

Town of Halfmoon Planning Board

June 28, 2010

Those present at the June 28, 2010 Planning Board meeting were:

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

Senior Planner: Jeff Williams

Town Attorney: Lyn Murphy

Town Board Liaisons: Paul Hotaling
Walt Polak

CHA Representative: Mike Bianchino

Mr. Watts opened the June 28, 2010 Planning Board Meeting at 7:00 pm. Mr. Watts asked the Planning Board Members if they had reviewed the June 14, 2010 Planning Board Minutes. Mr. Roberts made a motion to approve the June 14, 2010 Planning Board Minutes. Mr. Higgins seconded. Motion carried. Mr. Ouimet abstained due to his absence from the June 14, 2010 Planning Board Meeting.

Public Informational Meeting:

**08.067 PIM Arlington Heights PDD – Phase II, Farm to Market Road - Major
Subdivision/PDD/GEIS**

Mr. Watts opened the Public Informational Meeting at 7:01 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Mr. Brien Ragone, of the Environment Design Partnership, stated the following: I am here tonight with Mr. Peter Belmonte with Homeland Properties who is the applicant for this project. We are here to present the second phase of the Arlington Heights Subdivision, which would require a Planned Development District (PDD) amendment to the original local law that was adopted back in January of 2006. Over the last year or so we have been progressing with the Planning Board to seek a recommendation back to the Town Board for the zoning change required for our proposed project. The overall parcel is 26.83-acres. The plan proposes 26 single-family lots in the Phase II area and one additional lot once the hammerhead turnaround in Phase I is removed. There is a minimum lot area of 10,000 SF and the overall parcel is surrounded by Army Corp. of Engineer (ACOE) wetlands except to the south where Phase I is located. I took pictures behind lots #5 through #17 (the outside loop) and the reason why I did that was to show that this land (the woods) would never be developed because it is all wetlands behind each one of those lots. Behind Lot #'s 5, 6, 9, 10, 13 and 15 is where I took the pictures and you can see that the wetlands completely surround those lots. The overall basic layout is one big loop that includes a 44 FT right-of-way with 8 FT utility easements, sidewalks and street trees and we have one proposed street tree per lot. We also are going to keep the existing vegetation along our property between Phases I and II for buffering. We have a stub street that is going to go for a possible future connection in between where the wetlands kind of break apart for any type of

future connection that might be. I have taken another picture of what the streetscape would look like to help everyone visualize it a little better. You can see where you have a street tree, a light pole and sidewalk where there are two types of buildings that are being proposed (1) is from the original phase I and (2) is a shorter front but it is deeper in length. We anticipate the prices to start around \$300,000 to \$350,000 range. There is going to be about 15-acres of openspace, which would include undeveloped land, some surrounding wetlands and some features and activities that I'll let Mr. Belmonte discuss because I know he has talked to a few people about this. The openspace would be owned and maintained by the Homeowner's Association (HOA). The utilities that we had proposed include a connection to an existing stub at the end of Phase I and we have gravity sewer from each proposed Phase II unit that would be connected to the just recently completed pump station and from there it would be taken out up to Farm to Market Road. Mr. Peter Belmonte, of Homeland Properties, stated the following: Mr. Ragone is correct; the neighborhood is a continuation of Arlington Heights as we know it today, which is a maintenance free community with sidewalks throughout on both sides of the street and street lightings for the sidewalks. So there should be no difference in the appearance of Phase I from Phase II. We are just looking to expand the neighborhood and to give more people the opportunity to move in. The product line is much more broad than the illustrations that Mr. Ragone has brought tonight. It is basically all the homes that we have offered in Arlington Heights now along with the fact, as our home offering continues to evolve with new products; different shapes and different sizes meeting the continuous changing needs of our customers. The openspace that Mr. Ragone is referring to in Phase II has a fair amount of openspace clustered in one area. As Mr. Ragone identified on the map; we've had some conversations with some of the representatives of Arlington Heights and before we make a decision we are going to talk to all the homeowners in Arlington Heights of what various ideas and how that property could be used in a passive and recreational way. Suggestions have included; potential bocce ball courts, a potential pavilion, a community garden and a level ground area for picnicking or gathering, all of which are possible ideas that we would define further as the HOA and ourselves get a chance to discuss this. But, we do want to utilize some of the openspace for recreation. Not only keeping the recreation on the individual homeowners parcel but to give a more community feeling at one central location. That openspace would be available to the neighborhood in its entirety; both Phase I and Phase II because it is a common HOA planned for both. Mr. Watts asked if anyone from the public wished to speak. Mr. Bill Bragin, 4 Gladstone Circle, asked what is the total amount of land for all of Phase II? Mr. Belmonte stated 28-acres give or take. Mr. Bragin asked how much land would be for openspace? Mr. Belmonte stated the following: The openspace is approximately 15-acres. Some of this land is terrain challenged and when you get over into these areas, the grades become more aggressive and it is not overly viable to use for active recreation but it is part of the openspace in the neighborhood. About ½-acre has been identified, which is not going to be level, but we would do some grade changes to it and it would become a gradual slope. Ms. Constance Golden, 15 Gladstone Circle, stated the following: After 1-1/2 years of living in Arlington Heights there has not been a change in the road signage to indicate a road ahead at the Arlington Heights entrance. So, if you are going east on Farm to Market Road, drivers don't realize people will be stopping to make a left hand turn and sometimes when you look in your rearview mirror you are about to be rear-ended so it is a very dangerous situation. Also, the road is paved with a double yellow line and that would need to be repainted to allow access because you are not suppose to cross a double yellow line so I'm wondering if that would be taken care of? When everything is done there would be 70 residences in Arlington Heights Phase I and II and with only one outlet to Farm to Market Road. It may be a few years before capacity is reached, but would the project still be approved whether or not that second possible access is acquired? Mr. Watts stated we will pass along your concerns to the Highway Department relative to the signage. Mr. Belmonte stated the following: I'm not personally familiar with all the rules when it comes to the highway but that is a County Road and I do know that we comply with all the County requirements for signage. But, one of the good things is the speed limit on Farm to Market Road has just been reduced from 55 mph to 45 mph. My opinion is long overdue but I'm glad to see that this has been done and I appreciate any help the Town has given in getting that done. Mr. Watts stated the following: Yes, the Town Board

requested that and the Planning Board had made recommendations to reduce speeds on the roads. This is not an easy process but I think we are getting better at it. We will also look at the signage issues. Mr. Dan Ziarno, 41 Gladstone Circle, stated the following: We almost got rear-ended the other day; we put our directional signal on far enough in advance but that just doesn't seem to help because people don't realize that you are turning. Regarding the openspace that we have; I'm questioning the amount of useable openspace because we have a lot of openspace in Phase I but a lot of it is on wetlands and we also had openspace in Phase I in the center of the homes that were inside. In my opinion, it doesn't seem like it is useable openspace because it is like a berm or like a hill. So, for any activities, for community functions or anything like that, we can't use that part of Phase I. So now we are kind of limited to whatever we have here in Phase II for useable openspace and I think Mr. Belmonte mentioned that it was about a ½-acre. Mr. Belmonte stated the following: No, it is considerably more than a ½-acre and what I was showing Mr. Bragin was what I was referring to as a ½-acre. It is that area that we've talked about turning into our original idea of some bocce courts and that idea didn't seem to get any great warm response so one of the suggestions was could we turn it into more of a community area that would be for picnicking, Frisbee, badminton, etc. or however the neighbors wanted to use it. The beauty of that space in comparison to what you're referring to in Phase I is that this isn't in somebody's backyard. We've gotten a lot of communication both in favor and not so much in favor of the Phase I space the way it has been graded out and contoured and soon to be sprinkled and planted but it's in people's backyards. So people are intimidated by using it because they're afraid they're intruding in their neighbors' privacy. This is totally removed so there is no intruding in somebody's privacy here, which we see as a much more favorable area. Mr. Ziarno stated the following: I know what you are saying about intruding on peoples' backyards in Phase I because I took a walk down there and I felt like I was peering into everyone's home. I was kind of hoping, as I thought originally when we had talked about purchasing there, I thought it was going to be kind of an open walking area or like a community area that everyone could use. Unfortunately, we can't do that now because of the way it is kind of bermed up. If that remains that way, then I would hope that there was more useable area than that little portion. There is a lot of openspace there but as you said before, the terrain kind of slopes pretty steeply there. I would hope that we could do something and make it as large of a useable area as possible if there was anyway to level off some off the terrain that slopes down so that it becomes a larger useable area for community functions. But, I don't know if that is possible or not. Mr. Belmonte stated the following: I don't know the viability of trying to get back there and grade it level. There are limited areas that we can do that with; this area being one of them, and another area that we could contour. For as many acres that are there, it's more of the passive park type area where you could go wandering in the woods and hopefully come back out in the same place because it is a very large piece of land but trying to level it is not going to be practical. Mr. Ziarno stated okay, I would just suggest that whatever we could do to make it as much useable property as possible to the homeowner's would be appreciated. Mr. Ragone stated the following: The areas that we do have graded for where we have community openspace and that we do have proposed won't be any steeper than a parking lot. Mr. Watts asked what do you mean by "any steeper than a parking lot"? Mr. Ragone stated parking lots couldn't have more than a 5% slope. Mr. Watts asked is there going to parking there? Mr. Ragone stated no, I'm just saying that is how level it would be. Mr. Belmonte stated he is using the parking lot as a reference because they are relatively level. Mr. Watts asked so there is no parking, but what if somebody wants to go over there, do they have to walk? Mr. Ragone stated we do have a few spaces proposed over near the pump station for people that can come and park their car and there are actual parking spaces right there. Mr. Belmonte stated but it is much more intended as part of the walking concept. A community where people would take the sidewalk to that area and they wouldn't have to rely on a vehicle, but if your vehicle had a cooler in it then it would make sense to drive. Mrs. Rosemarie Wysocki, Farm to Market Road, stated the following: I have 3 questions; and one of them is regarding a wetland area that you spoke about and that it wouldn't be disturbed and asked Mr. Ragone if he could point out that area to her again. Mr. Ragone pointed out the wetland area to Mrs. Wysocki and stated that the area in green represents an ACOE wetland around the entire outside loop of the

subdivision. Mrs. Wysocki asked is that on the east? Mr. Ragone showed Mrs. Wysocki the north and the east on the plan and stated so it goes around the entire outside. Mr. Belmonte stated there is a tree line that is by Phase II from Mrs. Tribley's home and that tree line or that hedge line is a wetland and Mrs. Tribley's present home is up in that area. This is the tree line that runs to the east of Phase II and to the west of Mrs. Tribley's home. Mrs. Wysocki asked do the lot lines go into that at all? Mr. Belmonte stated our property line is the dark line on the plan. Mrs. Wysocki asked so are you saying that is Mrs. Tribley's property and it is not your property? Mr. Belmonte stated that is correct. Mrs. Wysocki stated the following: Okay, I understand now. It says on the map that you are going to have to obviously expand the stormwater area and how do you plan on expanding it? Mr. Belmonte stated so it doesn't impact your mom's property. Mrs. Wysocki stated well I understand that but don't you have a plan yet? Mr. Belmonte stated it is illustrated here on the plan. Mr. Ragone stated the following: The existing stormwater area is depicted in the light shaded area and then we show the actual expansion in the darker contours. It doesn't seem to get deeper but it just expands to the north. Mrs. Wysocki asked are you going to use the same kind of really high street lights that are extremely bright? Mr. Belmonte stated yes. Mr. Rich Withers, 24 Gladstone Circle, stated the following: Regarding the HOA; I think the common property, maintenance contracts and so forth would be turned over to the homeowner's at roughly 75% of occupancy. That was my understanding when we purchased our home in Arlington Heights Phase I with the advent of Arlington Heights Phase II would that become 75% of the entire 70 properties before the common property and contracts get turned over? Mr. Belmonte stated the following: I don't believe so. I believe we're going to be obligated to turnover Phase I at 75% of Phase I and then Phase 2 at 75% percent of Phase II. We could clarify that, but that would be my guess. Mr. Withers stated my other question deals with the common property in the center, which is bordered on the south and north by a 20 FT access, which is also common property to the oval in the center. Mr. Belmonte stated correct. Mr. Withers stated there has been no development of the southerly portion of that and what will happen with that because that is behind my house? Would that also be cleared and planted with grass and trees? Mr. Belmonte asked are you talking about the property immediately behind your house Mr. Withers? Mr. Withers stated yes. Mr. Belmonte stated the following: There was no intension of touching that vegetation because we wanted to keep that as a natural buffer for your privacy. All the grading that is going to be done is done. We are waiting right now for some connections to be made where we can send the landscaper in there to start the ground development and the planting. But, the intention was to minimize any invasive change to the natural vegetation there to try to maintain as much privacy to the individuals that are there. Mr. Withers stated we do enjoy the privacy but maybe we were a little naïve when we limited our clearing in the back of our lot because there is privacy, but it is all weeds and poplar saplings and it is not really the most attractive habitat back there. That is why I was asking that question. Mr. Belmonte stated the following: I think very much as you can appreciate everybody; there are 20 families that abut that circle and I have gotten 20 opinions. Ms. Susan Streett, 31 Gladstone Circle, stated the following: I was wondering if Mr. Ragone or Mr. Belmonte could help me understand a little bit better how it's common use property in Arlington Heights Phase I circle that Mr. Withers was just talking about because the HOA is going to pay for that area to be taken care of, is that correct? Mr. Belmonte stated the following: Correct. They're going to hold the title to that property if they don't already. Ms. Streett asked but it won't necessarily be advantageous to us and we wouldn't be able to use it, is that correct? Mr. Belmonte stated the following: Well, I think that is each persons personal opinion; you are 1 equal share of titleholder to any other person. If you want to go walk your dog on it or walk on it, you are more than welcome to. What we're trying to do is to develop additional greenspace that overcomes some of the concerns that have been expressed on the existing greenspaces. The existing greenspace is very open to people's yards and to some people it is intimidating to use. So, now we're going to have or we're proposing openspace that will be out of people's backyards making it much more conducive for the neighborhood as a whole to use. Ms. Streett stated I think when we were looking at our home being there, we thought it would be more like a park like setting in between the homes around that inter circle. Mr. Belmonte stated the following: I guess we would have to define a "park" because in my opinion if I go

up to Saratoga Park and I see the rolling grass fields and trees scattered throughout, that is exactly what we are doing there. We have a fair number of trees being transplanted in and it is going to be grass field. It appears to be that other people had a different opinion of a park, but I'm not sure how it could have differed. It doesn't look a great deal different than it was before as far as openness, it's just that now it's clean, it's tidy and it's graded out. So, I must be missing how we mis-associated the definition of a park. Ms. Streett stated I think some of us thought we were going to be able to walk from one side to the other through a park like setting in between. Mr. Belmonte stated the following: We can clearly define them for you if you want to do that. I propose that when we're done we can come with a bollard or some type of monummentation and mark on the edge of the sidewalk the "in" and come back to the rear corner and mark the "in" giving you some appearance of the location of it so you are not wandering onto the Withers' property and then it would get you into the center section and we can get you back out. Mrs. Streett stated that sounds good. Mr. Belmonte stated okay, that's easy enough. Mrs. Barbara Ziarno, 41 Gladstone Circle, stated at the last meeting we were here and I believe that you had said that you are going to be piggybacking the two communities. Are you're going to be starting Phase II fairly soon before Phase I is completed? Mr. Belmonte stated the following: That would be my wish but my guess is that we are 2 years out. I think we are going to have a hiatus where Arlington Heights Phase I will be completed long before Phase II can come about just looking at the chronological order of events that we have to go through before we can actually start building. Mrs. Ziarno asked when would the roads into Phase I be completed with the second coating of blacktop and would that happen because you are going to be using the existing streets in Phase I to go into Phase II? Mr. Belmonte stated the following: The Town is usually looking for 75% of the homes to be completed, we usually try holding out until the last possible moment so we're giving as new roads as possible. If there is any reason that it needs to be done sooner, it could be done but it won't be done until 75% of the homes are built. At this point in time we're beyond 50% but not approaching 75% yet. Mrs. Ziarno asked so you wouldn't be waiting to do our Phase I? Mr. Belmonte stated the only difference would be the top coat on the pavement and those roads are in excellent condition so I'm not sure if there is a reason to do it sooner than later and that would also be a decision that the Town and their engineers are going to participate in. Mr. Watts asked Mr. Bianchino and Mr. Williams if Mr. Belmonte's statement was correct. Mr. Bianchino and Mr. Williams both stated yes. Mr. Dan Streett, 31 Gladstone Circle, stated the following: Concerning that public area that was referred to for bocce ball and those types of things; when is the commitment made to what is being done on that? Because what I find, as you heard tonight, is the confusion that occurred over Phase I with different people hearing different stories whether they were the same story or not. Each person got a different feeling from what they heard. I'm hearing tonight about different things than what was said earlier in the earlier presentations here at the Board, which I understand it is evolving and Mr. Belmonte says he is going to work with us. What I would like to know is if we have input into what's being decided upon and how does that get decided upon and does that come back to any kind of a Town organization to get decided upon? Because what I understand is that Belmonte owns the land, he has control of the HOA and of that land when he goes to develop it and he can tell us tonight what he would like to do, but as you can see, Phase I didn't quite work out to what people thought it was going to work out. So, I would like to find out when does that actually get committed and do we have any say in it if it is at a later time? Mr. Watts stated the following: What we're approving, if we approve it tonight with our recommendation back to the Town Board, is what we'll be doing with the number of lots, the amount of openspace and the general configurations that are there and these items are still subject to some review from our Town engineer's during the construction phases. But, whether or not there is a bocce ball court there or a lawn would be more of a determination of the builder than the HOA. Mrs. Murphy stated the following: There would be some limitations on what types of activities can occur there through the PDD legislation itself in order to go forward with the process like this and obviously this gets referred back to the Town Board with either a positive or negative recommendation. Language is written up as to what can and cannot occur in the tax map parcels identified in the PDD and we do usually give some definition as to what can occur and what is to be considered openspace but we will not get down to whether it is going to be bocce ball verses

lawn bowling verses jarts. So, that would be the HOA and whoever has the vote. Mr. Streett stated the following: The problem is that the HOA doesn't have the vote until they actually takeover the land ownership. So, right now we have no clout as far as that negotiation. I'm not saying that Mr. Belmonte is going to do anything against what he has already said tonight but from our standpoint we don't have any say in it at this point. Mr. Watts stated the following: That would be correct. I can't tell you that we can do something other than how HOA's work and how the legislation works. Mr. Belmonte stated the following: Just so the neighborhood understands, this is a multi-step process. We're looking for a recommendation from the Planning Board. Assuming that we get a positive recommendation, we'll go back to the Town Board; the Town Board will explore and exhaust another series of questions and interests on their part. They will then give it a final approval or a final denial. Assuming that the Town Board give a final approval, we then will come back to the Planning Board for a site plan approval. That is when we work out the nitty gritty of the road details, sidewalks, lots and so on and so forth. At the PDD approval, which is the in-between approval at the Town Board, that is when we state what we are going to do. Such as; we are going to give you a level area, it's going to be a grassy area and if there were any structures involved. For those of you that followed Arlington Heights Phase I, at one time there was a roundabout and there was a gazebo in the roundabout, that evolved over time in the approval process and those things are stated in the PDD approval. Then what we're doing is we're promising that we'll deliver the HOA a parcel of land with an intent of openspace, green and relatively level for a common area use and we do that. The HOA always has the ability as a voting body to change the direction of that once they maintain control and as we talked about as the neighborhood evolves, your involvement increases. We may turn it over at 75% but that isn't your first day of awakening to the process. Mr. & Mrs. Streett have been heavily involved to date of voicing the neighborhood's opinion and what your opinions were in helping to try to groom the direction that it goes in. Well, that would continue to evolve and you guys will get a chance to continually direct where it goes. You can come in ask for the Taj Mahal and we're going to say "no". But, you can come back with reasonable requests and we'll see how we can accommodate them. Mr. Fred Heaton, 5 Gladstone Circle, stated the following: My property abuts up to Phase II and I sent a letter to Mr. Williams and he passed it along to the Planning Board regarding that I was concerned about a buffer area behind my property. After speaking to Mr. Williams and looking at the diagram, it seems to be cleared up and I think that a buffer zone is going to be in there and they are going to fill in that void spot. Mr. Belmonte stated the following: To clarify, Mr. Heaton has asked for the natural vegetation buffer along his property line to be maintained. There was a cleared area in the opening and we assisted Mr. Heaton in building a berm and he is going to do some planting on his side, we're going to do some planting on our side and we're going to maintain that vegetation. Mr. Heaton stated would that remain a no-cut buffer? Mr. Belmonte stated yes, the vegetated area would remain no-cut and undisturbed. Mr. Heaton stated the people in those lots in their deeds; the deed restriction would say that they can't cut into that area. Mr. Belmonte stated yes that would be marked clearly on the site map just like behind Ms. Golden's house, she has one. Mr. Heaton stated regarding the common space between the peoples houses in the circle in Phase I; I think before you make any decision on what you are going to do on that, I think you should canvas every homeowner because there seems to be quite a bit of differences of opinion here. I for one have no interest in going back there and standing behind anybody's lot and secondly; if there is an open walkway through there that is available to the community, what's to prevent a non-Arlington Heights homeowner from the outside to walk in there? Mr. Belmonte stated the following: There are no guarantees Mr. Heaton because we can't stop that and the more we demarcate it and make it clear the more inviting it's going to be for people to use. We have spoken to a large number of the neighbors but as I said with jest earlier; there are 20 homeowners and I got 20 opinions. We're trying to create a compromise. We'd always said that that area was going to be grassed, it was going to be rolling, it was going to vegetated and those are all the things that we are following through with. Mr. Heaton stated like I said I have no intention of going through there and I'm not interested in a walkway or a common hang-out area. In Phase II are you going to have a common area that can be used by the community and are you talking about having parking spaces in that area as well? Mr. Belmonte stated on

Mr. Ragone's map we show 5 parking spaces along the existing pump station road, which is part of the HOA land. So, yes they'll have the ability to park 5 vehicles there. Mr. Heaton stated so there is nothing to stop someone coming from outside the community and going into there to park and to use that area, is that right? Mr. Belmonte stated the following: You are absolutely correct, the more conducive we make it to be used, the more inviting it is going to be and you know better than anybody; there have been poachers back there and you have worked with us to chase them out. But yes, we're making it all the more inviting. Mr. Heaton asked are those parking spots a definite as of right now? Mr. Belmonte stated the parking spaces are part of our proposal unless we get directed otherwise; we don't see any reason to change it. Mr. Heaton asked could you put signs in there that say "Arlington Heights HOA only"? Mr. Belmonte stated the following: We absolutely can. As a matter of fact we can mark the stub road with that clearly but my general knowledge is that most poachers don't know how to read or selectively read. Mr. Heaton stated like you said; we know how to deal with them. Mr. Watts stated the following: A lot of things we're at now are really HOA and owner issues. We're really at the site plan review of where the lots are and you need to weather through this process. Mr. Belmonte is not going to gain any lots, he might, as part of the process, lose a lot or two when we start doing our engineering. That is basically where we're at with the amount of openspace. A lot of the other issues are just the HOA and they are the same issues that they have in Sheldon Hills and back and forth and it's a democracy. Mr. Streett stated the following: I'm sure this topic has already come up but maybe I missed the earlier meetings when you discussed it. I'm concerned about the length of the roads being dead end with only entrance that is useable. It's about a 2,300 or 2,400 FT long dead end road, which is almost a ½-mile without a second access and asked is that not a concern to any emergency services? Mr. Bianchino stated the following: We always look at these kind of developments and the overall long-term plan goals in the Town and the County because in this case this development is on a County Road. What we try to balance is what is the timing of the development of surrounding parcels verses having one subdivision that has two curb cuts fairly close together on a County highway. In this case, we know we have an application already in front of us for the piece of property to the north and this would allow us an extension of the roadway to allow for multiple means of access basically interconnecting subdivisions. So we weigh that when we look at these things and we make recommendations to the Board. In this case, because we know we have application before us, the decision was, and as you have seen in Mr. Ragone's plan, to have a stub to the parcel to the east that would then allow us multiple means of access to this piece of property. Mr. Streett asked is it part of the normal Town review to have emergency services review the plans? Mr. Watts stated yes. Mr. Streett asked so would that come at a later stage? Mr. Watts stated I believe they have seen all of this. Mr. Williams stated the Town has reviewed the access from Phase I already and they have a boulevard entrance there. Mr. Streett stated the following: Yes but the boulevard turns into a single lane. It is not a boulevard all the way in. Mr. Watts stated the following: Part of our process is that the plans are sent to your fire department and they come back and make statements. The process requires that the developer send to the plans to the emergency services. So yes, they have looked at it and we assume concurrence. Mr. Streett stated okay but that just seems like a long distance to have a dead end street that is almost ½ mile in length. Mr. Bianchino stated the following: There is one point of access at this point and what we try to do is provide that boulevard section at the end so that if something occurs at that end, the emergency vehicles can at least get in along side the fire. In the subdivision itself we don't generally have something that would block the traffic. Mr. Streett stated at the very end it is not a boulevard because it comes back into one lane at the intersection. So, if you have any accident right there at the intersection, there is no other access into that development. Mr. Belmonte stated the following: Summit Hills has over a mile of road with 120 homes and it is a single entrance but it does have an emergency access as a backup. Mr. Watts stated we'll make sure and Mr. Williams will check further with emergency services to see if, in fact, they have looked at this and they are okay with it based on the citizens' request. Mr. Watts closed the Public Informational Meeting at 7:44 pm. Mr. Nadeau stated one of the residents brought up the lighting situation; is there an issue with the lighting? Mr. Belmonte stated this is the first time, other than the lights not all being on in the early stages, I have gotten a comment

regarding the lighting. Mr. Nadeau asked are the lights excessively bright? Mr. Belmonte stated it is a standard industry light that we use in other municipalities by spec and we brought the same spec here and I have not heard any other comments regarding this. Mr. Nadeau stated in relation to your parking, which is an HOA issue, but I believe it was in Rolling Hills where we were going to have the same situation and the Board had looked at that for those very reasons and we chose not to have that in there so to give you some direction because we had the same concerns as what they had. Mr. Belmonte stated okay. Mr. Higgins stated the following: As far as the road and the access, I had mentioned that at a previous meeting and I suggested possibly phasing it and not building it all out until the other connection roads. But again, that was just a suggestion that I made at a previous meeting. As far as the no-cut buffers; I don't know if you could do a better job as far as putting it in the deeds or the deed restrictions because obviously it hasn't worked on some of the other developments where people just go and cut right up to the property line and beyond. I can understand the people's concerns because Mr. Nadeau and I have experienced it. I don't know how you are going to do it; we talked about it previously, because you are going to end up getting people suing each other. Maybe you could make it more prevalent in the deeds and make sure people realize that they're not supposed to go in and cut everything down. Mr. Belmonte stated the following: Unfortunately, I don't think many people read their deeds. As a matter of fact, most people don't even know they have one. I think one of the advantages that we have here compared to a traditional community is because here you have somewhat of a policing agency; being an HOA and any time that you do planting or you are going to do removal of any vegetation, you are required to get permission from the HOA. So, if somebody is following the HOA rules, which are very frequently talked about, they're going to make the application and then the application is going to come back and say that you can't do that. So, I think that we have a layer of policing here that a traditional community won't have and hopefully that will help. As far as deeds; it is well documented in the deeds and every homeowner gets an HOA manual, they get abbreviated sets of the rules that talk about this but if somebody wants to naively follow the rules of their choice, it's going to be very hard to stop other than just your peer pressure. Mr. Higgins stated does the HOA have control over individual peoples lots as far as what can be planted and not planted? Mr. Belmonte stated absolutely.

Mr. Ouimet made a motion to pass a Positive Recommendation to the Town Board on the proposed Planned Development District (PDD) amendment. Mr. Roberts seconded. Motion carried.

New Business:

10.061 NB St. Luke's, 40 McBride Road – Sign

Mrs. Barbara Owad, representative for St. Luke's Church, stated the following: We are proposing a 3 FT x 5 FT sign double-sided sign for a total of 30 SF with a 1 FT x 5 FT message board. The sign height would be 5.8 FT that would be located in front of the site entrance. Mr. Roberts asked if the sign would be lit? Mrs. Owad stated the following: No. We talked about in the future that perhaps we would be using solar lighting because we don't have electricity over to that area. Mr. Roberts stated if you do lighting in the future, please make sure the lights do not shine out into the road. Mrs. Owad stated of course and the lighting would probably be a solar powered light, which isn't going to put out a lot of light anyway. Mr. Roberts stated I see on the plan that the sign would be located just off of the right-of-way line. Mrs. Owad stated the following: I think the dotted line that is shown was a potential right-of-way for the trail committee in the event that they ever wanted it. I think that the second line that is closer to the road is the actual property line and I think it is about 30 FT from the edge of the roadway. Mr. Higgins asked if the interchangeable message board would have slide-in letters? Mrs. Owad stated yes.

Mr. Roberts made a motion to approve the sign application for St. Luke's conditioned on the sign is not placed in the New York State right-of-way and the solar lights do not shine into the roadway. Mr. Nadeau seconded. Motion carried.

10.062 NB Bilinski PDD, Route 146 – Concept-Commercial Site Plan/PDD

Mr. Kevin Dailey, Attorney, stated the following: I am representing Dr. Jerry Bilinski who owns a piece of property that is 32.5-acres on Route 146 right near Fellows Road opposite Werner Road. This piece of property is part of the family farm that has been in the family for many decades. Some of the land that was part of the family farm has been developed across the street where New York State Electric & Gas (NYSEG) is located, which was done by the Saratoga Economic Development Corporation (SEDC). This is the last remaining portion of the farm. A number of years ago they did stop farming and Dr. Bilinski, who is veterinarian in Columbia County, would like to do something with this property. I think the key word to describe what he would like, would be to get a reasonable return on his property, which presents some dilemmas. Since the time the family took title to the property certain things have happened at the State, the Federal and the Local Governments especially in relation to wetlands. And of his 32.5-acres, when you look at the wetlands as well as the setbacks that the Town has imposed with the Route 146 Overlay Zone, he has 1.1-acres that he could use for development, which works out to about 3.38% of his property. So he finds himself in a bit of a hardship and he would like to get a reasonable return. We have looked at a number of options in terms of trying to do some type of a professional building. The Route 146 Overlay Zone essentially has designated this property to be used in the future for commercial office buildings and that is what we are proposing to do here. We are proposing a 12,800 SF office building with the appropriate parking and we have been back and forth with Mr. Williams and the Planning Department a number of times in terms of trying to come up with a proposal that the Town would find acceptable. The only mechanism to advance a concept for the use of the property is the Planned Development District (PDD) because currently it is zoned R-1 Residential. The Town is looking to go to C-1 Commercial but instead of changing the zoning when they adopted the Overlay Zone for Route 146, what the Town proposes that you do is to come in with a PDD. We have made an application for that although the useable piece of the property is very very small. To try to get Dr. Bilinski a reasonable return we have laid out one row of parking and part of the stormwater management area within the 100 FT setback area, although it is 50 FT back and it is well screened and does violate the Route 146 Overlay Zone Standards. Although it is a big piece of property and those standards are meant to apply to bigger pieces, in terms of what you can use, it is a small piece of property, and one of the exceptions in the Overlay Zone is that if you have properties that are less than 400 FT in width and less than 300 FT in depth, the setbacks of 100 FT wouldn't apply in that case. We do sort of fall into that category. I have written a letter to the Town Attorney and we talked about this today. We are not totally in agreement but I wanted to make sure that I brought that up and certainly I can answer questions. We're here looking for a recommendation; the PDD application has been forwarded to the Planning Board by the Town Board at their May 19, 2010 meeting. Mr. Roberts asked what do you mean by "sort of fall into that category"? Mr. Dailey stated the following: If you are a small property owner on Route 146, you are in a category where the normal underlying setbacks in a R-1 Residential area, would take affect and you would have a 50 FT setback from Route 146. As I was trying to point out to Mrs. Murphy; we're really a small property owner because we only have 1.1-acres that we can use. Mrs. Murphy stated this would be the point where Mr. Dailey and I disagree because the Overlay Zone does not define the parameters upon which you're measuring the setbacks or the size of the lot, meaning there is nothing in the Overlay Zone that says "useable property", it just says "property". Mr. Dailey stated the following: I'm not saying that I necessarily disagree with Mrs. Murphy but the Town Board did express an opinion that if you are a smaller property owner with limitation on your property, you are looking at a 50 FT setback. Here there is probably about a thousand feet back to the back property line but once you get beyond 200 FT, none of this property is useable essentially by operation of governmental mandate, both Federal and State, most of this property has been removed from Dr. Bilinski's ability to use it. He is seeking a reasonable return and one of the things that I talked about with Mrs. Murphy today is that the Route 146 Overlay Zone, which I really think is a Zoning Law, because it discusses land use, it discusses setbacks and I said is it possible to go the Zoning Board of Appeals (ZBA) and seek; not a use variance but an area variance, in terms of the setback. That mechanism doesn't exist in the Town Law. One of the other things that I asked about I said "Gee Lyn, the

Town Board and their wisdom talked about useable limits but they didn't specifically say to the back property line or to the side property line. I said maybe we can get a clarification on that because the bottom line is that Dr. Bilinski finds himself falling into a twilight zone between a big piece of property but with only a very very small area that he can use, which has all the characteristics of a small property and the Town does differentiate between big properties and small properties in terms of setbacks and the limitations on the use". So we're here sort of seeking a sympathetic ear. Mr. Watts stated the following: To a degree that's not particularly unique. We have various pieces of property that are constrained because of slopes, because of wetlands and whether it's Army Corp. of Engineers (ACOE) or New York State Department of Environmental Conservation (NYSDEC) wetlands, that is not unique. Mr. Dailey stated but the degree is unique. Mr. Watts stated I am talking about the overlying philosophical legal thing that you might have 500-acres and you might be able to build 10 homes on it because some of our property that has not been developed has not come forward just because of that. It's not that we're not sympathetic either but let's confine it to the technical review of what we have here. Mr. Ouimet stated the following: The interesting thing is that every piece of property is unique on its own. It is by definition unique. There isn't two pieces of property that are identical. This particular piece of property is interesting. It seems to me that a smaller building might meet the requirements. Mr. Dailey stated we would probably be cut down to maybe a 6,000 or an 8,000 SF building because it is a question of the number of parking spaces that you need to have. But at 6,000 or 8,000 SF for a 32-acre parcel, which does have some value and the applicant is paying taxes on it, would you get a reasonable return? And a reasonable return is subject to many different interpretations. What we tried to do is to come in with a plan that we show with a building that is in back of the 100 FT setback described in the Overlay Zone. We're showing just a half of row of parking in a small amount of the stormwater management area within the 100 FT setback and that is screened by a lot of vegetation and all of that would have to be planted in terms of landscaping. So we tried to come up with something that was clever that did meet what the Town is looking for but it at least gave him some relief from the burden that he is laboring under. Mr. Ouimet stated so I guess your answer is a smaller building doesn't meet your client's needs, is that correct? Mr. Dailey stated my client would certainly be hurt financially if that were the case. Mr. Ouimet asked for this particular size building that you've cited here, you don't really meet the parking requirements do you? Mr. Dailey stated yes we do. Mr. Ouimet stated I thought the parking requirements are 64 spaces and you are only showing 60 and 57 if you landbank. Mr. Dailey stated I think there were 4 that were landbanked. Mr. Ouimet stated so that is 61, right? Mr. Dailey stated I had Mr. Brien Ragone, of the Environmental Design Partnership, lay it out and he slipped out the backdoor. Mr. Higgins stated yes, but you have per 225 SF where the ordinance says 200 SF. You have to take the square footage of the building by 200 not 225. Mr. Dailey stated that is as to the total number and the layout. Mr. Higgins stated also you're putting stormwater retention on an adjoining piece of property, which is not per the requirements of the Town. Mr. Dailey stated the following: yes and there is an area of upland that is on the adjoining piece of property that is owned by Boni and the parties have agreed to essentially do a land swap to Boni, which is essentially of no use to Dr. Bilinski and he's agreeing to give a piece to Boni and Boni in turn is giving Dr. Bilinski a piece out in front, which would allow them to use that stormwater management area. So, as part of the application to the Town, we would be proposing to do boundary line adjustment. Mr. Berkowitz asked how long has Dr. Bilinski owned the property? Mr. Dailey stated it has been in the family for probably 60 to 70 years. Mr. Berkowitz asked so you can wait for another year or two to make a zoning change. Mr. Dailey stated the following: We can but we're not certain that the Town is of a mind to do a zoning change. I think that under the Overlay Zone criteria what the Town is looking to do is to have people come in and propose a PDD, which sets up a negotiation process. That is how the Boni piece was done for the medical campus next door. It is a little bit of overkill to do an entire PDD for such a small building. It would certainly be easier if the zoning was just changed but we're taking the avenue that was indicated in the Overlay Zone legislation. Mrs. Murphy stated the following: Much of that corridor is zoned C-1 Commercial. There was no intention to force an applicant into a PDD section situation to have a commercial development; just so we're all on the same page. Mr. Dailey stated the

following: We would certainly look at the easiest avenue to accomplish the purpose. The Town has indicated that it would like to see that end up for a commercial office use. Mr. Nadeau asked what was the Town Board's situation with this project and what was their concept? Mr. Watts stated the following: The Town Board referred this application to us for technical review. The only person who spoke at the Town Board meeting relative to that was Supervisor Wormuth and in the minutes to that meeting it stated...

..."Mr. Dailey is here to provide a brief presentation on this conceptual plan for this piece of property. The Town has the option of asking questions and/or referring it to the Planning Board. Mr. Dailey stated he represents Dr. Jerry Bilinski who is a native of the Town of Halfmoon and there is a piece of property on Route 146 that has come through the family and the remaining piece of property is owned by Jerry. He stated the property is located on the south side of Route 146 opposite Werner Road and they filed an application for a new PDD and what he desires to do is develop the property and put a 12,800 square foot office building on the property. He stated he is very limited in terms of what he can do with it and most is wetlands, Federal or State and there is a setback from Route 146 with the new Overlay Zone. He stated they carefully put the building in, parking they have left a roadway for future use by the Town and they are talking about a small property swap between Boni next door and Jerry. He stated there is a small piece of up-land area that could be used by Jerry for storm water management. He stated they are seeking a referral to the Planning Board and they have met with the Planning Board chairman and the directors of the department. Supervisor Wormuth stated the Board has had an opportunity to review it and look at the building structure and different things. She stated they talked about the Overlay Zone being a concern and they talked about the density issue being a concern but beyond that her personal opinion would be that it is ready to move to Planning Board to look at technical review and how it would fit in with the environment in the community"...

Mr. Watts stated none of the other Town Board members spoke.

..."Offered by Councilman Hotaling, seconded by Councilwoman Parker: Approved by vote of the Board: Ayes: Wormuth, Polak, Parker, Hotaling

RESOLVED, that the Town Board refers the Dr. Jerry Bilinski Planned Development District to the Town Planning Board for their review and recommendation back to the Town Board and further

RESOLVED, that the Town Board be the lead agency on this"...

Mr. Nadeau stated so initially basically the Town Board had the same concerns that we do. Mr. Dailey stated the following: Yes. If in fact we could do a simple subdivision into two lots and create a small lot out in the front with the useable property then we would have less than 300 FT of depth and less than 400 FT of width and we would fall within that category of a smaller lot. Mr. Berkowitz stated the following: It still seems like you're placing a lot on a small lot. It seems like you're trying to jam a large building into a small space. Mr. Dailey stated we are trying to use every bit of useable property that is available to us to give the applicant a reasonable return on the property and we had to be creative to do this. Mr. Berkowitz stated it isn't our job to maximize his profits at our Zoning Law's expense. Mr. Dailey stated I don't know that it's at the expense of the Zoning Law's; it is just a question of what's a reasonable use and is he entitled to a reasonable return. Mrs. Murphy stated our standard is not a reasonable return on somebody's property and that is not what this Board's standards are. Mr. Robert stated that's not really our problem. Mrs. Murphy stated right; it is not the Board's legal standards pursuant to which you review projects. Mr. Nadeau stated my question is toward the PDD and again initially this is a typical kind of a spot zoning by creating this PDD. Mrs. Murphy stated we don't spot zone. Mr. Nadeau stated I know but in reality this is what we are kind of creating there. Mrs. Murphy stated the following: The essence of that corridor is to create a commercial corridor. The difference is where is it going to begin and where is it going to end.

The analysis was never if a parcel has environmental constraints, let's look at it differently then if it didn't. Otherwise that would have been included in Overlay Zone language. Nobody is saying not to use it as commercial, they're just saying make it smaller. That is what the Town Board said and it's what we heard from Councilman Polak and it's what I believe I heard from Planning as well. Mr. Nadeau asked who owned the property to the east initially and was that part of the farm? Mr. Dailey stated I don't know but I think that is owned by Mr. Tanski now. Mr. Nadeau stated yes, Mr. Tanski now owns it but I believe years ago that was part of the farm and I recall that they subdivided this off and created this lot. Mr. Dailey stated the following: In my conversations with Dr. Bilinski he was completely flabbergasted that this farm field had turned into a wetland. But that's what happens when you let it lay foul; you get some beaver activity, the natural drainage gets sort of plugged up with growth over a period of time and with heavier soils, wetlands result. Mr. Watts stated the following: Well it is what it is. It is a delineated wetland and that's what we operate under and we're not here to debate the philosophical wishes of either the Congress of the United States or the New York State Legislator. So, while we may agree or disagree, it's not within our purview. Mr. Nadeau stated the following: Regarding the parking; in many of our new commercial operations, we do like to see the parking in the rear of the building but obviously with this piece of property that can't happen at all but that's one of the things that we've been looking for. We like to have the parking behind the building so it is not visible. Mr. Roberts stated due to the constraints of the site with the parking and the setbacks that don't meet our regulations, I would like to make a motion to make a recommendation for a negative recommendation to the Town Board on this proposal. Mr. Dailey stated the following: Can we amend this to give us leave because we don't want to lose our fee and the money that we have paid on the PDD. Can we have leave to come back with an amended plan? Mrs. Murphy stated the following: What could happen very easily is if you come back to the Town Board with a plan that has markedly changed from the one that you have right now; at your next appearance or whenever you ask to be before the Town Board, the Town Board can re-refer it to the Planning Board without incurring any more fees. They'll just look at it and say that there has been enough change that it merits being re-referred to the Planning Board. Mr. Dailey stated okay, we might be able to put some parking under the building or something like that so we'll take a look at it.

Mr. Roberts made a motion to pass a Negative Recommendation to the Town Board on the proposed Planned Development District (PDD). The Board cited concerns of too large of a building to be able to be supported by the limited buildable area of the parcel including not meeting the Route 146 Overlay Zone's front yard setback requirement, not meeting the required parking for an office use and the Stormwater Management Authority (SWMA) not being contained on-site. Mr. Ouimet seconded. Motion carried.

Old Business:

10.047 OB Pai's Academy of Tae Kwon Do, 1580 Route 9 – Addition to Site Plan

Mr. Tom Andress, of ABD Engineers & Surveyors, stated the following: The proposed addition to site plan for Pai's building; the main parking lot is in the rear of the site and we're looking to build a 10 space parking lot in front so that we can accommodate a tenant in the front so they'll have parking available for them. I think we went through a lot of the issues. The last time we were before the Board this proposal was referred to CHA. We added some additional landscaping and there was a review by CHA to add some more. So basically the whole area along the front has now been setup with shrubs. We have the storm drainage going into the existing basin connection off the existing building. Mr. Higgins stated the following: As far as the vegetation that you're going to put across the front; what is the height of most of those? Because I think some of them; like the rhododendrons are seasonal, is that correct? Mr. Andress stated yes, the rhododendrons would be a seasonal and in the wintertime it would not have leaves. Mr. Higgins stated the red maple is also seasonal. Mr. Andress stated the red maple is a tree and it is proposed as a 3-inch caliper; seasonal yes, in the wintertime the red maple would lose its leaves. Mr. Higgins stated the following: I personally went to look at it and I was hoping to have more year round

type vegetation to screen the cars that are going to be parking there. From what I'm seeing, in my personal opinion it looks like most of it is seasonal vegetation. Mr. Andress stated the hicks yew are evergreen and both the burning bush and the rhododendron are obviously deciduous so they do lose their leaves but they would still have enough bulk to them. Mr. Higgins stated the following: Okay but I just want to make sure of that because we talked about that we're sacrificing greenspace here and it's very visible along Route 9. I just want to make sure that we're not just going to see a bunch of cars parked there. We want to try and make it look as nice as we can. If Mr. Bianchino is convinced that this is fine, then I'll go with his expertise. Mr. Roberts stated the following: I just want to caution the applicant that we've said this before and I want to say it again that at no time do we want to see any parking along Route 9. That is very important because if you are going to have any big events or anything and I know you have said that you don't, but who knows what will happen in the future.

Mr. Roberts made a motion to approve the addition to site plan application for Pai's Academy of Tae Kwon Do. Mr. Berkowitz seconded. Motion carried.

Mr. Berkowitz made a motion to adjourn the June 28, 2010 Planning Board Meeting at 8:17 pm. Mr. Ouimet seconded. Motion carried.

Respectfully submitted,
Milly Pascuzzi
Planning Department Secretary