

The Planning Board of the Town of Cicero held a meeting on **Monday, September 26, 2011** at **7:00 p.m.** in the Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

Agenda:

- Pledge of Allegiance
- Approval of the minutes from the September 12, 2011 meeting (**approved with corrections**)
- Zone Change Recommendation, Mid-Country Properties, LLC, Jack I. Brown, Theresa L. Redding, Ronald j. & Luann Burke, Andrew N. & Olga Guzelak, Corner of Mudmill and Brewerton Roads, General Commercial to General Commercial Plus (**positive recommendation to the Town Board**)
- Major Subdivision Final Plan, Kildare's Meadow, North side of Orangeport Road, Opposite LeBeau Lane, 35 Lots (**approved**)

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

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

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

APPROVAL OF THE PLANNING BOARD MINUTES FROM SEPTEMBER 12, 2011

Mr. Smith made a motion to approve the Planning Board minutes from September 12, 2011 noting three grammatical changes. **Mrs. May seconded the motion.** The motion was approved with the following vote:

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

**ZONE CHANGE RECOMMENDATION, MID-COUNTRY PROPERTIES, LLC,
JACK I. BROWN, THERESA L. REDDING, RONALD J. & LUANN BURKE,
ANDREW N. & OLGA GUZELAK
CORNER OF BREWERTON AND MUDMILL ROADS
GENERAL COMMERCIAL TO GENERAL COMMERCIAL PLUS
IANUZI & ROMANS**

Representatives: Hal Romans, Surveyor and Planner, Ianuzi & Romans Land Surveying, P.C.
Joe Panebianco, Mid-Country Properties, LLC

Mr. Romans introduced himself as the surveyor and planner for the five applicants. We met last March at a pre-agenda work session with the Planning Board to discuss the property that Mid-Country picked up that is approximately 7.7 acres. It is bisected by power lines here with rights to cross it. We talked about coming in for a zone change from General Commercial (GC) to General Commercial Plus (GC Plus). At that meeting it was suggested that maybe we should contact the adjacent property owners to see if any other properties would be interested in joining in on this application. We have the Burke property which is approximately 5.4 acres, the Guzelak property which is 2 acres, the Brown property which is approximately .8 acre and the Redding property which is the small house lot here that is approximately .4 acre and the Mid-Country property for a total of 16.6 acres.

My initial client, Mid-Country, just owns this parcel here and has no intention of buying the other parcels. He would do a business similar to Sunset Rentals or Taylor Rentals. He would also have the ability to rent, sell and service larger equipment for contractors, for example a large bulldozer or backhoe. A weekend warrior or resident could come to the rental shop. Or JK Tobin or Lan-Co who might want to rent a dozer for a month or season. They could come in to rent, lease or buy that bulldozer. Eventually, if we get the zone change and after the site plan process, Mid-Country could also service the vehicles that they sell, rent or lease.

Mr. Smith: Would that be to service their own vehicles, their own fleet?

Mr. Romans: Correct, just for their fleet and for equipment bought from them.

Mrs. May noted the resolution from the Onondaga Planning Board (SOCPA). The resolution

states that it is 16.3 acres. You noted 16.6.

Mr. Romans: When you add up the tax map parcel acreage, you get the 16.3. But, because tax mapping makes some assumptions when making lots and really isn't for conveyance, our application and our mapping for the zone change shows that it is really 16.63 acres. The acreages that I quoted you earlier are all tax map acreages.

The Burke property is currently being used as commercial property. I think that its' primary business is similar to a packaging/sales place. For example, if you have a business that uses bubble rap, the Burkes would sell you that type of material.

I believe that the Guzelak property has a large storage building back in this area. I believe he uses that primarily for storing his equipment.

The Brown property holds Central New York Glass sales. It is the old gas station.

The Redding property currently holds an owner occupied house.

All of the property on this side of Brewerton Road is currently GC. The property on the other side of the street is primarily GC, except going south where there are a couple of residential properties.

As you know GC allows shopping centers, hotels, motels, gas stations, service stations, car washes, restaurants, drive-ins, health related facilities, light assembly, automotive sales and service, and veterinary clinics by site plan. GC Plus includes all of those uses adding five more: parking garage, parking lots, warehousing and distribution facilities, automotive repair and garage facilities, and manufacturing and assembly. It also includes any other uses where the Planning Board finds that such proposed use meets the statement of intent and is of the same general character and intensity as those uses allowed. The Planning Board is authorized to construe this subsection liberally and broadly so as to allow for a co-existence between commercial uses and light industrial uses in a GC Plus district. Looking at the type of operation that Mid-Country was going to try and locate here, it seems like it meets GC Plus similar to when Hancock Airpark was turned over to GC Plus.

Again, we went to adjacent property owners. Four of them wanted to get on board because it provided a few more uses---all of which would be subject to Planning Board review. It makes sense in this area. I think that the closest public sewer might be north near LeBeau Acres. I don't picture public sewers being brought down here for any use that would fit into these parcels. I don't see any immediate demand for it. All of these uses can function off of a private septic system.

We did get a copy of the SOCPA referral. They offered the following comments: the applicant and municipality will be required to coordinate highway access and internal road networks with the Onondaga County Department of Transportation (OCDOT) and the New York State Department of Transportation (NYSDOT) should the Town approve the zone change. Mudmill is a county road. Brewerton is a state road. That was based on if the zone change was granted. These things typically fall under site plan approval.

If we get the zone change, Mid-Country knows as part of site plan approval we would approach NYSDOT for a single access onto Brewerton Road. The SOCPA referral also notes the applicant would be required to get sewage disposal approval from the County Health Department. It would be a private septic system, whether it was GC or GC Plus. The SOCPA report notes that the applicant would be required to work with the New York State DEC (NYSDEC) to establish if there are any endangered species present. In filling out the long form EAF, we checked the NYSDEC website. There is a broad area here that extends from south of this property and well north of LeBeau Acres that shows a potential for some kind of threatened species or rare plant. Years ago there was some indication of something in that area. If we were to go through site plan approval for GC or GC Plus, we would bring a wetland biologist on board to investigate and see if there was anything out there.

Mid-Country bought these 7.7 acres after it was logged by the previous owner. Old aerial photographs show that the area was fairly wooded around 2008. When Mid-Country bought these 7.7 acres in 2010, it had been logged. They cleaned up the slash/debris and seeded. I have before and after pictures. This operation would only be upon Mid-Country's property. Typically that would be a 10,000 sq. ft. building with a display area up front and a drop-off and service area in the back.

I want to make sure everyone understands what my initial client, Mid-Country, owns and that

he is really only concerned about his 7.7 acres. But, rather than re-spot zoning this one 7.7 acres as GC Plus, this Board suggested there might be additional properties nearby that might want to join in. That was when the other four applicants came on board.

The only expansion that I know that might happen in the future, if the zone change goes through, would be an expansion for Burke. That would be independent from Mid-Country. The other zone change applicants: Brown, Redding and Guzelak, have nothing planned. Again there are five applicants on the zone change application. All five approve the change, and signed their names on the application.

More discussion occurred.

Mr. Smith: Our action here would be to make a non-binding recommendation to the Town Board?

Mr. Germain: Correct. You would make a recommendation yeah or nay.

Mr. Marzullo: Is SEQR required?

Mr. Germain: Yes, you should do SEQR.

Mr. Ruscitto: Thank you for explaining the difference between GC and GC Plus. Your client can not do what he wants to do without the zone change?

Mr. Romans: Yes. When you look at it, it sounds like his operation should be in an Industrial or GC Plus District. The Town has a large supply of Industrial property on the other side of Route 81. The problem with a lot of the parcels over there is that they are large parcels whose owners are reluctant to sell off 7-8 acres. This piece makes sense for his type of operation because 60% of his customer base is residential home owners or someone working on their property.

Mr. Ruscitto: If this is changed how will this affect the residents? Recently there was an area within the Town where if the house burned down, the owners could not get mortgages to re-build. How would that play out in this area?

Mr. Romans: Even though these houses are being used as residences, they are currently zoned GC. They are not zoned residential and basically operate under your existing, non-conforming code. I believe that banks were worried that if certain houses burned down, they would not be able to re-build. I believe that a law was passed recently stating that the property's owner had a certain amount of time to re-build the house as a residential use.

Mr. Ruscitto: I am sure that will come up at the Town Board meeting.

Mr. Romans: I am sure that it will. Bob Ventre will be with me at that meeting. I am sure that he will be able to explain the law part of this better than I could.

Mr. Honors: To clarify, the real reason for the zone change is because of the repair equipment?

Mr. Romans: Yes and the fact that some customers would be larger contractors. There is also a number of smaller contractors that are start up contractors who don't own their own equipment. They may lease equipment for long periods. Because of that I believe that it falls into more of a contractor's yard. However, this business would not turn away anything residential. Mid-Country looks at residential customers as a core component of their business.

Mr. Abbey: Do you know if they would get into the renting of large cranes?

Mr. Panebianco: We do have a large crane division out in Iowa. We do not foresee that here in the near future.

Mr. Abbey: I'm asking that because of the power lines. There would be issues with taller equipment under those lines.

Mr. Panebianco: The cranes all collapse to the legal height. So, regular power lines would not be affected. Those are transmission lines and are rather high.

Mr. Abbey: You would be using the far eastern side for storage?

Mr. Romans: We picture that probably happening. As a part of site plan approval, we would have to meet with the utility company to make sure that our design allows that. All of the

properties split by this utility easement have the right to go across it. It does not mean that you can make that crossing the way that you want it. You have to make it according to what the utility company wants. We have done similar things in the past. I don't foresee that being a problem.

Mr. Marzullo: Those are important questions but that is really for site plan. What we are looking at today is use and whether or not it makes sense to change the zoning. The applicant is not obligated to tell us what the use is. It is just a question of the current zoning and the proposed zoning and whether or not it makes good planning sense.

Mr. Card: SOCPA mentioned 90% of this is poorly drained. Is there any overall drainage plan or is your client only going to develop a drainage plan for his property?

Mr. Romans: There is no overall drainage plan. We have not done that because it is typically done during site plan. But as far as being 90%, it is based upon the soil types. Honestly, in the Towns of Cicero and Clay there is an abundance of poorly drained soil. That doesn't mean that you can't develop your site by putting in the proper practices as far as storm water management and quality in order to make the site work. Sometimes the private sanitary systems have to be raise-bed systems. It is something that we deal with all of the time in Towns that have relatively flat property with a high portion of clay in it--abiding by Town and DEC regulations.

When we do our EAF we try to come up with traffic numbers where the whole site is built out. That is why you see potential traffic numbers of 50 cars per hour. That is based upon maximum buildout with all five parcels being developed to their maximum intensity. That is not going to happen.

Mr. Card: So, the 50 vehicle number is based upon the whole parcel, not just your client's part.

Mr. Romans: Yes, because our application is for five applicants---five properties. Even though it is not going to happen, the best maximum use might be that they all become one property maximizing into one heavy GC or GC Plus use. Again, that is not the plan. That is not what is going to happen, but it is what you have to look at.

My client only has the 7.7 acres and that is the only thing that he is going to develop. It is more than adequate for his needs.

More discussion occurred.

Mr. Smith read Code Section 210:12f under allowable uses noting this gives us the latitude as a planning board to see that the right development is done.

Mr. Germain agreed. It gives you the latitude to look at the site plan and the proposal and consider the use that goes along with it. At that point you can make a decision. You are not there now because a lot of the things you are discussing would be discussed under site plan review. But when site plan review comes in for this project, you will have the latitude and direction that allows you to take action—the opportunity to make those decisions.

Mr. Marzullo: I attended an economic development meeting a few months ago where this type of change was discussed. Everyone thought that it was a good idea because it gives the Planning Board more flexibility and leeway.

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

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

Mr. Smith made a motion to make a positive recommendation to the Town Board that they approve the zone changes put forth on an application dated 7/11/11 for Mid-Country

Properties LLC, Jack I. Brown, Theresa L. Redding, Ronald J. & Luann Burke and Andrew N. & Olga Guzelak. **Mr. Marzullo seconded the motion.** The motion was **approved** with the following vote:

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

**MAJOR SUBDIVISION FINAL PLAN
KILDARE'S MEADOW, NORTHSIDE OF ORANGEPORT ROAD
OPPOSITE LEBEAU LANE, 35 LOTS
KEVIN BARRY, IANUZI & ROMANS
(SEE ATTACHMENT A: OBG LETTER DATED 9.23.11)**

Representative: Hal Romans, Surveyor, Ianuzi & Romans

Mr. Romans introduced himself to the Board. We are here tonight for the final plan approval of Kildare's Meadow. It is 35 residential lots. Everything has been constructed as far as pavement. We have been authorized to go ahead with the as-builts. There are no changes from the approved preliminary plan. There were stop signs shown on the plan. I received Mark Parrish's review letter that basically states that the Board has to set park fees. Does the Board have any questions?

Mr. Marzullo: Does there have to be more pavement up on the top end?

Mr. Dean: I went up there Mark. It's done.

Mr. Marzullo: And you know that I have to have an all is good from Tony Rivizzigno before I sign off?

Mr. Romans: Correct. We are really here tonight for approval subject to engineering and legal. This would include the as-builts that we will hopefully be doing this week plus any other agreements that have to be in place.

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

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

Mr. Marzullo: Does anyone have any other questions? (There was no response.) I will entertain a motion.

Mr. Smith made a motion to approve the major subdivision final plan for Kildare's Meadow with 35 lots and park fees assessed at \$475 per lot for a total of \$16,625. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

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

Mr. Marzullo made a motion to adjourn. **Mrs. May seconded the motion.** The motion was

approved unanimously.

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING
ADJOURNED AT 7:37 P.M.

Tonia Mosley, Clerk

ATTACHMENT A

September 23, 2011

Planning Board

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

RE: Kildare's Meadows Final Plan
FILE: 0101/25439.413

Dear Board Members:

We have reviewed the Final Plan dated March 17, 2010 last revised July 27, 2010 prepared by Ianuzi & Romans Land Surveying, P.C. for the above referenced project. Kildare's Meadow consists of 35 single-family residential lots along Clarecastle Path, Longford Path and Kildare Path. The site is zoned Residential R-12 and Agricultural AG. The above materials are in general conformance with Town Code requirements for Final Plans subject to the following comments:

1. The Plan shows stop signs at various locations. A public hearing should be scheduled with the Town Board for approval of the signs.
2. The Board should identify appropriate park fees for the project.

The Town Engineer should provide recommendations to the Town Board on security deposits for utilities and uncompleted work. Upon approval of the Final Plan by the Planning Board and prior to signing the Final Plan, we recommend the Chairman confirm with the Town Attorney that the Developer has the necessary agreements, easements and road dedications, securities and park fees in place.

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