

The Planning Board of the Town of Cicero held a meeting on **Monday, May 23, 2011** at **7:00 p.m.**, in the Town Hall at 8236 South Main Street, Cicero, New York 13039.

Agenda:

- Pledge of Allegiance
- Site Plan Discussion, Lucien's Entertainment Complex, 7800 Brewerton Road, Restaurant & Night Clubs
- Site Plan, Francis Daher, 8160 Brewerton Road, Proposed Collectibles Store **(to return)**
- Site Plan, Country Max Cicero LLC, 5808 Crabtree Lane, Proposed Retail Site **(to return)**
- Site Plan Amendment, Tim Horton's, 6360 East Taft Road, Proposed Restaurant **(to return)**

Board Members Present: Mark Marzullo (Chairman), Joe Ruscitto, Pat Honors, Chuck Abbey, Robert Smith and Sharon May

Others Present: Judy Boyke (Town Supervisor), Neal Germain (Esquire, Germain & Germain), Mark Parrish (P.E., O'Brien & Gere), Steven Procopio (Code Enforcement Officer) and Tonia Mosley (Clerk)

Absent: Greg Card (PB Member) and Wayne Dean (Director, Planning & Development)

The meeting opened with the Pledge of Allegiance. The Chairman noted emergency exits and welcomed the Supervisor to the meeting.

APPROVAL OF THE APRIL 25, 2011 PLANNING BOARD MEETING MINUTES

Mr. Smith made a motion to approve the April 25, 2011 Planning Board meeting minutes. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

Mr. Ruscitto:	Yes
Mr. Honors:	Yes
Mr. Abbey:	Yes
Mr. Smith:	Yes
Mrs. May:	Yes
Mr. Marzullo:	Yes

**SITE PLAN DISCUSSION, LUCIEN'S ENTERTAINMENT COMPLEX, INC.
7800 BREWERTON ROAD**

Representatives: Lucien Ali Sr. and Lucien Ali Jr.

Mr. Marzullo noted this was a site plan that was approved some time ago. Recently there have been some complaints from residents and so the applicants attended a work session to discuss those complaints. They are here tonight to put their intent on record.

I know that the applicants and this Board have the same objective—to be good neighbors. I know there are some neighbors here tonight but this is not a public hearing. I will not allow any public input. We do have all of the letters sent by residents, a police report and other information.

I think that it comes down to noise from music within the Club and noise in the parking lot, particularly after hours. There was also some discussion about the parking lot that included debris and security issues.

Mr. Ali Sr. addressed some of the noise issues. We believe one of the problems is the rear overhead door. Even though it faces east or the back of the parking lot, I believe some of the sound effects the houses nearby. Therefore we are going to do what we did to the overhead doors on the south side of the building—we are going to close it off and insulate it. I think that will adjust a good part of the drifting of sound.

We are also going to purchase a sound level meter. We know that the Town no longer has a local law that governs sound levels by decibel. We will check this meter, I am guessing every half hour, when we are open. That way we can control the sound level inside.

As far as the noise in the parking lot, our goal has always been to get everyone out of the premises by 2:30 at the latest. Our security people stay until everyone is gone. There should not be anyone lingering. If there is any noise it should not be anything other than people talking as they leave. Besides our regular professional security team that ranges in number from 12-18 people on any given night, we will be hiring two uniformed officers. The uniform gives you a better presence. We would use them mainly to control traffic in the parking lot.

There was also a question about liter. This is typical of any type of business including shopping centers. The question becomes how soon do we get to clean it up? Our inside/outside maintenance man also works the bar on Saturday nights. He doesn't generally get to leave until 3 a.m. and we do not expect him to work on a Sunday. On the average he comes back on Monday or Tuesday depending upon the weather. Most of the liter is what people bring in and not from the Club. A lot of people go out to their cars to drink so that they don't have to buy drinks. I don't know how we can control that other than sending our maintenance man out to clean up on Mondays.

There was a problem with the fence on the south side of the building. That has been repaired.

Mr. Smith asked for clarification on the noise ordinance.

Mr. Procopio responded the Town does have a noise ordinance but the decibel reading portion was removed. The new noise ordinance enumerates prohibited noises and gives a time frame which is typically from seven until nine. A law enforcement officer could determine what an unreasonable sound is.

Mr. Ali Sr.: The meter will help us keep a check on that.

Mr. Marzullo: I asked at the work session if there was some type of regulator that you could put on the sound system so that no matter what, it could not go past a certain level.

Mr. Ali Sr.: I am not aware of that but I am telling the Board that we are going to keep tight control on that.

Mr. Marzullo: Is there a way that if there is an issue a resident can call the Club rather than the Police?

Mr. Ali Sr.: I would be happy to give them a number to call. We would be willing to listen to them and take care of the problem right then. It would be a lot easier for us.

Mrs. May: When do you plan on purchasing these meters?

Mr. Ali Sr.: We should have them within a week or so. Currently we are not open every Friday and Saturday on a regular basis. We are booking more national acts and are not going to open unless we have something good going. Our next one is in about another two weeks.

Patrons are not allowed to leave with any beverages. Sometimes they go out to their cars to smoke.

More discussion occurred regarding the number of security people present on a given evening and the overhead doors.

Ms. Boyke: I look forward to the implementation of your sound proofing and security.

Mr. Marzullo: I encourage concerned residents to contact the Mr. Ali directly.

Mr. Ali Sr.: You can contact my son directly on his cell phone at 744-2016. I am sure he will answer any calls during Club hours. We are more than happy for anyone who lives over there to come over and knock on the door to speak to me or my son.

**SITE PLAN, FRANCIS DAHER
8160 BREWERTON ROAD
PROPOSED COLLECTIBLES STORE**

Representative: Francis Daher, Applicant

Mr. Daher noted that he has been a collector of vintage things for years. My life long dream has been to open a retail establishment. I own and live at this property. I have decided to try and get a business going for myself and my family.

This would be a small retail establishment. I don't expect to have a lot of traffic. It would have a minimal impact on the environment. We are asking permission to pave a parking lot in my front yard.

I do have a proposed sign located on the right side of the property. It is illuminated, double sided, about 5' x 6'. I believe that it must be a minimum of 6' off the ground at the bottom. I

could do a monument sign but I am not sure if that would require a special permit.

Mr. Procopio explained that the sign could not be more than 6' off the ground.

Mr. Daher noted the sign would not have any moving components. It is the old State Farm sign that was up in Brewerton. The only lighting on the site might be flood lights on the corner of the house--if that is okay with the Board--for security.

Mr. Smith: Normally we want lighting without glare. We would need a lighting plan.

Mr. Parrish agreed. We need cut sheets of those lights. We should probably not encourage flood lights and suggest wall packs instead or full cut off fixtures as opposed to flood lights. Your engineer can assist you. The site plan needs to show lighting as part of the site plan approval process.

Mr. Daher: If I decide not to add lighting, it isn't something that I have to do, correct?

Mr. Parrish: If you want it you should show it.

Mr. Daher: The hours of operation are minimal. I probably will not be open much during the week, maybe in the evening. I would say from 3 until 6 or 7. Saturdays I would probably be open from noon until 6. I do not anticipate being open on Sundays. I do not plan on hiring any employees at this time.

Mr. Smith: Will there be much internet business that requires UPS or FEDEX trucks?

Mr. Daher: Probably outgoing. I do a lot of internet sales. But, I generally use the Postal Service. If I arrange for pickups they would be once a day.

My drive comes out onto Route 11 and Glendora. I am proposing to cut off the drive onto Route 11 in order to keep the entrance onto Glendora. I realize that entrance is less than 150' from the intersection. I will be applying for a variance to come into compliance.

Mr. Parrish noted that a driveway does need to be 150' from an intersection. It is only

approximately 30 feet here. He will need a variance.

Mr. Smith: Is this an area where we would normally do a sidewalk? The only place we have not required a sidewalk is where it was impossible to put in.

Mr. Parrish: We will review the plan and present comments on it. This does need to be forwarded to the County. If the Board feels that the plan is sufficient, it could go now.

The Board agreed.

Mr. Marzullo noted that the Board can not vote on site plan approval until the variance is in place via the Zoning Board of Appeals.

**SITE PLAN, COUNTRY MAX CICERO LLC
5808 CRABTREE LANE, PROPOSED RETAIL SITE
MARTY MEROLA**

Representatives: Marty Merola, Robin Development
Don Payne, Country Max Stores

Mr. Merola introduced himself and Mr. Payne. I believe everyone saw Mark's reply to my email.

Mr. Marzullo noted that the entire Board had also received Mr. Payne's email. We understand your concerns and are excited about the prospect of having your store at that location. We will do whatever we can to move the process along, but we do have certain procedures in place. So, we will have to go through those procedures to get to a final.

I don't know if you can get a blessing from the code enforcement officer to get a building permit before a site plan. If they did allow that, it is something that is totally up to them. You would be doing work at your own risk if for some reason the site plan was not approved. But, site plan approval is not going to happen tonight. At the last meeting I asked that everything be addressed so that we can move forward and I do not think that it has.

Mr. Parrish: I think that there are a number of issues that the Board needs to be made aware of and to provide feedback to the applicant on. The first issue is the truck access to the site. Country Max is proposing to go into the former bowling alley building, but the front part of the parcel is leased out to Adesa for their auto auction. Currently, frontage along Crabtree Lane is unrestricted. Mr. Merola has proposed islands along that frontage and the west side of the property. Defining the entrance is good.

However, these large vehicles need to be able to get into the site. We have asked that a turning template be shown for the truck path into the site to confirm that the entrance is adequate. There is a turning template shown, but I am not sure of what the vehicle's size is. I don't know if it represents a car carrier. It looks like if the vehicle comes in off of Crabtree into the site that it encroaches into the opposite travel lane. I wanted the Board to be aware that there is a potential for conflict between the two uses.

More discussion occurred regarding the size, type and location of curbing.

Mr. Parrish: Initially they were just doing striping. Now they have added curbing into the site. I believe that there needs to be something to delineate the two uses.

1C is the access easement. Do you understand what is being asked?

Mr. Merola: Yes I do. We would come to the far south property line of M&T's vacant lot. There is a tree out by Route 11. That is where we would come in.

Mr. Parrish: The easement location needs to be shown clearly on the plan. An appropriate agreement needs to be put together and reviewed.

Mr. Germain: I believe we talked about this on Friday. I would suggest that once it is on the plan that you draw up the appropriate easement—the actual easement agreement that is going to be filed. When this goes up for a vote we need to have the actual easement in hand along with a TP584 so that we can sign it on our behalf and file it.

Mr. Smith: That means that we need it before hand, so that we can see it.

Mr. Merola: Do I have too? Why do I have to give you an easement on a couple of acres of property that I have lost?

Mr. Germain: The Board is going to make that a condition of site plan approval. You have a couple of choices. You could say that I don't want site plan approval or you could say that the easement makes sense.

Mr. Parrish: We do have an easement agreement with United Auto. That is something that I want to check on to make sure that we are matching up with that easement. I will have to confirm that.

Mr. Smith: We put a lot of time into that easement across United Auto. With this easement we will almost be able to go from Town Hall all the way through to Crabtree.

Mr. Parrish: The County's referral discusses this in some detail. They also went through the effort to email the Chairman with that information and to make that suggestion. You do have County Planning recommending very strongly that the Board incorporate this into their approvals.

More discussion occurred.

Mr. Germain: What was presented before was not an easement. That was a picture and a legal description, but it was not an easement. There was nothing that the Town could actually record. There is a vast difference between showing someone a picture on a map and actually granting the Town access rights. To grant access rights you must file the actual easement. That means you must submit an easement in recordable form, with the necessary documentation—the TP584 and the recording piece.

Mr. Merola: Who pays the recording fees?

Mr. Germain: You.

More discussion occurred.

Mr. Smith: To save time, we need that information to get to our attorney before the day of the next meeting. Neal has to have time to review it and approve it.

Mr. Marzullo: We probably would not schedule the site plan to return until after we received that information.

Mr. Parrish: They did provide information on trip generations. Everyone is aware that this is a very difficult intersection to access. But, I think that the provided trip generations are low in comparison to the adjacent streets. That is not to say that this will not have any impact, but my opinion is that it is relatively minimal as compared to what is out there.

Mr. Smith: Can we define our approval based upon Country Max as the only use? We hope that you are there forever, but if in a number of years Country Max leaves and the decision is made to put in a high traffic generator, that would significantly change traffic in the area. Given the size of the building, we could be going from a low traffic generator to a high traffic generator. Can we add that to the approval so that the site plan comes back in before us?

Mr. Germain: If Country Max left, and someone comes in and uses the exact same building and the exact same set up, but there appeared to be a much higher traffic use---they would still be able to do that.

Mr. Parrish asked for clarification on lighting that will be used. Are saying that you are using the Ruud lighting plan, which matches the cut sheets that you provided? The Board needs to make clear which lighting plan they would be approving.

Will the free standing sign be utilized for this project?

Mr. Merola stated not at this point.

Mr. Parrish: So the only signage you will have for this project will be on the building?

Mr. Merola: Yes.

Mr. Parrish: The last item I would like to discuss is the dumpster. I believe that you will want

some screening there. We would need to get details on that.

Mr. Smith: Is this all one tax map number?

Mr. Parrish: I believe that it is currently four tax parcels.

Mr. Smith: Normally we would ask the developer to incorporate them into one parcel.

Mr. Parrish: We have in the past, but not all of the time. It is something that you might want to consider. There are not any buildings or additions that would cause set back issues with the current parcels. From that aspect you don't necessarily have to combine them.

Mr. Smith: The applicant is the same owner on all of the parcels, the same LLC?

Mr. Parrish: I believe that is what the site plan indicates.

Mr. Merola: Correct.

Mr. Smith asked Mr. Germain to verify that for the next meeting.

Mr. Merola: The last thing to discuss is the zoning of the parcels. I should have checked with the Town to see how you have them zoned as opposed to what ongov.net has.

Mr. Parrish: There is a difference between zoning and use. What you have shown is the use based upon the real property data. Zoning is different. It is something enacted by the Town. It affects the uses of the site, setbacks, bulk regulations, etc. That needs to be shown for/on the site plan. Basically, it is General Commercial. You just need to note that on the plan.

More discussion occurred regarding landscaping and fencing.

**SITE PLAN AMENDMENT
TIM HORTONS, 6360 EAST TAFT ROAD
PROPOSED RESTAURANT**

Representatives: Bob Bender, Tim Horton's
Jason Cantex, TDK Engineering Associates, P.C.

Mr. Bender gave a brief history of the approximately 4 acre site followed by the updated plan. He gave details as to the power line easement and the wetland area. We could not get comfortable having something under the National Grid power lines, besides a drive.

Our new agreement with National Grid allows us to maintain all of the area between our pavement and corner as lawn. We are going with a smaller building than what was originally proposed. There is a driveway from East Taft Road and a right-in and right-out off Northern Blvd. Both of those drives have been reviewed and approved by the County. The drainage plan is essentially the same, with minimal changes. We have reduced the impervious area and brought the plan up to the new DEC standards.

The building is 1,000 square feet. There are no seats in this building. It is walk up service and drive up service only. The dumpster is enclosed by a board on board structure. We have 14 parking spots and at our busiest times anticipate having 5 employees. We have laid out the site so that if we ever do see a need for additional parking, we have room to expand the parking lot in that green space going towards Taft Road.

We have a full by-pass plan for the drive-up area. It is a single lane drive-up with a full by-pass lane through out the length.

Mr. Parrish: We will do a full review on these plans including lighting, signage, etc. Given that the Board has approved this previously and this is less intensive, I don't see any issues. The last plan provided some areas for trucks to pull off; basically truck parking because of the high volume of truck drivers in this area. I see that this plan does not provide for that. Is there a reason that was removed? Is it something that this Board might want to consider?

Mr. Bender: Last time we had also provided for trucks in the drive-up line. But, with the new design of our buildings which include awnings and a 7'4" height limit in the drive-up, we do not want to encourage trucks coming through the drive-thru. With the limited amount of service opportunities here we also did not feel that accommodating larger vehicles was a necessity. It is sized so that our delivery trucks can get through. These 30-45 minute deliveries are typically two times per week and are scheduled during off peak hours.

We had originally proposed truck parking under the wires. That was one of the issues that we had with the original development plan and NIMO. But, we are here to discuss that with the Board.

Mrs. May: Northern Boulevard is a heavy truck traffic area.

Mr. Bender: We really don't want tractor trailers coming in and out. They tear up the pavement quickly. We also don't want to encourage any large trucks to be in here on a daily, multiple basis. Large UPS or FEDEX trucks stopping so close to their main facilities is probably not a wise choice for a driver.

Mr. Marzullo: If they are making a business decision not to encourage large truck parking, that is fine.

Mr. Parrish pointed out that if a tractor trailer did come into the facility there would not be a lot of room to turn around. I just wanted to bring that to the Board's attention.

Mr. Abbey noted medium sized trucks might want to use the site.

Mr. Bender: We could over size a couple of the parking spots if the Board thinks that would accommodate that. We do have room to push a little to the north so that those trucks could pull in and back out.

Mrs. May and Mr. Abbey suggested putting up no truck traffic signs to prevent trucks from attempting to go through the drive-thru area.

Mr. Marzullo asked if the plan had to be submitted to the County.

Mr. Parrish: This is really a modification. The Codes Office had sent the previous plan.

Mr. Marzullo: Do we need to be concerned about the new drainage regulations?

Mr. Parrish: We do have new storm water rules. The DEC did put out some frequently asked questions within their guidelines. One of those questions was what was the impact of the previously approved projects? If the project has obtained approval from a Planning Board or has an application in prior to March 1st 2011 and has had a SWIPP prepared in accordance with the previous regulations--they don't have to change the storm water. They meet the previous design standards. It is less intense so it is still going to meet those requirements. Because of that they don't have to meet the new structure requirements. We will need to get some documentation about the SWIPP and will make sure that gets done.

Mr. Bender: Building elevations have changed. This drawing shows elevations and signs. I understand that we will need to make a formal application before the next meeting. We have upgraded the look inside and outside of our stores. All colors tie into our new color scheme. We have added awnings, accented entrances and the drive through area. The monument signs are the same size as presented before. There are two of them, one at each entrance. The wall signs are about half the size of what was approved. We are asking for wall signs on the front and on the parking lot side. Because of the awnings on this building we have a clearance bar.

More discussion occurred regarding directional signs, menu boards, total square footage of signs, etc.

Mr. Smith: If we get this approved, when do you hope to start construction?

Mr. Bender: I have to get the new consent agreement with National Grid signed. I should have that in my hands this week. We will go through our building plan design and put it out to bid to make sure our financial feasibility meets our budget. I would say we could start in early September and try to get finished up this year. Typically our constructions have a 90 day schedule.

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

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS
ADJOURNED AT 8:35 P.M.

Tonia Mosley, Clerk

