

## **Town of Halfmoon Planning Board**

### **June 27, 2011 Minutes**

Those present at the June 27, 2011 Planning Board meeting were:

**Planning Board Members:** Steve Watts – Chairman  
Don Roberts – Vice Chairman  
Rich Berkowitz  
Marcel Nadeau  
Tom Ruchlicki  
John Higgins  
John Ouimet

**Senior Planner:** Jeff Williams  
**Planner:** Lindsay Zepko

**Town Attorney:** Lyn Murphy  
**Deputy Town Attorney:** Matt Chauvin

**Town Board Liaisons:** Paul Hotaling

**CHA Representative:** Mike Bianchino

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Mr. Watts opened the June 27, 2011 Planning Board Meeting at 7:01 pm. Mr. Watts asked the Planning Board Members if they had reviewed the June 13, 2011 Planning Board Minutes. Mr. Roberts made a motion to approve the June 13, 2011 Planning Board Minutes. Mr. Ouimet seconded. Motion carried.

#### **Public Hearing:**

##### **11.068 PH      Kosowsky Subdivision, 30 Werner Road – Minor Subdivision**

Mr. Watts opened the Public Hearing at 7:01 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Mr. Duane Rabideau, of Gilbert VanGuilder Land Surveyor, PLLC, stated the following: I'm representing Philip Kosowsky for a proposed 2-lot subdivision located at 30 Werner Road. This parcel is located about 450 FT south of Cold Springs Road. The proposal is to create 2-lots. Lot #1 would consist of about 35,000 SF with an existing single-family home. Lot #2 would be a flaglot configuration which would be 1.2-acres and is proposed for a duplex. Both parcels would have a common ingress/egress easement with 1 curb cut onto one road. The existing house has private water and private sewer and would be tied into public water and public sewer. The duplex in the rear would also tie into public water and public sewer. The utilities would cross through an easement on the side and we have it setup so that there are no wetland impacts. Mr. Watts asked if anyone from the public wished to speak. No one responded. Mr. Watts closed the public hearing at 7:03 pm. Mr. Higgins stated it shows the wood framed shed to be removed from the easement with NYSEG. Mr. Rabideau stated I believe that that has already been removed. Mr. Higgins stated does the asphalt driveway also infringe onto NYSEG and is that also going to be removed? Mr. Rabideau stated yes. Mr. Rabideau stated the following: Yes, they're going to reconfigure this a little bit

different with one access onto Werner Road. As it comes to the rear it would split the drives a little bit so that there would be a grass area. Mr. Higgins stated okay, so there wouldn't be any encroachments on other properties? Mr. Rabideau stated that is correct.

Mr. Berkowitz made a motion to approve to approve the minor subdivision application for the Kosowsky Subdivision. Mr. Higgins seconded. Motion carried.

**New Business:**

**11.071 NB      Nine North Professional Park, 1407 Route 9 – Concept-Addition to Site Plan**

Mr. Scott Lansing, of Lansing Engineering, stated the following: We're here tonight for a proposal for the Nine North Professional Park for an addition to one of the buildings. The overall parcel is approximately 2.75-acres and it is zoned C-1 Commercial. The topography generally slopes towards a stormwater management area in the rear portion of the parcel. There are 4 existing structures on the site. The first 2 structures out front are 2-story structures and there is another structure in the rear that is also a 2-story structure. The one-story structure in the back is proposed for the addition. The proposal for the structure is for building #3 that is currently occupied by Ronco Communications and it is their desire to have storage for light equipment, speakers, telephones and communication equipment. They would also like the ability to store their vans inside in the winter months. So, what we are proposing is a single-story 32 FT x 32 FT garage addition that would be roughly 1024 SF. There would be 1 garage door on that which would be a double door so 2 vans could pull in. We have submitted some general elevations of what the structure would look like and the architecture would be the same as the existing structure. They currently have 13 full-time employees at this location and approximately 4 part-time employees. Their hours of operation are 8:00 am to 5:00 pm Monday through Friday. The overall parking for the site is approximately 139 spaces. With the addition of this garage, we have displaced 3 of the parking spaces, 2 of the parking spaces are within the structure and we have shown provisions for relocating those 3 parking spaces to another portion of the site and I have highlighted those on the plan. As far as coverage for the site, it is my understanding that zoning allows a maximum building coverage of 50% and with the addition; we are at approximately 14%. So, it will go from 13% to 14% so I believe we are below that requirement and we also observe the various setbacks. Mr. Higgins stated you said that you showed on the drawing where the parking spaces would be relocated to and the only problem is that you are taking a handicap spot and you are not replacing it with another handicap spot that I see. Mr. Lansing stated in the front of the building there was one handicap spot with a loading zone and we've taken the handicap spot from this area and just put it next to the other loading zone. Mr. Higgins stated okay. Mr. Ouimet asked is there an entrance at the north side of that building? Mr. Lansing stated the following: Yes there is. On our elevations we are showing a door in this area so that entrance would be maintained. There would also be an entrance obviously through the garage door and there is also an entrance in the back of the building. Mr. Ouimet asked do you know what side of the building the garage door is going to be on? Mr. Lansing stated the garage door would be facing the drive isle and the service door would be directly connected to the sidewalk. Mr. Ouimet stated so the sole tenant in building 3 is Ronco and are they just adding a place to store their vehicles? Mr. Lansing stated yes and for light equipment. Mr. Ouimet asked where is this stuff being stored now? Mr. Lansing stated I believe it is inside the structure and they are now asking for some addition storage space with the garage. Mr. Ouimet asked are their vehicles currently parked out in the parking spaces? Mr. Lansing stated yes. Mr. Ouimet asked was there an issue at some point in time about land stabilization of land behind the building? Mr. Lansing stated the following: I'm not certain of that and I do not know. I do know that there is a slope in the back and I'm not sure of any problems or issues with land stabilization. Mr. Ouimet asked

does that mean that there weren't any problems or there currently aren't any problems? Mr. Lansing stated I do not know. Mr. Mike Chrys, a member of Garner Holdings LLC, stated the following: No, when that original engineering was done for buildings 3 and 4, it is not shown but there is a retaining wall in the back where it was deeded. It wasn't a land stabilization issue but there was a slope issue that wasn't an issue. That was all taken care of during that development, which was less than 10 years ago. But where that particular spot is, there is no stabilization issue and the drainage is under control and it's not anywhere near the slope. We've been owners there for 15 years and there has not been a land stabilization issue at all. In the corner, which would be the lower right hand side of that piece, there was a retaining wall that was put in as part of the original site development. Mr. Ouimet stated okay. Mr. Berkowitz asked is the whole site in compliance as far as any outstanding issues with tenants? Mr. Lansing stated the following: I'm not sure of anything being out of compliance. We did count the parking spaces on the original site plan and it appeared that it was deficient of parking spaces. We went out to the site and actually counted the spaces and there are the appropriate number of spaces for the buildings from our count. Mr. Watts stated we did a check and it seems that we may have some tenants in the other buildings that have not been before the Planning Board for approval for a change in tenant. Mr. Chrys stated the following: Could you specifically let me know who those tenants are. I know there was an issue at one point with everybody who is in there now and that has all been corrected. Actually buildings #1 and #2 are about 50% full. So there might be some signs out there and people change their names, but if there is one in particular I could check on that. Mr. Watts stated the following: I'm going by the narrative that you submitted and we found some that haven't been approved for change in tenants and we would like you to verify this. You have TRG in building #1. Mr. Chrys stated TRG is incorrect and Limelight Promotion is incorrect. Mr. Watts asked are you saying that the narrative that you submitted is not correct? Mr. Chrys stated I think the information might have been gotten incorrectly. Mr. Watts further stated the following: Also submitted in your narrative was Homestead Funding, Flint-Budde & Johnson, CFP, NCBA, Sparano Chiropractor MD and Gottin DMD. We didn't go down and check the signs or anything but those were submitted with your narrative and we don't seem to have change of tenants for any of these. Some may have moved, some may have changed and some might have just gotten in there. Mr. Chrys stated the following: Some never arrived. I can check on that but I believe and I kind of know on memory; Pennock, Breed, Due, Noll LLP are no longer there. Sparano was done with an application and with DMD you may have gotten the name wrong because he has been there forever and it's Ed Olli and he has a partner with that name. I guess I should have looked at that a little closer. If something is not right there, I'll make sure that it is. Mr. Watts stated check with our office tomorrow and we'll give you a list of what we found. Mr. Williams asked Mr. Chrys to submit a list of the tenants to the Planning Department. Mr. Chrys stated I will supply you with a list before I leave. Mr. Watts stated regarding the building addition itself, does anyone have any more questions? Mr. Higgins asked is the 139 parking spaces the correct number for the 4 buildings? Mr. Bianchino stated the following: If you add another 1,024 SF structure to the building that would increase the total square footage of the building. Therefore, the total square footage of the site would now require a total of 146 parking spaces. Mr. Higgins stated so basically what we need is either landbanking another 5 parking spaces or something. Mr. Bianchino stated the following: Yes, in order to be in accordance with the zoning. While the structure itself is going to be used as a storage garage and it was indicated earlier that there is storage going on inside the existing building, which theoretically, if the storage moves outside, that would open the building up for usage and then extra parking would be required. Mr. Nadeau stated I think they could landbank some parking spaces because to my knowledge I don't think that lot is ever maxed out. Mr. Watts stated right, they have plenty of parking and they have room for landbanking. Mr. Nadeau stated the only time they had problems is when the church used their parking lot. Mr. Lansing stated the following: We can take a look at landbanking some parking spaces. For what its

worth; theoretically there would be 2 spaces in the garage and we did count for the 3 extra parking spaces. Mr. Watts stated yes, I know there is never any issue there with parking. Mr. Berkowitz asked would they be performing any maintenance on the vehicles in there? Mr. Lansing stated no, it would be strictly for storage of the vans and storage of the equipment associated with the business. Mrs. Murphy asked are you going to have DMV certification to do inspections or anything like that? Mr. Lansing stated no.

Mr. Roberts made a motion to approve the addition to site plan application for the Nine North Professional Park contingent upon proof that all existing tenants are in compliance with Planning Board approvals and the site plan shows a minimum of 4 additional parking spaces to comply with the proposed garage area (landbanked). Mr. Berkowitz seconded. Motion carried.

**11.073 NB      Thomas Bethel Family Trust Subdivision, Plank Road – Minor Subdivision**

Mr. Duane Rabideau, of Gilbert VanGuilder Land Surveyor, PLLC, stated the following: I'm representing Mr. Dave Canfield in his request before the Board for a subdivision of Lands of The Bethel Family Trust. The parcel is located on the easterly side of Plank Road about 250 FT south of Stone Quarry Road. The proposal is for a 4-lot subdivision for 4 single-family residences. Lot #1 is an existing lot that was approved by the Planning Board last year. Basically this would be just a minor reconfiguration of that lot. There would be 3 more lots to the south of that parcel. The proposal is to run the public sewer and the water that goes into Rivercrest Estates. The tie in would run up the easterly side of Plank Road for the tie-in into the public utilities. Mr. Higgins asked do we have approval for the water and sewer extensions? Mr. Rabideau stated not at this point in time; that's being worked on. Mr. Higgins asked so, if they are not approved is sufficient size on the lots to have on-site septic? Mr. Rabideau stated the following: There should be enough capacity. They have submitted documentation to the Mr. Frank Tirotini, Director of the Town's Water Department, and they are working on the submittal to the Saratoga County Sewer District (SCSD#1). Mr. Watts asked is the request to approve a subdivision? Mr. Rabideau stated that's correct. Mr. Watts asked if you don't get approval for the water and sewer, then would this subdivision still happen? Mr. Rabideau stated then it doesn't happen. Mr. Watts asked do we need to refer this to CHA? Mr. Williams stated yes, this application should be referred to CHA because of the extension of the utilities in the Town's right-of-way and review of the required Stormwater Pollution Prevention Plan (SWPPP). Mr. Higgins asked how many subdivisions have occurred previously on this property? Mr. Rabideau stated the following: This lot was part of a 3-lot subdivision that was approved last year. We are taking what used to be Lot #3 and just reconfiguring it a little bit to get enough area for the other 3 lots. Three of the lots are on a separate parcel by themselves and now we're subdividing this and then doing a lot line adjustment on this existing lot. Mrs. Zepko stated the following: A couple of years ago we separated the 2-lots that sit perpendicular to the corner and we made 3 lots from that but then we also did a lot line adjustment on that little jog on the third lot last year. Now we're doing another lot line adjustment on that lot for one of the lots for the new subdivision. Mr. Rabideau stated yes, there was a lot line adjustment approved last August but it is part of this 3-lot subdivision. Mr. Berkowitz asked would this be the 7<sup>th</sup> subdivision on this main lot? Mrs. Zepko stated the following: It's on the lot that they're doing a lot line adjustment on and it would be the 5<sup>th</sup> subdivision. Mrs. Murphy stated the following: So this would be qualified as a major subdivision. Were all of these lots owned by one person at one point? Mr. Rabideau stated 3 of the lots were owned by Mr. Mark Bethel and there are 3 other lots that are owned by Mr. Thomas Bethel. Mrs. Murphy asked are those two people related and they were handed down off of a bigger lot? Mr. Rabideau stated I suspect so but I'm not absolutely certain of that. Mrs. Murphy stated this proposal will be referred to CHA so we can talk about it later, but it looks like you're looking at a major subdivision here because you have exceeded the number of lots for a minor

subdivision. Mr. Watt read a letter submitted to the Planning Department dated March 18, 2011 from Mr. Daniel Bethel: "To All Town Officials: I am Daniel Bethel and my brother is Michael Bethel. We are not related to Mark Bethel in any way, shape or form. Thank you in advance, as info, thank you." So they are indicating that although they are the same name and same spelling; they are not related. Mrs. Zepko stated because of the number of lots and the cost per lot is same; they would just need to submit a major subdivision application to the Planning Department. Mr. Rabideau stated okay. Mr. Watts stated we are going to refer this to CHA, Mr. Rabideau is going to provide that information and then when we have that all settled up, we would set a public hearing.

This item was tabled and referred to CHA for review of the extension of utilities to the site and an erosion and sediment control plan.

**11.074 NB      Dr. Morrison, 1524 Route 9 – Sign**

Mr. Rob Cubeta, applicant for Old Glory Computers, stated the following: The sign that is currently located on Dr. Morrison's property is not going to be large enough to accommodate myself and the additional tenants that are located downstairs. So, Dr. Morrison has proposed an extension to the existing sign that would include 2 more signs for myself and the existing tenant that is located downstairs. In the diagram you can see that I would be getting the top spot that would be 2 FT x 8 FT tenant panel and there would also be another 2 FT x 8 FT sign just below that and then Dr. Morrison's 5 FT x 8 FT on the bottom. Mr. Roberts asked would this sign be lit the same way as Dr. Morrison's current sign? Mr. Cubeta stated that is correct and it would all be on the same electricity when Dr. Morrison's sign is on; that sign would be on also.

Mr. Berkowitz made a motion to approve the sign application for Old Glory Computers tenant panel for Dr. Morrison's freestanding sign. Mr. Nadeau seconded. Motion carried.

**11.075 NB      Old Glory Computers, 1524 Route 9 – Change of Tenant**

Mr. Rob Cubeta, the applicant, stated the following: I am planning on opening up a business called Old Glory Computer Systems. I currently own Quality Computer Systems in Bennington, Vermont and I have owned this business for 7 years. Our business has been great and we're looking to expand. In my search for properties I found Dr. Morrison's storefront and I decided that's where I would like to try and open up a business. I'm looking forward to the process. The business itself is a computer repair shop. We sell, buy and repair computers. It's pretty much a retail storefront where people bring their computers into us for repairs; we then diagnose them, repair them and then turn them back over to the customer. There would not be a lot of off-site work going on and everybody brings their computers to us and we repair it on-site and send it back to them. Mr. Roberts asked how many employees would you have? Mr. Cubeta stated I would begin with myself and I anticipate within the year that I should have 3 additional employees. Mr. Berkowitz asked are you going to have any weekend hours? Mr. Cubeta stated not at the moment because I think that the 45 to 50 hours that I would be putting in initially on my own is going to start taking up the first 3 to 4 months of my time. As I start bringing in employees, I will plan on doing weekend hours as well, but probably not on Sundays. Mr. Berkowitz stated the following: The trouble with that is if you will want weekend hours, you would have to come back to this Board. So if you do plan on doing weekend hours, you might as well ask for it now so you don't have to come back before the Board and that will make it easier on you. Mr. Cubeta stated sure; then lets anticipate probably an 8 hour Saturday as well. Mr. Watts stated the following: Okay; I will change your application to 9:00 am to 6:00 pm on Saturdays. You are located in the Town of Halfmoon and I would like for you to use in all your advertising that you are located in the Town of Halfmoon. Mr. Cubeta stated I would be proud to do that.

Mr. Nadeau made a motion to approve the change of tenant application for Old Glory Computers. Mr. Berkowitz seconded. Motion carried.

**Old Business:**

**09.024 OB      Halfmoon Village & Yacht Club, 2 Beach Road – Multi-Family PDD**

Mr. John Montagne, of The Chazen Companies, stated the following: It has been a while since we have been back before this Board. A lot has transpired since we were here last. It's been just about 2 years since this Board worked with us to grant a positive declaration to the Town Board to start the State Environmental Quality Review Act (SEQRA) review process on this Planned Development District (PDD) application for the Halfmoon Village & Yacht Club. At that time, in June of 2009, we have presented to this Board basically this plan. The plan itself has not changed substantially in that time frame other than specifics on engineering, layout and design. Why we are here tonight is to identify what we believe is sufficient information for a complete application for PDD review. We have gone through the SEQRA process, this Board has been an involved agency in that process and findings were completed and filed. I believe the official date on that is June 16, 2011. The only significance of that is just to say that if the date is somewhere around the 16<sup>th</sup>, we got a 62 day period now where this Board needs to make its recommendation back to the Town Board on the PDD application itself. Mrs. Murphy stated the following: That's correct pursuant to the legislation but this Board and the Town has always interpreted that; that if this Board requests additional information from you with regards to the application, then your application is not complete for their review. Therefore, they would need that information. You have already provided a substantial amount of information so the likelihood of that happening is very small but that is why you are getting all those looks from this Board. Mr. Montagne stated the following: That's fine because we're really here doing the same thing and we're trying to make sure we understand where we are and where we go from here. We're really not asking for anything tonight other than guidance on where we are, where you feel we are in the process and where we go from here. Having said that; we know that during the SEQRA review process all of the items that had been requested during the initial outline process for the SEQRA, the Draft Environmental Impact Statement (DEIS), the Final Environmental Impact Statement (FEIS), and also in the findings were addressed in the impact statements and then followed up in the findings that the Town Board adopted. Because of that we believe, as you've said, most of if not all of the technical aspects that relate to the PDD itself have been reviewed thoroughly by CHA. We know that when we come back for site plan review, there will be much more detailed review of individual site related items. There is a first phase subdivision that we will be coming back with because we do not want to file the entire project. We would file the subdivision in three parts mainly for taxing purposes because as soon as you file with the County you pay taxes on that subdivision in full. The project phasing is in the impact statement and it would be done in three phases. The first phase would be the 2 main buildings as you come in that is about 100 units. The second phase would be 97 units. The last phase is the last building. Each one of those buildings are condominium units so they are just like a subdivision when you file with the County. It's been recommended to us by CHA that we come back and ask for a master development plan approval. So, after we get the PDD, we would come back with this plan, ask for a master development agreement with the Town that this is the plan that eventually will be laid out and then request that Phase I site plan approval and Phase I subdivision approval. I'm just throwing that out right now just for you to understand that that's what we would like to do. If there is another procedure we need to follow, we're open to that. We're just trying to make sure that we understand what's the most logical way to progress on the project. Mrs. Murphy stated the following: The Town Board has not approved the legislation. So, technically nothing exists because you're not entitled to the PDD as of right. All of that being said, this Board is just going to need more information from you

than what you just said because they would like to go into depth and question about some of the determinations that were made as part of the SEQRA process. Mr. Montagne stated that is fine. Mrs. Murphy further stated for them to refer back to the Town Board either a positive or negative recommendation as to how they feel about the PDD legislation itself, not the SEQRA process. Mr. Montagne stated the following: Okay. How would you like us to present that information? Please let us know what you would like us to do and then I will proceed. Mr. Watts stated the following: What I think the Board would like to hear is a summary of the issues. We are aware of the issues that went before the Town Board regarding the size of the project and the density of the project. The Planning Board may make a recommendation back to the Town Board relative to the PDD application, which is a zoning change request. Mrs. Murphy stated that is correct and usually this Board has a public hearing in an effort to further clarify any issues that the Town Board should be aware of as part of the PDD process. Mr. Montagne stated okay, if you chose to have a public hearing, that is fine and we can set that time up again. We did hold a joint public hearing with this Board and the Town Board on the SEQRA process and typically if you do a hearing like that, you get the same comments that you would get if we do this again. So, I would imagine that the same comments that were answered in the FEIS process and the DEIS process would be the ones that we get again. If you chose to do that again, we would be more than happy to present again but we would be a little more briefer than we were for the DEIS hearing because that was rather extensive. I'll probably present almost everything and we won't have a number of other consultants come to talk about traffic and all of those issues. In advance of that what I would ask is if there is any other comments that you can think of that are PDD related as opposed to SEQRA related, it might be better for us to know that so that we can prepare and get you that information in advance of the meeting. Chairman Watts had brought up the fact that you would like to know how the Town Board finished out its findings and the rest of the process. Mr. Watts stated no, I asked for a general explanation of what the project is; the density, what you're doing with sewer, water, roads, and the public benefit. Mr. Montagne stated the following: When we met with the Town Board and went through the final FEIS process, we had negotiations with that Board to talk about how we could mitigate some of the density issues. The PDD that we had requested from the Town was to approve up to 244-units on the property. In order to obtain that density the Town Board said we have an opportunity to look at doing a Transfer of Development Rights (TDR). So, what they have asked us to do is to look to help develop that TDR process by looking at locations in the Town that are in that open space plan that are target areas for finding land to preserve. We are trying to work out a deal with those landowners or any landowner to get an equivalent amount of development right to transfer that can get applied to this property in an effort to preserve that open space in the targeted areas for the open space plan. We have started that process, we have reached out, we have done a GEIS study for the Town, we have identified some very target properties, we have negotiated with Saratoga Plan, who would be a conservation agency that would hold the rights to the transferred rights of the property. We're part of a committee that is studying TDR's in the Capital District right now that is being sponsored by Saratoga Plan and the Planning Program at the State University of Albany is working on that. The intent is for us to get an approval for the project that ultimately could be built out to 244-units. Right now what the Town Board has agreed to is a density of 223-units, which is 10-units per acre. Mrs. Murphy stated the following: Because we continue to haggle over this issue; the SEQRA process has determined that you have proposed mitigation that would make that up to a maximum possibly appropriate. The PDD legislation; there is not even a draft of it so nobody agreed to that figure because they could say we're not changing the underlying zoning. I do not believe that is their intention, I believe they intend to go forward but you keep saying that "they have decided" and they haven't voted on that. Mr. Montagne stated I guess what I should just generally say to you is that when I say that "we have an agreement" is that we have an agreement in principle so that we can come back to you to talk about it. Mrs. Murphy stated that is perfect. Mr. Montagne

stated the following: So, that's all I'm saying is that we have an agreement in principle so we can come back and have a rational discussion with this Board to make sure that you're comfortable with what we're going to ask to get put out before draft language for the PDD. And yes, none of the PDD language has been drafted yet. It is my understanding that the Town's Attorney will be working on that language. Mrs. Murphy stated absolutely, as a results of the comments from this Board. Mr. Montagne stated the following: So, as the applicant, we will obviously ask for things that we would like to see in there. This Board also because of the way that the PDD language is set-up is suppose to actually look at everything and makes it own recommendation about what you would like to see in that PDD as part of whatever you pass back to the Town Board. We're good with that. Don't get me wrong, I'm not trying to impose anything here or suggest anything other than that I'm trying to figure out how to explain this project because it has had some complicated history to it. Please don't take anything that I say as suggesting that there are any kinds of formal agreements on the PDD or anything right now. The only thing that we have done is worked through the SEQRA process. It's important to note though that in order to get through the SEQRA process, we have to do a lot of study and that getting through the findings is a pre-requisite for us to be able to come back to you as what we believe is one of the bigger components of what you need to consider this application complete. Having said that, in principle we have an agreement with Saratoga Sewer on the routing for the off-site sewer. The Grooms Road pump station is where everything ultimately gets to and we're working through that right now with them to get some final information on that. There is already water available to the site so we have adequate water to the site. The SEQRA analysis went through the entire traffic study and the Town engineer's have reviewed that and that was addressed in the findings. The visual character, the community character and other aspects of the size of the project was identified in the SEQRA process. We've done simulations of what the buildings would look like and we have gone through that process. We would be more than happy to represent that to this Board so you can see it again. It's the same exact information that was presented at the SEQRA hearing that everybody here was at. Phase I of the project would have one finger of the boat slips and the boat slips are purely for residents of the community. So, it's not a marina and there are no slips that would be for rent. The rest of the project includes the 1.5-acre Town Park, which is still in project as part of the mitigation. That would be built in Phase II because we need that land to prep when we build Phase I. As part of that, there is a small parking area and there is a link across to the trail that goes along Canal Road. There is a small fishing pier that goes off of that and that would be land at the end of the project that would be deeded to the Town as a Town property. The project itself has the same design that it had before. It has central road that comes in that has a boulevard. The park itself has a large roadway system that comes in to get down for maintenance and that road also provides secondary access into the property. That secondary access is designed for heavy vehicle traffic for the fire department and emergency access protection. The project itself is designed to have most of the parking under the units themselves. The ratio of parking is slightly under 2 to 1 right now. We can make it 2 to 1 but because of the kind of use, one of the things that when we get into site plan review we'd like to discuss with the Board is can we design some of those spaces as overflow spaces that wouldn't have to be hardscaped. We're trying to keep down impervious if we need it because we really don't feel that we will have the need for the extra parking. That is a site plan review function and when we get into the individual site plan we believe that will be addressed. If you want us to bring it back up to the 2 to 1, we can easily accommodate that. The design itself is still a combination where the buildings are 3 and 4 stories about one level of parking. The reason why we are using the parking below all of the structures is twofold; one is to give us the maximum amount of greenspace we can on the property and the other is to make sure that we are not filling in the floodplain. Extensive floodplain studies were done to make sure that the project does not cause any potential for downstream flooding and there is a mitigation plan that is being worked on right now with emergency services to address



their concerns about potential on-site flooding when there are seasonal high floods. It should be noted that this spring when there was all of the other flooding around; there was no flooding on this site and we have photo documentation of that. That is kind of the big parts of the project and I would be more than happy to answer questions that have come up. Mr. Roberts asked do you anticipate having 3 or 4 stories above the parking? Mr. Montagne stated that is correct. Mr. Roberts asked do you have an idea what the total height of the buildings would be? Mr. Montagne stated in the SEQRA documentation itself, there were elevations that showed what the buildings heights are. I did not bring that this evening because I wasn't prepared to talk about that. Mr. Andy Rymph, of the Chazen Companies, stated those buildings would be approximately 75 to 80 FT. Mr. Montagne stated if we had the DEIS here, we could look that up quickly but I wasn't anticipating that question tonight. Mr. Nadeau stated should this project be approved, what is the buildout phase timeframe for Phase I, Phase II and Phase III? Mr. Montagne stated the following: With an ideal situation with a good economy, we would love to be building Phase I in the wintertime where we could start our off-site utility work and all the rest of that and be into building our first phase units by next spring. There are 100-units in that first phase so it would really be market driven. I would anticipate that that first phase could take at least a few years to get through it. So, then you would not be into Phase II until at least 3 to 5 years. The final phase, which is just one building. The main reason why this building is kept out is that you need a staging area as you come in. That last building obviously would be the last phase and that last building is entirely contingent on making sure that all the open space mitigation deals are all worked out with the Town. So there would be quite a few years before this would be built out entirely. Mr. Nadeau asked is there a bonding situation where as Phase I is built and then for whatever reason, they have difficulties completing the project; what would happen in a case like that? Mrs. Murphy stated the following: They haven't worked out all of those details especially with regards to the public benefit or mitigation as you referred to for the public park. Yes, if that is going to be in Phase II. Normally we do have some language in the PDD legislation to ensure that the Town actually benefits from the proposal. So that is something that just has to be worked out. Mr. Montagne stated the following: Obviously those are all things that have to be worked out. One would be to identify, I would think, in the PDD language that that is a necessity and then when we get into subdivision review as you normally do with your subdivision, that's when you would go through just like any other subdivision to talk about bonding for roadway improvements, utilities and in this case, the park also. So, we have time to really work through those details. Mr. Berkowitz asked what is the public benefit besides the 1.5-acre park? Mr. Montagne stated the following: As we said before, there are a couple of actual benefits here that we are looking at. The ones that are closest to the property itself; there is the 1.5-acre park, there is a section of Canal Road between Canal Road and Beach Road that we're going to be rebuilding to bring it up and get better flood protection in that area. Mr. Berkowitz asked is that a public benefit or is that just a benefit for your piece of property? Mr. Montagne stated the following: Well the road is fine, we're not going to change other sections of the road. That was one of the things that was brought up as a request to improve that area of the road because the Town has flooding issues on that road so they would like us to improve that section. The other thing that we're doing is even though the sewer itself is designed to carry the capacity of our project, we're going to upsize the lines that come back into our project and the wet well itself would be sized to have larger pumps so that in the event that all the rest of Canal Road properties want to be added to it, they could be added to it without having to change that infrastructure in there. These are the benefits that are close to home. The biggest benefit on this would be the open space protection that we're proposing. That open space protection really is divided by the total number of units to off-set the cost for that. So, there is a fairly significant value on that. I don't have a dollar amount right now because we still have to work out an arrangement with an owner. But, it would be in the range of hundreds of thousands of dollars. The total benefits, if you were to add up the costs the land, the development of

the park, the open space and the sewers, it would be pretty close to a million dollars in public benefit. Mr. Watts asked are these over and above what you would have to pay? Mr. Montagne stated these are over and above your recreation fees. Mr. Watts asked would this include the full cost of running the sewer line? Mr. Montagne stated the following: No, that sewer cost is totally independent of that cost. Those infrastructure costs are the costs of the project. Mr. Watts stated so that would be over and above. Mr. Montagne stated the following: That is over and above anything that relates to the sewer extension, the water line and any of that. It would "technically" be attempting to meet the public benefit requirement in principle of the PDD. Mr. Berkowitz asked would that transfer the rights of the property to be completed prior to the beginning of this project? Mr. Montagne stated the following: What we would like to see happen is, because in order for us to continue down the path to try to develop the TDR with the Town Board and also to make arrangements with an owner, we have to have some pretty good assurances that if we get it, we will have our approval. So, we would like to see that be a condition of the PDD; that the information that says "before you can buildout beyond X density", you would have to have this in place. That gives us some time to actually re-coop some of our up front costs here on Phase I while we're finishing the rest of that. Because, as we said, we're not going to get above a major density until we're way beyond Phase I on this. Mr. Berkowitz asked so prior to maybe Phase II or III that would be completed? Mr. Montagne stated clearly before Phase III is what we had talked about with the Town Board. Mr. Higgins stated you were saying that Phase III could be 5, 6 or 7 years down the road. Mr. Montagne stated but there wouldn't be an impact either until 5 to 6 years down the road. The density on the property would still be below what you would normally approve. Mr. Higgins stated but you're offering that as a benefit to the Town to have the use of the piece of property for recreational use. Mr. Montagne stated the following: So you don't think that we would just someday decide not to do Phase III, what we discussed with the Town is that the ideal situation for us would be to be able to work out this TDR process, get the transfer development rights and get that set-up with the Town. We have also offered to do other things. We have offered to continue to do the research work and do a fee in lieu of into a bank that the Town could use in the future for open space and a number of other things which is not in the findings right now. What is in the findings right now is exactly what we plan on doing, which is to continue down the path that we are going to negotiate a deal. We have to have a deal worked out where we know at the end of the day that we have the potential to be able to build this thing all the way out. Because that is the only way we are going to recover our costs. This is not an inexpensive project. There is a lot of upfront utility costs, there is a lot of upfront design costs that have gone into this and to make a return on this project, we're going to have to get all the way to Phase III before the investors would actually have a return on the project. Mr. Higgins asked how does your getting the Phase III, I still don't understand why once the PDD legislation has been drafted and adopted by the Town, why not at that point convey that park property to the Town? Mr. Montagne stated the following: I thought you meant the open space. This Town property would be unimproved property until we get through Phase I. We are going to buildout the infrastructure on this. It's like a road; the Town is not going to take a road over until the road is complete. We could bond it in Phase I just like you would bond a road. But once that Town Park is built out, we're not going to want to maintain it anymore because it's going to be a Town Park. So, just like any other park that you build in a subdivision, that's when we would convey it. It would be very similar to the conveyance you would do in a subdivision where you would request a playground, a tennis court or anything else that the Town takes on. I don't believe that Halfmoon has done that very often. In this particular case, we would bond it until the constructions was completed; the Town would then come in and inspect it and say that yes we met the requirements that we had for building that park out and then it would be conveyed to the Town. So, part of the discussion that we are having here and part of what you would approve in the subdivision part of this, would be that the property becomes Town property and gets built out as part of the subdivision. Mr. Watts stated the

following: Relative to that, you mentioned earlier Phase II before this park. One thing that I would like you to consider is that I'd rather see that park built sooner than later. Mr. Montagne stated the following: I understand that but we could probably work that through in site plan approval. We could probably do some of that work but remember that in Phase I the sewer work that we are going to upsize and get onto the property has to come through there. In another area we have stormwater practices that we have build as part of Phase I. There would be disturbance in soil that gets stockpiled during the de-watering process that is needed for the berms that are in this. So, during Phase I, there are things that are going on that we're building here that get staged here and then moved to here for that construction. So, we'd be in a position mostly likely by the end of Phase I to be able to finish out that park because we would have the soil done, we would have the stormwater practices done and we would have all that other stuff done. That is the only reason why it is being shown as part of Phase II for conveyance to the Town. With the parking area and things like that; we probably wouldn't have a problem doing a small parking area there and opening up. There might be times where we would have to be closed off for construction during Phase II. Mr. Watts stated the following: This is their idea so I would like Mr. Bianchino to take a look at that also. I'm not being critical but we're getting probably's and we could and this and that. Unfortunately, we have dealt with some developers where they said, "well, I didn't say I would, I said I probably would". This is important because I'm thinking of the residents who would like to use the park sooner than later. It's like some of the trails in our Town that have not been completed. Mr. Montagne stated what we can say is that as we craft the language for the PDD, some of those things we can write into that language. Mrs. Murphy stated the following: There would be a deadline in the PDD because we bumped into problems with other people, not that you wouldn't ever give us one, but it would most likely be at the end of Phase I. Usually what this Board does or suggests is prior to any Certificate of Occupancies (C.O.'s) for Phase II or part of any construction permits for Phase II is complete. Again, those are in the details. Mr. Montagne stated the following: What I'm saying is that by the time we get through the language for the PDD, the items that are open right now, is to make sure that we get those addressed in that language and then we'll be nailed down. For us, that is one of the suggestions we would say okay let's get that passed on. Mr. Nadeau asked who is the developer? Mr. Montagne stated the developer is Halfmoon District Properties with Mrs. Gail Krause, who is here this evening. Mr. Higgins stated everything you mentioned that you have to do in the park area, which is sewer, stormwater retention and de-watering; all that has to be done before you can get your first C.O. in Phase I. Mr. Montagne stated we had talked about that being the first C.O. in Phase II. Mr. Higgins stated you have to have the stormwater in and you have to have your sewer line in otherwise you can't get your first C.O. in Phase I without a sewer and asked is that correct? Mr. Montagne stated what you're saying is that if the improvements that I'm talking about have to be completed during Phase I, couldn't we at the end of Phase I deed the park to the Town? Mr. Higgins stated the following: No, you're twisting around what I'm saying. You can't get your first C.O. in Phase I without a sewer line, correct? Mr. Montagne stated yes. Mr. Higgins stated the following: The sewer line has to be in and operational before your get your first C.O. in Phase I. You talked about dewatering; as I remember from discussions 2 years ago; the dewatering has to be done before you start any construction at all, correct? Mr. Montagne stated the following: The dewatering for the dock area would happen very early in the project and that would be one of the first things that would happen. Material gets stockpiled in the area where Phase II is and that is where it actually dewateres and as that material dries, it then gets transferred to where Phase I is and used for non-structural fill for Phase I. That is how that process works. So, as we are building up Phase I, we'll be taken material from where it was dredged and stockpiles in Phase II and part of that material would also do the berming that is in the Town Park area. So, I would be fine with having a discussion with our client just to see that at the end of Phase I, we would have the Town Park in a position where we would deed it to the Town. If that is where the Board wants to go with this, that's a

reasonable discussion to have. What I can tell you is that as I'm putting all the infrastructure in and before I pull my first C.O. and get my first payment, I would be in a position financially with my investors to be able to build out all of the park, the sewers and everything else and still have a feasible project. So, what I'm asking for is that the Board be reasonable and if we get to the end of Phase I, and you want that park completed by end of Phase I, I'm sure we would be able to do that. Mr. Higgins stated but the end of Phase I is 50% occupancy on this site. Mr. Montagne stated that is absolutely correct. Mr. Higgins asked what was the traffic study done for? Mr. Montagne stated the following: The DEIS and the FEIS was based on 244-units as the total maximum for everything; the water study, the sewer study, the buildout, the visual. Everything we did in the impact statement process we had identified that was done on the full 244 in anticipation that anything less than that would have less of an impact. Mr. Higgins stated the following: When we had the public hearings, which seemed to be one of the main problems that neighbors had, was with the traffic in that area and the fact that the number of road improvements were at a minimum. Has there been more road improvements added? Mr. Montagne stated the following: During the DEIS process when we had the DEIS hearings; those were the comments that were brought up. During the FEIS process, we worked with CHA and did do additional study. During the FEIS, those comments that were brought up in the public hearing that were traffic related, we completed an additional study and CHA did review that. That information then was also brought forward through into findings and findings do document final discussions on intersections, roadway structure and other things. So, those findings do have information about any of the improvements that would be related to the roadway. I don't have all of that with me this evening, but I would be more than happy to bring that in and highlight all of those for you again. Again, there has been a lot of history here and I don't have all of that committed to memory. I believe we are going to have additional meetings on this so, at the next meeting if that is something that you would like additional information on, I would be more than happy to provide that to you. Mr. Watts stated the following: It has been a long process and a lot of movement and things; like the park, the traffic and where the lights would go if there would be lights, when, whatever and I think that would be helpful for us. That would be good to bring forward because we may decide to have a public hearing. We will make some determination down the road. Mr. Berkowitz asked do you know who the builder would be? Mr. Montagne stated the following: A builder has not been chosen because it is a little premature. We do have an architect and you met the architect when you were here for the DEIS hearing and that architect is still on. We have a structural engineer and mechanical electrical plumbing engineers who are all working on it and Chazen is civil site landscape architect. Mr. Watts stated let us know when you'll have that information when you're comfortable getting that back to us. Mr. Montagne stated the following: This week we can summarize that. It is all data that does exist; we just have to pull it out of the file, copy it and send it back to you. You would have that in 2 days. Mr. Watts stated the following: Okay. Good, so that would be ready for our next meeting so we can keep this moving. Mr. Montagne stated we would love to try to keep us going in that timeframe because it has been 2 years to this point and many years before that that we have been working on this. We have investors who are interested in getting started. Mr. Watts stated the following: Yes and there are a lot of reasons for it taking that long because it is such a big major project. There are so many different things and changes that have occurred. Mr. Higgins asked is there any way we could get the information prior to a meeting so we have a chance to go over it? Mr. Watts stated yes, we will forward that on to you.

This item was tabled for the applicant to compile and submit information on the proposed project.

**11.042 OB      Stewart's Shop #112, 1403 Route 9 – Addition to Site Plan**

Mr. Tom Lewis, of Stewart's Shop, stated the following: We are proposing an addition to the site plan at our existing Stewart's Shop located on Route 9 and Crescent Road. We are looking at all of our shops to see what is wrong with them and is there a way that we can make it better. We are hoping to re-configure the existing parking area at the Route 9/Church Hill Road Stewart's Shop. The re-configuration consists of creating a driveway along with an additional curb cut out to Terminal Road while maintaining all of the other three existing curb cuts. There would be one full access curb cut and a one-way out on Route 9 and a full access curb cut onto Church Hill Road. We spoke with the New York State Department of Transportation (NYSDOT) about our proposal and they have said that they do not want a left-out so were hoping to have that access as a one-way out. This would give us an additional 3 parking spaces. Mr. Watts asked would there be any changes to the building? Mr. Lewis stated no. Mr. Watts asked so you would just be re-configuring the entrances and parking. Mr. Lewis stated correct. Mr. Berkowitz asked if they would be adding any more gas pumps. Mr. Lewis stated I would love to add more gas pumps but the site isn't big enough. Mr. Nadeau stated with eliminating the left-out would this be a situation like we had at Grooms Road where people will still take a left-out? Mr. Bianchino stated yes. Mr. Nadeau stated so theoretically it doesn't work and could it be configured so it would be it difficult to make a left-out? Mr. Bianchino stated the following: I still see people making a left-out in those situations. If no one enforces it and if people can physically do it, they will. Mr. Watts stated we just went through this situation at the Cumberland Farms on Grooms Road and the other day I did see someone still making a left-out at that site. Mr. Roberts stated when Terminal Road is being used and someone makes a left-out at the left-only access, that could really mess things up because those two accesses are so close. Mr. Lewis stated the following: In the handout that I gave you, one side shows how we have to have this right-out but we don't have to have the other access a right-out only. However, when I spoke to Mr. Kevin Novak from the NYSDOT, he said he likes this because if a person goes out it would set off a trip wire so that the traffic lights simultaneously go red. So, we don't mind if that is eliminated but the NYSDOT kind of wanted it. Mr. Watts asked Mr. Bianchino if in his review process did he look at that concern and Mr. Lewis's and Mr. Novak's concern. Mr. Bianchino stated the first thing I looked at was that they needed to maintain, at least partially, the existing larger curb cut for truck access and I just wanted to see what the concern was. My other concern to Mr. Lewis was, which he has addressed, the pump location, and that it is not easy to get in and out. Mr. Higgins asked where is the unloading area. Mr. Lewis stated the tanker unloading is on the passenger side and then he probably backs out. Mr. Higgins asked are you showing parking spots over the top of the unloading area. Mr. Lewis stated yes and the tanker is there maybe two times a week. Mr. Higgins stated so they unload when the shop is closed. Mr. Lewis stated I'm not sure but they frequently do it very early or very late and it varies by shop to shop. We certainly go out of our way to not aggravate our customers. Mr. Watts stated the following: So, if somebody's car was in a parking spot and the tanker got there, he would wait for that person to move. Have we ever had an issue with that site? Mr. Lewis stated not that I know of. Mr. Nadeau stated we don't want to create an issue either. Mr. Lewis stated we are certain that this works much better than what is there now. Mr. Watts stated I think that's the point that we're trying to get to because we have cramped sites that we're trying make better. Mr. Roberts asked would the Terminal Road access be controlled by the traffic light? Mr. Lewis stated yes. Mr. Higgins asked would parking spots be taken out? Mr. Lewis stated those spaces are being moved and we are adding 3 additional parking spaces to the site.

Mr. Berkowitz made a motion to approve the addition to site plan application for Stewart's Shop #112. Mr. Ouimet seconded. Motion carried.

**11.066 OB      Zappone Chrysler Jeep Dodge Ram Inc., 1613 Route 9 – Commercial Site Plan**

Mr. Watts stated the following: Before you get started with this proposal, this is not part of the site plan review. At our last meeting we raised a number of issues relative to the crowding and the buffers so Mr. Zappone would understand the issues. So, what we brought you back for is a review relative to the variance that would be required. Mrs. Murphy stated the following: When you were last before the Board, the Board detailed several site plan issues, which they had grave concerns with. A copy of those will go to the Zoning Board of Appeals (ZBA) because they do get the meeting minutes. The underlying questions was; was there a variance that had been issued some time ago and what did that variance say or were we dealing with a pre-existing non-conforming use. It turns out that we were dealing with the latter, as the side yard setback is not being met, an area variance would be required, which this Board does not have the authority to grant. So, this Board would have to deny you to allow you to go to the ZBA for that expansion and then you would come back to address those very same site plan issues that were already spoken about. Mr. Scott Reese, RLA, PLLC, of Site Design and Planning, stated the following: Correct and we understand that. From our last Planning Board meeting and my discussion with Mr. Zappone as far as allowing more greenspace; Mr. Zappone is in favor of that. So, when we do come back to the Planning Board, you will see an increase of greenspace, which would be a reduction of some of the parking areas and maybe a little reduction of the building size itself. He also said that he would drop off and unload the vehicles at his other parking facility and drive them onto this site after hours. Also, we were encouraged to place other buffers of fencing along the side where the apartments are and along the back. So, I think Mr. Zappone is also willing to work with the Planning Board. We understood that we would be going to the Zoning Board to proceed with this variance. Mr. Higgins stated at the previous meeting there was a question about the rear yard setback and was it confirmed that the stormwater retention could be put in that area? Mr. Watts stated yes.

Mr. Roberts made a motion to deny the commercial site plan application for Zappone Chrysler Jeep Dodge Ram Inc. on the basis that the proposed showroom does not meet the minimum side-yard setback as required in Schedule A of the Town's Zoning Code. Mr. Berkowitz seconded. Motion carried.

Mr. Ruchlicki made a motion to adjourn the June 27, 2011 Planning Board Meeting at 8:25 pm. Mr. Higgins seconded. Motion carried.

Respectfully submitted,  
Milly Pascuzzi  
Planning Board Secretary