

The Planning Board of the Town of Cicero held a meeting on **Monday, June 13, 2011** at **7:00 p.m.** in the Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

Agenda:

- Pledge of Allegiance
- Approval of the minutes for the May 23, 2011 meeting (**approved**)
- Site Plan, The Canteen, 6046 State Route 31, Proposed Addition (**to return**)
- Site Plan, Country Max Cicero, LLC, 5808 Crabtree Lane, Proposed retail site (**tabled**)
- Site Plan Amendment, Tim Hortons, 6360 East Taft Road, Proposed restaurant (**approved**)
- Site Plan, Nice & Easy Bartel, 5565 Bartel Road, Proposed convenience store (**to return**)
- Site Plan Amendment, South Bay Fire Department, 8819 Cicero Center Road, Proposed building (**to return**)
- Site Plan Amendment, HMT Inc. 6268 State Route 31, Proposed expansion (**to return**)
- Minor Subdivision Preliminary Plan, Island Hollow, Island Road, 70 lots (**to return**)

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

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

Absent: Wayne Dean (Director of Planning & Development)

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

APPROVAL OF MINUTES FROM THE MAY 23, 2011 PB MEETING

Mr. Smith made a motion to approve the Planning Board minutes from May 23, 2011. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

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

**SITE PLAN, THE CANTEEN, 6046 STATE ROUTE 31
PROPOSED ADDITION, FRIENDS OF THE CANTEEN/JODY ROGERS**

Representatives: Jody Rogers, Director, Cicero Youth Bureau, Parks and Recreation
Toni'Lyn Brauchle, Youth Services Coordinator

Mrs. Rogers explained that the Friends of the Canteen, a 501c3 organization, have purchased the property at 6046 Route 31. Toni and I are members of that organization. I also represent the Town as the Administrator of the Canteen Program while Toni runs the program. The building was purchased with a grant from New York State. The balance of that grant and the funds raised by the Kaitlin Kozlowski Fund will be used for renovation.

The site is surrounded by school district property. We have secured the Northern and Central New York Construction and Trades Union to do the labor for us. We are working with C&S Engineering for sewer and sprinkler design. We also have a number of other individuals who are donating services to us to get this done.

The addition would be at the rear of the property, the southern end. It is about 29'x 35'. Because of its' size we are looking to sprinkler that back part. We anticipate about 100 people using this facility per day. Once we have site plan approval and a referral back for the County, we would like to get started on the addition's construction and various renovations including handicap accessibility, rest room updates, etc.

Mrs. May asked about greenspace.

Mrs. Rogers responded the existing driveway comes in off Route 31 on one side and goes back out. I don't want to change that at all. Parking would be placed along the front of the building. We will probably remove the grass in front of the building and make that tarvia. The trees that encroach upon the building will be removed, along with some of the trees in the back for security/safety reasons. There would be grass within the island.

Mr. Smith asked if this would be a Town facility noting that School District projects don't usually come in for approval.

Mrs. Rogers noted this will be owned by The Friends of The Canteen, but it will be run and managed by the Town. I believe we needed approval because of the size of the addition and the capacity of the building.

We are removing the sign in the front grassy area and putting it on the west side of the building. We are not sure what it will look like yet, but will go through the Zoning Office for sign permits and building permits.

Mr. Smith: What kind of cross access will you have with the School District?

Mrs. Rogers explained one of the main reasons we chose this location was foot traffic. Busing is expensive and students will be able to walk across the parking lot. We will also be able to utilize the northeast corner of the school's parking lot for any large event that we might have. But, we don't really have a lot of those events where people would be driving. We will have buses bringing kids from the Jr. High School.

We are working out a pattern for where those buses will drop off and pick up students. It will probably be the service road coming out to the High School, where you can only turn right. We don't expect any buses to come into the property.

Ms. Brauchle added most students do not drive to the Canteen.

Mrs. May asked about parking in the Thee Diner lot.

Mrs. Rogers: I understand that the school district pays a certain amount to the owner of Thee Diner to park there for their activities. Thee Diner talked to one of the members on our Board, stating we could use their lot if we needed to in the evening hours. We have not secured any of that or done any further with discussions for that.

Mrs. May: Will the rear of the property remain the same or will you take out any of the grassy areas?

Mrs. Rogers: No, we would like to maintain that for a picnic area and game activity area. We are going to put in a basketball hoop probably within the existing tarvia.

Mr. Marzullo: Any changes to the exterior of the structure, lighting, etc?

Mrs. Rogers: We will have some lighting that is shown of the plan. We are looking to talk to contractors about re-siding the building to vinyl. We are also looking to replace windows. We are still working through the process with reps and union members for what labor they can give us for free.

Ms. Brauchle: We are going to try and get as much as we can under the budget.

Mr. Smith asked if the properties' zoning was appropriate for the use.

Mr. Procopio noted that is was.

Mr. Parrish noted he would review the plans submitted. In the winter when kids are walking over, is there a way to get a sidewalk or pedestrian access from school property to the site without coming out to the street?

Mrs. Rogers: I would have to go back to the District. We have talked to them about a sewer easement, license to encroach on their property to do construction at the rear of our site, etc. We have not gone that far yet, but it is something we should discuss with them.

More discussion occurred.

Mr. Marzullo noted the site plan would need to be referred to the County.

Mr. Card asked about the handicap ramp on the side. Does it meet side setback requirements?

Mrs. Rogers: It should. I don't have that on my map either but the gentleman who did this had all of our standards for the Town. It would be a concrete ramp going up to the existing door.

Mr. Parrish noted he would look at that during his review. I will also need lighting details.

Mr. Smith: Generally, we also note owners of adjoining properties on a site plan.

**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 explained that from the last meeting I revised the plan with what was suggested: the curbing along Crabtree as suggested by Mr. Parrish and the correct zoning classifications of GC on the plan.

Mr. Smith: From the last meeting we required easement agreements be given to the attorney for review. Do we have those?

Mr. Germain: We do not. We were supposed to have the proposed easements. They were supposed to be listed and shown on the site plan. Those easements were supposed to be submitted with a TP584 so that everything could be recorded. I do not have those items.

Mr. Smith: Given the fact that the most important part of the site is traffic and those easements were a part of our consideration and public safety, there was no ambiguity about the fact that we were supposed to have those things. **I make a motion** that we table this matter until we have all of the required documents. **Mrs. May seconded the motion.**

Mr. Marzullo asked to hear from the applicant.

Mr. Merola: I believe that you all saw my email. This is a five year lease. I have the road drawn in abutting M&T's lot. We will do it as a temporary easement. If they buy the property we will grant the easement. Until that happens---I don't know what is going to happen. Country Max could move out at the end of the five year lease and I would have an easement across the side where I am not sure it should be.

In my email I explained that it was only fair---why would I grant an easement when this is only a lease? Yes, I will draw it up and say that is an easement but, if he does not buy the property it does not seem fair to me.

Mr. Smith: Traffic is such a concern. The easement would be a part of mitigating that. You have read the County's response. It specifically states something needs to be done. It has been determined that all of these sites are owned by the same LLC and the same person. You own them. It is our obligation to look at the entire parcel. In an effort to work with you we have asked for the proposed easements. We do not have them.

Mr. Germain commented on the email sent by Mr. Merola. Your letter claims that it is an unconstitutional request. Of course the Town can ask as a condition of site plan review and approval for easements. They are more than entitled to ask for and require easements for site plan approval. It is your absolute failure to abide by this request that lead to the motion on the table.

Mr. Merola: My email says I will give you the easement if Country Max buys the property. If he does not buy it I am trapped. What if I want to put the easement down the other side? What if the next guy that comes in wants the easement down the other side?

Mr. Marzullo: If at that point you and the Planning Board decide that is the best thing to do, that would happen. We were really specific about wanting this in place.

More discussion occurred.

Mr. Germain: That is what you want to do but is not what you were asked to do. You were asked to provide the easements in advance for review. They have not been provided. I do not have them. That fact will not change by you putting a map in front of me and saying there they are. They are not there. They were not provided for review.

There is also a motion on the floor which you must allow to be voted on. It has been moved and seconded. Your continual display of throwing a map in front of me is not going to change the fact that the motion needs to be voted on. **I believe that motion is to lay this issue on the table until such time as you do provide what was been asked of you by the Planning Board.**

Mr. Smith: That is exactly the intent of my motion.

Mr. Merola: Okay that's fine. But Chairman Marzullo said let's hear the applicant.

Mr. Marzullo: I did. I wanted to know why we didn't have what we asked for.

Mr. Merola: Because of my email. Doesn't the email seem logical?

Mr. Marzullo: No. I did see the email. What I won't do, or any of these Board members won't do, is get into a dialog with you via emails. That would supersede the open meetings law and we can not do that.

More discussion occurred.

The Chairman asked for a roll call on the motion. The motion was **approved** with the following vote:

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

**SITE PLAN AMENDMENT, TIM HORTON'S
6360 EAST TAFT ROAD, PROPOSED RESTAURANT
TDK ENGINEERING ASSOCIATES P.C.**

Representative: Robert Bender, Tim Horton's

Mr. Bender introduced himself. We were here not too long ago to review the site plan. We are proposing a 1,010 sq. ft. Tim Horton's with a drive up window and walk up counter. Access would be to both East Taft Road and Northern Blvd. Parking would be for 14 cars. The site is 4.16 acres, but because of National Grid easements requirements the only improvements within those easements are driveways. Because of easements and wetland area, the site is reduced to just under an acre of usable land.

We have provided an amended site package. We are still proposing a monument sign at both driveways. Those signs have been downsized to get the overall sign package down to 101 sq. ft. I believe that works out to something that the Planning Board has the ability to approve.

We have an agreement with NIMO that allows us to maintain their easement area as grass. There are no tables inside the store; it is entirely carry-out.

Mr. Smith asked if there were any SWPPP issues.

Mr. Parrish: A lot of our comments regarding SWPPP are from our original review. As far as the new stuff goes, as of March 1st of this year we have some new requirements for stormwater. Since this project received approval prior to that date, it does not have to comply with those requirements. They did make some modifications to their SWPPP and are all set with stormwater.

There is a little bit of stormwater area that encroaches into the Town's sanitary sewer easement across the site. We ask that if the Board chooses to approve the site plan that approval be conditioned upon the applicant modifying that such that standing water is not in that easement.

Mr. Bender: I spoke with TDK about that issue. They said that was no problem and that it was a slight grading adjustment. It is not a concern what so ever.

Mr. Parrish: We did not have any other issues. Again, most of things were reviewed originally. We talked about the potential for truck traffic. I think that the Board understands why the applicant is not necessarily providing for that.

Mr. Marzullo: Does this need to go back to the County?

Mr. Parrish: No, this is an amended review. It already went to the County and is smaller than the original plan.

Mr. Bender: We are proposing a board-on-board fence as a buffer between the site and the residential property. We did not take it all the way to the corner but it is substantially further

than where the house is. The fence matches what is put around the dumpster.

Mr. Parrish: They have also provided shields on the lights along that side of the property.

Mrs. May made a motion regarding SEQR. She read: Be it further resolved that the Planning Board of the Town of Cicero hereby determines that the proposed action will not have a significant effect on the environment and that this resolution shall constitute a negative declaration for the purposes of Article 8 of the Environmental Conservation Law of the State of New York. **Mr. Smith seconded the motion.** The motion was **approved** with the following vote:

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

Mr. Smith made a motion to approve the amended site plan for Tim Horton's with conditions to be added by Mr. Germain.

Mr. Germain added: The Board moves for the adoption of a resolution approving the site plan application of Tim Horton's with a last amended date of May 16, 2011. This approval is contingent upon a modified stormwater management plan such that there is no standing water within the Town's sanitary sewer easement. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

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

Mr. Bender thanked the Board.

**SITE PLAN, NICE N EASY BARTEL
5565 BARTEL ROAD, PROPOSED CONVENIENCE STORE
J.S. HAGAN ARCHITECT, P.C.**

Representative: Jim Hagan, Architect

Mr. Hagan introduced himself. Currently, Nice N Easy is located here. They also own this small triangular parcel here which is vacant except for the pylon sign. Last year Nice N Easy acquired the property directly to the west, formerly Sam's Lakeside Restaurant. That property is about 2.8 acres. At the same time Nice N Easy acquired the rectangular parcel contiguous to the west side of Sam's and the parcel that was used for over-flow parking. Two of the parcels have not been closed on as yet due to title issues. As such Nice N Easy has entered into an agreement for a long term lease with a contract to purchase once those title issues are resolved. We could be looking at a 4.31 acre parcel.

Currently, we are not planning on doing anything with those leased parcels. They would be for future development.

The majority of the site is zoned General Commercial. Part of the Sam's parcel is zoned R-10. As a result, we have filed a request with the Zoning Board of Appeals for an interpretation so that it can all be classified the same. That section had been used for a number years as parking for Sam's and so the zoning classification might have been an over-site.

There are two County drainage easements that cross the property. One is a 15' easement. For whatever reason that easement does not align with the swale. We will discuss that with the County. The second easement runs along the property line across the back. Those pipes do not follow the easement and we would like to re-align them also.

More discussion occurred regarding subdividing the property and aligning drives.

We would like to start demolishing the former restaurant some time in July. We have already done the asbestos mitigation. After approvals and permits are in place, we would like to start construction on this portion of the site approximately where is says Lot 1. Once the new Nice N Easy store is substantially completed we could open it up and shut down the old Nice N Easy.

We would then demolish the old building and finish up the site work.

In recent years Nice N Easy has been building new structures that have been around 4800 sq. ft similar to the Route 31/South Bay Road store. The store proposed at this site would be 6715 sq. ft. The majority of that increase would be a grocery component. They would still provide their normal food service, gas service, etc. The pump islands across the front of the site would have 5 pumps primarily for gasoline use. The pump on the end would have a combined gasoline or diesel pump for smaller vehicles. There would be a diesel facility on the east side of the site to cater to people with slightly larger trucks, RVs, trucks pulling trailers, etc. You might see an occasional tractor trailer there, but it is not our intent to have that trade here.

Mr. Ruscitto: Would you re-utilize the old tanks?

Mr. Hagan: No. The existing tanks would be removed and new tanks would be put in.

Mrs. May: Do you plan on putting in a car wash eventually?

Mr. Hagan: At this point there are no plans for a car wash. I don't know what will happen down the road.

Mrs. May: I heard that there would be a truck wash on site.

Mr. Hagan: That is not true. It is not a part of this site plan. We are providing parking for 47 vehicles across the front of the building, along the two sides and on the west side of the building. There would be 7 spaces for employees along the rear of the building.

Mr. Smith: As you are going through this could you let us know how much impervious area there is currently on this site and how much you are proposing?

Mr. Hagan: Yes. I can tell you that we reducing impervious area and that we are re-developing and creating more greenspace. We are also incorporating stormwater management which does not exist on the site now.

We are proposing two drives. One would be located on the western side of the area that we

are re-developing directly opposite the post office's drive. The second drive would be located further west. I have had a chance to review this plan with the County DOT. They found these locations acceptable. We still have to submit formal engineering plans and an application for a highway permit. We are also proposing one drive along Kathan Road.

In developing the property that leaves us with an area on the west side of the site that is unshaded and about 2 acres. Nice N Easy believes some future development will occur in that location. They have spoken with a number of potential tenants, but at this point no one has identified an interest in the site. It is Nice N Easy's intent to come back in at a later date with a site plan for that portion.

The new Nice N Easy building will meet all setbacks. There will be a service drive that goes all the way around the building and a striped loading area at the rear of the building. We do anticipate receiving deliveries from tractor trailers periodically and have anticipated those needs. A dumpster enclosure would be located in the northwest corner, off of the service drive. There would also be a concrete picnic area that customers could seasonally enjoy.

Dunn & Sgromo Engineers will do a drainage analysis and prepare the SWPPP.

More discussion occurred regarding drainage and easements.

Mr. Smith: It is a short distance to the lake. Are there any provisions here so that gas spillages are not washed into the lake? Is there a reason to be concerned?

Mr. Hagan: There is not a specific detail within the plan that addresses that concern. Both diesel and gas islands drain off the pavement to the swales in the retention areas.

Mr. Parrish: Surface runoff is set up to go through the bio-filtration system prior to discharging from the site. I don't think that is the Fire Department's general procedure for taking care of spills—washing them towards the ditch, so essentially that should not happen.

I understand your concerns. Spills would have to filter down through the bio-filtration system that includes 4' of soil medium. It is not like it is running directly into a pipe and then directly to the lake.

Mr. Hagan agreed detailing other systems typically used if that situation occurred. He also gave details regarding:

- the sanitary sewer, gas, electric and public water for the site.
- the photometric plan noting that lighting levels drop off at property lines.
- what the canopies would look like.
- what the building elevations would look like including colors, materials and roofing.
- the store's floor plan including cooler areas, counter areas and service areas.
- sidewalk areas.

Our intent is to leave the pylon sign. There is a lower pylon pricing sign located at this corner which we would like to replace with a similar sized sign that contains a LED display. The sign package includes wall signs on the building.

Mr. Card asked for hours of operation.

Mr. Hagan responded 24 hours, seven days a week. When I come back I will bring the building's color samples with me.

Mr. Card: With the metal roof, how will you deal with snow and ice sliding off onto the sidewalk?

Mr. Hagan: That is a concern. The metal roof system will have gutters at the perimeter with heat tape to melt the ice. We are planning on putting snow guards along both sides of the building. At certain times of the year, they may have to put up temporary fencing to keep people from getting too close to the wall.

Mr. Card: One of the drawings has the handicap parking further away from the front door. Is there a reason for that?

Mr. Hagan: Traditionally, we put handicap parking in the front of the building, but off to one side. That is just a preference of Nice N Easy.

Mr. Smith: Recently, the Town has invested quite a bit of money into how the Brewerton area looks. I would like to see you do as much as you can to dress up these long canopies.

Mr. Hagan: The basic design of the canopy will be similar to the South Bay store. The difference is we do not have the large peak in the center. I feel that by incorporating some reverse dormers to break up the roof line we can accomplish what you want.

Mr. Marzullo recognized Ms. Boyke and Mr. Conway's attendance at tonight's meeting. Each Town Board member offered comments.

Mr. Marzullo noted that the plan would need to be referred to the County.

**SITE PLAN AMENDMENT, SOUTH BAY FIRE DEPARTMENT
8819 CICERO CENTER ROAD
PROPOSED BUILDING, KEPLINGER FREEMAN ASSOCIATES**

Representative: Scott Freeman, Project Landscape Architect, Keplinger Freeman Associates
Ken Chandler, South Bay Fire Department

Mr. Freeman noted last summer we obtained approval for South Bay Fire Department Phase I. This winter we went out to bid and found the design and construction to be more than the community could handle. So, we have come back with Finger Lakes Construction for a pole barn type building. We are not in a position tonight to show you that architecture, but we do have a preliminary plan.

The biggest difference from last year's approved plan and this plan is instead of having drive through capability it will have a back-in capability off of the road. The building is a similar size and has a similar location. Instead of having the looped access through the building, there will be parking in the rear. Storm detention is in the same area. Site improvements around the existing structure are a part of this project.

When the Fire Department constructs this building they would like the opportunity to have the north half of the parcel subdivided. We came up with a shared drive that bisects the two buildings. We have provided a parking count to the right that would meet the needs of the existing building and provided a parking count to the left to meet the needs of the proposed building.

We kept comments made a year ago to retain a one way access into the site, to

minimize a conflict between first responders and people utilizing the banquet hall.

Mr. Honors asked for the projected size of the pole barn.

(The response from the audience was not clear.)

Mrs. May asked for height.

Mr. Parrish: I think that it says 29'.

Mrs. May: If South Bay needed to buy a ladder truck in the future, would that building accommodate it?

Mr. Chandler: Yes it would.

Mrs. May: Will you still house NAVAC?

Mr. Chandler: Currently we are, yes. We don't know about the future. That would be up to NAVAC.

Mr. Marzullo: With the shared driveway once you subdivide, how would you exit the site?

Mr. Freeman: Through the site and around the building to the north.

Mr. Parrish: You will need to work out an easement for that.

Mr. Smith: Last time we had to work our way through a sewer easement that the Town had fairly close to the building. Has that changed?

Mr. Freeman: That was for the earlier proposal. We have moved the building back and are well away from that deep sewer easement.

More discussion occurred.

Mr. Freeman: Everything to the north is identical to the approved plan.

Mr. Parrish: Basically, they are here tonight to give you an update as to where they are. They will need to go back and put together a full set of plans consistent with this.

Mr. Freeman: For the record, this was a previously approved site plan for SWPPP and stormwater calculations. There are minimal changes.

Mr. Parrish agreed. This is a previously approved site plan. The SWPPP was approved previously. They will just re-do the verbiage and update the SWPPP.

Mr. Freeman: To summarize, we would like to amend the previously submitted construction drawings. With those re-submitted drawings we will also provide a detailed architectural and provide a SWPPP.

**SITE PLAN AMENDMENT, HMT INC, (PAUL WELLS)
6268 STATE ROUTE 31, PROPOSED EXPANSION
HARMONY ARCHITECTURAL ASSOCIATES**

Representative: David Colegrove, Architect, Harmony Architectural Associates

Mr. Colegrove introduced himself. Up on the screen is the previously approved site plan. Since that approval we have evaluated the client's needs and decided a separate building does not make financial sense in regards to the scope of the space and the value of the property. And so, Mr. Wells wanted me to look at building less of a building.

We have eliminated the free standing building that was proposed and reduced it to two smaller additions. One would be about 1500 sq. ft. of additional warehouse that would be added to the southern end of the building. There would be another 1600 sq. ft. of office space added to the western side of the building. We would end up with approximately 3200 sq. ft. of new building space where we previously proposed 5700 sq. ft of new building space.

That has reduced construction costs significantly. All stormwater previously proposed would

stay the same. Everything would still sheet drain to a swale along this side of the site and the stormwater pond at the southern end of the site. We have no intention of changing any of that even though the paved areas are reduced.

More discussion occurred.

Mr. Colegrove continued. The dumpster enclosure has been moved to here. It is still in the rear of the building.

Mr. Smith requested copies of the last approved plan. There were some issues regarding Button Road and cross easements between lots.

Mr. Colegrove: Yes that is the connection here.

Mr. Parrish: The plan noted the possibility of a future connection, eliminating some access points if that other site was ever developed.

Mr. Smith: So this is another amended plan of what we originally approved?

Mr. Parrish: Yes.

Mrs. May: Isn't there a house next to this building and then there is Spera's? Would you be infringing?

Mr. Colegrove: We won't be extending the addition beyond the setbacks. We are limited by the sanitary easement that comes across the back.

More discussion occurred regarding cross access agreements.

**MINOR SUBDIVISION PRELIMINARY PLAN
ISLAND HOLLOW, ISLAND ROAD, 70 LOTS
ISLAND ROAD ASSOCIATES, IANUZI & ROMANS**

Representative: Hal Romans, Surveyor, Ianuzi & Romans

Mr. Romans introduced himself noting this was still the 2nd Amended plan. This project started around 2007. We did an in-house density plan then that showed that we could get 107 townhouse lots and 72 apartments.

Since then the applicant has purchased additional property for a second access. Now we are getting rid of all of the townhouse lots, for single family residential lots. There would be 69 residential lots and 72 apartments. That reduces significantly the number of driveways, laterals, sanitary and water needs and storm sewers. It reduces the infrastructure significantly.

In the green area I show the proposed covenanted open space. That would be composed of approximately 12.07 acres of which approximately 3.3 acres would be wetland. Approximately 8.68 acres is upland. That would be a part of the apartment lot. They would own the property underneath it.

As typical with some of these open areas you are allowed to have utilities on it as long as you try to return it to a natural state. It does not allow for structures, buildings or anything like that.

The area is bisected by an existing National Grid power line. That area is approximately two acres. Out of the total 12 acres of open space removing the power line space would give you approximately 10 acres. Again, 3.3 is wetland and so you would have approximately 6-7 acres of open or upland. Upland is anything that is not part of the wetland proper.

Mr. Smith asked if this project was covered under the new stormwater regulations.

Mr. Parrish responded under the old.

More discussion occurred.

Mr. Romans: The green space would not be deeded to the Town.

Mr. Germain: It is a covenant. It is a covenant stating that it will be forever green, so that there will never be some type of development on top that space. Covenants within subdivisions are a little different. This is more of a negative covenant which states you may not build on this

greenspace. You are setting aside an area that you are saying would basically be forever wild.

Mr. Romans: A lot of the Towns that do 278 clustering struggle with the different methods of who is going to retain the fee ownership of the land itself. Lot 70, the apartment lot, will be the fee owner of the land itself. It just so happens that it will have 12 acres of covenanted open space that no structure can be built on. So if I own one of these lots and tried to build something on it, it would be like trying to build on someone's property.

Mr. Smith: So that will be a part of Lot 70's deed?

Mr. Romans: Correct. So if I were an apartment builder and I bought Lot 70, I would get that lot and see that there is approximately 12.07 acres of covenanted open space on my lot. When I came in here for site plan approval for my project, you would make sure as it shows on the subdivision that shows up on my plan.

Mr. Germain: The difference is this would be a permanent covenant. Anyone looking to build on that lot would be prevented from building on that space.

More discussion occurred.

Mr. Smith: Would this impact park fees or our recreational needs?

Mr. Romans: Typically no. Typically this Board sets park fees as most Planning Boards do.

More discussion occurred.

Mr. Romans: I was there for the Town Board's approval of the Town Law for this. The proposed minimum square footage is 9100. I do have a few lots that are substantially more than that. The minimum building line width we are seeking is 70. The front yard minimum is 25. For rear yard we are seeking 15. Side yard is typically a total of 30. We are asking for 15' minimum with one side at 5 feet. There is a note on the plan that states we would have 15' minimum between every house so you would stagger 10 and 5.

Mr. Parrish questioned the staggering. If you have a couple lots that are built with a couple of lots vacant in between, how does that work? You would need to plan out how each lot was built.

Mr. Romans: That is not impossible to do. We could do that before the final plan is filed.

Mr. Parrish: I don't know if the Board has had a chance to look at our review letter. There is an issue with the rear yard setback being a minimum of 15'. There are a number of areas where there is a 20' drainage easement in the rear yards or 30' drainage easements. Town Code does not allow you to encroach drainage easements. This opens up the potential for that encroachment. Our suggestion is on those lots, you would need to be more specific regarding setbacks. You might want to consider increasing that so that you are not building your principal structures close to a drainage easement, or in it. Also, if your principal structure backs up to the easement, you could not put a deck off of it, or put a shed behind it, etc. We ran into a similar situation with Harbour Village.

More discussion occurred.

Mr. Romans: A principal structure would have a 30' setback except for the lots along this side here where we would make that 40' except for accessory structures such as decks, etc. I will have those specific lots listed.

More discussion occurred regarding house sizes, lot coverage, and Section 278 clustering. Mr. Germain gave details on what the Planning Board would be responsible for versus what the Town Board would be responsible for.

Mr. Romans: If you are asking for 25% coverage, I can commit to that tonight along with the change in the setbacks.

Mr. Smith: What about C65 and C66. Their only access is that driveway?

Mr. Romans: Correct. It is a shared driveway with a combination ingress/egress utility easement for the sewer. Those are bigger lots, but one of the reasons for that is because they are flag lots designed to generate customers.

Mr. Smith: The last time we approved this wasn't there something about the adjoining Industrial property?

Mr. Parrish: There was some discussion about a cross connection and whether it should be built out. There is a provision for that currently zoned Industrial parcel but it was not proposed that the street be constructed at this point. If the property is re-zoned it would make sense to have that cross connection.

Mr. Marzullo asked about maintenance.

Mr. Romans: It would be dedicated as part of a street right-of-way with the final filing of the plan. Originally we said we would try and work something out where the two adjacent lots have it covenanted into their deeds that they would have to maintain it until such a time as the Town puts the actual paved street in. They are still restricted by paper street setbacks, but they would be able to mow and maintain it. There is a note stating that the driveways have to come out to paved road.

Mr. Smith: Are the apartments set to go?

Mr. Romans: Once someone buys that lot, they would have to come before this Board for typical site plan approval. Our preliminary plan shows the ability for 72 units there with the appropriate parking without touching any of the open space and access points. Their buildings might be a little different from my conceptual ones.

Mr. Smith: And they are part of the 278 clustering?

Mr. Romans: The 278 clustering takes into account the density plan of the entire property.

Mr. Abbey: Would the pumping station be located in the southwest corner?

Mr. Romans: The pumping station would be located just about opposite the paper street going into the Industrial property. It would be on the apartment lot.

Mr. Smith: There was some discussion about making that large enough to accommodate future

developments. Is that still the case?

Mr. Romans: Mark talks about that in his review letter. We would continue to work with the Town.

More discussion occurred.

Mr. Marzullo: Neal, the new local law that the Town Board passed has been recorded with the Attorney General?

Mr. Germain: Yes.

Mr. Marzullo: And this process requires a public hearing?

Mr. Germain: Yes it does. That would be your next step, scheduling a public hearing.

The Board set the public hearing for July 11th.

Mr. Smith asked about phasing.

Mr. Romains noted the stormwater facility locations. The pump station would have to be put in as would certain utilities. You could possibility phase out this loop. I will verify phasing for the next meeting.

More discussion occurred regarding gutters.

Mr. Germain: **The Board moves** for the adoption of a resolution for a public hearing July 11, 2011 beginning at 7:00 p.m. local time. **Mr. Marzullo made the motion** as stated by Mr. Germain. **Mr. Smith seconded the motion.** The motion was **approved** with the following vote:

Mr. Ruscitto: Yes

Mr. Card: Yes

Mr. Honors: Yes

Mr. Abbey: Yes

Mr. Smith: Yes

Mrs. May: Yes
Mr. Marzullo: Yes

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 9:30 P.M.

Tonia Mosley, Clerk