

The Planning Board of the Town of Cicero held a meeting on Monday, September 20, 2010 at 7:00 p.m., in the Town Hall at 8236 South Main Street, Cicero, New York 13039.

Agenda:

- Introduction of new Planning Board members: Greg Card and Pat Honors
- Approval of the Planning Board minutes from September 1, 2010 (**approved**)
- Site Plan, Cafua Management Company (Dunkin Donuts), 5865 Route 31, Proposed drive thru and site improvements, CHA (**to return**)
- Minor Subdivision, Preliminary and Final Plan, Public hearing continued, Lands of Bell, Bear Springs Road, 2 lots, Ianuzi & Romans (**approved**)
- Site Plan, Mavis Tire/Cole Muffler, Brewerton Road, Proposed retail store, Mastroianni Engineering (**to return**)
- Site Plan, Public Hearing, Lucien's Entertainment Complex, Inc., 7800 Brewerton Road, Proposed Restaurant & Night Clubs, Crissey Architectural Group and Lucien Ali Sr. (**approved**)
- Informal Discussion: Sidewalk maintenance

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

Board Members Absent: Richard Cushman and Scott Harris (Ad Hoc Board Member)

Others Present: Wayne Dean (Director of Planning & Development), Neal Germain (Esquire, Germain & Germain), Mark Parrish (P.E., O'Brien & Gere) and Tonia Mosley (Clerk)

The meeting opened with the Pledge of Allegiance.

NEW PLANNING BOARD MEMBERS

Mr. Marzullo welcomed the Board's newest members: Greg Card and Pat Honors.

APPROVAL OF THE PLANNING BOARD MINUTES FROM 9/1/2010

Mr. Smith made a motion to approve the Planning Board minutes from September 1, 2010. Mrs. May seconded the motion. The motion was approved with the following vote:

Mr. Card: Yes
Mr. Honors: Yes

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

SITEPLAN, CAFUA MANAGEMENT COMPANY (DUNKIN DONUTS)

5865 ROUTE 31, PROPOSED DRIVE THRU AND SITE IMPROVEMENTS

CHA

(SEE ATTACHMENT A: OBG LETTER DATED SEPTEMBER 16, 2010)

Representative: Brian Bouchard, CHA

Mr. Bouchard gave a brief review of the project stating the proposal is to construct a driveway at the existing site utilizing the former Waffelworks building for the proposed Dunkin Donuts. At the previous meeting we went through the revisions including widening the drive thru lanes to 15 feet as requested by the Board, altering the access driveway as requested by the DOT and reconfiguring the parking area at the Board's request as well.

The revised photometric plan shows .1 foot-candles or less to eliminate spillage onto the neighboring properties.

There is a light pole at the Route 31 entrance, which I don't think spills onto the road.

Mr. Parrish noted there was .1 foot-candles at the property line. As you go up the throat it gets more intense.

Mr. Bouchard: The revisions are consistent with the building's elevations. They include a new 9 x 20 freezer/refrigerator unit out of the back of the building adjacent to the dumpster enclosure. This plan also shows revised signage. The top right corner shows a 32 sq. ft. pylon sign. Over the entrance way at the vestibule is a 17 sq. ft. sign. On the bottom left is a street side of elevation, a 15' gable wall sign. The total signage is 64 sq. ft. as requested by the Board.

Mr. Parrish added that does not include the DD logo that you see on the awnings. The word coffee is also in a number of spots. It is on part of the building, not in the windows where you would count signage. I am looking to Wayne for an interpretation as to whether he considers

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that to be advertisement or signage.

Mr. Dean considered that signage.

Mr. Parrish: In order to get down within the signage limits those features would have to be removed.

Mr. Bouchard: This is typical of the Dunkin Donut franchise. If it is something that holds up our approval I am sure the applicant would be willing to remove those logos. The DD is probably a 5 x 5 logo itself. If there is something that the Board does not want to see we would take that off and leave the colors the same.

Mrs. May asked if the coffee signs in the windows would be neon signs.

Mr. Bouchard: No, I believe that they are just lettering on the awning. I also submitted to Mark today the stamped drawings of the retaining wall that would be used on the drive thru side of the drive lane.

Mr. Parrish: Those were submitted late this afternoon. I looked at them quickly. They are a stamped set of drawings that we would not review. It looks like the details/calculations should be correct.

Mr. Dean: We have not received the County's recommendation yet. Their meeting is on the 29th (of September). We should get their response on the 30th.

Mr. Marzullo: We should be in a position to finalize this one way or the other on the 6th (of October). The Board has consistently approved twice the amount of frontage square footage for signage.

**MINOR SUBDIVISION, PRELIMINARY AND FINAL PLAN, PUBLIC HEARING
CONTINUED**

**LANDS OF BELL, BEAR SPRINGS ROAD, 2 LOTS, IANUZI & ROMANS
(SEE ATTACHMENT B: OBG LETTER DATED SEPTEMBER 15, 2010)**

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Representatives: Art Hembold, Ianuzi & Romans
Mike and Mary Bell,
Applicants

Mr. Marzullo noted the public hearing was still open. We will take additional input if anyone would like to speak. Mark, do you have any input based upon your review?

Mr. Parrish: Do you have approvals from the Health Department?

Mr. Helmbold: This has been submitted to the County for their review. They had one comment. It has gone back to them for their review. We will add their approval date to the plan when we get it.

Mr. Parrish explained that there is a note on the plan that says the sewage disposal system had been approved on _____. The date has been left blank. That needs to get completed. Otherwise, if they try to submit the subdivision prior to that, the Health Department typically adds a note indicating those are not building lots until such a time as the sewage disposal systems have been approved.

Mr. Smith: Are they legally required to have an approved septic plan for a subdivision? For building lots yes, but I am asking about the subdivision. Subdividing the lots should be contingent upon that.

Mr. Germain: They can subdivide the lots without it. But for them to take the next step, they would need approval from the Health Department.

Mr. Parrish: I did look at drainage. There is a small area upstream that drains through here. It is not very large. I have suggested since we do not have a grading plan, that the Codes Office should request one. We have outlined a few items that should be considered when the lots are developed to make sure that there is no impact on drainage. I do not think that it is anything that needs to be addressed at this point unless the Board thinks that it does and if Wayne is comfortable with addressing it at that time.

Mr. Marzullo asked if there were any other questions from the Board. (There was no response.) At this point we will continue with the public hearing. (The public hearing was

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opened at 7:10 p.m.) Is there anyone who would like to address this issue? (There was no response.) **If not I will make a motion to**

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

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

(The public hearing was closed at 7:11 p.m.)

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

Mr. Marzullo made a motion to adopt a resolution to approve the application of the minor subdivision preliminary and final plan for the Lands of Bell. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

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

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**SITE PLAN, MAVIS TIRE/COLE MUFFLER
BREWERTON ROAD, PROPOSED RETAIL STORE
MASTROIANNI ENGINEERING**

Representative: Joe Mastroianni, Mastroianni Engineering
Dick Pearce, Pearce
Engineering

Mr. Mastroianni introduced himself and Mr. Pearce. Recently Mavis Tire bought Cole Muffler. They are going through the area renovating Cole Muffler stores and adding new ones. The handout I gave you shows the store in Cicero to be located in the Wal-Mart Plaza between Route 11 and the service road that goes through the plaza.

Mavis has an agreement with the Plaza to buy Parcel 2. We are within the building envelope for that parcel. The building would have four bays on each side. The elevation sheets show six doors on each side, two are dummy doors near the parts/storage area.

We are proposing two entrances to the site, both two-way. Signage here would indicate that anyone turning in here would have to turn to the right because of the limited distance towards the end of the building. There is a walkway going around and handicap ramps on the side. We have a total of 29 parking spaces.

The dumpster enclosure is located back here. It would be constructed out of masonry block and does not face Route 11. The building has concrete block on center. The outside is regular brick. The next sheet shows the corporate colors.

Mr. Parrish: This is a General Commercial District with a 50' front yard setback. After conferring with Wayne, code defines the dumpster enclosure as a structure - - anything that is placed or erected on the ground. We need to maintain that setback.

Mr. Smith: This is a double wide dumpster enclosure made out of cinder block. We have tried to maintain a fairly

stringent appearance along Route 11 with SEFCU, First Niagara Bank, etc. It is a main street in the Town.

Mr. Mastroianni: We can re-locate this so that it is within the 50' setback. It would be brick

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faced and painted white. The building's panels would be a white vinyl.

Mr. Dean: How will you place it so that it meets the setback? You also have a rear yard setback.

Mr. Parrish: Yes, a 25' rear yard setback.

More discussion occurred.

Mr. Parrish: You have that one-way circulation pattern at the one corner. Is there a reason for that access all the way around the building? Or can you move the building so that you can have a two-way drive? That one-way drive creates an awkward traffic pattern.

Mr. Mastroianni: In the agreement with Wal-Mart there is a building envelope laid out. The western edge of the building, the side facing Route 11, is right at the outer edge of that building envelope. In order for Mavis to purchase the lot, anything that is constructed has to fit within that envelope. Corporate also gave us the footprint that they want to use.

Two-way traffic all the way around could be an option. Maybe the building could be shortened.

More discussion occurred.

Mrs. May: is the dumpster where you store the mufflers that are being replaced? Where does all of that scrap metal go?

Mr. Mastroianni: Usually, one dumpster is specified for that.

Mrs. May: How often is it emptied? I don't want to see this overflowing with tail pipes, etc.

Mr. Mastroianni: It is my understanding that Mavis runs a very clean operation. Dumpsters would not be stuffed or overflowing. Tires would not be stacked outside of the area.

Mr. Marzullo: Are you suggesting moving the dumpster off of Route 11? I think that would be good.

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Mr. Mastroianni: Yes. We could possibly put it here, where a truck could pull in, back out and go. I will have to investigate it more. Theoretically, we might be able to shrink the building down a little more.

Mrs. May: Your application says a retail store to sell tires. Would tires be installed at this location?

Mrs. Mastroianni: Yes, they would do tires, mufflers, batteries, etc. Old tires, etc. would be enclosed so that the area is presentable to the public.

Mr. Abbey: I am looking for some indication of sidewalks along Route 11. The Town is looking at that for new developments.

Mr. Mastroianni: Sidewalks would be requested?

Mr. Smith: Sidewalks would be required.

Mr. Mastroianni: That's fine. We would definitely put them in.

Mr. Parrish: We just had SEFCU put in sidewalks. This would be in the middle of the Plaza's frontage. Are we

looking to complete sidewalks off the frontage at this point?

Mr. Dean: Or just off this parcel?

Mr. Parrish: The property lines shown for this parcel are not consistent with the tax map. Is there going to be a subdivision application to create this lot?

Mr. Mastroianni: No this is the survey map that we were given.

Mr. Parrish: I don't know if that lot has been subdivided, so we may need to do a subdivision application as a part of this.

More discussion occurred.

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Mr. Mastroianni: It is our understanding that the lot will be leased but the building will be owned by Mavis.

Mr. Smith: That would affect who puts in the sidewalk. Widewaters leased their lot to the bank and so we required Widewaters to put in sidewalks. We need to be consistent.

Mr. Mastroianni: We will verify that.

Mr. Germain: You really need to clarify if this will be a leased parcel or if you will own it.

Mr. Dean: I have a question about cross access to adjacent parcels. Are they fixed in those locations or can they be changed?

Mr. Mastroianni: They can be movable. Thinking ahead, we thought that the Board might want to have cross access to have a better flow in between.

Mr. Dean: SEFCU's is to the east. If you did have cross access it seems like it would come right through that parcel and stay on the east side of the back parcel away from Route 11.

Mr. Marzullo: I wonder if they are important on this location. It is not like they will exit onto Route 11.

Mr. Dean and Mr. Parrish agreed that was a good point.

Mr. Parrish: I think the SEFCU parcel's shared driveway splits the lots. Half of the driveway is on SEFCU's lot, the other half is on the adjacent lot. The Chairman brings up a good point. You would have connectivity between the lots and the ability to go from lot to lot without necessarily having those cross connections because they all use the internal service road for Wal-Mart.

Mr. Mastroianni: So would the Board like us to remove those?

Various Board members responded yes.

Mr. Mastroianni: In our grading and drainage plan there is approximately a 3'-4' change in

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grading from the properties' edge. The building would be located flattened out here, with some fill added up about 2'-2.5' above where it currently is. Our catch basins tie into the existing drainage structure. That structure is raised up off the ground and has a cap on it. Water would never go that high to get into it.

Our landscaping plan has a variety of lower growing shrubs in the center and ornamental pear trees, lilacs, burning bushes, etc., along the corners. These plants can handle the local climate and salt along Route 11. There is still enough room for a sidewalk along here.

Mr. Smith: The sidewalk has to be in the DOT right- of- way. They want it there. Would the plantings be in that area also?

Mr. Mastroianni: No, we would pull the plantings back.

Mrs. May: Do you have plenty of room for snow storage?

Mr. Mastroianni responded yes.

Mr. Parrish: There is a 20' sanitary sewer easement along Route 11. We would not want trees located over the sewer, but low shrubs, etc should be fine. Larger trees should be moved out of that easement. They could be moved back.

Mr. Mastroianni agreed. The site will also have curbing. Corporate is still deciding if they are going to put lights in the parking lot. I understand that the Board needs that information. As far as signage, we know that there will be signage on both sides of the building, but no free standing signs at this point.

Mr. Parrish: We will need to get those dimensions. We will get a list of comments for the applicant probably later this week based upon tonight's discussion and our review.

Mrs. May: Do you have a drive thru bay?

Mr. Mastroianni: No.

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Mr. Honors: Eight physical lifts inside?

Mr. Mastroianni: Yes.

Mr. Card: How many employees?

Mr. Mastroianni: They are estimating that for any given shift, 10-12 people during the busy periods. One or two

people would be in the reception area. The rest would be workers in the bays.

Mr. Smith asked for the hours of operation.

Mr. Mastroianni: Typically 9 until 8 with no Sundays.

Mr. Abbey: Would you be changing oil, etc?

Mr. Mastroianni: No oil or need for grease traps, etc. They do mufflers, tires, brakes, batteries and exhaust systems.

Mr. Marzullo: 10-12 employees leave enough parking for 13-15 customers. Be prepared next time to discuss how you arrived at those numbers.

Mr. Dean: This has not gone to the County yet. Does the Board feel it is sufficient enough to go down?

Various Board members responded yes.

SITE PLAN, PUBLIC HEARING CONTINUED

LUCIEN'S ENTERTAINMENT COMPLEX, INC., 7800 BREWERTON ROAD

PROPOSED RESTAURANT AND NIGHT CLUBS

CRISSEY ARCHITECTURAL GROUP, LUCIEN ALI SR.

(SEE ATTACHMENT C: OBG LETTER DATED JULY 30, 2010)

(SEE ATTACHMENT D: VOLUNTARY AGREEMENT)

(SEE ATTACHMENT E: HARRIS BEACH PLLC LETTER DATED SEPTEMBER 16, 2010)

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Representatives: Peter Crissey, Crissey Architectural Group

Lucien Ali Sr., Applicant

Mr. Marzullo reminded audience members that the public hearing was left open for further comments at the last meeting.

Mr. Crissey explained since the last time he was before the Planning Board, he had met with the Zoning Board of Appeals. They approved the variances for the drive lanes. They approved 16' for the one-way traffic lanes, two of the two-way traffic lanes for 20' and 19'6" for the one drive between the two buildings.

We have submitted the plan to the DOT and have a letter with their approval. The referral indicated that they wanted the south driveway closed. When I spoke with the lady from the County she had no idea where that came from. The DOT has approved the drawing that you see in front of you.

There is absolutely no desire from the owners of Lucien's or the owners of adjacent property (Frank Fava) to have any cross easements.

It was suggested that we relocate the granite sign. We have moved it 20' back from the property line. We have added signage to the buildings. All are in compliance with Code. I believe that the Board also has copies of the agreement.

Mr. Germain: The agreement has been signed and fully executed by the applicant.

Mr. Abbey: The granite sign needed to be moved. Were there any restrictions for the flag pole?

Mr. Marzullo asked for Wayne's interpretation.

Mr. Dean: I guess by the strict interpretation of the code, it is a structure. But, I don't feel that it is an issue. It is a little different from a sign or a deck.

Mr. Smith agreed. Neal, do you have anything on the agreement?

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Mr. Germain: The agreement was offered by the applicant. It has been reviewed by the applicant's attorney. We reviewed it. It is legally sufficient to my mind. I think that the basis of the agreement put forth by the applicant was to allay some of the concerns the Board had. The applicant looked over the course of the dialog/discussion focusing in on the primary concerns the Board had and putting them down into an agreement which would allow the Board to act within a year to revoke or review the site plan based upon the uniqueness of this project. We believe this is the first time something has been done like this within the Town. There was some uncertainty as to how much parking the entertainment center would need and the impact to neighbors.

The applicant has given us an agreement to try to cover those concerns. This allows the Board to basically rescind or revoke site plan approval. For example, if things are not going well over there and the Board is not happy with the parking situation or there is a dangerous condition or something that the Board feels needs attention, the Board would have the right with 10 days notice to call the applicant in and review their site plan. That is something that you do not have under normal conditions with site plan approval.

Since this agreement has been volunteered to you, if the Board chose to approve the site plan, approval would be conditional. The condition would be that the site plan would remain open. The Board could look at the appropriateness of use for the property and make sure that it was running the way that it was supposed to be---in an efficient and safe manor. If there was a problem, the Board could notify the applicant and correct the problem. If it is not corrected, the Board would ultimately have the right to bring the applicant in and address it by way of revising the site plan and/or revoking site plan approval.

Mr. Smith asked about the procedure for this. Does it require Wayne bringing it to the Board? Are Board members responsible for bringing it to the Board?

Mr. Germain: Authority would rest with the Board to revise or revoke the site plan. Since that authority rests with the Board, I guess your question is how would the Board find out there is a problem? The Code Enforcement Officer or your constituents are going to call you if there is a problem. Or, you could do it yourself. If one of you is inclined to believe that there is a problem at the site, or there is a concern to your Code Officer that this needs to be addressed, at that point all you would have to do is resolve it is to give a ten day notice to come back in

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front of the Board.

Mr. Honors: Is this agreement based upon volume alone?

Mr. Germain: There is a definitive answer for the number of parking spaces and things like that. Areas of concern for the Board included snow removal, parking, the neighbors to the north, access, hours of operation, etc. The applicant has addressed those concerns in this agreement.

Mr. Marzullo: How about noise?

Mr. Germain: There are Town ordinances on noise for noise control. I believe the only thing that addresses noise in the agreement is that the applicant volunteered to fix the doors in the back that face the residential area. That is designed to keep the noise down, away from an area in the Town where it is not wanted. If the noise does get out of hand that is more or less a police enforcement issue.

Mr. Marzullo: Realizing that is a police issue, is that something that this Board could bring the applicant back in for?

Mr. Germain: Certainly that would cover it. There is a catch-all in the agreement within paragraph four that states that Lucien's Entertainment will voluntarily consent to a condition to its' site plan approval permitting the Planning

Board in its sole discretion and on notice. In its' sole discretion means you can bring them in.

You can not itemize every single thing that might happen to this property. But they have given you the ability to bring them in.

Mr. Smith: We all received this letter from Harris Beach, PLLC which we should give some consideration to. Have we considered it?

The Board responded yes.

Mr. Smith: What are you indicating now for the planters?

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Mr. Crissey: It indicates that they are concrete planters, 4' diameter spaced 7' between. The pavement would be left underneath them, with striping.

The Board felt the planters should be spaced closer together.

Mr. Ali Sr.: We have been talking about putting in more of a fence line as opposed to just simple planters. It would be totally sealed off all of the way through. If that is acceptable to the Board, we would do something like that.

Various Board members agreed.

Mr. Marzullo: That would be fine. We would need more of a description on what you are talking about. Would it be planters with fencing in between?

Mr. Ali Sr.: A small rail fence, 3' to 3.5' high. That would go with the theme of one of the nightclubs. It would be very simple.

Mr. Smith: We would not want a solid fence.

Mr. Ali Sr. agreed. It would be like a rail fence with posts. There would be no way to drive through. You would have to jump over it. We would be more than willing to do that.

Mr. Parrish questioned the height of the fence stating I think that you need to look at what your objective is. If your objective is to stop vehicular traffic, that certainly will do it. If your objective is to stop pedestrian traffic, I would suggest that a 3'-3.5' high fence would not do that. Pedestrians could go over and/or under it.

More discussion occurred.

Mr. Ali Sr.: I was thinking of a wood fence with a top and a lower rail and posts that are 6'-8' apart. It would probably be painted white or the same color as the building a tan color.

Mr. Smith: One type would be a fence-rail; the other would be split wood?

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Mr. Ali Sr.: Yes. The planters could be individual planters or would planters on top be okay?

Mr. Marzullo: Does the Board want to give Mark and me the authority to approve this issue? We could ask Mark to review it and then add my final approval.

The Board agreed.

Mr. Card: It does not look like there are very many handicap parking spaces. Is there some guideline or requirement that you used to determine the number of those spaces needed?

Mr. Crissey: Basically Code requires one for every 25 parking spaces. It is state code.

Mr. Smith: The Harris- Beach letter also refers to snow removal. It asks that snow not be pushed over to the property line.

Mr. Germain: The applicant can store snow on his own property. He has the right to do that, but he has agreed to remove the snow from the property as necessary.

Mr. Marzullo opened the public hearing. (The public hearing was opened at 7:59 p.m.) Is there anyone who would like to address the Board on this issue? (There was no response.) If not, **I will make a motion** to close the public portion of the meeting. **Mr. Smith seconded the motion.** The motion was approved with the following vote:

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

(The public hearing was closed at 8:00 p.m.)

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 shall not have a

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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. Card:	Yes	
Mr. Honors:		Yes
Mr. Abbey:		Yes

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

Mr. Smith made a motion to move for the adoption of a resolution approving the application of Lucien's Entertainment Complex Incorporated for site plan approval dated September 16, 2010. Said approval is conditioned upon the terms and conditions of a voluntary agreement executed by the applicant and is hereby attached to and made a part of the applicant's site plan. The Chairman of the Planning Board and the Planning Board Engineer shall approve a split rail, solid fence between the applicant's property and the adjacent property to the north. **Mrs. May seconded the motion.**

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

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

INFORMAL DISCUSSION: SIDEWALK MAINTENANCE

Mr. Marzullo: The Planning Board has requested that the Town Board create an ordinance for sidewalk maintenance. They have given us examples of what other municipalities have done. I would like to make a motion to recommend one of those examples. I believe I heard that Liverpool had the best.

Mrs. May agreed.

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Mr. Smith: The Village of Liverpool's has some teeth in it. It states that the Village can add sidewalk costs to the

properties' taxes. I agree with Sharon that this seems to be the best.

Mr. Germain: I think that they are all equally sufficient and functioning. Liverpool's does have more enforcement built into the actual statute. It also has specs in it. I'm not an engineer but putting specs in could be a two edged sword. I don't know how that would translate to each and every situation within the Town.

Mr. Smith felt the Town Board should look to Wayne, the engineer and the highway department for specs.

Mr. Parrish: If you were going to recommend Liverpool's, my recommendation would be to keep it with the exception of the technical stuff. The Town Board may want to consider those as part of their ordinance.

More discussion occurred.

Mr. Smith made a motion to recommend to the Town Board that

1. We follow the format of the Village of Liverpool's sidewalk ordinance.
2. We take into consideration construction standards coming from the Codes Office, Highway Department and the Engineer.
3. We would follow the format given by the Town Board for enforcement.

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

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

Mrs. May made a motion to adjourn. **Mr. Marzullo 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 8:10 P.M.

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ATTACHMENT A:

September 16, 2010

Planning Board

Town of Cicero

P.O. Box 1517

Cicero, New York 13039-1517

Attention: Mark Marzullo, Chairman

RE: Cafua Management (Dunkin Donuts) 5865 Route 31 Site Plan Review

FILE: 0101/25439.384

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) General Notes and Legend dated May 15, 2010 last revised August 10, 2010
- 2) Demolition Plan dated May 15, 2010 last revised August 10, 2010
- 3) Layout Plan dated May 15, 2010 last revised September 13, 2010
- 4) Grading Plan dated May 15, 2010 last revised August 10, 2010
- 5) Landscape Plan dated May 15, 2010 last revised August 10, 2010
- 6) Site Details (2 sheets) dated May 15, 2010 last revised August 10, 2010
- 7) Photometric Plan dated May 19, 2010 last revised September 13, 2010
- 8) Exterior Elevations dated August 28, 2010 last revised September 7, 2010.

Clough Harbour Associated prepared the above items.

The 1.43-acre site is located on the north side of New York State Route 31 approximately 200 feet east of the Interstate Route 81 interchange. The lot contains an existing 1,900 square feet building along with associated parking, landscaping and associated site improvements. It is proposed to make modifications to the site for a proposed Dunkin Donuts including a drive through window to be located on the west side of the building. The site is zoned General Commercial. Our comments on the Site Plan are as follows:

- 1) The site has frontage and an existing curb cut onto New York State Route 31, which is a State highway. A 60-foot Ingress & Egress Easement is located along the east side of the property and the entrance to the site is shared with the parcel located northeast of the site. Information has been provided indicating the access to the site and modifications to the curb cut, which generally consist of narrowing the entrance and striping, have been approved by the New York State Department of Transportation (NYSDOT). The following are additional comments on site access, parking and site circulation:
 - a) Although the NYSDOT has granted approval for access to the site it should be noted the entrance to the site is sometimes blocked by vehicles queued at the traffic signals for the Route 31/Route 81 Interchange. This condition along with the volume of traffic on Route 31 and proximity of the site to the interchange will make access to the site, particularly left hand turns onto Route 31 and lane changes for vehicles desiring to access the Route 81 South On-Ramp difficult.
 - b) The Board should review the modifications to the site circulation and parking with the Applicant. It is noted the building is to be modified to provide a 15-foot wide drive aisle along the west side of the building to allow vehicles to bypass the drive through, if desired. The basis for the number of parking spaces required for the site is not provided on the Plan and should be reviewed with the Applicant.
 - c) The Board should confirm that adequate access is provided for emergency services.

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ATTACHMENT A: (CONTINUED)

- 2) Stormwater runoff from the site is tributary to drainage facilities located along Route 31 and the adjacent property. 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 modifications to the site should not have a significant impact on stormwater runoff patterns.
- 3) The site is located within the Cicero Sewer District and the Cicero Water District. No modifications to the services for these utilities are noted on the Plan.
- 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 proposed lighting generally appears reasonable for the site use. It is noted the Exterior Elevations show lighting above the awnings that is not represented on the Photometric Plan. This should be reviewed with the Applicant.
 - b) The signage consists of a pylon sign located along Route 31 and building mounted signage along with directional signs and menu boards for the drive-through. For the Board's information the frontage of the building is approximately 33 feet and the total signage shown on the Plan is approximately 64 square feet. The signage area noted does not include logos and "Coffee" signs located on the awnings.
 - c) A general detail of the retaining wall along the west side of the site has been provided. However, a final design of the retaining wall performed by a licensed professional engineer or architect should be provided.
- 5) The site does not contain a Federal Wetland as identified on the National Wetland Inventory Map or a State Wetland as identified on the New York State Freshwater Wetland Map.
- 6) The site is not located within a 100-year flood plain or floodway as identified on 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

ATTACHMENT B:

September 15, 2010

Planning Board

Town of Cicero

P.O. Box 1517

Cicero, New York 13039-1517

Attention: Mark Marzullo, Chairman

RE: Lands of Bell Subdivision Final Plan Review

FILE: 0101/25439.391

Dear Board Members:

We have reviewed the Final Plan dated July 9, 2010 revised August 16, 2010 prepared by Ianuzi & Romans Land Surveying, P.C. in regard to conformance with the Town Code requirements for subdivisions and effect on Town utilities and roads. The 8.478-acre site is located on the east side of the Bear Springs Road approximately 1,400 feet north of Mud Mill Road. The site is undeveloped and is generally wooded. It is proposed to subdivide the site to create two lots 4.267 and 4.211 acres in area. The site was part of the Bear Creek subdivision, which had a Preliminary Plan application under consideration by the Planning Board. The application for that subdivision was withdrawn and a simple subdivision plan has been approved for the portion of the Bear Creek subdivision east of this property. The site is zoned R-12 Residential. The Plan is in general conformance with Town Code requirements for subdivisions 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 and notes that the systems have been approved by the Onondaga County Department of Health. The date of the approval should be noted on the Plan.
- 2) The site has frontage along Bear Springs Road, which is a Town highway. The location of driveways, the provision of driveway culverts and any other required improvements within the Town road right-of-way should be coordinated with the Town Highway Department.
- 3) Stormwater runoff from the site generally sheet flows to adjacent properties and drainage facilities along Bear Springs Road. In general the project should have minimal impact on stormwater runoff if existing stormwater runoff patterns are maintained, discharge from the site remains as sheet flow and runoff from the buildings and driveways is directed to the drainage facilities along Bear Springs Road. Also, a review of the drainage report for the previous subdivision application indicates stormwater runoff from the area south of the site drains across the lots. The lots should be developed such that stormwater runoff from this area is conveyed through the site. As a Grading Plan has not been provided definitive comments relative to impacts on stormwater runoff cannot be provided. The Codes Enforcement Office may desire to request and review a grading plan when a building permit is requested for the lots to confirm the development of the lots will not adversely impact stormwater runoff patterns.

Information should be provided on the area to be disturbed as a result of the development of the lots. If more than 1-acre of land will be disturbed a New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activities is required for the project. If the Permit is required and less than 5-acres of land is to be disturbed the Stormwater Pollution Prevention

ATTACHMENT B: (CONTINUED)

Plan for the project needs to address erosion and sediment control measures and does not require that stormwater quantity and quality measures be provided.

- 4) The site is located within the Bear Spring Water District. Water service can be provided by a water main located along Bear Springs Road. The applicant should coordinate provision of water service with the Onondaga County Water Authority (OCWA).
- 5) The New York State Freshwater Wetland Map and National Wetland Inventory Map do not indicate any State or Federal wetlands are present on the site.
- 6) The site is not located within a floodplain per the 1994 FEMA Flood Insurance Rate Maps.
- 7) An electric line within a 100-foot wide New York Telephone easement bisects the lots. The use of this area will be subject to the conditions of the easement.

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

ATTACHMENT C:

July 30, 2010

Planning Board
Town of Cicero
P.O. Box 1517
Cicero, New York 13039-1517
Attention: Mark Marzullo, Chairman

RE: Luciens' Entertainment Site Plan Review
FILE: 0101/25439.377

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 July 27, 2010
- 2) Site Lighting Plan dated July 27, 2010
- 3) Traffic Impact Assessment dated June 29, 2010.

The Crissey Architectural Group prepared Items 1 and 2 and GTS Consulting prepared Item 3.

The 3.419-acre site is located on the east side of U.S. Route 11 and is bordered on the south by residential properties along Kopp Avenue. The lot contains a former car dealership with two buildings and associated parking, landscaping and other site features. It is proposed to utilize the northerly building as a restaurant and the southerly building as nightclub/entertainment complex along with associated modifications to the parking, landscaping and other site improvements. Our comments on the Site Plan are as follows:

- 1) The site has two entrances onto U.S. Route 11, which is a State highway under the jurisdiction of the New York State Department of Transportation (NYSDOT). The Traffic Impact Assessment indicates no modifications to the entrances or surrounding highway system are necessary to accommodate the proposed development. However, based upon comments from the NYSDOT the southerly entrance has been modified to an entrance only and adjustments to the curbing at the entrances have been made. Due to the unique nature of the use the Applicant has not been able to provide a basis for the required number of parking spaces. A review of parking standards for similar uses indicates the parking spaces available are on the low end of the number that may be required. In order to address this the Plan indicates the following to address this:
 - a) Use of offsite parking areas for employees and/or patrons.
 - b) Provide snow removal from the site to reduce loss of spaces from snow storage areas.

The Applicant has indicated an agreement would be provided that allows the Planning Board to review the parking and other site issues after the project has been operating. A copy of the agreement has not been provided at this time. Issues the Board may wish to consider as the agreement is developed include:

- a) There are minimal pedestrian facilities along Route 11, which makes the use of offsite parking areas undesirable without transportation to and from the facility.
- b) It will be difficult to control parking in adjacent businesses and associated pedestrian traffic should the capacity of the parking lot on the site be exceeded.

ATTACHMENT C: (CONTINUED)

- c) Large amounts of snow will need to be removed from the site there is minimal area provided for snow storage.

The following are additional comments relative to the site circulation and parking:

- a) The Planning Board Attorney has indicated a variance should be obtained for the drive aisles that are less than 20-feet in width. This will need to be obtained prior to approval of the Site Plan.
- b) The angle and width of the angled parking spaces should be specified on the Plan to confirm the size of the spaces is adequate.
- c) The Board may wish to obtain input from the Fire Department relative to emergency access to the site.
- d) Route 11 should be labeled on the Plans.

- 2) Stormwater runoff from the site is tributary to stormwater facilities along Route 11 and existing storm sewer facilities on the site. The project should not have a significant impact on stormwater runoff as there is minimal disturbance or changes to existing stormwater runoff patterns. As less than 1-acre of land is to be disturbed a NYSDEC SPDES Permit for Stormwater Discharges from Construction Activities is not required for the project.
- 3) The Board should review the landscaping, lighting, signage, buffering and architectural elevations with the Developer. The following are comments regarding these issues:
 - a) The lighting generally appears reasonable subject to the following comments:
 - i) The number of fixtures noted in the Luminaire Schedule for the LP-A, LP-B and WP-B types is not consistent with the fixtures shown on the Plan.
 - ii) The light trespass along the easterly, northwest and southwest corners of the site exceeds the 0.1 FC required by the Planning Board. It is noted these areas are commercial or vacant properties.
 - iii) The note on the Site Plan indicating all lights are existing should be removed from the Plan.
 - b) Issues relative to potential sound impact on the adjacent residential neighborhood should be reviewed with the Applicant.
 - c) Details of any freestanding and building mounted signs should be provided along with a summary of the total square feet of requested signage. For the Board's information the building frontage is approximately 215 feet. The monument sign that is shown to be relocated should be set back 20-feet from the right-of-way line.
 - d) The Board should review the provided architectural elevations with the Developer.
 - e) The days and hours of operation of the uses noted on the Site Plan are not consistent with those discussed at the Planning Board meeting and should be modified.
 - f) The following are items that are required by the Town Code that could be waived by the Planning Board should the information not be considered to be pertinent to the project:
 - i) The location of the existing storm sewer system, water services and sanitary sewer services on and adjacent to the site should be shown on the Plan. The Plans do not show any modifications to these facilities.
 - ii) The Town Code requires existing and proposed topography be provided. It is our understanding that no modifications to the site grading are proposed for the project.
- 4) The site is located within the Cicero Sewer District. No modifications to the sanitary sewer service are shown on the Plan. However, it is likely a grease trap will be required for the restaurant and possibly the night club. The location of these facilities and the connection point to the existing sanitary sewer laterals should be shown on the Plan.
- 5) The site is located within the Cicero Water District. No modifications to the water service are shown on the Plan.

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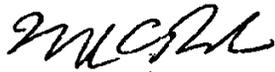
ATTACHMENT C: (CONTINUED)

- 6) The site does not contain a Federal Wetland as identified on the National Wetland Inventory Map or a State Wetland as identified on the New York State Freshwater Wetland Map.
- 7) The site is not located within a 100-year flood plain or floodway as identified on 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

PLANNING BOARD MEETING

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ATTACHMENT D

VOLUNTARY AGREEMENT

Whereas The Applicant, Lucien's Entertainment Complex, Inc., has made an application to the Town of Cicero for Site Plan Approval pursuant to Town Code Section 210-27; and

Whereas, the Planning Board believes that the proposed Site Plan shows enough parking to meet the anticipated number of patrons. However, in light of the fact that this proposal is relatively unique to this area and that the exact number of patrons is unknown at this time, Lucien's Entertainment desires to provide a mechanism to permit the Planning Board to revoke the Site Plan for adequacy of parking as well as any other issues related to the operation of Lucien's Entertainment at any time the Planning Board, in its sole discretion, may require. Accordingly, the applicant agrees as follows:

Lucien's Entertainment will voluntarily consent to a condition to its' Site Plan approval permitting the Planning Board in its sole discretion and on notice of at least ten (10) days, which is deemed reasonable, to require Lucien's Entertainment to appear in front of the Planning Board for revision or revocation of its Site Plan Approval . The period of time in which the Planning Board shall have the right to review and/or revoke the Site Plan shall end one year after the day that Lucien's is issued a certificate of occupancy.

In recognition of the fact that the initial opening of the facility is likely to cause a temporary spike in attendance numbers which is unlikely to be sustainable over time, it is agreed that any such required revocation and/or revision will not occur until the facility is in operation at least thirty (30) days . Lucien's Entertainment agrees to cooperate in any measures to deal with traffic or any other issue related to its operation during the possible initial spike upon being advised by the Town's Code Enforcement Officer of any such issues.

The Applicant, Lucien's Entertainment has also proposed and agrees to the following conditions to their application for Site Plan Approval:

1. There shall be no cross access to the property to the north of the subject property. The Applicant shall block vehicular and pedestrian access to this property as per the Applicant's last revised Site Plan.

ATTACHMENT D: (CONTINUED)

2. The night club's hours of operation in the former Infinity Building shall be strictly limited to Friday and Saturday nights between the hours of 10:00 p.m. and 2:00 a.m.
3. The Applicant shall provide staff outside the building to provide security and oversee and direct patrons in the parking lot. Said staff shall promptly provide a sign indicating the lots are full when the capacity is reached. Said staff shall also monitor parking lots on adjacent properties to discourage unauthorized parking in these areas.
4. The Restaurant adjacent to the night club shall not operate or serve the public after 10:00 p.m. on Friday and Saturday nights so as not to operate at any time when the night club is in operation.
5. The garage doors at the former Infinity Building shall be permanently affixed so as to block all ingress or egress from these doors.
6. There will not be any nude or "adult" type of entertainment on the property.
7. As may be necessary the applicant shall accommodate employee and possibly patrons parking on offsite areas including the provision of transportation to and from these areas.
8. In the event that snow obstructs the use of the parking area, the applicant will remove the snow from the premises. Said snow will not be placed on any neighboring property without the express consent of the neighboring property owner.

The applicant specifically requests and agrees that the terms and conditions as set forth in this letter of agreement shall be incorporated without merging into any approval by the Town of Cicero Planning Board.

Lucien's Entertainment Complex, Inc.

By: _____

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ATTACHMENT E:

HARRIS BEACH
ATTORNEYS AT LAW

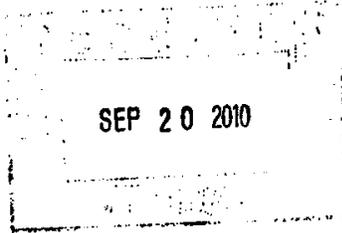
ONE PARK PLACE
300 SOUTH STATE STREET
SYRACUSE, NY 13202
(315) 423-7100

TIMOTHY A. FRATESCHI

DIRECT: (315) 214-2035
FAX: (315) 422-9331
TFRATESCHI@HARRISBEACH.COM

September 16, 2010

Mr. Mark Marzullo
Chairman
Town of Cicero Planning Board
Town Hall
8236 S. Main Street
Cicero, New York 13039



Re: Lucien's Entertainment Complex, Inc.
0306525/234802

Dear Chairman Marzullo:

Thank you for considering our letter of concern of July 29, 2010 regarding the application for Site Plan approval for the proposed Lucien's Entertainment Complex, Inc. ("Lucien's" or "Lucien Proposal").

We have reviewed the latest Site Plan presented to the Board, prepared by The Crissey Architectural Group and dated July 27, 2010 (no revision date) but stamped received July 30, 2010. I have reviewed this Site Plan with our client, B & F Development, Inc. (our "Client" or "B&F"), and offer the following comments:

- i. We still have a serious concern over the proposed 4' planters spaced at 7' intervals. While this may eliminate vehicular traffic from going across our Client's property line, we believe the spacing will allow (if not encourage) pedestrian traffic onto our Client's property. Further, Lucien's customers will be able to park on the B & F property and walk over to Lucien's facilities if this gap exists. We request a solid row of planters or some other method of filling the 7' gap;
- ii. The maintenance and upkeep of these planters should be spelled out in any Site Plan approval so that they do not become an eyesore along the property line;
- iii. A photometric plan should be provided to ensure that no new lighting will spill onto the B & F property;
- iv. While the Applicant has indicated that they would provide sufficient enforcement of the Site Plan conditions, our Client is concerned that this will not be done adequately, especially as it relates to parking. In the event that the Applicant's enforcement activities are not sufficient, we

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ATTACHMENT E: (CONTINUED)

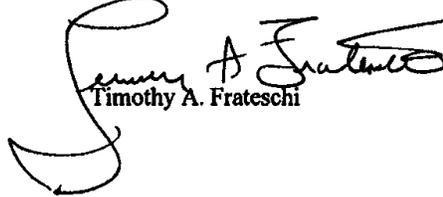
request that our Client be allowed to hire personnel to keep Lucien's customers from parking on its lot and charge that expense to the Applicant;

- v. While we see that there is a small area for snow removal at the south property line, we request that a condition be included that prohibits any snow storage on or near our Client's property line. Snow melt in this area will have a significant adverse affect on our Client's property because of the impervious nature of this lot;
- vi. We request that the Applicant enter into an agreement to indemnify and hold our Client harmless for any accidents, harm or claims arising out of Applicant's customers parking on our Client's property.

Thank you again for your consideration and attention to our Client's concerns and recommendations related to this Site Plan. We would be pleased to discuss these concerns with you or your staff at the Office of Planning and Development at your convenience.

Thank you for your consideration in this matter.

Very truly yours,



Timothy A. Frateschi

TAF:ams

cc: Mr. Wayne Dean
Mr. Frank Fava
Mr. Neil Germain, Esq.
Mr. Scott Chatfield, Esq.

DATED: SEPTEMBER 27, 2010

Tonia Mosley, Clerk

