

Town of Halfmoon Planning Board

February 22, 2010

Those present at the February 22, 2010 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 Walt Polak
CHA Representative:	Mike Bianchino

Mr. Watts opened the February 22, 2010 Planning Board Meeting at 7:01 pm. Mr. Watts asked the Planning Board Members if they had reviewed the February 8, 2010 Planning Board Minutes. Mr. Roberts made a motion to approve the February 8, 2010 Planning Board Minutes. Mr. Ouimet seconded. Motion carried.

New Business:

10.010 NB Provident Development, 1652 & 1654 Route 9 – Commercial Site Plan
(Re-approval)

The applicant did not appear before the Board for this item, therefore, no action was taken.

10.016 NB Inglewood Planned Development District, Cemetery Road – Major
Subdivision/PDD

Mr. Gavin Vuillaume, of Environmental Design Partnership, stated the following: I am representing the applicant, Mr. Paul Weber. The Inglewood Planned Development District (PDD) was a project that was approved about 3 years ago in May 2007. The project was approved as a Residential PDD and it was fairly small in size in comparison to some of the larger projects in Town. There are about 10-acres and the property is located on Cemetery Road about a half of a mile north of the Old Route 146 intersection. I think when we presented this 3 years ago to the Board; the Planning Board seemed very comfortable with the layout. At that time the applicant chose not to continue with the project basically due to the slowing economy and the housing market being what it was the last couple of years. We're now seeing a little bit of a return in some of the development in the area so I think the

applicant feels it's an appropriate time to begin the detailed site planning for the project. Before we get started with the detailed plans, we wanted to review the project again with the Board to make sure that everyone was comfortable with the layout and with the utility infrastructure connections that we're proposing, the amenities that we presented at the previous meetings and things of that nature. We just wanted to get some of the Board's feedback on this and see if there is any additional comments that you might have that might help improve the project. The map is the same map that was presented 3 years ago that has a small cul-de-sac that is approximately 1,000 FT long. The road itself would be built according to Town specifications and would provide access to the 27 townhomes. The 27 townhomes would be located on approximately 8, what we call great lots, so as part of our subdivision we would be subdividing essentially only those 8 lots for now. On those 8 lots, as the project is built, the townhomes would be placed on each one of these 8 great lots and then further subdivided down party walls that would further subdivide the multi-family structures. We would be providing stormwater management for the project at a low spot immediately adjacent to the car auction. We also would be providing a 50,000 SF openspace area that would be available to residents within the project. We would have a small gazebo placed there, some sidewalks and possibly other amenities that residents might be interested in. Again, the minimum lot size for those great lots would be about 23,000 SF, they would have a 30 FT front yard and rear yard setback. Sewer and water would be immediately available on Cemetery Road. We would have to go a little bit of a way to connect to the sewer. The project fronts on Cemetery Road and about ½ mile to the intersection is where we would be making our connection for the sewer. We would be connecting to a Saratoga County Sewer District (SCSD) manhole and according to the SCSD everything seems okay to make that connection at this point. Along with the connection, since we are doing construction along the right-of-way, it was basically decided at the time of the approval that it would be a nice amenity for the Town to have a sidewalk along that right-of-way. So we would be proposing a sidewalk in the same area where the sewer would be. It might get a little tricky over near the cemetery because there is a slight hill or an embankment there that we have to be careful of so we met with the Highway Department just to kind of get an idea where they would want the sidewalk in relationship to the road. We have come with a detail that I think they're happy with. Mr. Watts stated was that back then? Mr. Vuillaume stated yes, back then. Mr. Watts asked so with all these things when you are saying "back then" it is basically the same proposal. Mr. Vuillaume stated yes it is pretty much the same and nothing has changed. Mr. Watts stated this is the PDD that was approved by the Town Board with the public benefits as stated. Mr. Vuillaume state yes and we will be meeting again with the Highway Department just to confirm a few things but essentially yes, the plans themselves at this point have not changed and we don't anticipate any changes before we get this back in front of you for final approval. Mr. Watts asked Mrs. Murphy relative to the PDD is there any thing else? Mrs. Murphy stated the PDD was scheduled to expire but the applicant did receive an extension from the Town Board so they would be under the same legislation as they were when they were previously before the Board. Mr. Vuillaume stated I believe it has been extended until 2012. Mr. Watts asked so everything is the same and you just wanted to revisit it just in case we felt something had changed? Mr. Vuillaume stated right. Mr. Watts asked the Board if anyone had any issues from what we previously approved? No one responded. Mr. Vuillaume stated so we will begin preparing our plans, we will submit them to CHA and we will work with CHA through the detailed engineering. Mr. Watts stated yes, we did a lot of work with you on this to get it to a good state and unfortunately the previous applicants financial situation is understandable. Mr. Nadeau asked has anything ever been done with the red barn that is located at the south end? Mr. Vuillaume stated the following: I don't believe anything will be done with that. Again, that barn is part of another parcel that is owned by the Gilbert's and when we spoke with them early on there was an effort to maybe do something with the barn because the barn is very close to

the road. At that time they were still using it, so I don't think there are any plans to remove it or replace it.

This item was tabled and referred to CHA for their technical review.

10.018 NB Palma Minor Subdivision, 85 Route 236 – Lot Line Adjustment

Mr. Michael Palma, the applicant, stated the following: I currently own the 2 parcels located at 85 Route 236. One of the parcels is landlocked by the existing residential lot that currently has a house on it. My proposal is to subdivide off a 30 FT wide strip of property to create a flaglot for the landlocked parcel to allow access to the rear lot. The front parcel (Lot A) is currently 1.24-acres with 229 FT of road frontage and the rear parcel (Lot B) is currently 1.37-acres with no frontage. After the lot line adjustment, Lot A would be 1.018-acres and Lot B would be 1.55-acres. Taking the 30 FT from Lot A would still allow 199.12 FT of frontage for the front parcel and Lot B would have 30 FT of road frontage after the lot line adjustment. Lot B would be serviced by on-site septic and public water if any building were to go on that lot. Mr. Higgins asked is the existing residence was on municipal water? Mr. Palma stated it wasn't when I purchased it but it is now.

Mr. Nadeau made a motion to set a public hearing for the March 8, 2010 Planning Board meeting. Mr. Higgins seconded. Motion carried.

10.019 NB Tanski Mixed Use Development, Route 146 – Concept-Commercial Site Plan

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10.023 NB Tanski Mixed Use Development, Route 146 – Special Use Permit

Mr. Brian Osterhout, of M J Engineering, stated the following: I am representing the applicant, Mr. Bruce Tanski, for a commercial development between Route 146 and Fellows Road. It is approximately a 2.5-acre open parcel. Currently there are no trees on the parcel. We are bringing this application before the Planning Board for a concept review and we have also submitted a special use permit application as it is proposed to have a drive-through, which is required under your special use regulations. As I mentioned, the property is about 2.5-acres and what we are proposing on the property is a 5,200 SF convenience store/gas mart, there would be 2 independent tenants within that building along the lines of a Dunkin Donuts or a national small chain restaurant; hence the drive-through. We are proposing 4 gas pumps out in front, 2 pumps per stall to bring the total to 8 pumps. The proposed gasoline storage tanks would be underground. Also there is a proposed laser dry cashwash, which would be a touchless carwash that you see throughout the Capital District. In terms of the overall project, we have provided for more than the required greenspace. Currently we have shown about 55% greenspace on the project. We are proposing an aboveground stormwater detention basin. We've provided for ample landbanked parking, ample parking spots and we've reconfigured this site plan a couple of times to accommodate large queuing in the drive-through's as we know that is somewhat of an issue at other facilities throughout the Capital District. At this point we have almost tripled the required queuing for a drive-through based on the regulations. We are proposing multiple curb cuts; 2 curb cuts on Route 146 and obviously we would have to coordinate that with driveway entrance permits through the New York State Department of Transportation (NYSDOT). We are also proposing an access onto Fellows Road so that trucks and so forth can have through traffic without having to do any kind of difficult turnarounds. Mr. Bruce Tanski, the applicant, stated Mr. Osterhout stated there was going to be 2 tenants within the building but that has changed to only one tenant instead of two tenants. Mr. Watts asked who would that one tenant be? Mr. Tanski stated hopefully Dunkin Donuts. Mr. Berkowitz asked if Dunkin Donuts would also be selling gas? Mr.

Tanski stated no. Mr. Watts stated Dunkin Donuts would be one tenant and the gas station would be two. Mr. Tanski stated when Mr. Osterhout said inside the building, I believe he said two tenants inside the building not counting the gas station. Mr. Higgins asked where would the office and cashier for the gas station be? Mr. Osterhout stated inside the building. Mr. Higgins asked would half the building be Dunkin Donuts and the other half would be a convenient store? Mr. Osterhout stated the following: The Dunkin Donuts would occupy about 20% inside the building. It would be in the back corner of the building. Mr. Higgins asked would the majority of the building be the convenient store with the Dunkin Donuts having a portion of it? Mr. Osterhout stated correct. Mr. Watts asked if Dunkin Donuts would have any seating? Mr. Osterhout stated I've seen them both ways; usually there are one or two small tables inside and maybe a picnic table outside when the weather is nicer. Mr. Watts asked would it be kind of like the Hess Station over on Crescent? Mr. Osterhout stated yes, similar to that. Mr. Watts stated so it's not primarily a Dunkin Donuts where you would go in and sit down. Mr. Osterhout stated no, it would be more like a convenient store/gas station. Mr. Watts asked so would those tables affect the parking requirements? Mr. Osterhout stated yes. Mr. Watts asked would the drive-through be for the Dunkin Donuts only? Mr. Osterhout stated correct. Mr. Nadeau asked regarding the Fellows Road access, what condition is Fellows Road in? Mr. Osterhout stated the following: The majority of the traffic is anticipated to come off Route 146 and exit back onto Route 146. For some of the deliveries it would be easier for a truck to make a straight-through pass. It is not anticipated to have heavy truck traffic. Mr. Nadeau stated there are 3 or 4 residents there. Mr. Tanski stated the following: The main issue of putting the driveway in the back was for emergency purposes only. I would say that 99.9% of the people coming in would come right back out onto Route 146. Mr. Nadeau stated right, because if they take that southern exit, that would put them closer to the Route 236 area. Mr. Tanski stated we looked at the sight distance and it is even better than where we put the new road, so we picked up about 150 FT on the sight distance. Mr. Berkowitz asked could you gate that for "emergency access only"? Mr. Tanski stated the following: We could if that's what the Board wants but I would rather not do that. Also, the once every month delivery of the truck might make it easier to get out than to make that swing onto Route 146. That was the purpose of the Fellows Road access. Mr. Watts asked what kind of delivery truck are you talking about? Mr. Tanski the truck would make deliveries once a week. Mr. Berkowitz asked is this a 24-hour operation? Mr. Tanski stated the following: No. We haven't decided the hours yet, but I don't anticipate it being 24-hours a day. It might be from 6:00 am to 9:00 pm at night or something like that. Mr. Berkowitz asked how would the neighbors be buffered from this site? Mr. Tanski stated the following: There is a 50 FT buffer along one area, which is required by the Town code because it is residential. We also plan on putting a fence in another area and we would do the same in one other area if the Planning Board decides we need it. Mr. Berkowitz asked how would the fence be hidden from the neighbors? Mr. Tanski stated we could do whatever the Board wants. Mr. Berkowitz asked what kind of noise would be coming out of there at night or at 6:00 am in the morning? Mr. Tanski stated the following: I would anticipate not much more than you would see at a Stewart's or anything like that. My construction office is across the street from a Stewart's and we hardly ever hear any noise, even in the summertime. This parcel on Route 146 is zoned C-1 Commercial. Mr. Nadeau asked is there a house adjacent to that rear driveway? Mr. Osterhout stated yes there is a house slightly adjacent to that driveway.

This item was tabled and referred to CHA for their technical review.

10.020 NB Mark Krosky Vehicle Maintenance & Repair, 10 Guideboard Road – Change of Tenant

Mr. Dan Chouiniere, the applicant, stated the following: I am the landowner of 10 Guideboard Road and we are here for a change of tenant for my property. Mr. Mark Krosky is looking to lease the property from me for his auto shop. He currently has an auto shop on Clamsteam Road and he would be relocating to my property. My father ran a construction business out of this property for approximately 35 years. The property had construction equipment, trucks, construction vehicles and heavy machinery on it. My father worked on the machinery there, stored machinery there and we would do all of our operations out of there when it was Chouiniere's Trucking Excavating. As you know, my father passed away last summer so I am looking for a use for the property that would be fairly consistent. Mr. Krosky came to us for use of this property and I think this would be a better use for the property because it would be much quieter than a construction company that my father had there for years. There was an original garage built in 1970 and there is a steel garage with 3 bays. The property has a long stretch that goes all the way back to Mr. Sabourin's property and this stretch actually was a cow pasture at one point in time. That portion of the property won't be used at all; it is just grass right now and there is also a septic system in that area. The fueling area does not exist anymore. My father had a diesel tank for diesel storage on the property and that is going to be removed from the property very soon. Mr. Krosky has asked for approximately 5 parking spots so there would be no more than 5 cars on the lot at any point in time and 2 of the cars would belong to Mr. Krosky and his one employee. Mr. Watts asked what was submitted? Mr. Williams stated we have an old site plan from Art Chouiniere's. Mr. Chouiniere stated the following: There are no changes to the property other than what was done when my father did it. This proposal is just for a use change and no physical structures are going to change on the property at all. Mr. Roberts stated based on our past experiences, I think it is very important that the applicant strictly adheres to the 5 vehicles on site because these types of situations get out of hand very easily. Mr. Mark Krosky, the applicant, stated the following: The 5 vehicles wouldn't be a problem due to the amount of garage space that is there because there is room for 5 other vehicles in the garage itself; so that would be 10 vehicles. It would be just me in the garage. I don't have any employees; it would be just me and the other person in the garage would be A-1 Graphics who does vinyl signs on vehicles or signs for a business and A-1 Graphics would be occupying the one garage. Mr. Berkowitz asked would there be two tenants or one tenant? Mr. Jordan Laccetti, with T.L. Metzger and Associates Commercial Real Estate, stated the following: Mr. Krosky would be Mr. Chouiniere's tenant and then in the future, if Mr. Krosky chose to sub-lease the other office to the person he is talking about, we would come back before you to seek the Board's permission. Mr. Watts stated we were lead to believe that the apartment would be the office. Mr. Chouiniere stated the following: Correct, there would no longer be an apartment. My father used it as an apartment but it is no longer going to be used as a living space. Mr. Watts stated we were unaware that A-1 Graphics was going in there because that would require additional parking. Mrs. Zepko stated the following: The parking would depend on how many cars we limit to the site. As far as another tenant in the building; obviously we would need another application for a new tenant as well. Mrs. Murphy stated the following: I would say without having seen the application, then that would probably cause difficulties because this is viewed as a reduction of a pre-existing non-conforming which we could do legally. However, if you add another tenant, then it would be an expansion of a pre-existing non-conforming use, which would require relief from the Zoning Board of Appeals (ZBA) because you can't have two tenants where one tenant was. Mr. Higgins asked what type of repairs would you be doing there? Mr. Krosky stated general automobile repairs, tune-ups and brakes. Mr. Higgins asked would you do any bodywork or painting? Mr. Krosky stated yes there would be some of that. Mr. Higgins stated because of the residents near there, there are concerns about odors and everything else from the shop. Also, what are you going to do about your materials that you

have to dispose of, such as, waste oil and things like that? Mr. Krosky stated the following: I talked to Mr. Laccetti today about it but I haven't talked to Mr. Chouniere yet. In my shop right now I have a waste oil heater and that is staying in the building where it is. I was going to look into getting another waste oil heater and that would be where the waste oil and petroleum products would be used and burned for heat during the winter months. Mr. Higgins stated obviously if you are doing bodywork, you have to have downdraft booth and ventilation. Mr. Krosky stated I would be the only one doing bodywork and it is not required by the Environmental Protection Agency (EPA) for me to have a downdraft booth. Mr. Higgins stated our Code Enforcement people would have to look into that on what is required if they are doing bodywork there. Mr. Watts stated yes, before a certification of occupancy could be issued, it would have to be whatever the building code requirements are. Mr. Krosky stated most of the new requirements they have with the EPA; Autobody Supply in Albany had a meeting and brought in the people from EPA and the amount of material that needs to be used to fall under the new guidelines; I'm nowhere in the neighborhood of even coming close to using the amount of materials per month. Mr. Berkowitz asked what do you do with the oil that you don't burn during the warmer months? Mr. Krosky stated the following: The waste oil heater is a self-contained unit and it has a huge holding tank in it. When I do oil changes, I just pour it right into the waste oil tank that is there and it is located inside of the building. Mr. Berkowitz stated I understand that but you are burning that oil in the wintertime; so what do you do with the oil in the summertime when you are not heating the building? Mr. Krosky stated I would be filling the tank that is inside the shop. Mrs. Zepko stated I think what Mr. Berkowitz is asking is if you have enough capacity in that tank to hold all of that oil until you burn it in the wintertime. Mr. Krosky stated the following: I also have friends that have shops and as my oil gets low, I go out and retrieve their oil and then I transfer it into my tank. So the amount of oil that I get from oil changes isn't a significant amount to withstand all the heating that is needed over the wintertime so I need to go out and get more oil. Mr. Berkowitz asked is that legal and do you need a permit for that? Mr. Krosky stated not as far as I know. Mr. Higgins stated to transport used oil, yes you do. Mr. Nadeau stated it takes a lot of oil changes to fill that tank. Mr. Watts stated I see a lot of people here tonight who are raising their hands. The intent tonight is for the applicant to make their presentation to the Board and for the Board to raise questions. Then we plan to set a public informational meeting where the neighbors would be notified of this plan. At the public informational meeting people in the surrounding homes, etc. would in fact be notified via registered mail. I see that there are people here tonight who are anxious to say something but that would be at our next meeting. Mrs. Murphy stated the Board is taking an extra precaution due to the fact that there are neighbors close by. The Board is aware of the situation so they would do a public informational meeting as a courtesy and as an information gathering mechanism. It is not required for a change of tenant application but it is being done in this instance.

Mr. Roberts made a motion to set a public informational meeting for the March 8, 2010 Planning Board meeting. Mr. Berkowitz seconded. Motion carried.

10.021 NB Subway, 1549 Route 9 (Wal-Mart) – Change of Tenant

Mr. Brooks Church, the applicant, stated the following: I'm one of the owners from Subway and we are filing for a change of tenant application inside the Wal-Mart on Route 9 where the old Blimpie's used to be. We would be replacing the Blimpie's with a Subway. Mrs. Murphy asked Mr. Williams if he had a consent form from Wal-Mart to allow Subway to file the application? Mr. Williams stated yes. Mr. Watts stated to clarify the record; you did not file a change of tenant when you opened, is that correct? Mr. Church stated that is correct. Mr. Watts asked what happened there? Mr. Church stated the following: Our contractor came in looking to file building permits and the contractor said he was told that only a change of tenant was needed and building permits were not needed because we

weren't making any structural changes, we were just taking equipment out and putting more in. So the contractor said he let the Wal-Mart manager know that this is what was needed and that Wal-Mart needed to file that application. The Wal-Mart manager told me that he thought that Corporate takes care of that because Corporate knew that Subway was going in there. So we were a bit confused as to who was supposed to do that. Then we called the New State Department of Health (NYSDOH) for our inspection and the NYSDOH said we needed a certificate of occupancy (C.O.) so I called our contractor and asked for a C.O. and that started the whole process as to what we didn't do and that is how we found out that we needed to come before the Board for a change of tenant application. Our contractor came down and spoke with you guys on Friday and we were able to have an electrical inspection and a fire inspection that day and the Town gave us a temporary C.O. pending an approval from the Planning Board. Mr. Watts stated right and I hope you appreciate what the Town has done for you. Mr. Church stated we definitely appreciate it. Mr. Watts stated there was no confusion on the part of our office relative to what had to be done. Mr. Church stated that is correct because the confusion was on our end. Mr. Watts stated we did go out of our way to allow you to open. Mr. Church stated yes and we do appreciate that. Mr. Watts stated I wanted to verify that for the Planning Board because this is out of sequence to what we normally do and I felt that you should bring that forward. Mr. Church stated yes, we messed up. Mr. Watts stated okay because at one point someone said that our office made the mistake and that wasn't true. Mr. Church stated no, we are the ones that messed up and I am still confused if it was Wal-Mart that was supposed to get the change of tenant application or Subway. Mr. Watts asked are your hours of operation approximately 6:00 am to 1:00 am? Mr. Church stated that is correct. Mr. Watts asked would you have approximately 15 to 18 employees? Mr. Church stated I think right now there are 13 to 14 employees and we are hoping that business goes up a little bit and then we would need the 15 to 18 employees. Mr. Watts stated in your advertising please make sure that you say that you are located in Town of the Halfmoon.

Mr. Roberts made a motion to approve the change of tenant application for Subway. Mr. Nadeau seconded. Motion carried.

10.022 NB J & S Watkins Plaza, (Caputo's Pizzeria), 1675 Route 9 – Addition to Site Plan

Mr. Tom Andress, of ABD Engineers & Surveyors, stated the following: We are back before the Board tonight from the last meeting where we had discussions in reference to the tenant change in J & S Watkins Plaza for Caputo's Pizza. I think the end result is that we received an approval from this Board for the tenant change but with only 18 seats. We are back before the Board tonight with an addition to site plan application to try to modify the site plan so that we can get some extra parking so Mr. Caputo can put in the 32 seats he would like. After the meeting, even though Mr. Caputo was here, he did agree to the number and he started looking through his financials and said he really wanted to have the seating capacity that he has in his facility in Wilton. We are back before the Board to request the 32 seats. I have passed out pictures so as to give you a little better idea of the seating that he has in Wilton and as you can see, it is kind of tight and small. We wanted to give everyone a better flair of the type of the restaurant seating and this is the same type of seating that we are proposing at the J & S Watkins Plaza. Regardless of the way that is designed; the issue that we had at the last Planning Board meeting was that we didn't have enough spaces per Town code to be able to have the 32 seats. We are coming back with an addition to site plan that shows 5 extra spaces, which would then give us the spaces that would be needed to put the 32 seats in. We have accomplished that by a number of things; we did have one extra space that was constructed as part of the original plan that is located in the corner next to Classic Interiors. We didn't have site plan approval so we would have to get site plan approval for that as part of this. We do have a large patio area near the J & S Watkins area that

was originally designed for outdoor seating at one point in time when the Watkins' thought they were going to put in the restaurant where they were going to put in an outdoor patio. There is a big concrete area there and that could easily accommodate another parking space that we are proposing to put there. That would be a good space because it would be right in the area where all the main action is going on. That gives 2 parking spaces out of the 5 spaces needed. The other 3 parking spaces would be proposed in the area where we have the out parcel area that is adjacent to Aldi's. That area has 10 FT x 20 FT parking spaces and we would be proposing to change that to 9 FT x 20 FT spaces and that would give a total of 3 spaces. That area was originally landbanked and we would not build that landbanked area unless the Town wanted us to or we found that we had the demand. So in that area, we would have a total of 3 spaces and then the 2 in the front would give us the 5 spaces that meet the parking count to allow the 32 seats. Mr. Berkowitz asked out of the total number of parking spaces how many would be 9 FT x 20 FT? Mr. Address stated at this point all of them would be 9 FT x 20 FT. Mr. Berkowitz asked would the entire parking lot be 9 FT x 20 FT? Mr. Address stated the following: Yes because Mr. Williams and I looked through the existing site plan. With the original approval, variances were given for the parking spaces in the front to be 9 FT x 20 FT. Mr. Williams stated the Zoning Board of Appeals (ZBA) allowed 54 out of the 80 spaces to be 9 FT x 20 FT. Mr. Roberts asked are you proposing to have all 9 FT x 20 FT parking spaces? Mr. Address stated the following: Yes. Right now the main parking area is 9 FT x 20 FT. The history of why that was given is because at that time when there wasn't that option available for this Board to grant 9 FT x 20 FT parking spaces, it was very difficult to get those spaces from the ZBA. But we did get the 9 FT x 20 FT parking spaces and the reason why we got those is because there was the design for the access road. We did have a design that had the spaces available but they did back out into the parking lot because the parking lot was the same as Aldi's so what we did is, we worked with the Town to create this through-road, which at the time, Lowe's wasn't there and I believe that was owned by Accent on Health. So it was a plan to be able to provide that and in the end it became extremely important because it works as a major function road between the back end of Lowe's out to Route 9. What we are asking is that we do have spaces in one area that are 10 FT x 20 FT. We would propose to make those 9 FT x 20 FT and we proposed to label that area as the employee parking. We would still have to keep the landbanked spaces because we don't really feel that we have need to build the landbanked spaces but if the Board wanted us to, we could. Mr. Roberts asked if you go through with this and re-stripe the existing parking spaces to be 9 FT x 20 FT, how many additional spaces are you going to be getting? Mr. Address stated the following: We are picking up 5 additional spaces; 3 in one area and 2 in another area. Mr. Ouimet asked are the 3 additional spaces that you are picking up going to be for employees only? Mr. Address stated that is what we have proposed to do and we would assign the area near Aldi's for employees only. Mr. Watts asked how would you designate that? Mr. Address stated the following: I think the easiest way would be to put signage in with arrows because it is a continuous piece and no one sees that parcel line. We would put signage on both sides that would say, "parking for Watkins Plaza employees only". Mr. Nadeau asked do we know for sure what was actually approved on the 9 FT x 20 FT from the ZBA? Mr. Address stated it was a variance and we have the actual dates on the plans and I think Mrs. Zepko and Mr. Williams went through that. Mr. Williams stated I believe the ZBA minutes are in the file. Mr. Roberts stated my concern is that I don't think it was the intent of this Board to approve the whole site with 9 FT x 20 FT spaces. Mr. Address stated it was actually the ZBA, not the Planning Board that approved the 9 FT x 20 FT spaces. Mr. Roberts stated right but it wasn't the ZBA's intent to approve the whole site as 9 FT x 20 FT spaces, which I believe is what you are asking for now. Mr. Address stated the following: There is no question that at that time it was the ZBA's intent to approve just what we asked for and we were conforming to the 10 FT x 20 FT spaces for the remaining parking. The difference now is that the laws have changed and this Board has the ability to, if they want, allow the 9 FT x 20 FT spaces. Mr.

Roberts stated the following: Again the difference now is that 2 weeks ago the applicant was satisfied with what we approved and now you are back in here at the next meeting wanting to get more and the applicant has not even opened yet. I don't see the justification for revisiting this site without him having a need for it. Mr. Nadeau stated the following: The question with the 9 FT x 20 FT spaces and the Board's discretion is based on helping a site work that could use a couple more spots without revamping the entire lot. I think that is basically our intent because the Town Board actually wants 10 FT x 20 FT spaces. Mr. Watts stated the following: For a little history, I believe the 9 FT x 20 FT spaces were basically to be used for employee parking and/or long-term parking. When we looked at some of the office places up on Route 146, the 9 FT x 20 FT spaces are approved where somebody is in there for 8 hours and it is not in and out traffic. How do you respond to that history and how can we approve the entire parking lot of 9 FT x 20 FT spaces? I'm not the ZBA so I can't speak for why the ZBA approved as many spots as they did. Mr. Address stated the following: Right, and I think that's the point. These parking spaces were approved by the ZBA on February 5, 2001. We did the presentation before the ZBA and the reason why they approved those spaces is that we had a site plan that had a similar layout to the parking lot next door at Aldi's. The lot continued across and there wasn't really any access through the site and it was a regular site plan. We had a line through the middle and it defined Aldi's verses J & S Watkins. Mr. Berkowitz asked if the plaza was expanded after the ZBA approval. Mr. Address stated yes that building was expanded. Mr. Berkowitz stated so you expanded the building knowing there was not enough parking there. Mr. Address stated no. Mr. Berkowitz asked why did you expand the building after it was originally built? Mr. Address stated because we had the opportunity to put on additional space and at that time there was a demand for the additional space. Mr. Berkowitz stated so this is basically a self-imposed liability that you have right now. Mr. Address stated it is a self-imposed liability in that we're asking for this tenant use. Mr. Berkowitz stated before you needed more space for another tenant, right? Mr. Address stated every time you do an expansion, of course, you need space for the tenant. Mr. Berkowitz stated but now you expanded so much you don't have enough parking. Mr. Address stated no we don't have enough parking to meet the requirements for the number of seats that this tenant was asking for. Mr. Berkowitz stated so there is not enough parking. Mr. Address stated right; there is not enough parking for the tenant that we're asking the number of seats for. Mr. Berkowitz stated so it was self-imposed. Mr. Address stated the following: Yes it is self-imposed. What we are asking the Board here and to answer Mr. Roberts' question; why we're back, is because Mr. Caputo decided not to sign the lease. Mr. Caputo didn't sign the lease and he told us that it was his intention to not sign the lease unless he has the number of seats he proposed available. Mr. Nadeau stated Mr. Caputo agreed at the last meeting to what the Board would allow for the maximum number of seats. Mr. Address stated I was there, I saw it and then he decided after when the Watkins' presented him with the lease that he wanted more seats. Mr. Roberts stated the following: I could be wrong here but what this tells me is that what you are proposing does not meet the requirements set by the Town for the parking. They should probably find a tenant that meets the requirements. Mr. Address stated what we're proposing would in fact meet the requirements but it would require this Board to approve the additional spaces. Mr. Roberts stated the following: But it doesn't because even in your plans you are not going to do this until June 2010. So if Mr. Caputo opens up he is not going to have the required parking spaces. Mr. Address stated we put that in the plan because of a construction issue. Mr. Watts asked what is the construction issue? Mr. Address stated the construction issue is that it is difficult to put in paving right now. Mr. Roberts stated then Mr. Caputo should sign for what he is allowed right now and when you are available to do this, come back and see us again. Mr. Watts suggested that Mr. Caputo sign for the 18 seats. Mr. Address stated the following: I'm not saying that I'm disagreeing with that, I'm just saying that Mr. Caputo has informed us that he will not. So, Mr. Watkins would like to be able to keep this tenant. Based upon the tenant use and the time of operation for different tenants in the

plaza, there would not be an issue for parking. But we do have to meet the code for parking so we feel that this does meet the code by adding in additional spaces. Mr. Watts stated is that your belief? Mr. Address stated right. Mr. Watts stated I think you are getting that the sense of the Planning Board is that it does not meet the code. Mr. Ruchlicki stated I agree. Mr. Address stated it is unfortunate with the economic situation and we would really like to be able to put this tenant in. Mr. Higgins asked do you have a tenant for the other empty space? Mr. Address stated we do not and that space has been vacant for over a year. Mr. Higgins asked how many parking spaces are allocated for that space? Mr. Address stated 10 spaces. Mr. Higgins asked how big is the tenant space? Mr. Address stated 2,000 SF. Mr. Higgins stated could you refresh my memory because I think that is strictly office and retail would not meet the requirements. Mrs. Zepko stated the following: Retail requires 1 space per 200 plus employees. Office space is 1 space per 200 SF. Mr. Higgins is correct regarding the office use. Mr. Address stated the following: That is in the newest regulations; the previous regulations had 1 per 200 for retail. So we would have to have less than the full 2,000 for retail. Mrs. Zepko stated correct. Mr. Polak asked Mr. Address if he was involved when the addition went on? Mr. Address stated yes. Mr. Polak asked did the Planning Board originally deny that application? Mr. Address stated yes. Mr. Polak asked what did Mr. Watkins pursue after that? Mr. Address stated Mr. Watkins took legal action to get the addition. Mr. Polak asked did the court overturn the Planning Board's decision? Mr. Address stated yes. Mrs. Murphy asked is there one spot that was found that already exists. Mr. Address stated yes, when we went out to look at the spaces, we had shown 5 spaces on our plan at the front of the plaza and there was actually an additional space that was constructed there because of the way the door works. Mrs. Murphy asked so is that 3 additional seats? Mr. Address stated correct, that is 3 additional seats for that area. Mr. Watts stated the best interpretation of our ordinances is that you could have 21 seats today. Mr. Roberts stated I sympathize with the owner of wanting to fill the plaza but we have responsibilities here also. Mr. Williams stated the area where he would cut out the patio could be a conforming parking space; a 10 FT x 20 FT wide space. Mr. Ouimet stated right but chances are that's not going to happen until the weather breaks. Mr. Address stated that is correct because we have to be able to pave it. Mr. Ouimet asked so how many seats can you have now before you make these proposed changes? Mr. Williams stated 21 seats. Mr. Ouimet asked is your prospective tenant willing to go in there with 21 seats? Mr. Address stated no. Mr. Ouimet asked is your proposed tenant willing to wait until June to go in when all the changes and renovations are made? Mr. Berkowitz stated with 27 seats? Mr. Address stated I wouldn't be able to answer that. Mr. Watts stated that is without going to 9 FT x 20 FT because you would still be able to accomplish that by retaining 10 FT x 20 FT spaces. Mrs. Murphy stated why 27 seats and not 32 seats? Mr. Berkowitz stated because you picked up 3 extra seats and that would be 9 seats plus 18. Mrs. Murphy stated you are not allowing the re-striping, correct? Mr. Watts stated the following: We are not allowing them to go to 9 FT x 20 FT. That is not in keeping with what the intent of the Town Board and/or the Planning Board wants and that is not going to be allowed. That is a stretch that we are not willing to make and probably legally cannot make. Mr. Address stated okay and the 21 seats is not going to make a difference. Mr. Watts stated that is the best we can do. Mrs. Murphy stated you have to act on the application that's before you and they're telling you that 21 seats is not feasible so the Board has to vote based on that. Mr. Watts stated if the people were here and said "okay we'll go with that" then we could amend the application. Mr. Address stated the following: I know we do have to construct it and we could construct in the middle of winter the additional space. It would be a little bit of a mess but we could construct this space, which would then give us 6 extra seats. Mr. Berkowitz asked shouldn't you talk to the applicant first unless you know he is going to say okay. Mr. Address stated I know that the 21 isn't going work but that would give us at least 24. Mr. Watts stated but you are telling us that you can't commit to anything other than 32. Mr. Address stated the following: I guess maybe I'm a little confused. We have an application for this site change before the Board, which

is a separate application but still tied into the applicant. Mr. Berkowitz stated but that site addition consists of 9 FT x 20 FT parking spaces.

Mr. Berkowitz made a motion to deny the addition to site plan application for J & S Watkins Plaza on the basis that the requested reduction of parking spaces to 9 FT x 20 FT did not meet the intention of long-term parking as described in Article VIII, Section 165-35A. in the Town's Zoning Laws. Mr. Nadeau seconded. Motion carried.

Mr. Ruchlicki made a motion to adjourn the February 22, 2010 Planning Board Meeting at 8:02 pm. Mr. Nadeau seconded. Motion carried.

Respectfully submitted,
Milly Pascuzzi
Planning Department Secretary