

The Town of Cicero Planning Board held a meeting on **Wednesday, September 3, 2008** at **7:00 p.m.**, in the Town Hall at 8236 South Main Street, Cicero, New York 13039.

Agenda:

- Approval of the Planning Board meeting minutes from August 18, 2008 (**approved w/corrections**)
- Site Plan, Sun Service Center (Previously submitted as Used Car King), 8011 Brewerton Road, Proposed detail and repair facility, Martin Merola (**approved**)
- Park Fees for the Preliminary/Final Plan, Mattoon Subdivision, 5216 Orangeport Road, 3 Lots, M. Mark Grobosky (**park fees approved**)
- Site Plan, Tim Hortons, 6197 Route 31 (Lakeshore Plaza), Proposed restaurant, TDK Engineering (**to return**)
- Site Plan, Tim Hortons, 6360 East Taft Road, Proposed Restaurant, TDK Engineering (**to return**)
- Zone change recommendation to Town Board, Pathfinder Bank, Germania Property Group, 6194 Route 31, Neighborhood Commercial to General Commercial, Dunn & Sgromo Engineers, PLLC (**recommended**)
- Subdivision Amendment, Miralago Section 2, Amendment to Lots 1, 2, 3, 4, 51 and 52 Ianuzi & Romans (**approved**)
- Park fees discussion, Harbour Village (**park fees rescinded**)

PRESENT:

Patrick Leone, Chairman  
Richard Cushman, Planning Board Member  
William Purdy, Planning Board Member  
Sharon May, Planning Board Member  
Jason Mott, Planning Board Member  
Robert Smith, Planning Board Member  
Heather Cole, Esquire, Wladis Law Firm  
Wayne Dean, Admin., Zoning & Planning  
Mark Parrish, P.E., O'Brien & Gere  
Toni Mosley, Clerk

ABSENT:

Christopher Rowe, Planning Board Member  
Scott Harris, Ad Hoc Board Member

The meeting was opened with the Pledge of Allegiance.

Mr. Leone noted the locations of the three fire exits. There are no formal public hearings tonight however this Board acknowledges the importance of public input and encourages anyone who would like to speak about an agenda item to do so by raising your hand and being recognized by the chairman. Please use the microphone in the front of the room.

**APPROVAL OF THE PLANNING BOARD MINUTES  
FROM AUGUST 18, 2008**

Mr. Leone noted the following corrections. One page four in the second paragraph Dick's should be corrected to Dix Digital Prepress Inc. On page 15 in the last paragraph letters where sent should be corrected to letters were sent. **Mrs. May made a motion** to approve the August 18, 2008 Planning Board meeting minutes with the corrections noted above. **Mr. Smith seconded the motion.** The motion was **approved** with the following vote:

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

**SITE PLAN, SUN SERVICE CENTER  
(PREVIOUSLY SUBMITTED AS USED CAR KING), 8011 BREWERTON ROAD  
PROPOSED DETAIL & REPAIR FACILITY, MARTIN MEROLA  
(SEE ATTACHMENT A: OBG LETTER)**

Representatives: Martin Merola, Robin Development  
David Taylor, Proposed owner  
Mr. Yennock, Owner

Mr. Merola introduced himself. I believe that we have complied and obtained everything we needed other than the final permits from the DOT. I have spoken with our engineer who is making the changes that the DOT wanted, not to this plan but to an additional plan showing the traffic safety plan. I have all of the permit applications ready to be turned in. Part of the DOT permit application is the traffic safety plan showing lanes and how you are going to do any traffic safety if it is needed. It is not needed, but they still want that plan according to their letter.

Mr. Parrish explained that it is a maintenance protection of traffic plan. It is something that is needed during construction, if they have to cone off any lanes, etc.

Mr. Leone asked if a traffic study was required.

Mr. Parrish noted we are talking about two separate items.

Mr. Merola: As far at the traffic study, I have not actually spoken with the engineer on

this project. I have put a couple of calls in to him. From the County Planning meeting, I was told by the chair there all I needed was an informal letter which I have prepared and is enclosed in this packet. The packet was delivered to Mr. Dean and the DOT on July 22<sup>nd</sup>. As a follow up to that second request, I have put together another letter which I sent to the engineer today. I am hoping that this Board will grant approval subject to the final DOT permits.

Mr. Leone: I understand the maintenance plan to be if there is a safety issue during construction.

Mr. Parrish gave further details of a traffic study. I did speak with the DOT's engineer today. He indicated in their letter (August 22<sup>nd</sup> letter to Mr. Merola) they have asked for a modified traffic impact report. They are looking for information that provided trip generation from the site in accordance with ITE requirements. Although they want that information it is not likely to result in any modifications to the site's entrance or to the striping on Route 11. The engineer said if the Board is satisfied with the rest of the aspects of the site plan, the applicant still needs to come to the DOT for their work permit. They would have to satisfy the DOT's requirements to get that permit.

Mr. Merola detailed what was in the packet he distributed tonight.

Mr. Smith asked if the applicants intended to install a car wash.

Mr. Merola responded absolutely none. There will be one bay to wash a car.

Mr. Smith: You are looking at 25 cars from Sun Chevrolet per day and 25 from the general public?

Mr. Merola: Correct. Based upon 50 cars serviced or detailed per day.

Mr. Smith: Any oil changes or anything like that?

Mr. Merola: Yes, whatever services anyone wants, service plus detailing.

Mr. Taylor: The free car wash service for cars bought at Sun (customer car washes) will stay on that side.

Mrs. May read: Mr. Taylor agrees that he would limit the cars being driven across Route 11 to Sun Chevrolet to the a.m. hours. How do you propose to do that?

Mr. Merola: For example the Sun cars that Mr. Taylor brings over to service can be brought back in the morning before rush hour.

Mrs. May: How do you propose to limit the number of cars?

Mr. Merola: As a courtesy to the Town of Cicero, we could try to do that. That is how it was suggested.

Mr. Leone: Are you still bringing in vehicles by tractor trailers and unloading them behind the facility you are trying to approve?

Mr. Taylor: Yes.

Mr. Leone: How many tractor trailer vehicles of cars would you get per day?

Mr. Taylor: On average, one per day. We would unload them, detail them and then take them across the street to Sun Chevrolet for sale. I don't deal with the auction/wholesale part. That is someone totally different. We have two separate businesses.

Mr. Leone: 50 % of your business is from Sun Chevrolet?

Mr. Merola: Yes, for right now.

After some discussion, Mr. Taylor concurred it was closer to 75%.

More discussion occurred regarding the number of trips. The Board typically gets some number relative to a.m./p.m. peak hour numbers as opposed to total trip numbers. The DOT and the Board have to weigh the impacts of traffic, even those that could happen from going back and forth across the street. There is a relationship between the two businesses.

Mr. Smith asked for a break down of employees. That is an indication of how many cars you will be doing.

Mr. Taylor: 10 are mechanics, 10 are detailers, a couple of them are service writers.

Mr. Leone noted the new service road put in for Marshalls that backs up to Sun Chevrolet. Why can't they get an easement to attach to that road and then come across at the light?

Mr. Merola: You are talking about a different property.

Mr. Leone: It is 50 % of your business.

Mr. Merola: He could stop that tomorrow and do business somewhere else. There is no

connection with Sun Chevrolet.

Mr. Leone: The issue has always been the safety of moving vehicles across five lanes.

Mr. Merola: The issue has always been the safety of customers walking across. That is no longer the case.

Mr. Leone agreed but asked for a traffic study. Mr. Merola did not feel the need for one, arguing that the parties were two separate businesses. He felt this was a low impact business to the town.

More discussion occurred.

Mr. Smith: Who operates the current car wash? Is that part of your operation?

Mr. Taylor: It is right now. Those are my guys doing the car washes. But, Todd will be taking that back over. I don't want to have anything to do with that car wash. I just do it now as a courtesy. He wants it on that side. He wants the customers to come in so that he can sell them more cars.

Mr. Smith: Will you be putting signage out and soliciting business and service?

Mr. Taylor: Yes.

Mr. Smith: Your intention is---if I want to drive there and get an oil change in your place I can do it with no relationship to Todd?

Mr. Taylor: Correct. It will be a full service center that is open to the public.

Mr. Leone: No used car sales?

Mr. Taylor: No used car sales. I do not want to sell cars.

Mr. Leone: Will you lease spots to Todd to sell cars?

Mr. Taylor: No. I don't really have enough spaces now.

Mr. Smith: For Todd's business coming over to your shop, you can regulate the hours of that so that you are not crossing traffic during rush hours?

Mr. Taylor: Definitely. I do not want my drivers driving when it is busy out. I open the shop every morning at 7:00. It is very quiet then.

Mr. Smith: Do we have any way to make that part of the approval? Is there anyway to enforce that? That would be an enforcement nightmare.

Mr. Leone: The negative part of this is the cars moving back and forth. The positive parts are:

- we have the transports that would be moved off of Route 11 and off the Sun Chevrolet operation
- we have a full side walk going across
- they are proposing some additional landscaping
- the reader board is gone

The Board noted that those were all improvements.

Mr. Merola added that there is an interior connection to Road Side Collision.

Mr. Smith: Mr. Caputo will not post inventory that is not on his lot?

Mr. Taylor agreed. Everything has to be cleaned first. Then the internet guy comes in and takes pictures, tags them and everything. Then they are for sale, then they are put on the website.

Mrs. May asked if the applicant would be affiliated with NAPA. Will they franchise any of your business? If so, they would have to be a part of your sign package.

Mr. Taylor responded no.

Mr. Dean asked for clarification on how the cars will be moved. How do they get across the street and how does the driver get back?

Mr. Merola: Cars are driven individually. They would go down to Eckerd and turn at the light. Unless they do it at seven a.m. Between 7 and 9 a.m. Route 11 is not very busy right there.

The Board disagreed. More discussion occurred.

Mr. Merola: If it would satisfy the Board, I would make an effort to obtain an easement agreement and talk to Mr. Caputo to see if he is interested in doing such a thing. I don't want to condition approval on obtaining an agreement, but I will certainly copy the correspondence to the Board or Ms. Cole on what corresponds between Widewaters and Mr. Caputo---if he wants such an agreement.

Mr. Leone: As long as the DOT knows we are working on it. We should be able to talk

to the DOT first.

Mr. Merola: That would be fine. I will make an effort to get it done. I think that makes a lot of sense if that could be hooked-up. It would certainly make it easier for everyone. But it should not be a hindrance upon Mr. Taylor.

The chairman asked for legal's and engineering's opinion.

Mr. Parrish: It is not necessarily a volume issue, how many trips are going to be made. I would say that the number of trips that are going to be made does not make too much of a difference from the operations of Route 11 and the intersections associated with it. What the Board is struggling with is the safety of moving vehicles from one side of Route 11 to the other. It has been suggested that a connection to the access road onto the Widewaters parcel would help address those concerns. I think Mr. Merola has indicated that he would pursue that. That is probably the only realistic option that you have at this point. Anything else that you do is difficult to enforce and difficult to say.

There is still the real issue relative to the safety of the movement that is being proposed. Whether there is one car doing it or eighty cars doing it does not minimize the safety to vehicles that have to make that movement.

Mr. Leone reminded the Board that the road behind Alliance Bank that was built has a large swing in it needs to be straightened out once Widewaters got access to the North Star/Burko property—the Sports Page. Widewaters owns that now. In my mind there is a little bit of room to help negotiations for such and easement. When they straighten out that road we can make them put a connector to Sun. They have to come back in to this Board for approval of the new road.

More discussion occurred.

Mr. Leone suggested making it a right in/right out at the driveway until they get the easement connecting to the Marshall's service road. The movement would be more restrictive and be safer. Unfortunately the liquor store would have to abide by the same rule. That would be hard for the liquor store. Maybe we could move forward by conditioning your driveway movements.

Mr. Yennock noted there is an access road to the property south of us, between our property and the Benderson Plaza. I don't know if that would alleviate any of the issues. The center lane is supposed to support crossing the road.

We are also neglecting the fact that Sun Auto across the street has two entrances. One is

directly across the street from our entrance, which I think is what everyone is focusing on. There is another entrance going south. You could come out, make a right, and then make a left to go into their place without an issue.

More discussion occurred.

Mr. Leone: Do you have an easement with Northside Collision yet?

Mr. Yennock: No.

Mr. Leone: What if we condition approval with an easement to Northside Collision? They can get up a ways before they have to make a right and a left to travel two lanes.

Mr. Merola: Part of the DOT's letter suggests that.

Mr. Yennock: What if Northside will not give us an easement?

Mr. Leone: You have two outs. You could get an easement with Northside or an easement with Widewaters. Or, you could condition your driveway to be a right in and a right out.

Mr. Yennock: What about the easement I have with the people to the south?

Mr. Leone: As Mark says, that pushes you closer to the corner where there is more traffic and stacking.

Mr. Parrish: You lose the center lane.

More discussion occurred.

Mr. Merola reviewed the options. We could try to get an easement from Widewaters. There has to be a time limit. We would agree to the right in/right out as long as we maybe did no left from 9 a.m. to 6 p.m.—some kind of limit on the hours and we work on getting the Widewaters easement across the street. The DOT would like us to get the Northside Collision one.

More discussion occurred.

Mr. Merola: I am not trying to down play the safety issue. One—easement with Widewaters. Two—easement with Northside. Three—no left between 9 a.m. and 6 p.m.

More discussion occurred.

Mr. Yennock: If we get the easement with Northside Collision do we need to get the easement with Widewaters?

Mr. Leone: I agree if they use the property driveway furthest to the south, and there is no way to control it, they have a reasonable area for when they need to get into the turn lane. I think the thing that solves the problem the best is the Widewaters easement.

Mrs. May noted she was not in agreement with the 9 a.m. to 6 p.m. hours. I would think that a couple of hours in the morning and a couple of hours in the evening would be sufficient. You are penalizing the liquor store. I would say 7 a.m. to 9 a.m. and 3 p.m. to 5 p.m. because you close at five.

More discussion occurred.

Mr. Merola: I have no signage information. Dave will use the existing approved signage. He would not be changing the size. The site plan points out the landscaping that we have, the easement connection over to Northside Collision and the sidewalk going all across the front. I thought the sidewalk was on the last site plan.

Mr. Leone asked about parking. How many spaces are needed for employees and the cars that you are going to stack in your lot.

Mr. Merola: 29 spaces between the front and the south and 58 in the back.

Mr. Leone: Can we anticipate that all of those spots will be cars?

Mr. Taylor: Not all of the time. It will vary.

More discussion occurred.

Mr. Purdy asked about stinger car haulers. All the cars will be delivered to this address. Stingers are low to the ground. With the way the parking lot goes in, I am concerned that stringers will have problems getting in and out. In a lot of cases those trucks have to be towed out of the parking lot. In a lot of cases stingers are unloaded on the road because they can not get over the curb to get into the parking lot.

Mr. Smith: Will you be parking any of the vehicles you are working on in the front parking lot?

Mr. Taylor: That will probably be customer parking. Customers drop their cars off in the morning. When we are done it would be returned out front.

Mr. Smith: Will you be changing the color of the building?

Mr. Taylor: No. The hours of operation would be nine to five.

Mr. Leone: There is no question that the Board is concerned with safety. It is hard to enforce some of the contingences but not necessarily. The DOT has asked for the easement to the north. We should be able to make that a contingency of site plan approval. The DOT has also asked for a reasonable traffic study. We can assume that they want to see traffic times at peak hours. The DOT should be made aware that there maybe an easement available to an access road that exists and comes out to a full service light. Are we making a reasonable approach to answer our concerns?

Ms. Cole: I certainly think so. You have an obligation to consider the health and safety aspects of an application. That is part of your job. You are pursuing a number of different options to make sure that health and safety issues are mitigated to the fullest extent possible.

Mr. Leone: I don't know how we make someone use a southerly driveway. I can't make a motion that makes that happen. The DOT can condition their driveway access. They can not relieve it but they can condition it. Maybe they can make the driveway exit only. The applicant can come back in for signage approval. Or, if it is within what the sign code allows, they can go to the Zoning Office.

Mr. Parrish: Either that or use the area of the existing sign there and/or what was previously approved.

Mr. Smith: Are you adding lighting to the layout or to the parking lot?

Mr. Merola: No.

Mr. Parrish: There is some lighting on the site. They are saying they will not be adding any additional lighting.

Mr. Smith: The sidewalk is 5 feet wide?

Mr. Merola: Correct. It will connect to the Benderson sidewalk going all the way to the Northside property line.

Mr. Smith: Will the sidewalk be in place prior to a CO being issued?

Mr. Dean: No. The CO is for the building, not for any sidewalk in the front or any site work.

Mr. Leone: Even if the sidewalk installation is made a contingency of site plan approval?

Mr. Dean: You can not tie the certificate of occupancy of a building to the site work.

If you want to do something like that you have to get securities for the site work and use those.

Mr. Merola: Which the DOT does already. I pay for performance time and insurance for what is going to be done. We are going to put the sidewalk in or we are never going to be able to close out their permits.

Mr. Leone: How can they have occupancy in a building with an approved site plan and all of the contingencies have not been met? It is not approved until all of the conditions are met.

Ms. Cole: Because the C of O is for the building, for how the building is constructed in conformance to the New York State Building Code. A lot of municipalities condition C of Os on completion of site plan work. I am not sure that they have the authority to do that. But a number of them do.

Mr. Leone: Why do we have an inspection fee to see that site plan get done?

Ms. Cole: That is exactly why we have it. You can not tie the C of O to that.

Mr. Merola: What if we condition approval to completing the sidewalk prior to us opening for business?

Ms. Cole: If they are willing to agree with that, go for it.

Mr. Merola: That is fine with me.

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

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

Mr. Smith: Yes  
Mr. Leone: Yes

**Mr. Leone made a motion** that we approve the site plan with a revision date of June 23, 2008 with the following contingences:

1. A traffic study that meets the NYSDOT requirements for both the highway maintenance and driveway permit is submitted and accepted by the DOT.
2. An access easement is put in place for the connection to the property to the north.
3. An access easement is attempted to be completed, in good faith, with Sun Auto Warehouse----can I do that?

Ms. Cole: I think yes because we have established that a vast majority of the business at this point in time that comes to the site will be coming from Sun Auto Warehouse.

**Mr. Leone continued:** Based upon the amount of business coming from Sun Warehouse to gain access to the service road owned by Widewaters that will eventually lead to the full service light at the corner of Caughdenoy and Route 11.

4. New signage will be limited to the existing sign faces currently in place, less the reader board.
5. There is an inspection done by the Town's engineer based on the conditions placed upon the site. Mr. Parrish will have to come up with an appropriate fee for that inspection.
6. The sidewalk is fully installed before occupancy is sought by the applicant.
7. That the legal and engineering professionals for the Town are comfortable and satisfied with the findings.
8. No auto sales are permitted on the site under the site plan as stated by the applicant.
9. The applicant will also discuss with Sun Auto Warehouse the potential to have their northerly driveway exit only and their southerly driveway full service entrance and exit. This would help alleviate unsafe traffic movement from site to site.

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

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

**PARK FEES FOR THE PRELIMINARY/FINAL SUBDIVISION PLAN  
MATTOON SUBDIVISION, 5216 ORANGEPORT ROAD  
3 LOTS, M. MARK GROBOSKY**

Representative: Mr. Mattoon

Mr. Leone: As a result of your subdivision and based upon Town code as part of your subdivision approval we failed to pass a park fee for the lots that you took. Typically it is \$475 for your three lots. The Board has a right to charge monies for a park fee or we have the right to ask for additional property from the land owner. You have parks close to you so we would not ask for land.

You already occupy one of the lots. That lot should not be viewed as an additional expense to the park that currently exists. **I make a motion** that we accept 277 fees for two new lots on the Mattoon subdivision at \$475 per lot. **Mr. Mott seconded the motion.** The motion was **approved** with the following vote:

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

Mr. Leone: Thank you and good luck with your project.

**SITE PLANS, TIM HORTONS  
6360 EAST TAFT ROAD  
PROPOSED RESTAURANT, TDK ENGINEERING**

Representatives: Jack Krisanda, Real Estate Manager, Tim Hortons  
Joe Durand, TDK Engineering

Mr. Krisanda introduced himself. For the record we owe you money. I paid \$4000 for the engineering fees. My intent was to have a check for \$4000 more to give to you tonight. I do not because we were the victim of an international check scam/fraud in the United States and Canada that affected other corporations as well.. Tim Hortons currently has no checks going out. We have frozen bank accounts. As soon as we can get some checks to you, we will.

Mr. Durand: We have a proposed site on the corner of East Taft and Northern Blvd. It is the southwest corner of the intersection across the road from the Nice & Easy. It has an

existing farm house on it which would be demolished. Water, sewer, and gas everything is right there.

Ms. Cole: It has just been pointed out to me that the site is zoned Industrial.

Mr. Parrish: They have proposed zoning on the site plan to be General Commercial. I assume they realize that they would need a zone change.

Mr. Leone: At one point there was a conflicting issue with an easement that services the tractor trailers. Did you get that resolved?

Mr. Durand: We are in the process of information collection, pulling all of our information in on utilities and easements which are in the abstracts. Basically there is a 60' easement here that connects to this property to the south. Our original pre-agenda plan was not out into this easement. We used an existing driveway to the house. We have now shifted that over to offer that up as a future extension to this property.

We have pulled the proposed driveway away from the main intersection of Taft and Northern further south. There would be full access here and a right in/right out onto Northern Blvd. We have discussed this informally with Jim Stelter at the County DOT, providing him with plans.

Mr. Leone: What is the distance from your driveway on Taft Road to the corner?

Mr. Durand: Over 150 feet, but I do not have the exact measurement.

Mr. Leone: Do you intend to extinguish that easement so that the trucks can not move through there?

Mr. Durand: We have to see what is in the deed language. There are a number of easements. We have to go through the abstracts to see what we can and cannot do. We would own this entire piece, 4.16 acres. Storm water would be down in here.

Mr. Krisanda: Tim Hortons has a number of agreements with drive through ATMs. There was talk of doing that but we are really comfortable with the numbers on this site. We would use the same access points but at this time we can not tell you with certainty what we will do.

Mr. Leone: SEQR tells us that we have to look at the site as a whole. There is a traffic count associated with that.

Mr. Krisanda: At this point we do not know if it is a viable option.

Mr. Durand: We have a traffic study coming together.

Mr. Leone asked the Board if they would like to see that connection so that tractor trailers can go behind the site.

Mr. Krisanda: They are Bernie buses.

Mr. Purdy: Looking at the way traffic goes on Northern Blvd., it would be a good spot for buses to come in a turn right. I don't know if you would want them on your property.

Mr. Krisanda: From our conversations with the bus depot owner, he only wanted that there for some time in the future if he changed the use of his site. It really did not have anything to do with the movement of the buses. There is a turn around down the road that they use to get across. There is a left turn lane there.

More discussion occurred.

Mr. Durand: It would be a 1630 building. It has 30 seats. It stacks 12 cars and has an 18 foot wide drive through for bypass all the way around.

Mr. Smith: Have you made provisions for tractor trailers? This would be a prime location.

Mr. Krisanda: That is one of the reasons why we did not put the ATM on there. This is an area we could use for tractor trailers, UPS vehicles and other larger vehicles.

Mr. Smith: When you come back in can you include in your plan your ideas on how you will deal with those tractor trailers?

Mr. Krisanda: Absolutely. We have not gotten all the utility information which would tell us where we could park and could not park.

Mr. Durand: We will put together a landscape plan.

Mr. Krisanda: It would be a typical landscape plan but much more extensive that what you see over here because there is more room to deal with.

Mrs. May: Will the color of the building be similar to your store in Hamburg?

Mr. Krisanda: The Hamburg site is an older Tim Hortons. The stores we are putting out now are similar to the one here in Cicero. They are all about the same color.

Mr. Leone: It looks like the back of the building faces Taft Road. What will we see?

Mr. Durand: We call that the front.

Mr. Leone: Can you show us the facades for what we will see at Northern Blvd and what we will see at Taft Road? I do not see the need for a sidewalk on the site.

Mr. Smith and Mr. Cushman agreed.

Mr. Leone: No sidewalk. Take the money and dress up that site. You need a zone change. You need engineering and zoning to weigh in on all of the good and the bad.

Ms. Cole noted the applicant might want to get their zone change in sooner rather than later.

Mr. Smith: If there is a residence on the side we may want to note hours of operation, truck location, etc.

Mr. Leone: We will need some buffering between your property and the Mallette property.

Mr. Krisanda: It would be a 24 hour operation. What they have done in the past for neighboring residential property is adjusting the speakers down at night accordingly. The speakers face away from residential areas. We will put a fence up there so that no lighting will go through it. Most of our work is done between 6 and 10.

Mr. Durand: There is a double row of evergreens in there now. We will preserve those if possible and add more.

More discussion occurred.

**SITE PLAN, TIM HORTONS  
6197 ROUTE 31 (LAKESHORE PLAZA)  
PROPOSED RESTAURANT, TDK ENGINEERING**

Representatives: Jack Krisanda, Real Estate Manager, Tim Hortons  
Joe Durand P.E., TDK Engineering  
Joe Scripa, Lakeshore Plaza representative

Mr. Durand: This is a proposed end cap, at the end of an existing building. It is currently vacant. It is an 1800 square foot store. The plaza's owner is under contract to purchase the property to the east, the car wash property.

We are proposing to use the end of the building for the Tim Horton's store, direct traffic off of Route 31 in, modify this entrance, route cars around the building and turn this into a one-way driving pattern. The left-hand side would be for the drive through. The right-hand side would allow for traffic to move all of the way through. We will work with Joe on what needs to be done for the DOT. It comes back to this main issue of the entrance here. We will be getting information from Greg Sgromo who did this work, updating the entrance and laying it all in.

Currently the entrance is this line here. When you come in and do a right-hand turn you run into the side of the building. You would almost have to do a complete u-turn. We propose to take this entrance out so that it has a direct access through. We know that there will be issues with the entrances onto Route 31 on the property to the east. We will work on that with the NYSDOT.

Mr. Leone: How about your cross connection with the property to the east if you are pushing it only one way? You will push it through Tim Horton's parking lot?

Mr. Durand: I am not sure how this will all play out.

Mr. Leone: Again, you have to look at the parcel as a whole. How will the parcel be used in the future? How will that parcel be accessed?

Mr. Durand: We know there is a bigger picture here, a plan for the entire plaza. We know we have to work on that.

Mr. Scripa: Currently, we are not going to change anything with the car wash. It would remain. The car traffic pattern is in through the east and out from the entrance there.

Mr. Leone: But it is not going to be that anymore.

More discussion occurred.

Mr. Leone: We just got the response from the County about another project which would be across the street from you, Pathfinder Bank. Because there are changes to be done to Route 31 as a result of some studies being done, they asked Pathfinder how they could do a zone change. Even though half of the property is zoned for that use. Basically the County has said you can not do anything until we figure out what we are doing in that corridor. I believe you will have similar comments to your request for access and driveways for new businesses. I would encourage you to visit with the DOT and County Planning to see what everyone is thinking. It may change your mind or might put the site for you on a back burner.

More discussion occurred including possible changes to the internal drive lanes and traffic flow, street entrances, reducing the car wash to one entrance, etc. Mr. Dean suggested demolishing the end of the existing plaza's building and moving the cross connection down. Mr. Parrish noted potential problems with the entrances and with having enough parking spaces for the entire plaza.

**ZONE CHANGE RECOMMENDATION TO THE TOWN BOARD  
GERMAINA PROPERTY GROUP (PATHFINDER BANK)  
6194 ROUTE 31, NEIGHBORHOOD COMMERCIAL TO GENERAL  
COMMERCIAL, DUNN & SGROMO ENGINEERS, PLLC**

Representative: Greg Sgromo, P.E., Dunn & Sgromo Engineers, PLLC

Mr. Leone: What did you think about the County's response?

Mr. Sgromo: Very bold. I don't know how to take it.

Mr. Leone: They are really concerned about the traffic movement in that corridor all the way to South Bay Road to Route 81. They are making decisions as they study it based upon current conditions. I think the piece is already zoned 50-60% General Commercial. We are trying to clean it up. Because of that, I would recommend a zone change for this piece. It might not make the site plan go any easier with the County the State or anyone else. But it gets you to the point where the property is usable for your intent. Under its current zoning it is not.

Mr. Sgromo: That is how I read the County's response. This last thing was should you approve the zone change, we want to have another crack at it at site plan. We know we have to go back and are agreeable to addressing their concerns at that point.

Mr. Leone: We talked at the pre-agenda about the necessity to try to combine driveways where you can.

Mr. Sgromo: We met with Mark Grainer and Patty Williams at the DOT. They are preparing a letter for us to assist us going back to the Union Hall to see if we can get them to merge the driveways. I don't think the union sees the benefit of combing the drives.

The sewer would tie into Sandra Lane, here. The existing storm water off the site in the back will come across here into a 24 inch pipe that will come across the whole site. We would fill in the ditch. On our site everything from here back will drain into this basin and then come back out.

Mr. Leone: It is pretty flat there.

Mr. Sgromo agreed.

Mr. Parrish: We have a lot of drainage issues in that area.

Mr. Sgromo: I think we have a plan that works.

**Mr. Leone made a motion** to recommend to the Town Board approval of the zone change for this parcel from Neighborhood Commercial to General Commercial. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

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

**SUBDIVISION AMENDMENT, MIRALAGO SECTION 2  
AMENDMENT TO LOTS 1-4, 51 AND 52, IANUZI & ROMANS**

Representative: Doug Beachal, Land Manager, Eldan Homes

Mr. Beachal introduced himself. I am a co-applicant with Joe Tucci, who signed off on the application also. I would like to amend Miralago Section 2's final subdivision plan.

Mr. Leone: When this subdivision got approved, the back yard setbacks were approved as front yards because the back of these front onto Ladd Road. The applicant went to put up a privacy fence when the Zoning office told them they could not. The easiest way to do this is to modify the original subdivision plot language to say that those lots are rear yards.

Ms. Cole noted those lots will not access Ladd Road. They really should be considered rear yard setbacks.

Mr. Dean clarified. The notation on the original drawing says building line. You can not build over the building line. I am happy with this as long as everyone understands what is happening here and that this happens on a number of locations. We should be more aware of it in the future.

Mr. Leone: We are looking to call the backyards a backyard. These lots will have no

access to Ladd Road.

Mr. Dean: They would be able to put the fence on the property line, thereby gaining 30 feet of backyard. It allows people to build a fence on their rear property line rather than 30 feet. The 30 feet, which would be behind the fence, turns into no-man's land. It is not maintained. There is no reason to maintain it.

Mr. Leone: It is a setback issue. Legally, you can not have fences in the front yard. Is there a notation on the update stating that there will be no access?

Mr. Dean: Yes, in the last note on the top.

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

**Mr. Leone made a motion** to approve the amendment to the Miralago Section 2 Subdivision for Lots 1, 2, 3, 4, 51, and 52 on a subdivision plan dated August 15, 2008 with the appropriate notes as noted in particular no driveway access permitted to Ladd Road from these lots. **Mr. Smith seconded the motion.** The motion was **approved** with the following vote:

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

Ms. Cole noted since this was such a minor thing, we need nothing further from the applicant. (No fees are needed)

**PARK FEES DISCUSSION, HARBOUR VILLAGE**

Mr. Leone: I got a call from Mr. Mazzaroppi today about the Harbour Village subdivision. We approved that final plan a month ago. He is looking for me to sign off on the final plan after he posts securities and park fees.

Ms. Cole: I think he may have paid the securities today.

Mr. Leone: He tells me that he has been paying taxes on 61 individual lots for that subdivision since the late 1980s. He changes the subdivisions taking it from 61 lots down to 39 lots. He asked why he was being assessed a park fee if his lot were already in the system and he was paying taxes on them. I thought that was a reasonable question since we have assessed him park fees of about \$18,000. I told him I thought he needed to take that up with the Town Board. I thought they were the only authority that could wave that fee structure. Our attorney has told me differently. I wanted to know how the Board feels about this issue. Do we see the park fee assessment as an additional hardship or burden.

Mr. Smith: Did they collect park fees on the original lots?

Mr. Leone: Probably not in 1989 but they have been taking taxes for those lots as available building spaces, vacant spaces.

Ms. Cole: 277 fees are something that the Planning Board is given the authority to consider, either taking land or imposing a fee when considering subdivisions that will be used for residential purposes. It is always a matter of discretion on this Board's part, whether to accept land, to accept park fees or to do neither. You always have the ability to reconsider and rescind any prior motion, if you want to do that.

Mrs. May: Would the project come to a halt or would he be able to continue?

Mr. Leone: You mean a hardship? That is a lot of money for anyone. I since some frustration because he has been paying \$6,000 per year for taxes. If that was Ag he would probably have paid less than \$1,000 per year. He is not asking to get money back. He is asking for some leniency here. If this Board is not comfortable overturning it, maybe we can say to the Town Board please consider his request.

The Board agreed to rescind the 277 fees.

**Mr. Smith made a motion to rescind the addition of 277 fees for the Harbour Village final subdivision plan. Mr. Mott seconded the motion. The motion was approved with the following vote:**

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

**Mrs. May made a motion** to adjourn. **Mr. Smith 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 9:40 P.M.

Date: September 12, 2008

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Tonia Mosley, Clerk



**ATTACHMENT A**

September 3, 2008

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

Attention: Patrick Leone, Chairman

Re: 8011 Brewerton Road (U.S. Route 11)  
Sun Service Center  
Site Plan Review  
File: 0101/25439.236

Dear Board Members:

We have reviewed the Proposed Site Plan dated March 11, 2008 last revised June 23, 2008 prepared by Resource Associates for the above referenced project for compliance with Town Code requirements relative to Site Plans and effect on Town utilities and roads. The 4.8-acre site is located on the west side of U.S. Route 11 between Caughdenoy Road and Lincoln Avenue. The site contains a 19,200 square feet building that was used as a furniture store and a 12,000 square feet building that is used as a liquor store. The site received Site Plan approval in 2005 for these uses. It is proposed to utilize the former furniture store as a car detailing and repair facility. Site modifications generally consist of the addition of overhead doors on the north side of the building, the addition of a sidewalk along Route 11, a connection to the property north of the site and other minor modifications to the parking lot striping and outdoor equipment to accommodate the overhead doors. The site is zoned General Commercial. Our comments are as follows:

1. Access to the site is to be provided by a driveway from U.S. Route 11, which is under the jurisdiction of the New York State Department of Transportation (NYSDOT). The Board should review the parking, storage and site circulation for the site. The Onondaga County Planning Board (OCPB) requested a report be provided to the NYSDOT showing anticipated trip generation volumes including an estimate of the number of vehicles moved between the site and the Sun Auto Warehouse located across Route 11. An August 25, 2008 letter to Wayne Dean from the NYSDOT indicates the Site Plan is acceptable subject to extension of the new sidewalk to the north property line of the site/through the site driveway, provision of a cross access agreement to both adjoining properties and paving of the connection shown to the property to the north of the site. There is no mention of the study requested by the OCPB. However, an August 22, 2008 letter to Martin Merola from the NYSDOT has also been provided that outlines a number of items that need to be addressed relative to the Highway Work Permit Application including provision of a modified Traffic Impact Report. Should the Board approve the Site Plan it is recommended the approval be conditioned on resolution of these items and obtaining the Highway Work Permit.
2. The Board should review the landscaping, signage, and lighting with the Applicant to determine if any modifications to these items are proposed.
3. There are no modifications shown that would substantially effect the utility services or stormwater runoff for the site.
4. There are wetlands located on the west side of the site. However, the Plan does not show any modifications within this area.
5. The site is not located within a 100-year floodplain 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

