

The Town of Cicero Planning Board held a meeting on **Monday, July 20, 2009** at **7:00 p.m.**, in the Town Hall at 8236 South Main Street, Cicero, New York 13039.

Agenda:

- Approval of the Planning Board minutes from 7/1/09 (**approved**)
- Preliminary/Final Subdivision Plan, Public Hearing, Park Fees, Mirob Estates, SE corner Sneller Road at Mud Mill, 7 lots, Ianuzi & Romans (**approved**)
- Site Plan, Greater Syracuse Assoc. of Realtors, 5976 East Taft Road, Robert Abbott Jr. (**approved**)
- Preliminary Subdivision Plan, SEQR, Park Fees, Shiva Estates, Guy Young Road, 14 Lots, Fisher Associates (**90 day extension**)
- Extension Discussion, Crossroads, West of Route 11, North of Mud Mill Road, 60 Lots, (Preliminary Subdivision Plan approved 6/05), (**1 year extension**)

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

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)

Absent: Scott Harris (Ad Hoc Board Member)

Mr. Leone noted the locations of the three fire exits and that there was one formal public hearing tonight. He acknowledged the importance of public input encouraging audience members to speak about agenda items.

**APPROVAL OF THE PLANNING BOARD MINUTES FROM 7/1/09**

Mr. Leone noted a correction on page 16 in the 4<sup>th</sup> paragraph. Deck service should be debt service. **Mr. Smith made a motion** to accept the Planning Board minutes from 7/1/09 with the correction noted above. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

Mr. Cushman:	Yes
Mr. Purdy:	Yes
Mr. Rowe:	Yes
Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes

Mr. Leone:

Yes

**PRELIMINARY/FINAL SUBDIVISION PLAN, PUBLIC HEARING, PARK FEES  
MIROB ESTATES, SE CORNER SNELLER ROAD AT MUD MILL  
7 LOTS, IANUZI & ROMANS**

(SEE ATTACHMENT A: O'BRIEN & GERE LETTER DATED 7.17.09)

(SEE ATTACHMENT B: DAVIRRO LETTER RECEIVED 7.16.09)

Representatives: Chip Helmbold, Ianuzi & Romans

Art Dempsey, Ianuzi & Romans

Michael D'Avirro, Developer, Mirob LLC

Mr. Helmbold introduced himself and Mr. Dempsey. We have received a review letter from the Town's engineer. I believe that we have addressed every item on that letter including some check dams he would liked placed in front of existing culverts. We have provided a siltation/erosion control plan for stormwater management—not necessarily for quality and quantity. I believe they have extended the water main to serve the proposed lots. We have received a review from the Onondaga County Health Department as far as the raised septic system. We added a series of notes for the construction of those systems. We are now asking for approval.

Mr. Parrish stated the only outstanding issue was a minor thing with the check dams. We did note a couple of drainage issues (3a-c) that the Board should be aware of. Wayne and I have gone out and looked at this. There is often criticism after the fact relative to these conditions and note that there are likely to be some issues in the future relative to drainage. There is standing water in the area. I don't know if something can be done about it. There is existing drainage that will need to be maintained. The down stream conditions are such that they are not likely to improve.

The subdivision will not make this worse. But, no one is living there now. Once there is a house there, someone is likely to complain about standing water.

Mr. Leone: That would be on Lots 5 and 6 which is different from the standing water shown on the subdivision plot.

Mr. Parrish explained that is different. The standing water on Lot 7 is a pond.

The water I am talking about is in the culvert that goes under Sneller Road. There is a low area there.

Mr. Smith asked if the standing water was out by the road in the swale.

Mr. Parrish responded yes. It flows to the west. Down stream from there I would characterize as wetland or standing water. It does not look like there is a lot of opportunity to improve this drainage. The culvert is probably half full of standing water somewhere between 6-8 inches deep.

Mr. Leone noted he had not heard one thing that the applicant could do to correct that. I am not sure what this Board can do about this and understand that the Town might be burdened by it in the future. Is this a condition that we want clearly shown on the map? Is it a buyer beware kind of thing?

Mr. Parrish: Sometimes there are not solutions to drainage problems. Sometimes you are going to have standing water.

Mr. Dean: I don't have a problem with that information getting to the future lot buyer. A lot of times that never happens.

Mr. Leone: Standing water is shown very clearly on Lot 7. It is not shown on the other two lots, Lots 5 and 6. Is there a reason why it can not be shown as standing water?

Mr. Parrish and Mr. Dean agreed that it could be shown. Mr. Dean added it would be a recognized condition. The Board agreed.

Mr. Helmbold did not see a problem with labeling the standing water.

Mr. Parrish noted it was critical for the sump pumps to be directed correctly. This is related to item 3c also. The rear of Lots 1-3 are drained through Lots 5 and 6 to get to the culvert we just discussed. If that area is not graded correctly you will end up with standing water in Lots 1-3. That area needs to be graded as the grading plan shows or there will be problems.

Mr. Smith: Should we be asking for any type of inspection fee to go back and assure that the grading is in place?

Mr. Dean: I do not feel that is warranted.

More discussion occurred.

Mr. Leone noted the letter from Mr. D'Avirro regarding park fees. Ms. Cole read it into the minutes. (SEE ATTACHMENT B)

Ms. Cole commented on the imposition of park fees and things the Board should consider. The Board should consider whether or not land is being set aside in the subdivision itself for park and recreational activities. If it is not, you are supposed to look at existing parks in the area and determine whether those parks are capable of meeting the needs of any new residents who are going to come as a result of this subdivision. If you feel that the existing parks are not going to be sufficient to serve the recreational needs of those people, you can take fees in lieu of park land.

You would look at each subdivision on an individual basis. If another subdivision was to come in that would tax the park system you might think of it a little differently. That is a decision that this Board needs to make. I have not looked into the issue but I am not aware of any precedent for only allowing fees for some lots as opposed to every lot.

Mr. Smith: These lots are going to be sold. Park fees should be paid. We require every developer to pay the fees on a per lot basis.

Mr. Leone agreed that the Board has been fairly consistent on park fees. There is a public hearing. *Mr. Leone opened the public hearing at 7:19 p.m.* Is there anyone here who would like to speak in favor of the subdivision? (There was no response.) Is there anyone opposed to the subdivision? (There was no response.) Seeing no one, I will close the public hearing. *Mr. Leone closed the public hearing at 7:20 p.m.*

Ms. Cole noted the County's response. They recommended disapproval with the following statement: The Board does not endorse the subdivision as it does not support the Onondaga County 2010 Development Guide adopted by the Onondaga County Legislature, and that it shows strip residential development along a county road with 7 new driveways which may negatively impact highway safety and mobility and detract from open space views. As Mr. Leone noted, that is inconsistent with the letter that the Board received from the OCDOT.

Mr. Leone: It is consistent with the Town's master plan for that area. Hal (Romans) showed us how the driveways were located side-by-side.

Mrs. May noted approval for the subdivision would require a super majority vote. **She 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. Mott seconded the motion.** The motion was **approved** with the following vote:

Mr. Cushman:	Yes
Mr. Purdy:	Yes
Mr. Rowe:	Yes
Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes
Mr. Leone:	Yes for the reasons that I stated about both the master plan and the letter from the OCDOT dated July 9, 2009.

Mr. Smith asked about the deed restriction to protect the wetland on Lot 7.

Mr. Parrish responded that the Town does not administer wetlands. It is Federal wetlands. The Army Corps of Engineers would be the one to request that since they are the regulatory agency for wetlands. The area of the wetland can not be included in the calculation of the lot area for buildable space.

**Mr. Leone made a motion** to approve the Mirob Preliminary/Final subdivision with the contingency that standing water on Lots 5 & 6 is added to the subdivision plan. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

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

**Mr. Leone made a motion** to assess the park fees at \$475 per lot for a seven lot subdivision as just approved. **Mr. Smith seconded the motion.** The motion was **approved** with the following vote:

Mr. Cushman:	Yes
Mr. Purdy:	Yes
Mr. Rowe:	Yes
Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes
Mr. Leone:	Yes. I want to note the conversation that took place earlier relative to parks and the availability of park land. In lieu of taking property in the particular area the assessed fees would help to establish additional park area.

**SITE PLAN, GREATER SYRACUSE ASSOC. OF REALTORS**  
**5976 EAST TAFT ROAD, ROBERT C. ABBOTT JR.**  
(SEE ATTACHMENT C: OBRIEN & GERE LETTER DATED 7.20.09)

Representative: Robert Abbott, Jr. Architect and Lynnore Fetyko, CEO GSAR

Mr. Abbott noted the comments from Mr. Parrish. The canopy has now been raised to 11'4" to allow room for ambulances. I gave Mr. Dean a sheet of color samples for the building. Most of the main body will be the lighter brown. The accent color would be the deeper brown. We lowered the wattage on the accent lights. I met with Jim Stelter about the driveway situation. He thought the 30' was adequate, the one-way in, one-way out.

Mr. Leone: Realize that you will get stacking. It will be hard to get out of that drive.

Mr. Abbott believed on a daily basis there would not be a problem. During the times when there are large functions in the meeting rooms police officers will be hired to direct traffic. I did some research on a rain garden. In our case it would be a maintenance issue. We ask if that is something that the site has to have.

Mr. Smith: As much as I tend to be the rain garden person, this might not be the best place to put it.

Mr. Abbott explained we have added a fence to the evergreen area around the dumpster. A solid stockade fence would surround it. The canopy would have 16" cut out letters. They would not be lit. The canopy would probably have high hat lighting coming straight down to light the area underneath the drive itself. I do have the lighting plan.

Mr. Leone: There was an issue with the photometrics. They did not go to the property line. We have also asked that you try to illuminate the existing access to the site.

Mr. Abbott: I added a light at the driveway entrance. It was one of Jim Stelter's requirements. The poles are 20' with cut-off down lights. Originally I requested as 400 watt lamp. They might be able to be reduced to 250.

Mr. Parrish: The photometric plan shows a 25' pole with a 2' base. It shows 4 parking light fixtures. We do not have a cut sheet of the canopy lighting. It is not reflected on the photometric plan. I could not tell if the light shown on the photometric plan is the same as the cut sheet submitted for review. It does not look consistent.

More discussion occurred. Mr. Abbott agreed to the lower pole height and that a lower wattage was doable. Mr. Parrish noted site plan approval should be contingent upon an engineering review. Mr. Leone requested that the exact cut sheets be submitted including lighting from the canopy and pylon sign.

Mr. Leone noted that the County asked for trip generation.

Mr. Abbott explained that he reviewed this with Jim Stelter. He did not say anything about that.

Mr. Parrish: Jim reviewed this. If he had wanted them he would have asked for them. Do you have a letter from him? There is the County referral and there is the OCDOT.

Mr. Abbott: I only received the County's referral that you have.

Mr. Leone read a section of the County's referral. Town approval should be contingent upon the Town's engineer approving a lighting plan to insure that no glare or spillover is allowed onto adjacent properties in the County right-of-way. That is a little distorted given their request for lighting at the entrance. Within reason I think that we have addressed this to the satisfaction of this Board by incorporating our engineer's review.

He continued reading: the Town may wish to require the applicant to subdivide the three parcels into a single lot.

Ms. Cole: That is noted on the plan as going to occur. I don't believe an application and/or formal plans have been filed yet. We are also still unclear on access to the cell tower.

Mr. Abbott felt that there was no formal easement in place for the cell tower. On the site plan, where the gate is—the actual entrance to the cell tower, I have arranged to have that access drive remain. It is a 22' wide drive.

Ms. Cole: If this is leased cell tower space I am really surprised that there is not a formal ingress/egress easement to get to that location.

Mr. Leone: It was very clear that we talked about this easement. It was equally clear that we talked about lighting.

Mr. Smith: And about the lot lines.

Ms. Cole: I did speak to their attorney. I just have not received anything yet.

Mr. Leone: We can not move forward without these issues being addressed. I don't know where the lot lines fall relative to set back conditions.

Mr. Abbott noted the lot lines were shown on the site plan as dotted. The cell tower is in a lot by itself that is 213 x 86. The other lot is shown on the east side, approximately 316 x 40. The third lot is the large lot which comprises the rest of the building and the drive area. The applicant was supposed to make these into one.

Ms. Cole: It looks like they may have some setback issues. Mark is taking a look at it.

Mr. Leone asked Mr. Dean how he would like the Board to continue.

Mr. Dean: I have talked to their attorney about this subdivision. I know he is working on it. I feel comfortable with site approval proceeding. I don't see any problem with it.

Mr. Leone: Should site plan approval be contingent upon the subdivision being accomplished?

Ms. Cole: Yes. I would also like to be absolutely sure of what the lease conditions are for the cell tower area and any formal ingress/egress that might exist.

Mr. Parrish: There is a setback issue. The new canopy requires a 15' side yard setback. It looks like it is a couple of feet short. If it is subdivided that would not be an issue.

Ms. Cole: The subdivision is something that Wayne and I would do. It would not require a public hearing.

Mr. Leone read more of the County's response. The OCDOT has weighed in here asking you to illuminate the access. At the same time they are asking you to not have any spill over in their right-of-way. They might be talking about simple access signs instead of a 20' pole light. The site plan should show center line striping on the driveway. The OCDOT also requests trip generation information.

Mr. Smith: We discussed trip generation. We discussed the numbers at the last meeting.

Mr. Parrish: You might want to review the parking calculations also.

Mr. Leone: I have a feeling that the trip generation information has been generated as a result of the calculated occupancy level.

Mr. Dean: I have 68 persons for each assembly room for 136 people. As we discussed four is out of line. Two is probably out of line for this type of facility. At 1.5 I calculate it closer to 91 for the assembly spaces. Again that does not include the office personal, people working in the kitchen, etc.

Mr. Leone: Can we limit the number of people based upon the parking?

Mr. Dean: No.

Mr. Leone: You have 92 parking spaces?

Mr. Abbott: I could probably get more if I had to, a few more.

Ms. Fetyko noted there were seven employees.

Mr. Dean: I don't really understand how the facility works or how many people you would expect. The code is based upon taking the total square footage of the building. I can not limit rooms based upon parking.

More discussion occurred regarding trip generation.

Ms. Fetyko added at the highest peak we would probably have 90. We have two education rooms that fit 38 students in each plus seven staff members. This would be an event situation and would not happen on a daily basis. If we averaged it out it would be 30-40.

Mr. Smith discussed signage. The total sign square footage is 49.1. The building's frontage is 69.3.

Mr. Abbott added the reader board would meet the requirements requested by the Board, no flashing or scrolling very often. If the community has any announcement that they want to promote, the applicant would be willing to do so. That would include Amber Alerts.

Mr. Leone reviewed reader board standards. Announcements can not be changed more than every 15 seconds. There will be no blinking or oscillating.

Ms. Fetyko agreed.

Mr. Smith thought it should be a minute or so between reader changes.

**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. Mott seconded the motion.** The motion was **approved** with the following vote:

Mr. Cushman:	Yes
Mr. Purdy:	Yes
Mr. Rowe:	Yes
Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes

Mr. Leone: Yes

Mr. Abbot: The revision date of the plan is 7.13.09.

**Mr. Leone made a motion** to approve the Greater Syracuse Realtor site plan for Taft Road with a revision date of 7.13.09 with the following conditions:

1. The rain garden has been deleted.
2. The lighting plan, trespass and light poles at 20 feet with wattages of approximately 250 are to be approved by the Planning Board's engineer with limited trespass as promoted by the Onondaga County Planning Board.
3. The easement/lease conditions for the telecommunication tower are shared with and approved by the Planning Board's attorney.
4. The expected max peak trips for any given time will be 90. Those conditions will require a traffic control officer(s).
5. The signage to be allowed including the reader board sign will be 49 square feet. We understand that the building's frontage is 69.3 sq. ft. Reader board changes can not occur more often than every 15 seconds.
6. The subdivision application must be filed and approved before the site plan is acknowledged according to the Planning Board's attorney and the Zoning Department.

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

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

Mr. Abbott: I will get the revised photometrics to Mark probably by the end of the week.

Mr. Smith: The subdivision should be expedited.

Mr. Leone: You have a quasi-approval of the site plan and need to complete the conditions listed.

**PRELIMINARY SUBDIVISION PLAN, SEQR DETERMINATION, PARK FEES  
SHIVA ESTATES, GUY YOUNG ROAD, 14 LOTS, FISHER ASSOCIATES  
(SEE ATTACHMENT E: LETTER FROM THE ALIM CORP. DATED 7.19.09)**

Representatives: M. Marvasti and Barbara Bratt, Alim Corporation

Mrs. Bratt read the applicant's letter into the record. (See Attachment E)

Mr. Leone: You have added extra phases. We were already concerned with the number of phases.

Mr. Parrish: Basically what they have done is scaled back the extent of Phase 2 by 5 lots or so. Phase 4 would have been smaller previously. It is now a larger Phase. I think Phase 3 is pretty much the same as it was.

Mr. Leone: Your intent was to try to address the length of the turn-around?

Mr. Marvasti: Yes, the Board felt it was too long. Now we have reduced it 300 feet less. We would have 680 ft. instead of 980 ft.

Mr. Parrish: I think the other thing it would do is that you would get to Phase 3 quicker because you have less lots. Your buildout of Phase 3 would come quicker than if you had the other 5 lots in Phase 2.

Mr. Rowe asked about the logic of having two lots in Phase 5.

Mr. Parrish: Those lots are located on a portion of road where if the property to the south was never developed that road would be a dead end and you would end up with a hammerhead turn-around in the side yard of Lot 13 and the front yard of Lot 41. Potentially that hammerhead could be there forever. It would depend upon how long it took for the area to the south to get developed. To me it makes sense to leave that out until a time when that other project develops because we have a number of these situations throughout the Town. They are not good situations. It is not an ideal.

Mr. Leone: They have addressed the length of that one road. That does get them to Phase 3

sooner. No matter how we got to Phase 2, I thought we wanted to take some securities so that Phase 3's access road could be built and that the Park's access could take place. That was one of our approaches. We said go ahead with your original Phase 1 and Phase 2 including those five lots. But we would need securities to assure that someday those access roads would be built.

It has been 15 years since the subdivision was started. It has gone through a housing boom. Now you say that housing is deflated. But during those 15 years housing had not been any better and nothing happened. Our concern is that the project moves along. If it does not we would have some recourse and we could get Park access.

Mr. Marvasti: What kind of securities are you looking for? You want us to prove that we going to build the roads?

Ms. Cole: The Board probably wants some form of financial security in an amount that the engineers would determine to be reasonable to achieve what the Planning Board would ultimately like to see happen.

Mr. Leone: The Board agrees that there is a hardship with saying do Phase 3 first because of where your utilities, etc. are located. But at the same time we are concerned about Phase 3 never happening, ever.

Mr. Marvasti: Why?

Mr. Leone: For the same reasons you are concerned. For the reasons that determine your desire to only do 6 lots.

Mr. Marvasti: Conditions have changed. At that time my partner and I have had different problems. You can not bring these conditions back to this.

Mr. Leone: Your letter says that housing and market conditions are very poor. How long can we anticipate before Phase 3 gets started?

Mrs. Bratt: As soon as we get our approval, we will start.

Mr. Leone: Phase 2. How about Phase 3?

Mrs. Bratt: As soon as Phase 2 is done. We have one lot left in Phase 1.

Mr. Marvasti: We are keeping that lot to make it a model house and future office. At that time we did not have customers. That lot was sold to a builder who did not build on it and did not pay the taxes on it. The lot went to auction. I paid \$10,000 to the Town of Cicero to buy it back.

Mr. Leone asked for Board member opinions.

Mr. Smith: The phasing is much better. What to do for securities and Park access is a tough question. How do we legislate that the developers have to be successful? To some degree it is a gamble.

Mr. Leone: You legislate the access by taking securities for their overall subdivision plan. That is how you protect yourself. I am not saying that we should do that, but that is how it is done. It is done all of the time.

Mr. Smith: At some point if they are not successful I would assume that for example Phases 3 and 4 would be picked up by some other developer.

Mr. Leone: So we would waive park fees?

Mr. Smith and Mrs. May responded no.

Ms. Cole: I think that what the Board talked about was deciding whether or not park fees for this phase would be required and dealing with the other phases as those phases came up. As of right now Phase 3 will involve something that benefits a Town park. Whether or not you would want to take park fees in addition to that benefit is something that the Board would address at that time.

Mr. Leone: I thought it was the Board's determination to waive park fees on the overall subdivision for the access and the access to be built out.

Mr. Smith: We would consider it. In this scenario I don't know how we would/could consider that.

Mr. Leone: I don't want to get to the point where we are ready for the access point without

discussing it first. Part of their letter states that they do not want to pay for the access. Much of the cost of doing the work stems from the buckeye pipe line's location. It is not something that the Town should wrestle with.

Mr. Marvasti: There are details for that pipeline at this time. But three years from now we do not know what details will be enforced. How is it possible for us to give you an estimate for that or a guarantee that it will be built?

Mr. Leone: Can you guarantee that you are going to build it when you do Phase 3? Will you go on record that with Phase 3 you are going to build out the access?

Mr. Marvasti: We have no problem with that. We can not go on record with the future price, but today's price.

More discussion occurred.

Mr. Leone: The issue of utility location really is a hardship on the developer. When you come back to the Planning Board it may not be a board with the same people on it who are here today. I want to make it clear that we want you the developer to take care of the park access as shown on this subdivision. We actually wanted a 60' wide easement that is not shown on this plan.

Mr. Parrish added the utilities or the road that would be constructed are not shown either.

Mr. Marvasti: We are going to build it, no question. But we don't know at what cost or price.

Mr. Leone: I think that what you are suggesting is how you can pay for securities today when you don't know how much it is going to cost in the future. Is that your argument?

Mr. Marvasti: Yes the details of that.

Mr. Leone: I think that our issue on securities is starting to waiver. I am not 100% sure that we are taking securities yet. I think that is also a hardship. It is more important to me that we are assuring ourselves that under Phase 3 the developer is going to build this access including bringing utilities to the Town.

Mr. Marvasti: The Park is going to continue as soon as we finish the access?

Mrs. Bratt clarified by asking when will they build the park. After we build the access road?

Mr. Leone: Yes, it is dove tailed together. We have to have access by easement and by right so that we can build the park. The land is available. That needs to be married. I can not speak for the Director of Parks and Recreation, but it was a five year type plan. We are trying to understand when we can expect Phase 3 to actually start.

You are not making a commitment. What you are saying to us does not give us anymore comfort than we had at the last meeting. You are saying that the economic climatic does not dictate it. You have shortened up your road, put less lots in Phase 2 which should force Phase 3 to go quicker.

Mrs. Bratt: Yes, and give us the needed capitol.

More discussion occurred.

Mr. Dean: I believe at the end of Phase 2 you will need a hammerhead to protect against future development. You will also need utilities to the park. I think that you will need some kind of security there. I don't know if it is right to ask for securities for all of the utilities and the road. Maybe you could ask for securities just to extend the road for the value of the road, and to use that as access to the park. You would ask for securities for utilities when Phase 3 was developed.

Mr. Leone: You want the road bonded all the way to the park access from wherever it dead-ends now. Then when utilities are brought to that section, you want the utilities to go all the way up to the park. I don't know what the hardship is there. The developer might be better off doing all of the utilities and digging up the pipeline all at once. They might be able to box it out.

Wayne is saying that if you default and do not come back in within a certain time period to do Phase 3, the Town would exercise the right to build the road themselves to get the road to the park at your bonding expense. I do not know what that security value is. It would have to be derived before you put the hardship on the developer.

More discussion occurred.

Mrs. Bratt: What can we say to convince you?

Mr. Leone: That you will take care of the securities for the road going in. I do not want you to say that until you get to the value of that security. I don't know what it costs.

Mr. Marvasti: I am not sure of the legality of the securities. We would have to check that out. You prepare the amount and we would check it.

Mr. Smith: We should give them some ideas before they go on to the next step.

Mr. Leone: We did send them back with some ideas. We had a list of options that was written to their engineer. We sent back one of your responses noting it was okay but we want the security to take care of this road. You would be getting five more lots and we would have the securities. Now you are getting five less lots plus giving us the securities. I don't know what the securities would amount to.

We did not want to push you into a corner. That is why we requested that you ask for an extension before the Board had to make a decision which you may or may not have been comfortable with. We thought it was in your best interest to work with your engineer to get the information on what that security would cost. We sent that almost thirty days ago. Apparently that has not happened. You are not prepared for option 1.

Mr. Marvasti: So you are going to give us the security amount?

Ms. Cole: I think that the Chairman is suggesting that he would like your engineer to make a proposal about what that amount should be so that the Planning Board's engineer can review it.

Mr. Leone: Is that something we should take care of, cost estimating? Is that some figure you can get per square foot?

Mr. Parrish: What are you expecting the access to be? Are we talking about a curbed gravel road, a road built to Town specifications? It becomes the developer's decision as to what they would like to do. For example the access to Gateway Park is probably a 22' wide asphalt road without gutters. If something like that is acceptable that would be less expensive then putting in curbing and gutters.

Mr. Leone: Would the Town's easement be written right into that? It would be a paper road.

Mr. Parrish: You would probably want the easement for the access to be filed along with the final plan for Phase 2.

Mr. Leone: So at this point it could be a 22' wide driveway that goes all the way up to the Town's park access. Realize that would require improvements when Phase 3 moves in that direction.

Mr. Smith: Unless they sell the lots and are ready to go to meet our time frame.

Mr. Dean: Somehow you have to put a time limit on it.

Mr. Leone: We need a drop-dead date for compliance. Is it going to be three years out? Then if it does not happen in three years the Town gets the right to access the bond to build the road access.

Mr. Marvasti asked if that was a law.

Ms. Cole explained that there are regulative legislations within the New York State Town Law. You want to look at Town Law Section 276 and 277 with regard to posting securities for utilities and roads to be constructed in subdivisions. I think that it says there is a maximum period for them of three years that the security has to be posted.

She read: Any such performance bond or security agreement shall run for a term to be fixed by the Planning Board but in no case for a longer term than three years provided however that the term of such performance bond or security agreement may be extended by the Planning Board with the consent of the parties thereto. Basically three years, but you can extend it if everyone agrees.

Mr. Leone: Does three years out seem reasonable?

Mr. Marvasti: I don't know.

Mr. Leone and Mr. Cushman responded you can not build out 6 houses in three years?

Mrs. Bratt: I don't think that he quite understood. Yes, we can do that.

Mr. Leone: I think that he understood very well. I also think that he is afraid to commit. I think that the best way to resolve moving forward is that you have asked us to extend our decision for 62 days. What does the extension allow for?

Ms. Cole: However long the parties agree.

Mr. Leone: Are you comfortable with extending this for at least 90 days? That would allow you the time to get some numbers together and to allow some thoughts before you commit to something. I think that as a Board we are leaning toward your Phase 2. You really should consider your first Phase 2 because it gave you more lots. Then we want posted securities for a 22' driveway from the public access and easement for the first public road that it can become attached to—whatever that road is. Those securities would be committed by you to be utilized if you do not start Phase 3 and have access within three years.

Mr. Marvasti understood but did not want to commit. He asked for 90 days to research the legalities, etc.

Mr. Leone: Securities in the form of a bond are not unusual.

Ms. Cole: No, it is actually preferred.

Mr. Leone: That seems to be a reasonable way to do that. I would say that if securities are posted, I would waive the park fees for the first phase. He would have posted securities. The intent is to take park access property. The developers could use that money towards the securities.

Mr. Parrish: If the developer's engineer gets a hold of me, we can discuss the amounts. It would make sense for them to build the road to the line and grade the future road to the binder. That way they would not have to rebuild it. That is what you would bond for. If his engineer gets a hold of me we can work that out.

**Mr. Smith made a motion** to extend the deadline for 90 days. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

Mr. Cushman:

Yes

Mr. Purdy:	Yes
Mr. Rowe:	Yes
Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes
Mr. Leone:	Yes

**DISCUSSION: ESTENSION FOR THE CROSSROADS SUBDIVISION  
WEST OF ROUTE 11 AND NORTH OF MUD MILL  
60 LOTS, PRELIMINARY PLAN APPROVED 6/05  
(SEE ATTACHMENT E: LETTER FROM DARRYL SANFORD)**

Representative: Darryl Sanford

Mr. Sanford introduced himself as the developer. I stood before you two years ago and asked for an extension. With those two years the industry has suffered. We went through a hardship in our business. This had to take a backseat to everything else to survive. I believe that the project is a good project and is worthy of finishing. We have started to find new investors. We would like to get a little more time before you wipe it out because we have tens of thousands of dollars invested to get to this point.

The housing boom was going on in 2005 but we were not able to get financing. When we came back for the extension in 2007 we were in better shape but the economy and everything else had gone down.

Mr. Leone: This is an R10 area. There were some questions regarding drainage on some of those lots.

Mr. Sanford: I thought those were addressed and resolved.

Mr. Leone: You may have addressed them. Are there any new wetland issues since these approvals?

Mr. Parrish: From the DEC's standpoint the wetland delineations are good for three years. I don't know if they received an application because they never actually received a permit. When they go back with a new permit application the DEC is likely to require them to re-delineate the

wetland.

Mr. Leone: What are you looking for a one year extension?

Mr. Sanford: Hopefully, I can get two to give us a chance to get further down the road. At this point we are not costing anyone any more money, other than us.

Mrs. May: The wetlands permit is likely to expire in 2010.

Mr. Smith: We are almost five years out. Things are going to change. Things have changed.

Mr. Sanford: That was R10. I recall that we had drawn a number of lots that are larger than R10. Only a few were actually R10 size.

Mr. Leone: We tried to encourage you to build out to R12 because of the population density.

Mr. Sanford: I would like to consider changing the layout.

Mr. Parrish: We would have to amend the preliminary plan. Right now he is asking for re-approval of that plan. He is suggesting in the future amending the plan. That would be a completely different process.

Mr. Leone: I think that there is a hardship. I agree with Bob in that things have changed. We need a new light at Mud Mill Road. We would be saying that this plan would be revisited within one year. If he starts construction we would not be asking to revisit the application?

Mr. Smith: I am opposed to extending this if we do not have the right to review it. Four of the people on this Board never saw this.

**Mr. Leone made a motion** to approve the subdivision request for a one year extension of the project. The motion is to extend the approval. **Mrs. May seconded the motion.** The motion was **approved** with the following vote.

Mr. Cushman:	Yes
Mr. Purdy:	Yes
Mr. Rowe:	Yes
Mrs. May:	Yes

Mr. Mott:	Yes
Mr. Smith:	No
Mr. Leone:	Yes

**Mrs. May made a motion** to adjourn. **Mr. Cushman 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 8:55 P.M.

Dated: July 29, 2009

-----  
Tonia Mosley, Clerk



July 17, 2009

Planning Board  
Town of Cicero  
P.O. Box 1517  
Cicero, New York 13039-1517

Attention: Patrick Leone, Chairman

Re: Mirob Estates  
Final Plan Review

File: 0101/25439.353

Dear Board Members:

We have reviewed the following for the above referenced project for conformance with Town Code requirements for subdivisions and effect on Town utilities and roads:

1. Final Plan dated May 26, 2009 revised July 14, 2009
2. Sewage Disposal System Plan dated May 26, 2009 revised July 14, 2009
3. Grading and Erosion Control Plan dated June 22, 2009 revised July 14, 2009
4. Stormwater Pollution Prevention Plan dated July 14, 2009
5. Notice of Intent dated July 14, 2009.

Ianuzi & Romans, P.C. prepared items 1 to 3 and Michael D'Avirro prepared items 4 and 5.

The 20.449-acre site is located on the southeast corner of the intersection of Mud Mill Road and Sneller Road. The site is comprised of a mixture of brush and woods. It is proposed to subdivide the site to create seven lots from 1.006 to 13.25 acres in area. The site is zoned Agricultural. The Plan is in general conformance with Town Code requirements for Final Plans subject to the following comments:

- 1) The site is located within the Lakeshore Sewer District but there are no Town sanitary sewers available to provide service to the site. Sanitary sewer service is proposed to be provided by private individual sewage disposal systems. The Plan shows the approximate location and area required for the proposed systems. The design of the sewage disposal systems will need to be approved by the Onondaga County Department of Health and has not been reviewed by our office.
- 2) The site has frontage along Mud Mill Road and Sneller Road, which are County highways. Driveway locations for the lots are shown on the Plan. A letter has been provided by the Onondaga County Department of Transportation indicating the locations have been approved.
- 3) Stormwater runoff from the site is generally tributary to drainage facilities along Mud Mill Road, Sneller Road and wetlands located on the site. As more than 1-acre of land will be disturbed a

July 17, 2009

Page 2

New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activities is required for the project. However, as the Grading Plan indicates that less than 5 acres is to be disturbed and the project is a single family residential subdivision the Stormwater Pollution Prevention Plan for the project needs to address only erosion and sediment control and does not require that stormwater quantity and quality measures be provided. The following are comments on stormwater management, grading and erosion and sediment control:

- a) A site visit noted standing water present upstream of the culvert under Sneller Road in the area of Lots 5 and 6. It is likely standing water will continue to be present in this area following development due to downstream conditions.
  - b) The Plan notes that sump pumps for Lots 1 to 3 are to be directed to the swale along Mud Mill Road and for Lots 4 to 6 are to be directed to the swale along Sneller Road.
  - c) It is critical that Lots 5 and 6 be graded according to the grading plan to provide adequate drainage for stormwater runoff from the rear of Lots 1, 2 and 3.
  - d) Check dams in front of the culverts under Mud Mill Road and Sneller Road should be shown on the Grading and Erosion Control Plan.
- 4) The site is located within the Sneller Road Water District. Water service is to be provided by a water main located along Mud Mill Road and a water main that was recently extended along Sneller Road. The applicant should coordinate provision of water service with the Onondaga County Water Authority (OCWA).
  - 5) The New York State Freshwater Wetland Map does not indicate any State wetlands are present on the site. However, the Plan does show the location of Federal wetlands as delineated in the field. The Developer is responsible for obtaining and complying with any permits that may be needed for wetland impacts.
  - 6) The site is not located within a floodplain per the 1994 FEMA Flood Insurance Rate Maps.

If you have any questions or comments, please do not hesitate to contact us.

Very truly yours,

O'BRIEN & GERE ENGINEERS, INC.



Mark C. Parrish, P.E.  
Managing Engineer

cc: Town Board – Town of Cicero  
Wayne Dean, Director of Planning and Development - Town of Cicero  
Toni Mosely, Code Enforcement Office - Town of Cicero  
Michael D'Avirro  
Hal Romans, L.S. – Ianuzi & Roman Land Surveying, P.C.  
Gary D. Cannerelli, P.E. – O'Brien & Gere Engineers, Inc.

ATTACHMENT B

Michael DAvirro  
Robin Young  
6185 Leslieanne Path  
Cicero, NY 13039

Town of Cicero Planning Board  
P.O. Box 1517  
8236 S. Main Street  
Cicero, NY 13039

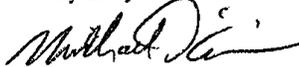
To the Town Planning Board:

We are writing to request relief from the "park fees" that are normally charged on a per lot basis for a subdivision. As you know, the Mirob Estates subdivision consists of seven lots, three lots on Mud Mill Rd. and four lots on Sneller Rd. We request that the park fees be eliminated for the lots on Sneller Rd., and we will pay the fees for the lots on Mud Mill Rd., for the following reasons:

- We have made a substantial investment into the infrastructure of the lots on Sneller Rd. consisting of extending the Water Main and bringing Electric down the road. The cost of these improvements are approximately \$40,000.
- The improved lots will be re-assessed at a significantly higher value than is currently on the rolls, thus bringing additional future revenue to the Town.
- Our own house is currently being built on Lot 7 and a building permit was issued prior to the approval of the subdivision. It would seem unfair to now assess that lot with a park fee.
- We have decided to file the entire subdivision, rather than in two phases as originally planned.

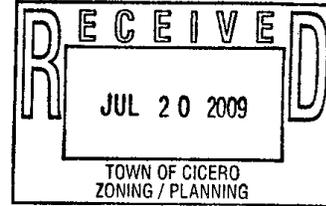
Thank you for your careful consideration of our request and if you have any questions, please call me at 345-8782.

Very Truly Yours



Michael DAvirro

ATTACHMENT C



July 20, 2009

Planning Board  
Town of Cicero  
P.O. Box 1517  
Cicero, New York 13039-1517

Attn: Patrick Leone, Chairman

Re: Greater Syracuse Association of  
Realtors Site Plan Review

File: 0101.25439.363

Dear Board Members:

We have reviewed the following materials in regard to the above referenced project for compliance with Town Code requirements relative to Site Plans and effect on Town utilities and roads:

1. Site Plan dated June 24, 2009 revised July 13, 2009
2. Location Survey on Part of Military Lot No. 93
3. Photometric Plan dated July 17, 2009.

Robert Abbott, Jr., Architect prepared the item 1, Lehr Land Surveyors prepared item 2 and AccuLite prepared item 3.

The 2.03-acre site, which is comprised of three tax parcels, is located on the south side of East Taft Road across from Leroy Road. The site contains an existing 8,504 square feet building along with associated site improvements. It is proposed to make minor modifications and additions to the building for use as office and meeting space along with associated modifications to the parking, landscaping, and other site improvements. The site is zoned General Commercial. Our comments are as follows:

1. The site has a driveway onto East Taft Road, which is a County highway. It is proposed to continue to use the driveway for access to the site with provision of a center stripe to delineate the entrance and exit lanes. The Board should review the site circulation and basis for the number of parking spaces provided for the site with the Developer along with the access to the cell tower located on the southeast corner of the site.
2. The site is located within the Taft Road Sewer District. Sanitary sewer service is provided from an 8-inch Town sanitary sewer located along the south side of Thompson Road. No modifications to the sanitary sewer facilities are shown on the Plan.
3. Stormwater runoff from the site generally sheet drains to adjacent properties and drainage facilities located along East Taft Road. As the project disturbs less than 1-acre of land a NYSDEC SPDES Permit for Stormwater Discharges from Construction Activities is not required for the project. The project does not include any significant changes to impervious surfaces or site grading and should not appreciably change existing drainage patterns. It is noted that a rain

July 20, 2009

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- garden has been provided on the west side of the building to accept stormwater runoff from a roof leader. No details relative to the rain garden have been provided.
4. The Board should review the landscaping, lighting, signage, buffering and architectural elevations with the Developer. The following are comments regarding these issues:
    - a. The Plan includes the replacement of existing pole mounted lighting on the site along with architectural lighting on the building. The Board should review the lighting with the Developer. It appears there may be areas where the light levels exceed 0.1 fc at the property line but this cannot be determined as the photometric information does not extend to the property line. Also, it is not clear if the cut sheet submitted for the pole mounted fixture is the same as the fixture used in the photometric calculations.
    - b. A 35.8 square feet pylon sign is proposed in front of the building along with 13.3 square feet of building mounted signage resulting in a total of 49.1 square feet of signage. For the Board's information the building frontage is 69.3 feet. The pylon sign includes a digital reader board and a note has been placed on the sign detail indicating the message is to change at no less than a 15 second interval and is not be scrolling, flashing, etc.
    - c. The architectural elevations and building materials and colors should be reviewed with the Developer.
  5. The site is located within the Taft Road Water Supply District No. 3. Water service is provided from a water main located along East Taft Road. No modifications to the water service are shown on the Plan.
  6. The site does not contain a State Wetland as identified on the New York State Freshwater Wetland Map or a Federal Wetland as identified on the National Wetland Inventory Map.
  7. The site is not located within a 100-year floodplain as identified on the 1994 FEMA Flood Insurance Rate Maps.
  8. It is recommended the site be combined into a single parcel utilizing the Town's simple subdivision procedure.

If you have any questions or comments, please do not hesitate to contact us.

Very truly yours,

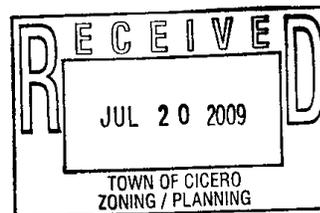
O'BRIEN & GERE ENGINEERS, INC.



Mark C. Parrish, P.E.  
Managing Engineer

cc: Town Board - Town of Cicero  
Wayne [REDACTED]  
Toni Mosley, Code Enforcement Office - Town of Cicero  
Heather Cole, Esq. - Wladis Law Firm, P.C.  
Robert C. Abbott, Jr., Architect  
Gary D. Cannerelli, P.E. - O'Brien & Gere Engineers, Inc.

**Alim Corporation**  
**c/o Masih Marvasti**  
**157 Franklin St, Apt. # C4**  
**Stoneham, MA 02180**  
**781-438-3898**  
[masihmarvasti@gis.net](mailto:masihmarvasti@gis.net)



July 19<sup>th</sup>, 2009

Planning Board Members  
Town of Cicero  
8236 South Main St.  
Cicero, NY 13039

Re: Shiva Estates Subdivision

With regard to the Planning Board meeting dated June 3, 2009, Board members' inquiries, proposed options, and comments dated June 11, 2009, please note the following:

- There were some inquiries about the fifteen years between the first phase and second phase. Like any investor, we were eager to finish this project so that we could begin transferring the income to our next investment project. However, several factors contributed to an extended delay following completion of the first phase. Of primary concern to us was the slow housing market which, while generally widespread, was particularly acute in upstate New York. Given these market conditions, we were concerned that the second phase of the project should be delayed until more favorable conditions returned. In 2004, approximately ten years after the completion of the first phase, we began to see positive changes in the housing market and began preparation for the second phase. Our initial request to begin Phase 2 was sent on July 7, 2004. However, due to several necessary administrative processes (including town requirements, Corps of Engineers' roles and regulations, and the need to renew our expired permit), five more years were required to bring us to this current point. While the risks in the immediate and long-term housing market are still real, we believe the timing is right to move forward with the second phase.
- Because of the current economic recession, few banks finance land development and/or large housing projects. Land development is expensive and it is currently difficult to receive financing from homebuilders. One of the few funding sources that remains available is to identify and contact existing and new investors and to convince them to invest from their limited savings. One can find numerous examples on Guy Young Road and in other parts of Cicero of subdivisions that have not yet been developed, and these delays almost certainly share the same underlying factors. While we understand the Board's desire to have all road construction and housing development completed as part of a single phase, we cannot move forward in this manner. The considerable resources required to complete all construction and development as a single phase make such a strategy unfeasible (especially when considering the limited resources available in the current lending markets). Please note that Alim Corporation still owns one lot from phase one.
- Some of the phases suggested by some Board members are not technically possible. There is currently only one solution, which is to develop the western part of the subdivision and build (either completely or partially) from the detention pond. Once this initial section is completed, we can then move to another section.

- Some concerns were raised regarding the safety of the proposed second phase. These concerns specifically centered on the length of the temporary road. The acceptable temporary turn-around road per code is 1200 feet. In our previous Phase 2 proposal, it was around 900 feet, which was less than the code requirement. However, in our new proposal, we have addressed this concern and the temporary road will be approximately 680 feet.
- With respect to the request by the Board and Park Department to grant access to the park, we agreed to change the access accordingly (though at a significant cost to us since the drawings needed to be modified several times). However, the construction of an access road is a different issue that has to be resolved in a meeting between the Town and Alim Corporation. Nobody can accurately estimate the cost of access road since 1) the timing of construction is not predictable and 2) the Federal and State government continually change the code for safety of the gas lines. Therefore, the details of the construction will remain unknown for years to come.

In our new proposal for Phase 2, we have considered the Board's suggestions, the Park's desires, the market conditions, and our own capacity. Our suggestion, per the attached sketch, is as follows:

- The Second Phase will include six lots in the western part of the property, and the lot numbers are 1, 2, 6, 7, 8, and 9.
- The Third phase will be represented by 10 lots in the eastern part of the property and include the access to Town park. The lot numbers in question are 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39.
- The Fourth Phase will represent the middle of the property. The lot numbers are 3, 4, 5, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29.
- The Fifth Phase will cover the southern part of the property (lots 40 and 41).

Given the decline in the housing market, we hope that the Planning Board will soon grant us the required approval. If this approval is not gained before the expiration of the Corps of Engineers' permit (the expiration term is five years and the expiration date is rapidly approaching), we will be left in a condition in which we might never be able to finish this project.

Finally, it has been nearly 62 days since the public hearing regarding this development was concluded. If the Board is unable to approve our current plan at the upcoming July meeting, we would like to request an extension of this 62-day deadline so that we can continue to discuss this project with the Board at one of its subsequent meetings.

Thank you for your consideration and we look forward to working with the Board to obtain approval of our revised phasing strategy.

Sincerely Yours;



Masih Marvasti, President  
Alim Corporation

Enclosure: Phasing plan

The CROSSROADS  
(60 Lot Residential Sub-Division)

Brewerton, New York in the Town Cicero, New York  
Bordered by Rt. 11 (Brewerton Rd) and O'Mara Drive

Preliminary Plan Approved June 2005

Summary Description:

- There are two adjacent parcels combined yielding approximately 31 acres
- As preliminary approved there are 60 building lots ranging from 12,000 sq. ft. to 4+ acres in size
- Access is available from State Rt. #11 (Brewerton Road) and O'Mara Drive

Several years were invested to purchase and combine parcels and to complete multiple surveys, drawings, reports, engineering drawings, wetland studies & demarkation, meetings with the New York State Department of Conservation (DEC) and the Federal Corps of Engineers, Town of Cicero Planning Commission and others to result in Preliminary Approval by the Planning Board of the Town of Cicero.

COMPLETED

- Phase I Archaeological Studies
- Historical Significance
- Indiana Bat studies
- Endangered Vegetation Studies
- US Corp. of Engineers Jurisdictional Determination received December 20, 2007

REMAINING TO BE DONE (short list)

- Engineers Contact Drawings (Road detail, etc.)
- Storm Water Pollution Prevention Plan
- Wetland Mitigation Approvals
- Town Final Approval
- Miscellaneous

We have invested a significant time and funds in this project and do desire to complete it.

We are requesting an extension of the Preliminary Approval to allow time for the banking and real estate markets to recover.

Respectfully submitted.

Darryl Sanford