

The Town of Cicero Planning Board held a meeting on **Wednesday, August 4, 2010 at 7:00 p.m.** in the Town Hall at 8236 South Main Street, Cicero, New York 13039.

Agenda:

- Approval of the Minutes from July 19, 2010 (**approved**)
- Site Plan, Public Hearing, Lucien's Entertainment Complex, Inc., 7800 Brewerton Road, Proposed Restaurant and Night Clubs (**to return**)
- Site Plan, Riccelli Trucking Inc., 6201 East Taft Road, Proposed Dumpster Pod Repair Facility (**approved**)
- Subdivision, Elta Business Park 2<sup>nd</sup> Amended, Southside of Route 31 at Elta Drive (**to return**)
- Discussion: Sidewalks
- Executive Session

Board Members Present: Mark Marzullo (Chairman), Chuck Abbey, Robert Smith, Richard Cushman and Sharon May

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

Others Present: Richard Carvel (Cicero Fire Department), Wayne Dean (Director of Planning & Development), Neal Germain (Esquire, Germain & Germain), Mark Parrish (P.E., O'Brien & Gere), Douglas Wickman (P. E., C & S Engineers, Inc.), Jessica Zambrano (Town Board Liaison) and Tonia Mosley (Clerk)

The meeting was opened with the Pledge of Allegiance. The Chairman noted the locations of the emergency exits and asked that all cell phones be turned off.

**APPROVAL OF THE 7/19/2010 PLANNING BOARD MEETING MINUTES**

**Mr. Marzullo made a motion** to approve the July 19, 2010 Planning Board meeting minutes.

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

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

**SITE PLAN, PUBLIC HEARING, LUCIEN'S ENTERTAINMENT COMPLEX, INC.  
7800 BREWERTON ROAD, PROPOSED RESTAURANT AND NIGHT CLUBS  
THE CRISSEY ARCHITECTURAL GROUP, LUCIAN ALI, SR.**

Representatives: Scott Chatfield, Esquire  
Peter Crissey, Architect, Crissey Architectural Group  
Lucian Ali Sr. and Lucian Ali Jr., Applicants  
Hal Romans, Surveyor, Ianuzi & Romans

Mr. Chatfield introduced himself stating that he had spoken with the Planning Board's attorney today. We are aware of the necessity to obtain an area variance for the driving isle widths. We wanted to bring the Board up to speed on the proposal and answer any questions that they might have. Based upon our discussions during the work session, I have presented the proposed language to address the parking issue to your council.

Mr. Germain confirmed that he had received a copy of said language late today. I will go through it and forward copies to the Board. We will work out what ever we have to work out.

Mr. Marzullo notified the audience that the Board would entertain public input via a public hearing and that the public hearing would remain open.

Mr. Crissey introduced himself. We have made some changes based upon Mark's comments and comments from the NYSDOT. I have a copy of a letter from the NYSDOT which states that basically they approve the site plan. But they asked us to add a curb, sidewalk details and to do all of the permitting. They approved two driveways. We had to narrow both. They requested that the north drive be full access with one in and one out lane. They requested that the south drive to be in only. We have made those revisions, which the DOT approved.

We have also received comments from the Onondaga County Planning Board (SOCPA). Some of their comments were confusing. They want us to close one driveway, after the NYSDOT stated that they want us to have two driveways.

Per Mark's recommendations we have revised the lighting. We have reduced lighting considerably, putting in all new pole heads. We have also added two poles to the middle of the

parking lot. These lighting levels are more in tune with this type of occupancy. There is some light spill onto unoccupied properties, but there is no spill onto the residential district or Route 11.

The parking layout has been modified slightly so that we can get the face-in parking between the buildings. We also had some parking modifications along the back end. Parking spaces are the typical 9 x 18.

Because SOCPA wanted only one drive isle, they wanted a cross easement to the property to the north. Your Board adamantly indicated that you wanted everything to be closed off between the two properties. We agree and do not want to adhere to SOCPA'S request.

Mr. Smith agreed stating that it was not practical in this situation.

Mr. Cushman noted the County's request stating with a super majority vote we can override that request.

Mr. Marzullo added the property owner to the north does not want access either.

Mr. Cushman: Wayne, is there anyway that we can get some correspondence from the County on this?

Mr. Dean offered to call Jeff Till to ask for clarification.

More discussion occurred.

Mr. Parrish explained that some of his comments were addressed. It was mentioned that a variance is required for some of the drive isle widths. They should include the angle of those spaces. I would like to compare that with some parking lot layout standards to make sure that these are adequate.

Mr. Crissey stated the angle was not included on the plan but, planning standards for diagonal parking at 45 degrees typically show a 13' isle down the middle.

Mr. Parrish asked for the width of the diagonal spaces and Mr. Crissey responded. The Chairman asked that those details be included on the plan. More discussion occurred.

Mr. Parrish noted his comment relative to the Fire Department. They should be consulted relative to emergency access. We suggest to the Board that they be given some input. We have a few issues regarding to lighting. There are some inconsistencies on the plan and cut sheets that need to be addressed.

Mr. Crissey noted the lighting issues were addressed on the plan Mark received tonight.

Mr. Parrish: We will look those over to see if they have been addressed appropriately. Mr. Crissey mentioned the light trespass. It is into areas that are commercial, out towards the front of Route 11, the adjacent former hair salon and a little on the Route 481 right-of-way to the north. I don't consider that to be significant.

Mr. Smith asked if this lighting plan was the same plan from the previous owner.

Mr. Parrish responded no. This is completely different. In the past there was significant trespass with the use of flood lights. That has been removed.

Mr. Smith: So this is better than it was with the car dealership.

Mr. Parrish agreed. We will look at the lighting issues to make sure that they have been addressed. Does this plan address the sign questions also?

Mr. Crissey: We did move the granite sign back so that it is 20' from the property line.

Mr. Parrish: What about the summery for the amount of signage that you are requesting and specific details?

Mr. Crissey: I have not done that but I will. We know what is there complies.

Mr. Parrish: Have you looked into the need for a grease trap in the restaurant, where that would go and whether there is a lateral to that building currently?

Mr. Crissey: We know that there is going to be a grease trap. The portion that protrudes out of the eastside of the building is where the kitchen will be. The grease trap would be located immediately outside of that. I believe that there is a sanitary sewer that runs down into the building.

Mr. Parrish: Is there a lateral to the existing building and do you know where that is?

Mr. Crissey: Yes there is a lateral. I will double check that against the plans.

Mr. Parrish: My concern is if the lateral is not in a location to accommodate the grease trap, they will have to connect to the Town's sewer. That work should be done by the Town's sewer contractor. We should know that up front. If that can be resolved we would ask that it be resolved.

I think that those are the significant issues. The rest are issues that the Board might wish to discuss with the applicant---architectural elevations, sound impacts, etc. Those things were included in the comment letter I submitted to the Board.

Mr. Cushman asked about the southern driveway. Is that a right-in drive way? Will they be able to turn left?

Mr. Parrish: I believe cars will be able to turn left into it. I don't believe that is restricted to right-in only.

Mr. Crissey: The state's comment is an in only. It did not indicate right-in only. We did not show a right-in only design and the state approved it.

Mr. Dean added it would be difficult to restrict if someone wanted to turn left.

Mr. Smith asked if signage could be done, similar to what was done at Empower.

Mr. Marzullo asked that a copy of the plan be given to the Fire Department. (Mr. Crissey gave a set of the plans to Mr. Carvel). At this point I will open the public hearing if anyone wishes to address the Board.

***The public hearing was opened at 7:16 p.m.***

Pat Bassett (co-owner, property to the north) introduced himself. I know that you have several letters that were sent to you, one most recently from our attorney. My partner and I, Frank Fava, are not opposed to this development. We think that it is a great idea; however we don't want any negative impacts on our property. What little we have we need to make work for us. We are not sure what the plan is to officially border it off, if it is going to be some kind of fence that can not be stepped over, a guard rail, etc. I have been a developer for over 25 years and have built many shopping centers. That parking looks very tight to me. I am not sure how viable it is, but I guess the owners and the Town will soon find out.

I hope he is successful but not in a manner that it becomes a real safety issue. We have developed shopping centers with Walmarts in them, where if they went to the diagonal parking they left the isles at 16'. That is what it takes to get a couple of cars to pass. Not everyone sees the arrows and they tend to go down the wrong way. Then you have two cars that meet in the middle and you have a problem. What looks like works on paper really does not unless you give yourself that opportunity to get those two cars to pass.

I am very concerned about the viability of the parking and what will potentially overflow into our parking lot. I hope that someone would give us some consideration whether it would be the 4' barriers made out of concrete---although you can step over them, you would need to be in good shape to do so----or some type of good looking fence. Something so cars will not park over there or be able to race in or race out.

I had heard about parking down the road for employees and/or across the street. I was in Town government, the Zoning Board, for almost seven years. We were very careful about and listened for, the potential of safety issues when making an operation go--certainly from a liability standpoint.

Mr. Marzullo: You are right. It is kind of an unknown as far as the amount of activity that would be going on at the site. You heard some discussion between the attorneys about an agreement that is being drafted. That agreement gives us the opportunity to review the site, once it is up and running, for a period of time, at least 12 months, if not longer. With that we will be able to monitor the operations. That agreement will give us the ability to drop and/or

take away the site plan's approval.

Secondly, if there are violations taking place that is a police issue. I know that you mentioned that you would want to be able to get a hold of someone after hours. If someone is doing something, for example parking on private property after hours, that is a policing issue. Our Police Department is available 24 hours a day. Mark, can you give details about the barriers that would be going in?

Mr. Parrish: The plan indicates some small dots along the northern property line as 4' planters at 7' on center. I am assuming the paving would remain in place and that they would just place those planters there.

Mr. Marzullo: Is fencing being proposed?

Mr. Parrish: No.

Mr. Marzullo: So, it is something that we can consider.

Mr. Bassett: Does anyone want to bet on the first car to go through it, especially in the winter when snow is piled up on it?

Mr. Cushman: Mr. Bassett, is your property currently being used?

Mr. Bassett: Not at this time but we are encouraged that we have a couple of potentials. We just went through all of our DOT rearrangements. I think that we are on solid ground with being able to either raise that building and build a new one or put that building back up to where it should be.

As I said, we are certainly not opposed to this entertainment center. We think that it is great for the area. We just want to make sure that it does not turn into something that is so great that it overwhelms everyone.

This contract would be unique. Someone would invest that kind of money with the understanding that if they were to not anticipate their success, the Board would be able to go

in and lock their doors until something was figured out? That is a dangerous place to be for the person who wants to open a place up. If the Town is confident, and you have done this before, I would say great. Have you done that before?

Mr. Marzullo: I don't know that we have done it before, but our council tells us that the agreement will hold teeth. If it comes to that, we will be able to do that.

Mr. Germain: To my knowledge this particular Town has not done it before but conditional approvals or approvals with a look back period have been done before. I agree with you to a certain extent that we have to be careful, that we have to make certain that it has teeth and can be enforced. We are hopeful that it will give the Board the flexibility to watch the situation as it progresses and take appropriate action to protect people like you and the rest of the Town. The whole idea is to allow the development to happen, but to retain some flexibility so that you can take the appropriate action to protect people like you in your position.

Mr. Bassett: It is not just for us. It is for the Town too, if this turns out to be almost an attractive nuisance that creates its own set of problems. Obviously, you don't want to see the Town wind up in a big law suit.

Mrs. May: The applicant is in agreement. He wants to be a good neighbor. He wants to have a reputable business. He has the complete understanding that at any time he could be shut down.

Mr. Smith: They are also hiring off duty security personal, sheriff deputies to help with and monitor the parking situation. From your development experience, do you happen to know where one of these facilities exists in our area? We are at a little bit of a loss because there is no history. Obviously, we want to develop because it improves the value of your site and brings in business to the surrounding sites.

Mr. Bassett: In our centers, especially where we have Topps or other large vendors, they don't want anything like this in their parking lot because it is either one way or the other. Either it is a complete bust or it is an enormous amount of traffic. These things are difficult to watch.

More discussion occurred.

Mr. Cushman: There is another driveway just to the north that goes back to a commercial development. Can your driveway be moved to the north to line up with that? That might give us the future potential for a traffic light---a four-way intersection. A controlled intersection would take care of traffic problems. Is that a possibility?

Mr. Parrish: You would have to speak to the DOT about that.

More discussion occurred regarding the driveways, hours of operation, sidewalks and potential off-site parking.

Mr. Bassett: I think that the barrier between the two properties probably won't work. I think it needs to be something that a car can not be driven through. I am not sure where snow will be pushed. I don't see a lot of snow load area.

Mr. Marzullo: There is some room along the south boundary line but a lot of the snow will be trucked off site.

Mr. Smith: We originally asked for a guard rail. What would you prefer?

Mr. Bassett: Concrete jersey barriers. I know that they are ugly but they serve a purpose. Otherwise people will step over the proposed barriers after parking in our parking lot. I don't want to be the bad guy who has tow trucks there at eleven or twelve o'clock at night taking his customers out of my parking lot. I don't want that and I don't believe that this Board should put me in a position where I have to do that. I have been a good neighbor for 30 years. I want to stay a good neighbor. I can't have my tenants complaining because people are racing in at 8 or 9 o'clock, when I have a hair shop that doesn't close until 10. They would not be able to get out if someone parked behind them.

A guardrail would look nicer but it does not stop someone from parking on my property and stepping over it to get next door.

Mr. Chatfield: We envision concrete planters at what ever height the Board specifies, probably 2 to 2.5 feet tall. The purpose of it is not to stop pedestrian transport. Frankly, if we were to build a 12' wall along there, that in and of itself will not stop people from parking over in

your parking lot and walking around the wall to our facility. That is why we intend to utilize off duty police officers while the entertainment facility is open. So, in the event that people park over there the officer could go over and state vehicles are not allowed to park there. Of course some signage on your property would probably be prudent which states parking for whatever use only. I don't know how much further we could go. As you know, people are people and no matter how much you tell them, they will do what they feel like anyway. All we can do is address that issue if and when it arises.

Our goal with this buffer was to create a barrier that people can not drive through. The concrete barriers are substantial, but are not jersey barriers. You don't want to hit them with your car. They are very heavy, especially when they are filled with dirt and trees.

As the Chairman and other Board members have indicated, we have expressed our willingness and our desire to work cooperatively with the neighbor, the residential neighbors and the Board to address immediately any issues that arise. We can only hope that we are that successful.

We are providing a substantial number of parking spaces, 284. Our understanding is that any entertainment type activities are typically not frequented by single drivers. The majority of people who come typically get together with two or three of their friends and car pool. So, we anticipate that the parking lot will be more than adequate to meet our needs.

We recognize that we are plowing somewhat unknown ground here. There are not any of these kinds of facilities around. We will need to work our way through the problems if and/or when they arise. We certainly wish to be a good neighbor to you and to not create problems for your potential tenants. The owners and operators of this facility are local people who you can find at anytime. If you have a problem, contact them or contact me and it will be addressed immediately.

Mr. Bassett: So we are going to get police to watch over our property. We are going to get adequate barriers, something suggesting to his customers not to come over there. Snow will be removed from the property. The Town will have a legal document that says if this thing turns into a mess, they will be able to say the applicant will have to close their doors until we get this figured out. Correct?

Mr. Marzullo: The intent would be to correct any issues that come up and if they are not correctable we could pull the approval.

Mr. Germain: Your point about the developer being at great risk with them spending that kind of money with a document out there that says we can pull the C of O or something like that is right. The developer will be at risk. But if you think about it, the more risk that they have the more incentive they have to be a good neighbor because they have all of that invested into the project. They will need to protect that investment by taking the appropriate actions if necessary.

Mr. Bassett agreed. I just want to make sure that I heard the right things and that it is all correct. Thank you so much for your time.

Mr. Cushman: The Board still has not made its final decision. For example we may require those barriers to be moved closer, maybe 5' off center so that we know vehicles can not go through there.

Mr. Germain: That is absolutely correct. The Board is considering all of these different things. They have not voted on and/or come to a final resolution on any of these things yet.

Mr. Marzullo asked if there was anyone else who would like to address the Board. (There was no response.) If not we will table the discussion at this time.

***The public hearing was left open at 7:39 p.m.***

**SITE PLAN, RICCELLI TRUCKING INC.  
6201 EAST TAFT ROAD, PROPOSED DUMPSTER POD REPAIR FACILITY  
IANUZI & ROMANS**

Representative: Hal Romans, Surveyor, Ianuzi & Romans  
Dom Cambareri, Esquire, Riccelli Trucking  
Lucille Nicholson, Owner/Applicant

Mr. Romans introduced himself. The only change to this plan is the top note regarding the potential future inner connection between this parcel and the parcel to the north. It states any

such access requires an amended site plan, approval by the Town of Cicero Planning Board and any other required permits. The only other thing we were waiting on was the County's referral. I received that. There were no issues. All other plan notes are the same.

Mr. Marzullo: The County wanted a cross connection, right?

Mr. Romans: No, they did not. We know that the County looks at every parcel and states that they should all be inner connected to every adjacent property. We also know that this Board had an issue with that. The owner of this parcel does not want a connection. There is no reason to. There is a good 50' off the back of our parking area to the adjacent property. This is a totally separate operation from that.

Mr. Smith noted his concern for safety stating we would not want large trucks going back and forth.

Mr. Romans agreed noting our note covers that.

Mr. Dean: There is a connection there now which is not depicted on the drawing. It is for pedestrian traffic. A portion of this site is being used for parking by the truck drivers in the back. I assume they park here and walk back there to the trucks. Will that be removed?

Mr. Romans: It will remain. My note specifies vehicle traffic.

Mr. Dean: It looked like the truck drivers' personal vehicles were parked here and then the drivers walk through to their work trucks on the adjacent property. I don't have a problem with that.

Ms. Nicholson stated that does happen sometimes.

Mr. Smith: I don't have a problem with that. I want to make it clear to the applicant and that we have their agreement, that there will be absolutely no vehicle traffic between.

Mr. Dean: I would prefer to have bollards or something put up to prevent any vehicles from possibly going through there.

Ms. Nicholson: I don't think that a vehicle could possibly get through there now. They would get stuck if they tried to go through.

Mr. Romans suggested putting in a couple of single fence posts, a couple of chain link, steel fence posts. Those are as good as bollards. When I was there the dirt path was only about 6' wide.

Mr. Marzullo: Our concern is that we don't want it improved so that you can drive through.

More discussion occurred. Mrs. May and Mr. Marzullo agreed that the fence post idea was a good one.

Mr. Romans: I will show a note on the plan that two fence posts will be driven in to limit access to pedestrians only. Your approval could be conditioned upon that note being included.

**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. Abbey:	Yes
Mr. Smith:	Yes
Mr. Cushman:	Yes
Mrs. May:	Yes
Mr. Marzullo:	Yes

**Mr. Smith made a motion** to approve the site plan presented tonight showing a latest revision date of August 4, 2010 contingent upon the placement of two fence posts to prevent vehicle traffic. **Mr. Marzullo seconded the motion.** The motion was **approved** with the following vote:

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

**SUBDIVISION, ELTA BUSINESS PARK 2<sup>ND</sup> AMENDED  
SOUTHSIDE OF ROUTE 31 AT ELTA DRIVE, 2 LOTS  
IANUZI & ROMANS**

Representative: Hal Romans, Surveyor, Ianuzi & Romans

Mr. Romans introduced himself. This is the Elta Business Park on Route 31. Lot 2A is the current expansion of the Learn As You Grow Daycare where Lot 1 was subdivided under an administrative subdivision via the Planning Office. Lot 1 was split in half with Learn As You Grow picking up half. Lot 1 was reduced. All of the lots within the Park have access and utility easements going out to Elta Drive as a requirement from the NYSDOT.

Since that subdivision, Nate Marra the owner of the residual lots has a person interested in buying this portion of Lot 6. And so we mirrored what was done for the Learn As You Grow Daycare by moving a lot line. We now have Lots 6A and 7. The sanitary sewer runs along here, with a manhole here. That is sufficient for both lots. Access stays the same.

The final plan is really no different from the preliminary plan. We are not building any new infrastructures, public roads, etc. There would be one lateral for Lot 6A and one for Lot 7 along the sanitary sewer easement.

Mr. Smith asked if the Board would be still be able to get a sidewalk across Lot 7.

Mr. Romans responded yes, there is still room. It is really an ingress/egress easement. What ever site plan issues come up can be addressed.

Mr. Smith: Are Lots 4 and 5 buildable?

Mr. Romans: Lot 5 is built. That is where LJR Engineering is housed. Lot 4 has not changed. Lots 6A and 7 have more buildable area than Lot 4 since they are not restricted by the building line that comes around Elta Drive. It is really and nice little office park.

I don't know if this has gone to the County.

Mr. Dean stated that it had not.

Mr. Germain noted the application needed to go to the County and requires a public hearing.

Mr. Smith: Do we have to have the County's response to hold a public hearing?

Mr. Germain: We should. **You need a motion** for the adoption of a resolution calling for a public hearing on September 1, 2010 commencing at 7 p.m.

**Mr. Smith made a motion** as stated by Mr. Germain above. **Mrs. May seconded the motion.**

The motion was **approved** with the following vote:

Mr. Abbey: Yes

Mr. Smith: Yes

Mr. Cushman: Yes

Mrs. May: Yes

Mr. Marzullo: Yes

#### **DISCUSSION: SIDEWALKS**

Mr. Marzullo: The Town Board has provided us information gathered by the Town's attorney Anthony Rivizzigno, relative to what other municipalities are doing with regards to sidewalk maintenance. I believe that they are looking for feedback from this Board, Zoning, Engineering and Council. If you can, review this information and provide any comments that you have to the Town Board. That would be greatly appreciated. A thank you goes to Jessica for moving on that.

Ms. Zambrano: You're welcome.

#### **EXECUTIVE SESSION**

**Mrs. May made a motion** to move the Planning Board into executive session to discuss a personnel issue. I would like to invite our attorney and liaison into the session. We would not be reconvening the meeting. **Mr. Marzullo seconded the motion.** The motion was **approved** with the following vote:

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

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS  
ADJOURNED AT 7:59 P.M.

Dated: August 9, 2010

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Tonia Mosley, Clerk