

The Planning Board of the Town of Cicero held a meeting on **Monday, February 14, 2011** at **7:00 p.m.** in the Town Hall at 8236 Brewerton Road, Cicero New York 13039.

Agenda:

- Pledge of Allegiance
- Approval of Minutes from the January 10, 2011 Meeting (**approved**) (There was no PB meeting 1.24.11)
- Site Plan/Sketch Review, Tim Horton's, 5600 Bartel Road, Proposed Drive-thru, Mirabito Holdings, Inc. (**no action, to return**)
- Major Subdivision Final Plan, Wallington Meadows Section 7A, Alizarin Avenue, 20 Lots, Ianuzi & Romans (**approved**)
- Informal Discussion, Big Don's Wild River Mini Golf

Board Members Present: Mark Marzullo (Chair), Joe Ruscitto, Pat Honors, Robert Smith and Sharon May

Board Members Absent: Greg Card and Chuck Abbey

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

The meeting was opened with the Pledge of Allegiance.

Mr. Marzullo noted the locations of the three emergency exits and asked those present to turn off their cell phones. He also welcomed Joe Ruscitto the Planning Board's newest member.

APPROVAL OF THE JANUARY 10, 2011 PLANNING BOARD MINUTES

Mr. Smith made a motion to approve the Planning Board minutes from January 10, 2011. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

Mr. Ruscitto:	Abstain
Mr. Honors:	Yes
Mr. Smith:	Yes
Mrs. May:	Yes
Mr. Marzullo:	Yes

**SITE PLAN/SKETCH REVIEW
TIM HORTON'S, 5600 BARTEL ROAD
PROPOSED DRIVE-THRU
MIRABITO HOLDINGS, INC.**

(There were no representatives.)

Mr. Dean stated that he had just received a call from the applicant who was on his way to the meeting and was forced off the road in Homer. The applicant was able to get out of the ditch, but decided to head back home. He won't be here tonight but asked if we could at least discuss/introduce the Board to the project.

Mr. Marzullo noted this was the Mobil Gas station on Bartel Road in Brewerton, right off the Route 81 exit. They came to the work session and want to put in a drive-thru for Tim Horton's. I believe that operation would just be a drive-thru correct?

Mr. Dean responded yes. They will still operate the gas station but they want to put a window in on this side of the building cuing cars along here.

Mrs. May asked if that Mobil station was ever equipped to do any type of restaurant.

Mr. Dean noted like any other Mobil station they are equipped to sell coffee. It was a convenience store. It never had a drive-thru window which is why I told him he would need to come in for site plan approval.

Mr. Honors asked if this was the Mobil directly across from the Nice & Easy.

Mr. Dean responded yes detailing the site's location. The section of the parcel closest to the ramp is vacant. The original site plan we found included a proposed fast food restaurant on that section. There is nothing there now. That section of the parcel is not a part of this plan.

Mrs. May asked about room for stacking and if there would be a full line of the Tim Horton's products sold like at other Tim Horton's locations.

Mr. Dean replied that he could not answer that question.

Mr. Smith noted this was something that the Board has never done as a point of order. It says on our agenda that the applicant or someone who represents the applicant must appear at the meeting. It is unfortunate that the applicant could not make it but, we are in a unique circumstance where we are asking Mr. Dean to represent someone's application. This is a public meeting. We are asking questions that should be answered by an applicant. It violates a policy that this Board has.

Mr. Marzullo explained this is really to give you some information. We are not at all going to take any action tonight. From my prospective the main purpose of this discussion is to give everyone some insight into what will be coming up in front of you again. You would have time to think about questions you want the applicant to address. Are there any other questions from the Board?

Mr. Honors stated he would wait for the applicant to come in. But, it was good to get a brief introduction to the project.

MAJOR SUBDIVISION FINAL PLAN
WALLINGTON MEADOWS, SECTION 7A, 20 LOTS
IANUZI & ROMANS
(SEE ATTACHMENT A: O'BRIEN & GERE LETTER DATED 2.11.11)

Representative: Hal Romans, Surveyor, Ianuzi & Romans

Mr. Romans introduced himself. We are here tonight for approval of Wallington Meadows Section 7A that has 20 residential lots that are zoned R-10. The preliminary plan was approved by this Board many years ago. The infrastructure was put in for most of Section 7 which includes this portion where we do not show lots. Due to the slight down turn in the economy, it made sense to limit this to 20 lots at this time.

The roadway here is built and has an easement around it which serves as the turnaround.

I did receive a copy of Mark Parrish's letter. I did not see any issues. Road patterns remain the same from the preliminary plan. The lots stayed the same. The only things that might have changed are minor utility adjustments as far as storm water.

Mr. Marzullo asked Mr. Parrish to review for the record what would need to be in place for the chairman to sign off on the plan. I know that 277 Fees would have to be paid.

Mr. Parrish stated he would try to be as complete as he could. There are Park Fees that should be in place. I guess that there would need to be securities in place for the punch list items and guarantees for the utility work. The Town's engineer has provided letters on those and I believe that the Town Board actually accepted the amounts of the securities at their Board meeting last Wednesday night. Easements need to be dedicated so descriptions of those need to be prepared. Again, I believe that the Town's engineer has reviewed those and has said that those are acceptable but they need to be formally dedicated. The road rights-of-way need to be dedicated to the Town and then any other special agreements that might need to be in place should also be put together.

One of the things mentioned in the letter is that there is a temporary connector road easement. My understanding is that the Town Board chose to accept that connector road easement with the understanding that any damage that is done to that road between now and the time that it is conveyed to the Town as a public highway would be the responsibility of developer to fix. I think that an agreement needs to be put in place. I am not sure of the language that they are using for that agreement but I would think that this agreement needs to be in place prior to signing the final map.

Mr. Marzullo asked if potential damage and liability should be discussed.

Mr. Parrish suggested conferring with the Town's attorney to see if he is satisfied that all of these securities, necessary agreements for easements, etc are in place before signing the final plan.

Mr. Germain stated that ultimately the Town's attorney would be responsible for looking over those agreements and making sure that they actually mesh up with what was promised. From

your prospective you just want to make sure that you have consulted with the Town's attorney and that you know that everything is in place before you actually sign the final subdivision map. Your signature, once affixed—that's it. You want to make sure that all the duck's are in order.

Mr. Romans agreed noting this was similar to any subdivision we have brought through the Town of Cicero and is usually subject to engineering and legal. Final planning gets approved by the Planning Board. We make the prints at that time. The applicant signs them. The maps come up to the Zoning Office and the Chairman signs them after he has conformation from the Town's attorney.

The applicant recognizes that there is probably something on the easement—the indemnification—that needs to be finalized.

Mr. Smith asked if this was the time to discuss traffic control devices. There should be a stop sign by Lot 31. These signs could be a costly expense to the Town when they are not done by the developer.

Mr. Romans responded as part of the previous section we have a stop sign in place there. He gave additional information on a second stop sign identified on the plan as a cross.

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

Mr. Parrish noted typically the Planning Board looks at a project to determine whether or not they feel park land should be included with the subdivision. The preliminary plan for this

project generally does not provide for that. So, during that phase a decision was more or less made that there would not be park land incorporated into this. Since it is not, the applicant needs to post fees for park lands on a per lot basis. I think that the Town Board addressed that somewhat at their meeting, but in the past the Planning Board has also made that a part of their resolution approving a final plan. They would be taking park fees in lieu of park land for the project.

Mr. Marzullo stated it was definitely discussed at the Town Board level. They talked about taking \$475 per lot. With the 20 lots here that would be a total of \$9,500.

Mr. Parrish explained that the amount is typically set by the Town Board. On a somewhat regular basis they will adjust those fees. But, the decision to take park land or park fees is typically a part of the Planning Board process.

Mr. Marzullo asked if it should be included in the motion.

Mr. Parrish responded yes. You are approving the final plan and also in lieu of taking park land you would be accepting a per lot fee for Parks.

Mr. Germain agreed. **Your motion would be something along the lines of** the adoption of a resolution approving the application of Wallington Meadows Section 7A for subdivision approval. The applicant is to post park fees in lieu of a dedication in accordance with the per lot fee as set by the Town Board.

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

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

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

INFORMAL DISCUSSION: BIG DON'S WILD RIVER MINI GOLF

Representative: Don Cullen, Owner

Mr. Cullen introduced himself noting that he had gone to the work session to go over some changes that he would like to do his property. I would like to go over that tonight with the Planning Board. I have outlined the changes in my memo and diagram.

Primary, I would like to fence the green area and turn that into an outdoor laser tag play area. Presently, I have a fence on the east side and on the north side. The fence to the east has an eight foot variance which my neighbor chose to use for some of the length of the property. He then chose to go six feet towards the back. The new fence would face Button Road and would be a six foot privacy fence. Once you get into what I call the interior of my property, the scooped out section would have a three foot fence so that families could watch their kids while they play. The short distance to the east of the maze would also have a six foot privacy fence.

Outdoor laser tag is very similar to indoor laser tag. Taggers operate on a signal similar to your television remote. It is called laser tag but it really is not a laser. It is an infrared signal. No one can get hurt. It would be played on a team basis. Games include Capture the Flag, Escort the VIP, Seize the Objective, etc. Taggers have audio controls on different settings. At the lowest setting operators can only be heard, at the next level up you could hear it at about the distance of a cell phone and so forth. We plan of keeping it at the low end of the spectrum as to not bother the miniature golfers and/or my neighbors.

I have tried to tie everything in so that areas look similar. For example the wall of my little building is like a pine log façade. My maze has the same type of material. I will tie this in as well by using the same type of materials.

Hours of operation would be from the time we open in the morning until dark. In the summer that would be until about 9:00 or 9:15. Obviously, I cannot operate this in the dark. If we did, I would need to put in some type of lighting. I would come back before this Board to do that.

We are expecting a lot of birthday party activities because of this and so part of this project is to add a gazebo. We added one last year by permit. I would be putting the same kind along the

perimeter of the laser tag area. I will also need a working service shed which would have the same kind of pine log appearance next to the climbing wall. We need this for equipment storage.

At our peak times we are full. We do expect an increase in parking traffic and have added 14 spaces to the site. Currently, that is all gravel. The extension would be the same.

Mrs. May asked how noise would be controlled.

Mr. Cullen noted he did not think that the tagging itself would create more noise. You do get noise when people play a game. Again this is a day-light only operation. Fencing is already there and more will be added. Between the obstacles that will be put in which will refract sound and the fencing, I am not expecting a lot of noise. I really try to maintain very good relations with my neighbors on both sides. It is important to me. It is a win-win. It is not worth the hassle.

I am not expecting sound to be a problem. If I did get a lot of negative comments from my neighbors I probably at that point in time would do something else---be it plant vegetation or whatever. But I don't have a lot of room for that. Planting large pines would eat up a lot of space. I wish this area were larger than it is, but it is what it is. I think that I can work within this size.

Mr. Smith asked if the food service would be expanded.

Mr. Cullen replied no. We are just sticking with the soft serve ice cream that we currently prepare.

Mr. Honors asked if there was room for more than the proposed 14 additional parking spaces. I would like you to get as many as you can.

Mr. Cullen agreed more spaces would be better. The gentlemen that drew our diagram put in a turnaround area. I don't know if that is required. Currently we control parking by having two employees set parking by parking in the middle and the head. With that arrangement people can get in and out fine.

Mrs. May noted that would give you six more parking spaces.

Mr. Cullen stated if that gave us more spaces, he would be for that. He thanked the Board.

Mr. Smith asked if lighting would be added.

Mr. Cullen responded not at this point.

Mr. Smith asked if there would be any new signage.

Mr. Cullen noted the only signs they might put up would be very small display signs along the interior denoting each area of the site. Nothing would be added to the front or to Button Road.

The chairman asked the Board's professionals if they had any questions. They responded no.

The Board agreed that the proposed changes would be good.

Mr. Cullen thanked the Board.

Mr. Smith 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 WAS
ADJOURNED AT 7:33 P.M.

Dated: February 23, 2011

Tonia Mosley, Clerk

ATTACHMENT A:

February 11, 2011

Planning Board

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

RE: Wallington Meadows Section No. 7A Final Plan
FILE: 0101/25439.399

Dear Board Members:

We have reviewed the Final Plan dated January 22, 2010 last revised November 15, 2010 prepared by Ianuzi & Romans, LLC for the above referenced project. Wallington Meadows Section No. 7A consists of 20 single-family residential lots along Alizarin Avenue. The site is zoned Residential R-10. The above materials are in general conformance with Town Code requirements for Final Plans subject to the following comments:

1. The roads and utilities for future sections of the project have been constructed but are not proposed to be dedicated at this time. The Plan provides easements for sanitary sewer and drainage facilities necessary for this section. The Plan also shows a Temporary Connector Road Easement along the portion of Alizarin Avenue that extends from the end of Section 7A to the portion of Alizarin Avenue constructed as part of Section No. 5. It is our understanding the Town Board has indicated it will accept this easement with appropriate guarantee from the Developer that the Town is not responsible for damage that may occur to the road prior to its dedication to the Town.
2. The Board should identify appropriate park fees for the project.

The Town Engineer has furnished letters to the Town Board providing recommendations 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