

The Planning Board of the Town of Cicero held a meeting on **Monday, June 25, 2012** at **7:00 p.m.** at the Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

Agenda:

- Pledge of Allegiance
- Approval of the minutes from the June 11, 2012 meeting (**approved**)
- Motion to amend July 4, 2012 work session date (**changed to July 3, 2012**)
- Zone Change Recommendation, Eldan Homes, Inc. 5869 Ladd Road, Agricultural to R-12 (**recommended to the Town Board**)
- Site Plan/Sketch Plan Review, Tocco Villaggio, 5533 NYS Route 31, Proposed Mixed Use (**to return**)
- Zone Change Recommendation, J&J Equipment, LLC Brewerton Road, General Commercial to General Commercial Plus (**recommended to the Town Board**)

Board Members Present: Bob Smith (Chairman), Pat Honors, Greg Card, Sharon May and Mark Marzullo

Absent: Joe Ruscitto and Chuck Abbey

Others Present: Neal Germain (Esquire, Germain & Germain), Mark Parrish (P.E., O'Brien & Gere), Steve Procopio (Code Enforcement Officer), Jessica Zambrano (Town Board Member) and Tonia Mosley (Clerk)

The Chairman noted fire exits, asked that cell phones be silenced and led those present in the Pledge of Allegiance.

**APPROVAL OF THE PLANNING BOARD MEETING MINUTES FROM 6/11/12**

**Mrs. May made a motion** to approve the 6/11/12 Planning Board meeting minutes as printed.

**Mr. Smith seconded the motion** and asked for a vote.

*Ayes: 5      Nays: 0      Abstained: 0      **Approved***

**MOTION TO AMEND WORK SESSION DATE**

Mr. Germain stated the Board's resolution to amend the regular work shop meeting date that

was to occur on July 4, 2012 at 9 a.m. to July 3, 2012 at 9 a.m. **Mr. Smith made the motion** as stated above clarifying that sessions are held at the Cicero Town Hall. **Mr. Marzullo seconded the motion.** The Chairman asked for a vote.

*Ayes: 5      Nays: 0      Abstained: 0      Approved*

**ZONE CHANGE RECOMMENDATION TO THE TOWN BOARD  
ELDAN HOMES, INC, 5869 LADD ROAD  
AGRICULTURAL TO RESIDENTIAL R-12, DAN BARNABA**

Representative: Dan Barnaba

Chairman Smith noted this was a zone change recommendation to the Town Board. If it was necessary this would come back in front of us for a subdivision.

Mr. Barnaba introduced himself as the president and owner of Eldan Homes. You might be familiar with the Miralago Subdivision located between Ladd and Bartel Roads. There is a parcel that is indicated in grey that is approximately 1.75 acres with an existing farmhouse on the left hand side. The shaded area is located off of Ladd Road. The existing structure, a single family house, has a driveway, a detached garage and a covered car port area.

My company acquired this property about a month ago. We would like to request to re-zone it from Agriculture (AG) to R-12. We intend to subdivide the property into two parcels. The parcel with the existing house would be about 1 acre. That would leave the second parcel with about .75 acres. We have not completed the subdivision application yet. That would be the next step. But, we are hoping to get a positive recommendation from the Planning Board for a zone change to the Town Board.

We intend to build a house off Miralago Lane, to feel like it is a part of the original subdivision. All of the utilities that we would need to service the lot are easily accessible. We should be able to connect to the Town's sewer and to existing gas, electrical and water services in the neighborhood.

Mr. Smith asked which services the current home has.

Mr. Barnaba responded it is currently on a septic system. Again, it is our intention to connect to the Water Authority's water line and to the Town's sewer. I believe that the sewer line is on the north side of Miralago Lane and water is on the south side of Miralago Lane.

Mr. Honors: There is nothing else on Ladd Road based upon the R-12 zoning?

Mr. Barnaba: Nothing other than the lots that back up to it already---Lots 51 through 53 and I believe Lots 1-6. This lot would be very similar to those in that it would back up to Ladd Road. Again, it is our intention to put the driveway onto Miralago Lane.

If the zone change goes through we no longer have to comply with your Agricultural zoning requirement. But because the existing home is on a septic system the Health Department will weigh in on the zone change wanting a minimum size to remain. Our intent is to re-sell that home.

Mr. Card: Would that home be required to hook up to sewer and water? I don't think that those facilities extend down Ladd Road.

Mr. Parrish: Sewer and water are on Miralago Lane. So, there is access to public sewer and water for both of these lots, if it becomes necessary. I don't know if the existing house would be required to connect at this time. We would have to look into that to see where the septic system and leach field are located. They need to be shown on the subdivision plan and should be contained within the remaining lot. The Health Department will probably have a comment relative to that.

The other thing that needs to be looked at is the Town's sewer ordinance. I know that some Town ordinances require properties to connect to sewers if they are within a certain distance from public sanitary sewer facilities.

We can look into that, but they are available if it does become necessary. If not, they would continue to utilize the individual sewage disposal system on the site. That would work out through the subdivision process.

Mr. Smith: We are simply making a recommendation to the Town Board regarding the zoning

issues. If Mr. Barnaba is successful with the zone change through the Town Board, then it would come back to us for the subdivision process. This is not the only bite at the apple so to speak.

Mr. Germain: At this point you would make a recommendation to the Town Board. You would give it a yea or a nay with some kind of conditions, what ever you felt necessary. Ultimately the Town Board is the body that will weigh in on the zoning.

Assuming that it does receive a positive from the Town Board, it would come back to the Planning Board in some kind of subdivision approval. You would then get a better look at some of the questions you are asking for example septic, because at that point they would be included in the plan.

Mr. Honors: I have an issue with it being all AG along Ladd Road.

Mr. Smith: There is R-12 to the east and west which was already changed with the Miralago Subdivision.

Mr. Procopio agreed noting the Miralago Subdivision is R-12. This is a piece of AG that remained. The subdivision was built around this piece.

Mr. Smith: And everything on the opposite side of Ladd Road is AG, 100%?

Mr. Procopio: I would say that was fairly accurate.

**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** and asked for a vote.

*Ayes: 5      Nays: 0      Abstained: 0      **Approved***

**Mr. Marzullo moved** for the adoption of a resolution recommending the application of Eldan

Homes Incorporated for a proposed zone change as more fully set forth in the application dated June 12, 2012. **Mrs. May seconded the motion.** The Chairman asked for a vote.

*Ayes: 5      Nays: 0      Abstained: 0      **Approved***

**SITE PLAN/SKETCH PLAN REVIEW  
TOCCO VILLAGGIO, 5533 NYS ROUTE 31  
PROPOSED MIXED USE**

Representative: Amy Franco, RLA, CHA

Chairman Smith: This is a sketch plan review. We have had several meetings recently including one joint meeting with the Town of Clay and the Town of Cicero. We are trying to coordinate on this project because this will have a great impact on our community as well as Clay's. We asked Clough Harbour to come in to do a sketch plan review so that all the Planning Board members were up to speed as to where we are at.

The traffic study---at both meetings we were promised by Mr. Thrasher that it would be forwarded to the Town.

Ms. Franco: Right, so I brought this tonight. We had done the original traffic study and an updated analysis with the Lawton Valley Project. That is the analysis that I am handing out tonight as required by the DOT. It shows what we did---a full access.

Mr. Smith: Is there something more recent than the July 2010 report?

Ms. Franco: That was when we did the (not audible). We did the updated analysis for the DOT. We did a full curb cut out of Pareti Place and Barcaldine Drive, doing the right-in right-out. The lowest level of service, Level of Service D, was outside of Pareti. The DOT saw those numbers and felt that a right-in right-out would be the best access in and out. However, the left turn off of Route 31 was shown as a Level of Service A.

We did the installation of the curb cut in the fall of 2010.

Mr. Smith: Can you talk about that intersection? It moved down into Cicero from when this

was initially discussed. It was going to be a full service access up in the Town of Clay. A lot of the work has been done. Did you obtain DOT's final approval?

Ms. Franco: We have not gotten any response back from them. I know that their permit person was out of the office for a while.

Chairman Smith: Before we can put this on the agenda for action by the Planning Board that would be a critical piece for us to get and review. I know that it is not totally in your hands but the DOT needs to understand that. Could you cover why it went down there?

Ms. Franco: As a part of our 2010 analysis, we looked at doing a traffic light at the end of Legionnaire. By closing off Crabtree--which is the work that was done already--and extending Lawton Road to Route 31 we plan on putting the light at the location right across from Legionnaire. Based upon the spacing from the next traffic light, this was viewed as a good location for this proposed development and the residential development to the south.

They looked at doing the right-in right-out at the location that you see on Route 31 now as well as Barcaldine eventually being a right-in right-out. Most traffic will probably go through Legionnaire and out to Route 31 because it would be a signalized intersection.

Mr. Smith: The plans you provided to us at the joint Town's meeting were going to be sent to us as a pdf.

Ms. Franco: The full plan set?

Mr. Smith: Yes. We don't have that yet.

Ms. Franco agreed to provide that to the Board. This shows Legionnaire as it exists now. We would extend that to the Town line, about 1200 feet. As we mentioned at the joint meeting, this portion was never fully completed with a top coarse and striping. That would be something we would look at as a part of this project, plus doing the left straight through, a turn lane and a right lane out.

Mr. Smith: The Board should be aware that you are looking at roughly 400 housing units

between the two Towns. Back up in here, is more raw land. Clay's Chairman shared that those sites will also be developed into housing with the intent to build out to Burnet Road. That would be the next access allowed by the State.

The State has clearly said that this will remain a right-in, right-out. It would be re-designed. That is on Clay's side, so we would have nothing to do with that. So, for a long time all access, full access, will be off of Legionnaire Drive.

The Fire Chief also attended that meeting and had some concerns. Right now Legionnaire is in terrible shape. We have to take into consideration the senior complex, the American Legion, the medical center and the post office.

The Board should also consider this 4 acre commercial section here. Mr. Thrasher shared they had talked with Topps about that piece. Bear in mind, there will be no access to this commercial piece off of Route 31. Legionnaire Drive will have to handle any commercial developments that might go there. The Board should contemplate that additional traffic as we figure out what to do with Legionnaire Drive.

Ms. Franco: Currently, Legionnaire has a good width to accommodate traffic. It is just the condition of the road that is of concern. It would definitely be re-built to accommodate the amount of traffic.

Mr. Smith: We also discussed having a sidewalk run along Legionnaire Drive. Some of those 400 households could walk, for example, to the Legion or post office avoiding some traffic. It is also about 1.5 miles to the High School.

Ms. Franco: We thought that was a great idea. We initially proposed it on the Clay side but they did not want to maintain the sidewalk, so Bob said anything they did not want we would take care of.

Mr. Smith agreed. We have the opportunity to apply for some grants to connect that sidewalk eventually right down 31, in the State's right-of-way.

Mrs. May: Would there be a sidewalk going down Legionnaire all the way to 31 so that people

could walk to the post office, etc?

Ms. Franco: Correct. I believe they would be maintained by the Town? Our only concern would be the properties that are not a part of this development, or this developer's.

Mr. Smith: The Town Board is considering that at Wednesday night's meeting. That is a decision for that Board.

You have also done some work on the Post Office. That creates some unique issues with stacking if the red light is put in the way that it is supposed to be. People might not be able to get out unless they turn right onto Legionnaire, turn around and come back. The applicant is working on that because there is a mail truck entrance at the back of the Post Office. They recognize that is a difficult access which will have to be addressed.

Mr. Marzullo: Is there a new traffic study being done?

Ms. Franco: No, because there has not been anything else done since our analysis. Nothing has really changed. The right-in, right-out was put in on our side. Now we are just waiting for the other side to follow through.

Mr. Marzullo: I don't see anything about 31 or 81 and their impact on this development on what you have given us.

Ms. Franco: That was not included in the follow-up analysis but it did work off a previous study that looked at all of those intersections.

Mr. Smith: Could you forward a copy of that study to us? If you send it in a pdf format it makes is easier for us.

Ms. Franco agreed to do so.

Mr. Smith: Where they are at with this 31 and Legionnaire intersection is, the State has already approved it. The applicant submitted 7-8 designs to the State. The State picked this one. Some of the facilities are already installed.

One discussion was to whether or not they were going to hang the lights off of cables or on a masked arm.

Ms. Franco: But it is set up for either one. As soon as they say yea, we can go.

Mr. Smith: The other concern is when this will get done. I understand that the Developer has given the money to the State. The State will schedule the work. That presents us with a small challenge. We are going to want that work done, but you don't have control over that.

Ms. Franco: I think that if the State knows we are pursuing this intensely for answers---not just on the south side which is already built but the north side as well---I hope that triggers them to move quicker.

Mr. Card: I believe we should give some thought to widening Legionnaire Drive for a turning lane. There could be stacking problems trying to get into the commercial section. We don't even know that is going to be there yet. You have control of it now and can build it right. It would be nice to see a turning lane in there now to accommodate any future development.

Mr. Smith: Do you know how wide the Town's right-of-way is there? We will have to fit a number of facilities in that right-of-way.

Mr. Parrish: At this point, the Town does not have anything. It would be a part of the subdivision.

Mr. Smith: What about the existing parts where you have the Legion and the medical center?

Mr. Parrish: For that part I don't think that they are proposing to modify the width.

Mr. Smith: They aren't but we are. The sidewalks would have to be in the Town's right-of-way.

Mr. Parrish agreed. Up to the point where the additional width is I don't think that we need a right-of-way.

Mr. Smith: Can we determine what already exists?

Ms. Franco: It might show on the survey. I don't know off hand. I just know what we proposed.

Mr. Smith: The Town Board has made it clear that they want the sidewalks to be in the Town's right-of-way also. Greg is correct. Obviously, we don't need to put the turn lane in at this time, but it makes sense to have it ready for whatever is proposed commercially.

Mr. Parrish: From the survey it looks like the standard 60' right-if-way.

Ms. Franco agreed. That is what we proposed as well.

Mr. Smith: We do have representatives from the Legion here tonight who want to ask some questions. I think that one of you gentleman is the Commander?

David Plato, Past Commander Post 787: This is a shock to us because we were not aware of what is going to transpire. We are concerned about the safety issue, the highway issue, the traffic issue and many other things. I would like some information to take back to the Post for review with my past executive board. I have some of those members with me tonight. We can then come back with any questions we have.

Ms. Franco: I don't know if I have anything right now that would be suitable for you to take back. What I have is a lot of text about sewer and traffic, but I can provide you with a plan to give you a better idea about what is going on.

Chairman Smith: You can have this copy I printed off. The Supervisor contacted the Legion so that you would be aware. As far as the intersection and the traffic control device out at Legionnaire and Route 31, no one in the Town Hall has seen what is proposed. We are just trying to get all of the stakeholders involved so that they have an opportunity to know what is going on.

Mrs. May: How many current members are there now?

Mr. Plato: Around 620. That would be just Legionnaires. The Sons have close to 200. The Auxiliary is close to that as well.

Mr. Smith: How often do you hold events for the public? I know that you hold a lot of benefits. Do you know how many of those you would have in a year?

Mr. Plato: I don't. Depending upon the time of year, most weekends we have weddings, various parties, and picnics. We have the pavilion out back for birthday parties and chicken bar-b-ques. We have bingo every Wednesday night.

Chairman Smith: It would be helpful to the Board if we knew what your capacity is for events.

Mr. Plato: I think that it is around 400. That would be inside and of course we have tendencies to move outside.

We have a clamfest coming up this weekend. There will probably be cars parked at the Post Office and along both sides of Legionnaire Drive. It is one of our biggest events in the year.

Mr. Smith: As I understand this is all properly zoned. It is this Board's job to try and mitigate it and come up with the best solution. Neal is that correct?

Mr. German: It is properly zoned and is an approved use. It is the Board's duty to look into all of the different aspects of this project and to look at the future to see where it will be. Those things would then figure into the calculus of your approval, conditions or however you are going to handle it.

Mr. Smith: We have an opportunity to get Legionnaire Drive as best as we can. If you can give us some idea as to what your largest events are and your capacity it would be very helpful.

It is a nice project. This is the beginning of turning that whole area into a real community and neighborhood. This is what the County is talking about. It is going to bring more residential right into the heart of Cicero creating more of a community.

Mr. Germain: You might also want to ask the gentleman the timing of those events along with the number of events.

More discussion occurred.

Mr. Smith: Mr. Asterino, I know that you have the adjoining property. Do you have any comments for the Board?

Mr. Asterino: I don't have any specific questions. I am interested in the traffic study that you asked for. Also the project can not adversely affect the sewage to the 22 acres we have that are adjoined to the Legion and the Post Office. We have to look into that.

Mr. Smith: Jessica, as a part of the Town Board, do you have any comments that you would like to bring to our attention?

Ms. Zambrano: I just wanted to say that it was a well attended meeting where several issues were raised. I appreciate you coming and hearing all of the concerns.

Mr. Smith: The Towns of Clay and Cicero are working very closely together on this. We had the Supervisors, the Chairs, the Codes Office---everyone was represented. We are very intent on making sure that we get this a right as we can.

**ZONE CHANGE RECOMMENDATION TO THE TOWN BOARD  
J&J EQUIPMENT, LLC  
BREWERTON ROAD (TAX MAP #119.-02-30.2)  
GENERAL COMMERCIAL TO GENERAL COMMERCIAL PLUS**

Representative: George Lonergan, Applicant

Mr. Lonergan introduced himself.

Mr. Smith: At this point this is a zone change. Neal, there is already some discussion about use.

Mr. Germain explained the reason behind the zone change from General Commercial (GC) to

General Commercial Plus (GC+). This would be within the GC+ District where the Planning Board has the authority, based upon the way the code is written, to approve an industrial use if that proposed use is found to be in line with, or can co-exist with, the uses found in the Industrial code. At this point the applicant is simply asking for a recommendation to the Town Board to have the property re-zoned as GC+.

But, when this goes through the site plan approval phase, I would imagine that one of the things that the Board would ask for is a description of that use to determine if that described use an allowable one. This is basically a two step procedure.

Mr. Smith: They do have to come back in for site plan approval.

Mr. Germain: Yes, that is when they will ask for a use determination. At that point the information will be in front of you which will better allow you to make that determination. The Board would determine if that use is within the general character of an industrial use.

Mr. Smith: It is the Town Board's decision to change this to GC+. Does that preclude anything under GC? If they get their zone change and sometime down the road a GC use came along, would an applicant be able to do so?

Mr. Germain: They would still be fine. It just allows them more flexibility to get a use that is currently prohibited in the GC section. The Planning Board would determine the use based upon the site plan that was presented.

I don't know if he has done a site plan application yet. I know that the applicant attended a work session where the use of the property was discussed. But again, I am not aware of any formal site plan application.

Mr. Honors: What will the use be or what is the reason for changing the zone to GC+?

Mr. Lonergan: The use is going to be equipment sales. That is what J&J Equipment does. We sell municipal equipment---street sweepers, garbage trucks---equipment that highway departments buy and sell.

Our current location is almost across the street from this empty lot, just to the north and south of the golf course. I moved into that location about 10 years ago, but the facility has grown. We need a bigger operation and this lot was available in the same area.

Mr. Germain: You might find that the proposed use would be more industrial in character. With GC+ you would be able to approve that if you made a determination that it was appropriate and could co-exist with current uses in GC+.

Mr. Smith: We just changed a large section of property up the road from here to GC+.

Mr. Card: Yes. That backed up to Route 81 as well.

Mr. Smith: We also used GC+ for a location in Hancock Airpark for, I believe for a crane distributor. Are there any other questions or comments? (There was no response.)

**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** and called for a vote:

*Ayes: 5      Nays: 0      Abstained: 0      **Approved***

**Mr. Marzullo moved** for the adoption of a resolution recommending the application of J&J Equipment, LLC for the proposed zone change as more fully set forth in the application dated June 6, 2012. I would also recommend that the Town Board consider looking at some of the adjacent properties to this site to include in the zone change. **Mrs. May seconded the motion.** The Chairman asked for a vote.

*Ayes: 5      Nays: 0      Abstained: 0      **Approved***

**Mrs. May made a motion** to adjourn. **Mr. Smith seconded the motion** and asked for a vote.

*Ayes: 5      Nays: 0      Abstained: 0      **Approved***

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 7:57 P.M

\_\_\_\_\_ Tonia Mosley, Clerk

