

The Planning Board of the Town of Cicero held a meeting on Wednesday, November 4, 2009 at 7:00 p.m. in the Town Hall at 8236 South Main Street, Cicero, New York 13039.

Board Members Present: Patrick Leone (Chairman), Richard Cushman, Robert Smith, Sharon May and William Purdy

Others Present: Wayne Dean (Director of Planning & Development), Heather Cole (Esquire, Wladis Law Firm), Mark Parrish (P.E., O'Brien & Gere) and Tonia Mosley (Clerk)

Board Members Absent: Jason Mott, Christopher Rowe and Scott Harris (Ad-Hoc)

Agenda:

- Approval of the Planning Board minutes from October 19, 2009 (approved)
- Informal discussion: Modification to the 10/7/09 Planning Board Minutes for the Shiva Estates preliminary subdivision plan (approved)
- Informal discussion: Cross access agreement (SEFCU/Wal-Mart)
- Informal discussion: Airport Business Park access (Benderson)
- Informal discussion: Harbour Village stop signs
- Informal discussion: Sidewalk resolution (approved)
- Informal discussions: Updates regarding Town projects/businesses
- Informal discussion: Request For Proposals (RFP) for Planning Board legal and engineering services (approved)

The meeting was opened with the Pledge of Allegiance.

Chairman Leone noted the locations of the three fire exits in the room and that there were no formal public hearings tonight. He acknowledged the importance of public input encouraging audience members to speak about agenda items by raising their hands, being addressed by the Chair and using the microphone in the front of the room.

APPROVAL OF THE PLANNING BOARD MINUTES FROM 10/19/09

Mr. Smith made a motion to approve the Planning Board minutes from October 19, 2009. Mr. Purdy seconded the motion. The motion was approved with the following vote:

Mr. Cushman:	Yes
Mr. Smith:	Yes
Mrs. May:	Yes

Mr. Purdy: Yes
Mr. Leone: Yes

Mr. Leone noted the recent Town wide election. He congratulated the newly elected Supervisor, Judy Boyke and council persons Jessica Zambrano and Lynn Johnson who were in the audience.

MODIFICATIONS TO THE 10/7/09 PLANNING BOARD MINUTES
REGARDING SHIVA ESTATES

The Clerk presented the Board with the changes requested by Mr. Marvasti, the applicant for the Shiva Estates preliminary subdivision plan. After some discussion the Board made the following motion:

Mr. Smith made a motion to approve the following additions/changes to the Planning Board minutes from October 7, 2009 regarding the Shiva Estates preliminary subdivision plan:

1. On page 18 in the heading the number of lots should be clarified to 41 Lots (Phase 2: 12 Lots, Phase 3: 27 Lots, Phase 4: 2 Lots)
2. On page 23 after paragraph 4 a new paragraph should be added which notes that the Board asked Mr. Marvasti if he agreed to accept their recommendations and that Mr. Marvasti's response was yes, I have no choice.

Mrs. May seconded the motion. The motion was approved with the following vote:

Mr. Cushman: Yes
Mr. Smith: Yes
Mrs. May: Yes
Mr. Purdy: Yes
Mr. Leone: Yes

CROSS ACCESS AGREEMENT, SEFCU/WALMART

Mr. Leone noted this issue deals with the cross access agreement between the SEFCU bank project (to be located on the Hanson property) and the entrance to Wal-Mart. It concerns the language in the agreement orchestrated by SEAYCO-THF and Rocklyn. We left the cross easement issues and the site plan approval of the project contingent upon legal and engineering.

Ms. Cole: I am not sure that the easement agreement as written fully meets with your intent. I think the Board's intent was to make sure that there was always going to be a cross access between the SEAYCO-THF parcel and the SEFCU parcel. The reciprocal access agreement as written allows the access agreement to be terminated if both parties consent. I don't necessarily know if it is likely that SEFCU or the owner of that parcel is ever going to consent to eliminating that access, but it leaves open the possibility that if both parties consent that access will not exist any more. It further specifies that SEFCU can seek access to the parcel in what will probably become the deceleration right turn-in lane off Route 11. Again, I am not sure that is something that this Board wanted SEFCU to be able to do. That is my concern. If they were to agree to eliminate the access from the inner loop road from Wal-Mart by saying now we are going to go off the deceleration lane, certainly that would require this Board's approval as a modification to the site plan, further DOT review, etc. But, I am not sure that those possibilities and/or potential eventualities were something that this Board wanted to be part of the picture.

I wanted to make you aware that is the case. You are certainly welcome to approve the agreement as is. I just wanted you to be aware of what you would be approving.

Mr. Leone noted that Tom Seay controls all of those front lots. If he buys the SEFCU parcel out from Rocklyn, he would now control the complete access. He could terminate the access for any buildout there, if he wanted to push someone out of there. That is a legal issue between owner and owner. I am not sure that this Board needs to wrestle with that.

How does Tom Seay think we are going to accept his projects when he sells his properties? Maybe now is not the time to hold Rocklyn hostage. But when Mr. Seay sells one of those front lots, we will be talking about clarification of easements on all of the properties. He will need us to approve his cross access easement agreements as well. Maybe then we can further address the Rocklyn piece.

Ms. Cole: I understand. I hope that would work in the future. Once this project is approved and moves forward, I am not sure that there is anything that you can force Mr. Seay to do to re-negotiate the nature of the access for this parcel.

Mr. Leone asked how Wal-Mart's cross easement agreement was written.

Ms. Cole was not sure.

Mr. Leone: For all we know, Tom Seay could have it written the same way to Wal-Mart. Wal-Mart does not own the entrance, Tom Seay does. As a Town we don't. Personally, I am not overly concerned. I think that you tried to address it in this letter. It extends it through the lease terms of this piece for the next 15-20 years?

Ms. Cole: Rocklyn owns what will become the SEFCU parcel. There is going to be a ground lease, meaning Rocklyn will own the land, SEFCU will build and own the building. I believe the terms of that lease are 16 years, based upon what Mr. Donegan told me earlier today. He provided an addendum to the lease which specifies that Rocklyn as the owner of the land can not consent to eliminate the reciprocal access agreement during the term of the lease. I think that gives you a modicum of protection, a level of comfort. It does not necessarily stop Rocklyn from terminating the reciprocal agreement.

Mr. Leone: Rocklyn has given property to Tom Seay to give to the State to finish off that intersection. We have all of the necessary pieces that we need to finish the intersection. That is my concern.

Mr. Smith asked if the easements are written to the property owner.

Ms. Cole responded they are to the land, not the property owner.

Mr. Leone: Ultimately, we got more land to widen the entrance road. We also got land in front of the property. The DOT has said they can not have access from Route 11. The access has to come from the internal road.

Mr. Smith asked if this would impact the sidewalks being built.

Ms. Cole did not think so.

More discussion occurred.

Mr. Leone made a motion to accept the easements as written, noting Ms. Cole's concerns, and to move forward with the site plan. Mrs. May seconded the motion. The motion was approved with the following vote:

Mr. Cushman:	Yes
Mr. Smith:	Yes
Mrs. May:	Yes
Mr. Purdy:	Yes
Mr. Leone:	Yes

Tim Murphy, Noel Road: Today SEAYCO came in to put in the fence posts for the fence that is moving from the Hanson's property to the backside of Noel. Mr. Dean told me it would be 6' off the line. Today they put the fence post 1' off the line. How will they maintain that fence?

Mr. Leone: That answer should come from Wayne. We would need to know what is in our code and what the fence is allowed to be.

Mr. Dean: When I talked to the representative from the realty company, he told me 6 feet. I had another call today where I was told it was a foot off the line. As far as the code goes, the realty company is allowed to be right up to the line. It is his property; he can do what he wants to it. If he wants to put the fence a foot off the line he can do it.

Mr. Leone asked that the record be checked for the fence to the south to see where that sits. I want to know why and how far that sits so that we can explain how the fence was placed for maintenance purposes. Wayne, you have the right to bring them back in before this Board under site plan. One way or another, there is a way to address it.

Mr. Dean agreed to look for that information.

More discussion occurred.

Mr. Murphy: What is the setback for a road with a detention pond with a fence? Is there a legal ramification there?

Mr. Leone: I don't think so. I think if you get into a situation with a hazard you can put up a guard rail or something like that.

More discussion occurred.

Mr. Leone: A half a fence at times is better than nothing. Again, there will be another shot at these guys. Sooner or later someone will come in for that back parcel. It will get addressed.

AIRPORT BUSINESS PARK (BENDERSON) ACCESS

Mr. Parrish detailed access points using the screen. He noted that Wayne had received a letter which was passed on to the Board from Jim Stelter at the County DOT. It is in relation to the East Taft Road project. This shows the entrance to the Benderson property where the Board recently granted site plan approval. At that time we suggested that there be a right-in, right-out exit at that intersection. The proposed Kreischer Road will come down, make a bend and come to a signalized intersection at this location. The feeling was with the traffic coming from here, we did not want people waiting to take a left into this driveway and potentially causing a backup because of the curb, site distance, etc. We suggested maybe it would be best to limit the left-in here. Benderson agreed to that and the site plan was approved with that configuration.

The County DOT has run into a dilemma. There is a property located here, which currently has unrestricted access all along the front of Kreischer Road. As part of the County's project, the new Kreischer Road would go here. They would eliminate all access to that property from Kreischer, and given them access off of East Taft Road here. That access would be shared with the adjacent property.

The owner of this building has indicated that he has tractor trailers that need to come into this site. With this access they can not get in and out of the site. They could get in but would have to back out or go through some bad maneuvers to get turned around to exit here.

The County DOT approached Benderson to see if the County could get a break in the access onto Benderson's access road here. That would allow tractor trailers to come in off of Taft and

exit out onto the access road, and come out of the intersection onto Kreisler. Benderson has said that they would do that but, they would like to have this intersection go from a right-in, right-out to a full access intersection.

That is the request. Essentially, the County DOT is coming to the Planning Board and asking them to approve a full access intersection at this location so that they can solve a dilemma that they have with access to this property.

Mr. Leone: Any cross access easement has to run through the attorney. Secondly, is there appropriate turning radii for trucks to get in and out, including a fire truck? Thirdly, I see this as an access to avoid the intersection when people are leaving the Benderson property, to avoid the light. They will have a straight shot across the property to get out.

We debated that intersection because we felt there would be a backup. We have been cleaning up this site for two years. The Town did not bring them in for site plan approval and the County did not have the plans for all of Taft Road in front of us before they approved their project. There was never a coordinated effort of review. I don't see how a truck is going to negotiate that turn.

Albert Pitts, former truck driver: For a normal tractor trailer it is 53' for the trailer and with the cab you are probably at 80'. You will probably need about 120' to turn. That area will be tight.

Mr. Purdy agreed.

Mr. Leone: It is not a reasonable request for what the County is trying to fix. Benderson knew why we curtailed that entrance. The Town could deny Benderson's access entirely, since they have three different access points. (Two to Kreisler, one to Taft Road) We could close that driveway or give the drive back to the Plaza. Does that address it?

Mr. Cushman noted that they have the back entrance to Church Street and the DMV entrance too.

More discussion occurred.

Gino Contentleno, owner of the Plaza introduced himself. We have been going back and forth with the County. The current proposal with the access to Taft Road is nice, but with the traffic issues it will not work. It will not work for people trying to get in and out of Taft Road from there. You would have to come out and cross over three lanes of traffic due to the left-hand turning lane.

Mr. Leone: You have lost your best access point to your property.

Mr. Contentleno: They are telling us that we have no access onto Kreisler Road.

Mr. Leone: It seems to me that the Taft Road driveway needs to be a right-in and a right-out.

Mr. Contentleno: And we need to have access to Kreisler Road. The County has been going back and forth. There has been talk but nothing has happened.

Mr. Leone suggested having a shared access agreement, splitting a driveway that the County has to modify onto Kreisler, to serve both properties.

Mr. Dean: Full access, right-in or right-out?

Mr. Leone: I think that Mr. Contentleno would need full access for his property.

Mr. Contentleno agreed. We have looked at it. We really can't do anything but full access. We would be willing if we could.

Mr. Dean: We are trying to fix a problem that we did not create. The County is blaming us for denying them access to the Plaza. We never said that. We never denied them access. The County designed this without talking to us.

More discussion occurred.

Mr. Leone noted that he would like to help out Mr. Stelter. He made a motion that the Planning Board put a stay on approving any changes with a cross easement until we have a meeting with Jim Stelter. Wayne, you and I and any other Board members who would like to

attend can meet. I think that it is something that needs to be hashed out a little bit. Then we will deal with Benderson. It may be that we close Benderson's drive. That can only be done by a resolution from the Town Board.

Ms. Cole: We can cross that bridge when we come to it. But, for now you want to hold off on making a decision on this until you have time to meet with the County, correct?

Mr. Leone: Yes. The turning radii don't work, so it does not solve his problem. It is our intent as a Board to work with the County.

Mr. Dean: I have indicated to Gino that we will have to deal with the County. We certainly don't want to make them an enemy. We want to cooperate with them. I don't think that there is a good resolution to this.

More discussion occurred.

Mr. Smith seconded the motion. The motion was approved with the following vote:

Mr. Cushman:	Yes
Mr. Smith:	Yes
Mrs. May:	Yes
Mr. Purdy:	Yes
Mr. Leone:	Yes

HARBOUR VILLAGE STOP SIGNS

Mr. Leone noted that the Board would like to discuss an issue that Mrs. May raised—the placement of a stop sign at the entrance throat of Oneida Trail where it intersects with Marina Drive. The Planning Board never approved a stop sign at this location, but did approve a yield sign. Apparently, at the Town Board level, there was a change made back to a stop sign because it was suggested by the Police Chief that yield signs do not work in a residential neighborhood.

Ms. Cole: I think what happened is that they put the stop sign on the wrong street at the intersection. It is very clear in the local law that approved the stop signs where the stop signs should be at that intersection. The sign was supposed to be placed on Marina. It was put on Oneida. When Sharon called me earlier this week I emailed the Highway Department asking them to look into it. She called them again today.

Mrs. May: When I came here this evening, the stop sign was still there.

Mr. Leone suggested getting rid of the sign as soon as possible and placing it where it belongs before someone gets rear-ended and two parties get sued—Mr. Mazzaroppi and the Town.

Mrs. May noted that danger already occurs forcing traffic to stack out onto Route 31. There is only room enough for one school bus in that throat. It is a hazard that has to be taken care of. Is there a certain height that a stop sign should be?

Mr. Dean and Mr. Leone responded that there is a law regarding stop sign height.

Mrs. May: The Highway or Police Department should look at the sign on the corner of Marina and Beaver. I do not believe that stop sign is in compliance. It is low.

Mr. Dean: I will check into this in the morning to get this taken down. If it needs to be changed there is a Town Board meeting tomorrow where I can bring the issue up. If it needs to be changed by resolution we will change it.

Ms. Cole: I think that the local law expresses the intent correctly. The sign was just placed inconsistently with the local law.

SIDEWALK RESOLUTION

Mr. Leone noted the resolution drafted by Ms. Cole at the Board's request.

Mr. Smith read the following as a motion: Be it resolved

RESOLUTION

Establishment and Maintenance of Sidewalks in the Town of Cicero

WHEREAS, the Planning Board has been requiring that the developers of residential subdivisions that are in close proximity to schools, parks, and commercial activities install sidewalks in such subdivisions; and

WHEREAS, the Planning Board has also been requiring that the developers of commercial projects that are in close proximity to schools, parks and commercial activities install sidewalks as part of such commercial projects:

NOW THEREFORE IT IS RESOLVED:

1. That the Planning Board shall continue to require that sidewalks be installed as part of residential subdivisions and commercial projects as the Planning Board deems appropriate; and
2. That the Planning Board requests that the Town Board adopt rules and regulations pertaining to the maintenance of sidewalks in the Town of Cicero, such that sidewalk maintenance is the responsibility of the owner of the real property on which the sidewalk is located.

(Mr. Smith continued.) That is in the form of a motion. As everyone knows we have tried before. We should not have sidewalks in and force people to walk in the middle of Route 11, especially in the winter. Town taxpayers should not pay for it. We need an ordinance.

Mr. Leone explained that this is a motion to go to the Town Board for their approval as a recommendation from the Planning Board.

Mrs. May seconded the motion. The motion was approved with the following vote:

Mr. Cushman:	Yes
Mr. Smith:	Yes
Mrs. May:	Yes
Mr. Purdy:	Yes
Mr. Leone:	Yes

Mr. Smith presented a second resolution in the form of a motion regarding the sidewalks on Thompson Road.

He read the following motion:

RESOLUTION
Sidewalks on Thompson Road

WHEREAS, the County of Onondaga (the "County") will be making improvements to the County-owned highway known as Thompson Road in the Town of Cicero (the "Town"); and

WHEREAS, the County has been developing plans for the Thompson Road improvement project; and

WHEREAS, it is the Planning Board's understanding that the plans call for an additional eight (8) foot right-of-way along Thompson Road, but do not call for a sidewalk to be installed along Thompson Road as a part of the project;

WHEREAS, the area surrounding Thompson Road contains a school, baseball fields and numerous residential developments; and

WHEREAS, the Planning Board would like to encourage pedestrian activity on Thompson Road given Thompson Road's proximity to a school, recreational activities and residential developments; and

WHEREAS, the Planning Board believes that pedestrian activity in the area should only be encouraged if sidewalks exist on Thompson Road, in order to protect the health, safety and welfare of the community;

NOW THEREFORE IT IS RESOLVED

1. That the Planning Board requests that the County of Onondaga consider installing sidewalks on Thompson Road as part of the improvement project for Thompson Road; and
2. That the Planning Board clerk transmits copies of this resolution to applicable members of the Onondaga County Department of Transportation and the Town's elected representatives in County government including our County Executive.

(Mr. Smith continued.) The talk down there is about making communities walk able. If there is a pinch point in the Town for kids and others to make it between parks and schools, this is the perfect place. Anyone who lives on this side of Route 31 knows that you do not dare let them walk over to the fields on Gillette Road because of Thompson Road and visa-versa. Kids walk along there trying to get to school. It is unsafe and unreasonable. We have an opportunity to fix this and the County should do it.

Mrs. May seconded the motion. The motion was approved with the following vote:

Mr. Cushman:	Yes
Mr. Smith:	Yes
Mrs. May:	Yes
Mr. Purdy:	Yes
Mr. Leone:	Yes

INFORMAL DISCUSSIONS: UPDATES REGARDING TOWN PROJECTS/BUSINESSES

Mr. Leone: We recently gave some approvals for site plan modifications for the Liquor Store/Dry cleaner at the corner of Route 31 and Torchwood. Now I see an Allstate Insurance agency there. Did they split one of the offices?

Mr. Dean: Yes, they moved the liquor store to the back of the addition and moved the insurance agency to the front.

Mr. Leone: Did they come to you for that from a code standpoint?

Mr. Dean: Yes, he talked to me about it.

Mr. Leone: Does the sign still meet the total square footage requirement?

Mr. Dean: Yes.

Mr. Leone: There's a new psychic place at the corner near Wal-Mart. They have a sign up now. Isn't that a change of use? Should they come in for that?

Mr. Dean: No, I did not make them come in. She talked to me about it. It is a minor use. It is not an overwhelming use of the property.

Mr. Leone: Does the way the sign is lit obstruct the road?

Mr. Dean: No. I came by there tonight and did not really notice it.

INFORMAL DISCUSSION: REQUESTS FOR PROPOSALS (RFP) FOR LEGAL AND ENGINEERING

Mr. Smith noted the Board discussed this last year. We have not done an RFP in a while. Last year we determined that it was too close to the appointment time so we decided to wait a year to do it in a more appropriate time frame. We now have an adequate amount of time to properly do this.

The Board agreed.

Mr. Smith presented the following resolution as a motion:

RESOLUTION OF THE PLANNING BOARD OF THE TOWN OF CICERO

Whereas the Planning Board of the Town of Cicero is authorized to retain an attorney to provide legal services to the Planning Board and is authorized to retain a licensed engineer to provide engineering services to the Planning Board, and

Whereas the Planning Board desires to seek proposals from qualified attorneys and engineers for the delivery of legal and engineering professional services to the Planning Board,

It is hereby resolved by the Planning Board of the Town of Cicero as follows:
The Planning Board shall cause to be publicized a request for proposals for a Planning Board attorney's services and a request for proposals for qualified engineering services. The advertisement shall include in substance the following:

The Town of Cicero Planning Board seeks proposals from attorneys to provide legal services to the Planning Board. In addition, the Planning Board seeks proposals from engineers to provide qualified engineering services to the Planning Board. Proposals and resumes shall outline services to be delivered and proposed fees. Proposals and resumes shall be delivered by November 30, 2009 to Patrick Leone, Town of Cicero Planning Board Chairperson, PO Box 1517, 8236 South Main Street, Cicero, NY 13039.

The request for proposals shall be sent for general publication and it shall be posted in the Town Hall and on the website of the Town of Cicero.

Mr. Purdy seconded the motion. The motion was approved with the following vote:

Mr. Cushman:	Yes
Mr. Smith:	Yes
Mrs. May:	Yes
Mr. Purdy:	Yes
Mr. Leone:	Yes

Mr. Leone: We will try to make selections and have everything resolved by our organizational meeting.

Mr. Smith asked that a committee be made to work out the parameters.

Mr. Leone agreed asking Mr. Dean to be involved with the committee. Mrs. May and Mr. Smith volunteered to be on the committee along with Mr. Dean and Mr. Leone. He noted the intent is to have the entire Board handle the selection process. The committee would review the submitted RFPs before that.

Mrs. May asked Ms. Cole and Mr. Parrish to submit RFPs.

Mr. Murphy, Noel Road: You are talking about sidewalks and kids going to school. Route 31 and Thompson should have a sidewalk. I think that it is very dangerous.

Courtney Taylor introduced herself noting that her mother owns Fantasy Dance Company on Route 31. She agreed that the area needed sidewalks noting that there are a lot of kids/people who walk there.

Mr. Leone: Our intent is to someday, somehow connect those. It could be done when each property comes in for site plan or with grant money. They will not be sidewalks to nowhere. If there is a student body that has the gumption to raise that as an issue, I think that it is something worth fighting for. I think that it would be a good project to set forth at the school level.

Mr. Smith reviewed what the Planning could and could not do regarding sidewalks. We can not require existing properties to put in a sidewalk. We continue to solicit support from the Town Board to get you sidewalks. We have a new Town Board in and they are sitting behind you. I think that they heard you. It is a safety issue. We should make our Town walker friendly.

Mr. Cushman: The irony is that the County has encouraged Towns to put in sidewalks. When the County is doing their own projects and taking additional property, right-of-ways, they won't do it themselves.

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 7:50 P.M.

Mr. Smith made a motion to adjourn. Mrs. May seconded the motion. The motion was approved unanimously.

Dated: November 12, 2009

Tonia Mosley, Clerk