but the Board could schedule a public informational meeting due to the concerns with regards to the type of homes that was raised by the neighbors at the time of their previous public hearing. Mr. Higgins asked if this was a recent change or was it always intended that way? Mr. VanGuilder stated the following: It was always intended that way but there was confusion. I was the individual that met with the Johnson grandchildren and they had said that they definitely wanted to build a 2-family home. Mr. Higgins stated I remember seeing the applicants at one of our meetings and asked if the applicant was present when this was voted on. Mr. Michaels stated I was not present at the meeting when that presentation was made. Mr. Watts stated that Mr. Rabideau made that meeting presentation. Mr. VanGuilder stated the following: Yes, that is correct and Mr. Rabideau was not involved in meetings with the Johnson grandchildren so he didn't know the specifics of which lots or lot was requested to be a 2-family home. I think that is where the confusion came about. Mrs. Zepko stated the following: One thing that we had brought up prior to the public hearing that we had talked to Mr. Rabideau about was in regards to the orientation of the duplex and to show a shared driveway so that we could limit the curb cut down to one for the two parcels on Lot #2 and Lot #3. Mr. VanGuilder stated the following: We did discuss that with Mr. Michaels and also his cousin to do a duplex with a driveway way over on the side. This situation would be difficult because you would end up having to traverse the entire lot with the driveway. There are no sight distance issues on Johnson Road and yes we did investigate that. Mr.

Berkowitz stated it was mentioned that there was a duplex within ½ mile of this subdivision and asked if it was at the ½ mile mark or is it within a ½ mile? Mr. Michaels stated the following: There are actually 3 within ½ of a mile. There are 2 on Johnson Road. One is approximate .2-miles from my lot, there is another one that is approximately .55-miles and then there is another one on Raylinsky Lane that is on the corner. Mr. Ouimet stated regarding the driveway on Johnson Road and asked if there would be one or two curb cuts proposed Lot #2 if it is a duplex. Mr. VanGuilder stated there would be one single curb cut that would be a joint driveway going back in to serve those 2 units. I think what Mrs. Zepko was suggesting is that the driveway comes in over the common driveway or the driveway that is going to access the lot in the rear rather than having a separate driveway in the other area. Mr. Ouimet asked so you would have one driveway serving 2 units? Mr. VanGuilder stated that is correct. Mr. Ouimet stated the way it is drawn on this proposal doesn't really tell us where it would be located or how it would be configured. Mr. VanGuilder stated this would be the approximate location. Mrs. Zepko stated the way it is drawn is their proposal but the Planning Department suggested that they try to reorient the duplex in order to share that driveway. Mr. Ouimet stated my confusion is that it looks like one driveway going into one garage. Mr. VanGuilder stated yes and Mr. Michaels hasn't chosen a specific unit, so we don't know the exact layout of the duplex. Mr. Ouimet stated what I am trying to figure out is how the cars are going to interact with each other. Mr. VanGuilder stated we could demonstrate that prior to the next meeting with a typical duplex type set-up. Mr. Higgins stated I just want to mention that this is part of the GEIS area and if you read the GEIS, it specifically mentions trying to limit curb cuts and combining driveways. Mr. VanGuilder stated the following: We did attempt that and we can work more with the Planning Department to see how we can make that work for a 2-family home. It will be a lot of pavement or a lot of driveway to traverse back across the lot. If it was just a side load garage, it would be one thing but maybe there is some way to have both garages on one side. Mr. Michaels is planning on having this 2-family home be owner occupied and then renting out the other half to help defray some of the expenses. Mr. Higgins stated but some of that payment that you are adding there, you are eliminating going down to the curb cut. Mr. VanGuilder stated yes and we will take a look at that as I mentioned.

Mr. Nadeau made a motion to set a Public Informational Meeting for the November 24, 2008 Planning Board meeting. Mr. Roberts seconded. Motion carried.

08.088 OB Fellows Road PDD, Fellows Road – Amendment to PDD

Mr. Roberts recused himself from this item. Mr. Beck sat in for Mr. Roberts. Mr. Scott Lansing, of Lansing Engineering, stated the following: I am here tonight with the applicant, Mr. Bruce Tanski, for the project. We are here tonight for the Fellows Road PDD Amendment. I think the Board is very familiar with this project so I will be as brief as I can on the description and if the Board needs any additional information, I would be more than happy to try to help out on that. The overall PDD is approximately 80-acres. I have submitted plans of the previous configuration of what the PDD looked like. The applicant is proposing an amendment to the previously approved PDD configuration. The amendment applies to approximately 22-acres of the project. That amendment is a transition from eight 3-unit buildings or a total of 24-units to five 11-unit buildings for a total of 55-units. From what I understand, at the last meeting there was some confusion on a number of units. We would like to apologize for any confusion that we may have conveyed on that. What we have provided is a breakdown of what the different units were at the different stages of the approvals for the project. The approved PDD that was referred to by the Planning Board and approved by the Town Board had a total of 355 housing

units. As we worked through the site plan approval process with the Planning Board, the applicant did reduce that number of units down to 321 housing units. The breakdown for those two approvals is included below those items. What the applicant is proposing in this amendment and this modification of this area is basically an addition of 31-units from the site plan approval stage of the project which brings us up to 352 housing units total which is still less than the 355 housing units that the PDD was originally approved for. I hope that clarifies the number of units. At the last meeting there was a public informational meeting and the applicant did receive a variety of comments and we felt we addressed a number of those comments at the meeting. There was one comment in particular that we addressed with a set of plans that we have submitted to the Planning Board and that involves the addition of a fence along the area that we are proposing the modification to. We are proposing a vinyl fence along the residence of Gauthier Drive and then also another 6 FT high white vinyl fence in another area that a resident had requested. Outside of that we did take the meeting minutes and we did prepare a comment response letter to each one of those individual items. We have submitted those to the Board for their review. We are here tonight requesting the Board's consideration for a referral to the Town Board. Mr. Watts asked Mr. Lansing to respond to the individual comments that were raised. Mr. Lansing stated Mr. John Hickok of 43 Fellows Road stated the following: "I live directly across from the proposed development and I have a concern with the proposed development changing from 24 townhouses to 55 apartment units. I am also concerned with the change in the characteristic of the area and the probability that the property value will depreciate and what is the total number of units for the entire project. I also have a concern with the additional traffic". Mr. Lansing stated as far as the number of units, we have outlined that as far as the number of units that were originally proposed as to what the applicant is proposing now. Again, it is less than what the original PDD was approved for. As far as traffic, a detailed traffic analysis was done for the original PDD for the 355 units and with the new development at 352 units we feel that those numbers are obviously less than the 355 units so we do not feel there would be any additional traffic impacts or mitigation required above and beyond what the applicant has proposed as part of the original PDD approval. As far as a change in property value, I can't speak to that, as I don't have experience in that. Ms. Glazebrook of 38 Fellows Road stated there are 55 apartment units being proposed with 2 to 4 people per apartment, which would mean an additional 200 people using Fellows: Ms. Glazebrook asked if all the proposed development was out of the required 100 FT buffer of the creek. Ms. Glazebrook asked if the proposed sewer line would go up Gauthier Drive on the same side as the water line. Ms. Glazebrook stated that the other side of Gauthier Drive has a swamp and that the sewer line would need to be placed on solid ground. Ms. Glazebrook asked who pays for the sewer and if she would be charged a sewer rate if she did not hook up. Mr. Lansing stated the following: We do go through the number of units as far as the number of trips. I disagree that there would be 200 additional trips from the 55 units that was accounted for on the original study. As far as the 100 FT buffer, we are observing the same impacts through the 100 FT buffer and the same wetland impacts that we were in the original development. The sanitary sewer we are proposing on Gauthier Drive would go on the opposite side of the water line and with modern construction techniques we don't feel it would be problem constructing in that area. Mr. Nadeau asked if the sewer line would to all the way down Gauthier Drive. Mr. Lansing stated yes. Mr. Lansing stated Ms. Carol Stevens of 6 Gauthier Drive asked if the project had already been approved. Mr. Lansing stated the project has not been approved and we outlined the community benefits in detail and there is a detailed narrative that I would be more than happy to provide that. Mr. George Yetto of 9 Gauthier Drive stated the proposed changes would be directly behind his house and would like the

developer to provide a stockade fence for privacy and to keep people from wandering over to his property. Mr. Yetto asked how far the proposed apartment buildings would be from his home. Mr. Yetto stated he does not see Gauthier Drive extending into the site because it is nice to have the dead end road to allow kids and people to walk on it safely. Mr. Lansing stated the following: As far as the screening, the applicant is proposing a fence along the back of the units to Gauthier Drive as far as a connection to Gauthier Drive, that is not proposed due to the wetland impacts that would be associated with something like that. We do not feel that this is possible. Mr. Robert Murray of 40 Fellows Road asked if the sewer line would help the drainage. Mr. Lansing stated the sewer line would be for conveyance of wastewater and would not in any help with any drainage concerns that they may have on Gauthier Drive. Mr. David Brun of Fellows Road asked when the Fellows Road re-alignment would occur. Mr. Brun stated that he and Debbie Fellows have property near the current apartment development and asked if it would be possible to have a privacy fence installed to the buffer of his home. Mr. Lansing stated the following: I did outline the privacy fence and the applicant is proposing that. As far as the re-alignment of Fellows Road, we are finalizing the plans on that and the applicant does wish to pursue that in the spring. Mr. Watts asked Mr. Lansing to go into more detail regarding finalizing the plans and where you are at this point. Mr. Lansing stated the following: We have submitted those to CHA and CHA has reviewed them. I believe CHA is working with the NYSDOT and us and we are getting those wrapped up so that we can get that constructed. Mr. Watts asked when do you anticipate that phase of the road would be finished. Mr. Bruce Tanski, the applicant, stated the following: Mr. Tanski stated it is our intention to start it in the spring around late March or early April. We have to get approval from CHA and NYSEG needs to move the power poles. Mr. John Pingelski, Superintendent of the Highway Department, is working with us to move stockpiles at the Highway Dept. Mr. Higgins stated the following: Mr. Lansing keeps referring to the 355 units that were approved in the original PDD legislation. However, the 321 units was what was approved after the total site review, considering the limitations for the site and everything else, so now you are coming back and asking for an additional 10% over what was approved. This is a lot more intense use of a site, which I mentioned at the previous meeting. Again, you keep talking about 355 units versus the 321 units. The 321 units are what were ultimately approved after site considerations, site restraints and everything else. I think what we have to look at is this is actually a 10% increase over what was approved. Mr. Tanski stated the following: I disagree and I don't understand where you are coming from because the original PDD was approved for 355 units. Just because there are constraints there and there are wetlands we do have enough land originally for the PDD approval. If we need to go back on what we are doing here, then maybe the Town needs to change its rules and regulations based on how we do things. Our original approval was for 355 units. Mr. Watts asked if a positive recommendation made by the Planning Board to the Town Board prior to the PDD being adopted for the 355 units? Mrs. Murphy stated yes. Mr. Watts stated so this Planning Board did make a recommendation for a positive approval for the 355 units. Mr. Higgins stated the following: But when it came back to this Board for site plan approval, at that point after CHA reviewed it and went over the plan with the applicant what it ended up being was 321 units and that is what was ultimately approved when it went back to the Town Board. We keep being told that it was 355 units. I am just bringing this point up that the applicant agreed and the plans were stamped at 321 units. So now it is actually a 10% increase over what was ultimately approved. I just want to go on record saying that after site plan review it was 321 units. Mr. Watts stated what I am saying is that this Planning Board did make a positive recommendation to the Town Board. Mr. Higgins stated the following: Yes, I was on the Board at that time and I did vote for it but I just want to make sure that yes it was

355 units but ultimately it went down to 321 units so it is actually an increase from what was stamped on the plans and that is the point that I am trying to make. Is the white fence along Gauthier Drive is shown on the drawings? Mr. Lansing stated yes it is shown along the two property lines. Mr. Watts stated the following: At this point we can make a recommendation to the Town Board on the proposed PDD amendment at which time the Town Board would have to schedule a public hearing to approve this application. This Board has already held a public informational meeting. Someone from the public asked if they were allowed to speak. Mr. Watts stated people were allowed to speak at the Planning Board's public informational meeting and the public will be able to speak at the public hearing at the Town Board. Mr. Higgins stated the following: Mr. Tanski previously agreed not to go for certificates of occupancy (C.O.'s) for these apartment until the road was in and I just wanted that added to our recommendation to the Town Board. Mr. Tanski stated the following: Yes I did agree to that but I would like to reserve a decision on that when we come back for the site plan. At that point in time I would make it up to the NYSDOT if possible. Because if I get started and the NYSDOT is not going to approve the plan until say March or April or even May or June of next year, I would like to be able to at that point in time to get a building if I can. If the NYSDOT approves it sooner than that, I would be fine. I would like to reserve a decision until that time. Mr. Higgins stated as I have said all along, I am just concerned about the amount of traffic. Mr. Tanksi stated the first thing I want to do is get that road done. Mr. Higgins asked could we have some verbiage that Mrs. Murphy would recommend. Mrs. Murphy stated the following: What I can definitely do is, as can Mr. Polak, convey the concerns to the Town Board. Then at the time the Town Board makes a determination with regard to the PDD, if they determine it is appropriate, then the language would be right in the PDD itself with either a date that it has to be completed by and/or a limit on C.O.'s or building permits or however else the Town Board wants to control the situation.

Mr. Ouimet made a motion to pass a Positive Recommendation to the Town Board. Mr. Berkowitz seconded. Motion carried.

Mr. Ruchlicki made a motion to adjourn the November 10, 2008 Planning Board Meeting at 8:01 pm. Mr. Higgins seconded. Motion carried.

Respectfully submitted,
Milly Pascuzzi,
Planning Department Secretary