



The Planning Board of the Town of Cicero held a meeting on **Monday, March 27, 2017** at **6:30 p.m.** in the Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

**Agenda:**

- ❖ Pledge of Allegiance
- ❖ Approval of Minutes from the March 13, 2017 Meeting (**Approved**)
- ❖ Major Subdivision Preliminary Plan, Wallington Meadows Section 8, Whiting Road, (Tax Map No. 087.-01-60.1), 49 Lots, Calocerinos Engineering, PLLC (Adjourned per applicant request)
- ❖ Site Plan, UCK Two, LLC, (Sun Auto Dealership), 8010 Brewerton Road, Proposed auto dealership, CHA Consulting, Inc. (Approved)
- ❖ Site Plan, James & Len DiMaggio, DBA JD Motors Cicero, 5715 East Taft Road, Proposed used motor vehicle sales and service, Len DiMaggio (Discussion only – no determination)

**Board Members Present:** Bob Smith (Chairman), Chuck Abbey, Mark Marzullo, Joe Ruscitto, Greg Card and Don Snyder, Ad Hoc.

**Others Present:** Neil Germain, Planning Board Attorney, Mark Parrish, Planning Board Engineer and David Balcer, Codes Enforcement.

Chairman Smith opened the meeting by noting the locations of the two emergency exits, asked that all cell phones be silenced and noted if anyone had difficulty hearing the proceedings please bring it to the Clerk's attention so the audio system could be adjusted.

Mr. Card led the Pledge of Allegiance.

**Public Input: The Board will accept comment on any ACTIVE Application currently before the Planning Board. Comments must be directed to the Board. If comments are relative to an Application with a scheduled Public Hearing, please hold those comments until the Public Hearing.**

Speakers must speak from the podium, provide their name and address to the Clerk, be recognized by the Chair and speak into the microphone. Comments are held to 3 to 5 minutes per speaker. Comments required longer time should be submitted to the Board in writing for consideration and in the Application file.

Approval of Minutes of March 13, 2017 meeting:

Mr. Card made a motion to approve the Planning Board Minutes from the March 13, 2017 meeting. Mr. Abbey seconded the motion. The Chairman called a vote:



*In favor*      5      *Opposed*      0      *Abstained*      0      *Motion approved unanimously*

Chairman Smith welcomed Don Snyder, formerly of the ZBA. He is joining the Planning Board. His appointment was Wednesday night. Welcome Don. We are very happy to have you join us.

**MAJOR SUBDIVISION PRELIMINARY PLAN  
WALLINGTON MEADOWS SECTION 8  
WHITING ROAD (TAX MAP NO. 087.-01-60.1)  
49 LOTS  
CALOCERINOS ENGINEERING, PLLC**

Applicant requests adjournment to next meeting.

**SITE PLAN  
UCK TWO, LLC (SUN AUTO DEALERSHIP)  
8010 BREWERTON ROAD  
PROPOSED AUTO DEALERSHIP  
CHA CONSULTING, INC.**

James Thrasher, CHA Consulting, Inc.  
Todd Caputo, Owner/Applicant  
Vincent Salvagni, CFO Sun Auto

Mr. Thrasher: There were some questions from last meeting. We submitted the complete signage package, page by page.

Mr. Thrasher went through the entire signage package, page by page, with the Board. The signage package was received and submitted into the applicant's file for reference.

Chairman Smith: The sign company did a great job. Todd and Vinny put the hammer down and they started working on it that night.

Mr. Thrasher: The last page shows the cut page. A complete and detailed sign package. This will be the first of the transition. As they move from location to location, this will follow suit.

Chairman Smith: I can tell you from the first appearance, I know you have added some cost to the building. It is very beautiful. It is our hope that Route 11 will be our main street and this is a nice addition.

The entire Board agreed with Chairman Smith.

Mr. Abbey: What is the total square foot of the signage?



Mr. Thrasher: I apologize. I did not calculate the entire footage.

Chairman Smith: If this is in the file, there is something that you can enforce without the total square footage. This packet is enforceable down the road, correct?

Mr. Balcer: Yes.

Mr. Abbey: When I think of your business, I think of Sun Auto.

Mr. Thrasher: This is new branding. This something Todd has trademarked in the US.

Mr. Caputo: We are trademarking Used Car King. We are keeping the Sun name below it. More likely, the marketing will be referring to Used Car King in the future. We kept the Sun name below it. My thought is that Used Car King with another name down below it for other franchises. This building is a prototype to get us going.

Mr. Abbey: Great work.

Mr. Marzullo: The building looks very nice. One question, on the Route 11 frontage, the service garage door. Are those vents?

Mr. Thrasher: Yes, venting for the service area.

Chairman Smith: Are you keeping the flag out front.

Mr. Thrasher: Yes

Chairman Smith: Thank you.

Mr. Card: I like the sign package. You did an excellent job. My only concern is the illumination of the tower.

Mr. Thrasher: These are going to be backlit. Internally backlit. LED.

Mr. Thrasher: The next issue was the berm. We showed the one detail for what the options that the neighbors chose. We also show the erosion control map. New grading. We go from the edge of the storm water pond to the limits where Gray Ave is. We have a utility pole that is in the middle there.

Mr. Card: But you will have a fence.

Mr. Thrasher: The fence will come down the side slope, across the bottom and then back up.



Chairman Smith: That is what they agreed to. We are going to get the fence and berm up as soon as reasonably practicable. We will isolate the neighbors from as much construction as they can.

Mr. Thrasher: Next issue was audible noise. No loudspeakers outside.

Chairman Smith: The PA System when the old building comes down and new buildings comes up will be gone.

Mr. Caputo: Correct.

Mr. Thrasher: Updated lighting plan.

Chairman Smith: I saw that you will be able to adjust the lighting so that night time lighting will be enough for security and least disturbance to the neighbors.

Mr. Thrasher: We are not sure exactly which poles will be on and which will be turned off at night. We will contact the town office 24 hours before paving.

Mr. Ruscitto: It is nice that the neighbors and owners were able to work this out together.

Mr. Card: Lighting for the neighbors. 3 pole lamps on their side.

Mr. Thrasher: Those 3 already exist as part of the previous approval. We are not replacing them. All the other lights on site are changing but those 3 on the access road.

Mr. Card: Great job. On the landscaping, there is no plantings proposed for around the pond?

Mr. Thrasher: No, it is going to be grass. Maintained and mowed. A nice green area.

Mr. Germain: I have marked the sign package presented tonight as Exhibit A. It has been admitted by the clerk into our records and will become part of the final approval. Anything you do here will be contingent on the easements.

Chairman Smith: How far along are you?

Mr. Thrasher: We have to wrap things up between legal and surveyors. I would say within the next week or week and a half.

Chairman Smith asked Mr. Germain to construct a motion for the adoption as lead agency.

Mr. Germain: You are going to move for the adoption of a resolution that the Planning Board of the Town of Cicero assume the role of Lead Agency pursuant to the New York State Environmental Quality Review Act.

Chairman Smith put that in the form of a motion. Seconded by Mr. Card.



*In favor*        5        *Opposed*        0        *Abstained*        0        *Motion approved unanimously*

Mr. Ruscitto: In this matter I move for the adoption of the Planning Board’s standard motion in connection with a negative declaration by this Planning Board of the Town of Cicero for the purposes of Article 8 of the Environmental Conservation Law of the State of New York as if fully stated herein.

That is in the form of a motion. Seconded by Mr. Ruscitto.

*In favor*        5        *Opposed*        0        *Abstained*        0        *Motion approved unanimously*

Chairman Smith asked Mr. Germain to construct a resolution approving the site plan.

Mr. Germain: You are going to move for the adoption of a resolution approving the application known as UCK Two, LLC (Sun Auto Dealership), 8010 Brewerton Road, Proposed auto dealership Said Plan last revised March 17, 2017 along with the Exterior Sign Package last dated March 22, 2017 a copy of which has been entered into the Planning Board’s record and received by the Clerk as Exhibit A. This approval is strictly conditioned on the following:

1. The color schemes and renderings and/or elevations as presented by the applicant to the planning board in regard to this application shall be incorporated by reference into this site plan and the board’s approval thereof. Accordingly the actual project must substantially conform to the items as presented herein.
2. This approval shall not be effective until such time as the Minor Subdivision Preliminary & Final Plan of the site has been completed and the Final Plan and all underlying easements have been filed with the Onondaga County Clerk’s Office. The Applicant will be responsible for providing proof of said filings to the Planning Board. The Planning Board notes that the subdivision contained easements that are a necessary basis of this approval.
3. The applicant’s site plan indicates a projected increase in the average water flow of 600 gallons per day. The Planning Board recognizes the need to mitigate or offset the increased stress to the sanitary sewer system and accordance with the Town’s policy regarding said offset and/or mitigation requires the payment of \$4 per gallon or in this case \$2,400.00 to be paid to the Town. Said payment shall be due and payable before the earlier of the issuance of any required permit or 30 days from the date of this approval.
4. The Planning Board reserves the right at any time verify the actual average water flow to verify that it conforms to the projections supplied by the applicant. The Applicant, including its successors and /or assigns agree as a condition of this approval to cooperate with any reasonable request of the town to verify the applicant’s water flow and usage. In the event the projections and the amount of mitigation were not adequate based upon verification of the actual flow, the Applicant will pay the Town the Short fall between the projected usage and the actual usage.



5. Lighting will be adjusted at evening hours so as to minimize the effect on the neighboring property owners.

Chairman Smith put this in the form of a motion. Seconded by Mr. Ruscitto.

*In favor*      5      *Opposed*      0      *Abstained*      0      *Motion approved unanimously*

**SITE PLAN  
JAMES & LEN DIMAGGIO DBA JD MOTORS CICERO  
5715 EAST TAFT ROAD  
PROPOSED USED MOTOR VEHICLE SALES AND SERVICE  
LEN DIMAGGIO**

Len DiMaggio, Applicant

Chairman Smith: This was referred to us as a modification by the Director of Code Enforcement.

Mr. Germain: This Application is being presented as an Amended Site plan. A condition precedent to an Amended Site Plan would be a previous fully approved Site Plan. In other words you need a fully approved Site Plan to make an application for an amended site plan review.

Mr. Germain: I reviewed the records of what the site plan that the Applicant is attempting to amend. The records indicate that there was a conditional approval of an application at the Planning Board Meeting on 2/21/2005. I am going to read the Motion and approval word for word so there is no misunderstanding as to the Conditional nature of the Approval.

***Mr. Leone made a motion to approve the modified site plan dated 2/11/05 contingent on a final engineering review by our engineer for approval, Also, with the modifications of the depth the cars are going to be placed on the property and access to the front entrance. Also, the designation of current lighting so it can be shown on the map and the landscaping shows up in front here.***

***Mr. Brill seconded the motion. And it passed unanimously.***

Mr. Germain: So there were conditions attached to the site plan approval. One of them being Final Engineering Review and Approval by the Planning Board Engineer – who was Mark Parrish. I asked Mr. Parrish if the applicant ever provided the Engineering Review and approval as part of the conditional site plan approval. At this point it is clear that there is no Final Approved Plan. As such the current application cannot proceed as an amendment to an existing Site Plan. While the Application cannot proceed as an Amended Site Plan, the Applicant is free to file for Site Plan Approval.



Chairman Smith: Just some other comments. In checking on this, when this was done, there was never a referral to Onondaga County which is required. It was never referred to the County. That is not on the applicant, that is on the Town. But to add more issues to this, the City of Syracuse is within three miles. It should have also been submitted to the City. It is also within 500 feet of Route 81 and NYS DOT was never notified. There is nothing to modify because this is an incomplete site plan. This one has unsurmountable problems. We don't have any engineering reports. There are no work authorization requests that the fees have been paid. This was never done. It is incomplete.

Chairman Smith: It is up to the applicant now on how he wishes to proceed. I concur with Mr. Hooper that this is an incomplete application and the Board cannot consider it. My recommendation would be that the application fee be returned to the applicant. Mr. DiMaggio, would you like to address the Board?

Mr. DiMaggio: Where does this leave me?

Chairman Smith: Do you want to file for a site plan? Understanding that the one year ago was incomplete.

Mr. DiMaggio: What happened? Did I not do something?

Mr. Germain: Last time you received a conditional approval. It was up to you to follow up all the conditions and finalize your approval. It was conditioned on several different things. You would have to supply the engineer with those items. There is nothing in the record that shows that you actually met those conditions.

Mr. DiMaggio: Wasn't it supposed to be done by the town?

Mr. Germain: The Town only can review what materials you provide. It was up to you to provide those items to the Town.

Mr. DiMaggio: I didn't do that?

Mr. Germain: I have not seen anything in the record or in your application.

Mr. DiMaggio: So I existed all this time without proper site plan?

Chairman Smith: Part of the engineering would have included storm water management. We don't even have a review. We assume it was done but we don't have any proof. Mr. Parrish never received anything to be reviewed.

Mr. DiMaggio: I thought I did everything I was supposed to. I have been in business for ten years.



Mr. Germain: I can't answer to what happened 10 years ago. You had a conditional approval. It was then incumbent upon you to follow up and meet the conditions of approval. It does not mean you cannot apply for a site plan application.

Mr. DiMaggio: What do I have to do to stay in business.

Mr. Germain: We can't give you that legal advice. You should consult your attorney.

Mr. Marzullo: Can the conditions still be met? From the first site plan approval.

Mr. Germain: It would be difficult to make those conditions. It may be more difficult to try to go back than it would be to file a new site plan application.

Mr. DiMaggio: What about the \$2500 fine I paid that I didn't comply to the site plan.

Mr. Germain: That is not subject for this proceeding.

Mr. DiMaggio: My parking lot floods now with the new road that was built. When they widened Taft Road. Nobody ever did anything or resolved that for me. I just want to do business.

Chairman Smith: I understand.

Mr. Marzullo: What brings you here?

Mr. DiMaggio: I am here because there was a complaint that I have too many cars on my parking lot. My neighbor is complaining that I have too many cars. He doesn't like me and he is making complaints. It is a frivolous complaint. I am not doing business any different than anyone else on Taft Road. I try to run a legitimate business. I just want to sell some cars.

Mr. Marzullo: Is codes saying you are in violation of the site plan?

Chairman Smith: The Department of State that controls the codes office, when a complaint comes in they have to record it and they have to take care of it. They have received complaints and town code does require you to have a legitimate site plan any time you are going to sell more than two cars. Mr. Hooper received the complaint from the gentleman next door, he has to take action. Mr. Hooper has to address the complaint. You are required by the town code for automotive business under site plan requirements, if you sell more than two cars per year, you have to have a site plan.

Chairman Smith reviewed site plan requirements per Code 210-17J - for sale or repair of vehicles.

Mr. Germain: You need a valid site plan to operate.

Mr. Marzullo: You need a site plan and an attorney.





Mr. Germain: At this point, we have an incomplete application. What is the viable avenue? Apply for site plan approval. Return the funds. You don't need a motion. You do not have authority to make that determination. That determination is made by the Codes Enforcement Officer.

Mr. Marzullo: As far as continuing operations, that is up to the Codes Office as well?

Mr. Germain: Yes. At this point, the Codes Office has to act on the complaints.

Chairman Smith: Mr. Hooper does not have a choice.:

Mr. Germain: He has an obligation once a complaint is made to open the file, follow up on it, and then close the file. The applicant is free to make that decisions on its own. We cannot advise the applicant either way.

Chairman Smith: Mr. Hooper will be back Monday of next week.

Mr. DiMaggio: I will get with Mr. Hooper with my amendment, application money and apply for a site plan.

Chairman Smith: Do any members of the Board have anything additional? The Board did not have anything further.

**Mr. Abbey made a motion to adjourn. Mr. Ruscitto seconded the motion. The motion was approved unanimously.**

**Next Scheduled Regular Meeting: Monday, April 10, 2017 at 6:30 PM**

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 7:32 pm.

Submitted by Lisa L. Stewart  
Planning Board Clerk