

The Town of Cicero Planning Board held a meeting on **Wednesday, July 2, 2008 at 7:00 p.m.** in the Town Hall at 8236 South Main Street, Cicero, New York 13039.

Agenda:

- Approval of the June 16, 2008 Planning Board Minutes (**Approved**)
- Site Plan, Uncle Bob's Self-Storage, 8239 Thompson Road, Proposed Site Expansion, James E. Fensken, Bryant Associates, P.C.
- Site Plan, Tri-State Realty, 8457 Brewerton Road, Proposed Modular Office, Elliot Meltzer
- Site Plan, Paul Delima Co., Inc., 8550 Pardee Road, Proposed Windmill Installation, Kurt Stroman, Esquire (**Approved**)
- Final Subdivision Plan, Park 277 Fees, Stonebridge Manor Section 2, 9446 Brewerton Road, 32 Lots, Cosimo Zavaglia (**Approved**)
- Complaint Discussions, Tim Murphy

PRESENT:

Patrick Leone, Chairman
William Purdy, Board Member
Christopher Rowe, Board Member
Sharon May, Board Member
Jason Mott, Board Member
Robert Smith, Board Member
Heather Cole, Esquire, Wladis Law
C. Vernon Conway, Liaison, Town Board
Wayne R. Dean, Director, Planning & Dev.
Mark Parrish, P.E., O'Brien & Gere
Tonia Mosley, Clerk

ABSENT:

Richard Cushman, 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 and that there were no formal public hearings tonight. The Board acknowledged the importance of public input and encouraged anyone who would like to speak about an agenda item to do so by raising their hand and being recognized by the Chair. Use the microphone in the front of the room. It is also the Board's intent to be heard. Please turn off any cell phones.

APPROVAL OF THE JUNE 16, 2008 PB MINUTES

Mr. Smith requested that the letters from the DOT (June 19, 2008 letter) and Tim Hortons (June 6, 2008 letter) be included in the minutes, incorporated into the Tim Hortons site

plan discussion. **Mr. Smith made a motion to accept** the June 16, 2008 Planning Board minutes with the additions noted above. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

Mr. Purdy:	Yes
Mr. Rowe:	Abstain
Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes
Mr. Leone:	Yes

**SITE PLAN, UNCLE BOB'S SELF-STORAGE
8239 THOMPSON ROAD, PROPOSED SITE EXPANSION
BRYANT ASSOCIATES, P.C.**

Representatives: Paul J. Curtin Jr., Esquire , Shulman, Curtin, Grundner & Regan, P.C. and James E. Fensken, P.E. Bryant Associates, P.C.

Mr. Curtin introduced himself and Mr. Fensken. We have been asked to review the application that was previously submitted. The proposal is for the expansion of the existing self-storage facility. After reviewing the previous minutes, there seems to be some concern with softening the outer appearance of the building. We have made some modifications including wrought iron fencing and pine trees to create a natural visual buffer. The trees would have an initial minimum height of 6 feet. We would like to plant in September or October before the first frost.

Mr. Leone noted the Board's comments about softening the look of the building were to try and lighten the look of the metal siding. It is an active corner which will go through a huge renovation by the DOT. We want to discuss the potential for sidewalks and how that might aid in pedestrian movement. We will also encourage the DOT to continue with the network of sidewalks.

Mrs. May suggested adding faux windows.

Mr. Curtin noted the strong potential for putting in faux windows and shutters to soften the character of the building.

Mr. Leone noted this was an approved use. It is a prime location in the Town. The issue is to make the building's outward appearance more palatable, especially as you are sitting in traffic.

Mr. Curtin: James and I are in a position to recommend to our client that we change

the elevation in terms of the two sides of the building that face the public way. The sides are currently solid. The windows would have to be faux windows for security reasons.

Mr. Leone asked if the plantings were on the applicant's property or the state's right-of-way. I wanted to discuss sidewalks because this project is on the table tonight. You have a large amount of frontage on the property.

Mr. Fensken stated that he was the project manager for the design consultant for the DOT's expansion in that area. There is a significant amount of right-of-way on this site but it is also forever green. The drainage ditches would be filled and covered, but we have not gotten that far along.

Mr. Leone: The Town needs to be involved in that.

Mr. Fensken: Absolutely. But we are in the preliminary stages. I am just starting to look at it now. It is definitely on the agenda with my company and the County.

Mr. Curtin noted that all improvements are on the property, not in the right-of-way.

Mr. Leone: I know that storm water was not an issue. We have batted sidewalks back and forth. One way or another we need some attention to that area. The softening of the building and landscaping were major issues. There were no additional lighting changes. There was no outward sign of outward storage.

Mr. Parrish noted that there was lighting on the building, wall packs. We had some comments on a previous letter on those that have been addressed satisfactorily. As far as drainage goes, that has been approved by the DOT. The other issue we brought up was aesthetics. If the Board is satisfied with that I think we are set with compliance.

Mr. Leone stated that he would like to see the revisions to the building before we move ahead with approval.

Mr. Smith agreed. I think we seriously need to discuss the sidewalk issue. It would be a connector between major neighborhoods. It would be a connector to the ball fields and the school. You could also walk to the high school if you could get across that Thompson Road stretch. Our goal is to eventually get sidewalks down that section of Route 31 so that the high school is opened up.

Mr. Curtin asked if that is something that the DOT is taking into consideration.

Mr. Leone responded they would take it into consideration if the Town pays for it.

Mr. Curtin asked if the Board had considered sidewalk districts.

Mr. Smith: We would have to get our Town Board to take action on that. We have not had a great deal of success in getting any sidewalk assistance through the Town Board.

Mr. Curtin suggested doing something through comprehensive.

Mr. Leone: That is what we are trying to do but we do not want to lose the two potentials here. We have a site plan review and expansion where we have an opportunity to try and address this.

Mr. Smith: In every commercial project we have approved, we have required the developer to put in a sidewalk.

More discussion occurred regarding pedestrian movement, energy conservation and safety.

Mr. Curtin: If there is adequate space on site to accommodate a sidewalk and we showed that and left it in place on the site plan for future development potentially, would that be something acceptable to you? Jim is in an interesting position because the overall design concept has not been laid out. Is the sidewalk going to be allowed in the right-of-way? Is that something that would be encouraged? For alignment purposes and looking at the entire corridor---these are answers that I do not know. I don't think we want to do something that is helter-skelter where you have poor alignment and poor spacing between the new, improved right-of-way and the location of the sidewalk. It is a question whose answer can only be given at a future date and time. What if we demonstrate that there is adequate space on the site to accommodate a sidewalk--if that is where the DOT says yes you can locate one there because you have the proper separation? Putting one right next to the right-of-way is not a good idea unless you have curbing and you have the ability to protect the pedestrians who are using it.

Mr. Leone: It depends on the right-of-way's use. If it is going to be a right-of-way in a turn lane right up to that point, I agree it may not be. What needs to be discussed is exactly what the buildout is going to look like. What are you doing over there? We do not have that answer at this point.

Mr. Smith: Would it be fair to say that there is a sunset clause in this? That after a certain period of time, if the sidewalk is not put in by the County and they have done their expansion, your client understands that they would have to go in and put in a sidewalk?

Mr. Curtin: That maybe a fair resolution to the problem. We can not engineer that right

now and he can not engineer that right now with the application that is before you. If we have that proviso I think that you have achieved your end goals.

Mr. Smith: Wayne, you would be the one going out after everything is done to make sure that the sidewalk was put in.

Mr. Leone: Can we take securities for that?

Mr. Dean agreed. We have to have some method for if it is not done, that we can use to get it done.

Mr. Curtin: Let us do two things. We will discuss that issue with the client. We will also revise the site plan according to tonight's discussion. Then we could be before you at your next meeting.

Mr. Leone: We will try and get a little information from Mr. Stelter so that you are not sitting in an uncomfortable position. I will ask the Planning Board engineer to make a phone call.

**SITE PLAN, TRI-STATE REALTY
8457 BREWERTON ROAD, PROPOSED MODULAR OFFICE
ELLIOTT MELTZER**

Representative: Andrew J. Leja, Esquire, Hiscock & Barclay

Mr. Leja introduced himself. We are here for a continuation of the review by this Board of a site plan application for the establishment of a new fencing pattern for the property located at 8457 Route 11. The property is currently being utilized for the storage of automobiles by a couple of different entities. We have proposed that the current fencing area be split in half and that the southern half be used by Tri-State Realty for a storage area/etc. for repossessed vehicles. It is also the site for an office structure, a modular office building, together with a small pole barn for the cold storage of goods from those repossessed cars.

The proposed operation would involve repossessed cars being stored in a secure place behind the fence. The fenced in area would be accessed through an area off of an existing driveway that we have that goes back to the salvage management facility. It is the large improved driveway that you are probably familiar with at the site. We have redesigned it per the current Planning Board's recommendations and requests to have the main driveway being the entrance way to both the repossession yard fencing area as well as the adjacent fencing area to the immediate north. Both areas would be accessed off of

that main driveway. We have received the recommendation from the Onondaga County Planning Board. As you know the resolution calls for the elimination of two driveways. One would be the driveway in front of the Butler Auto Sales facility—the closest one to the Route 31 intersection. The other would be one of the small driveways in front of the driving range, located to the north of that. It is currently a looped driveway. The DOT and County Planning recommended that we make one of those cuts onto 11.

Mr. Leone: What is your opinion about closing those two driveways?

Mr. Leja responded I have spoken with my client. We are willing to do so.

Mr. Leone asked for clarification on the main access drive. You are going to take the main salvage yard access. It will serve the salvage yard in the back. It will have a left-hand turn into the storage area?

Mr. Leja responded correct.

Mr. Leone: You will use it for repossession vehicles. Isn't there GSA cars?

Mr. Leja: GSA and Enterprise cars are being stored in the northern....

Mr. Leone: They are going in the same way?

Mr. Leja: No, there are going to be double gates because we need to keep the areas secured and separate from one another.

Mr. Leone: Double gates to where?

Mr. Leja: There will be double gates coming off of the main driveway.

Mr. Leone: That's the driveway going straight back? Do you have a picture of that? It is a double-wide driveway?

Mr. Leja: It is something like that. That is what our designer came up with. This will be open and provide a gated area back to here for the repossession yard. This will provide a direct access to this northern half of property so they both get access off the main driveway.

Mr. Leone: I am not sure that this is the best way to set that up.

Mr. Leja: I am open to suggestions, where ever you want to put it.

More discussion occurred. Mr. Leone noted suggestions for Mr. Leja's plan.

Mr. Smith: The last time the applicant was here we asked for architectural design and lighting, number of employees, etc. Has that information been provided?

Mr. Leja: Some of the information was provided. Some of it was not found to be relevant to the situation.

Mr. Smith: By whom?

Mr. Leja: By Mr. Parrish.

Mr. Smith asked for clarification.

Mr. Leja: For the architectural renderings, the elevations were given to the Board as part of the application along with a picture.

Mr. Smith: There was a picture of what it could look like.

Mr. Leja: Right. For what it will look like you have to build it.

Mr. Smith: I have not seen anything since it became a repossession yard. The application originally called for a temporary, double-wide, single storage office trailer and a 16 x 24 cold storage shed. Have we determined that this is all one tax map?

Mr. Leone: That is all one big tax parcel.

Mr. Leja: This is the application which I submitted to the Board on March 12, 2008. It contains a picture of the actual building.

Mr. Smith: That is now on the site.

Mr. Leone looked at the plan asking it that was the cold storage building or the office building?

Mr. Leja: That is the office.

Mr. Leone: Is the cold storage building in here?

Mr. Leja: No, that is going to be a simple pole barn.

Mr. Smith: We would still like to see what it looks like. That is what we have been.

requiring of applicants.

Mr. Leja: But that was not part of the requirements that were made to me through out the process.

Mr. Smith: Mr. Leja with all due respect, every since this thing arrived at our doorstep it has changed constantly. It went from an office trailer and by your own application, it keeps changing. I made notes on your original plan stating that we wanted tax map numbers, architectural design features, lighting, number of employees and trips per day.

Mr. Leja: I did provide a supplemental narrative that went with that in direct response to Mr. Parrish's comments.

Mr. Smith: But an architectural design included your barn.

Mr. Leja: We have not put together an architectural renderings of what the pole barn and the office building would look like on the site. I had no intention of doing that because as many times as I have been before this Board and had conversations with the Codes Office and conversations with this Board you have come back and said we know what that looks like. We have these few other questions. We will have Mr. Parrish ask the questions, you provide the information. I provided the information some time ago and no further response was given back to me, leading me to believe that this Board was satisfied with the responses. If that is not the case certainly then we will take that up now. But I am not in the position of saying that we have not provided something that was requested of us that I did not believe was a complete response to what we had done.

Mr. Smith asked Mr. Parrish if he decided that the Board did not want the drawings.

Mr. Parrish: I do not have the authority to make that decision.

Mr. Leone asked Mr. Dean if he decided that the Board did not need the drawings.

Mr. Dean: I did not say that, no.

Mr. Leja: I don't think that it is fair to ask them if they decided whether or not the architectural renderings were done...

More discussion occurred.

Mr. Leja: Is there anything other than these renderings that the Board wishes to discuss?

Mr. Smith: I reviewed your site today at 6:25 and have some concerns. There is a car

parked out in the greenspace at the auto dealer, at Butler's. There are two trailers out in the back. I question if they are acceptable and ask Wayne to make sure that they are able to meet the requirements. I had questions about the access to the site. You brought a site plan in tonight that I have not seen and at least three others have not seen yet. There was someone outside washing cars at the auto dealer. They are not supposed to be washing cars on the pavement and having it run off the front. That was at the GSA building, which is part of this site. You have a car out in the middle of the site with four flat tires. It has sat there for so long that the leaves are growing up around it. You have signage out in front in the green area that is illegal and not in compliance with the sign code. You have cars parked along the entire back of the Butler property. None of them are tagged. There are weeds growing up as high as 4 feet around these cars. They are junks and they are not even for sale. That is why you are being asked hard questions about this.

Going back to the initial, there was talk about screening in the letters you provided me. I do not see any screening, screening so you don't see the storage of cars from Route 11.

Mr. Leone: We purposely asked about the turnover of cars there. We see cars that have been there for years.

Mr. Leja: The cars are on what site?

Mr. Leone: The site, it is all one site.

Mr. Leja: The operation of that is perhaps under different conditions than the Butler site.

Mr. Smith: It is between your trailers and Butler. It is right in the middle of the place that you want to put your barn and your trailer.

Mr. Leja: The current limit on staging something there is how long?

Mr. Smith: How long do you plan to keep them?

Mr. Leone: That is why we asked about this very specific parking area. My question to you was how long are these cars going to be sitting here? You said 2-3 days.

Mr. Leja: 2-3 days? You have my response in writing. I urge you to review that. It said that there was a continual turnaround of cars. And, that there would be a certain amount of cars expected there on any given day. How long will those cars remain there? They maybe a couple of days, they maybe a couple of weeks.

Mr. Leone: That is why we are concerned about the number of vehicles that you will store in there. We are trying to get to the details because it is so willy-nilly. Was it in the

original site plan how long the cars should be there? I don't know. That is a good question. Should it be in this site plan? Based upon your comments, I think that it should be. You are going to be bringing repossessed cars into the storage barn for Mr. Meltzer's personal effects?

Mr. Leja: No, the repossessed cars would be stored in the fenced in storage area. The personal effects from those cars will be taken and stored in the cold storage barn.

Mrs. May noted the minutes from March 17, 2008 page 6 which state the barn/garage was to be put up for his personal effects.

Mr. Leja: I don't know if that was a verbatim tape of my statements. My written response details exactly what this is going to be used for. The whole operation is detailed in my supplemental statement.

Mr. Smith: If you had brought in the information we requested today, had it here in front of us, we could seriously talk about approving your proposal. Why you insist on not giving us the information like other applicants who appear before this Board is beyond imagination. As of yet you seem to want to file an application which is fairly loose with some legal room. We want details.

Mr. Leja: Other than the architectural renderings, what other details are not provided?

Mr. Leone: I want to see a new site plan showing a fence and an existing gate removed. I want to see the driveways you are willing to close closed—use the furthest one to the north, close the ones to the south. Show the gate. It should not be willy-nilly. The existing gate needs to be removed.

Mr. Leja: If you remove the gate, doesn't that open up more of an area for another drive through?

Mr. Smith: It does because the gate is left open all of the time. There is a direct access between the GSA building and Butler. I have driven through is several times.

Mr. Leone: You could have a pass through man gate if it is an issue for people to walk into the back, but not a full gate where cars would start exiting out through Butler.

Mr. Leja: And it is our proposal to make that a permanently locked gate. You want it to be just effects?

Mr. Leone: Yes, re-use it. It is cost effective. My assumption is split the two properties from the GSA property to the Tri-State Realty property. Is it this line down the middle?

Mr. Leja: Sure.

Mr. Leone: You are proposing a maximum of 200 cars on one side and 150 cars on the other.

Mr. Leja: No, that is not what is says. It says this Board requested I provide the maximum number of parking spaces. And as I have said, the repossession yard does not expect to have anywhere near that amount.

Mr. Leone: The fact is that there could be 150 cars there and that there could be 200 in the GSA space. There could be up to 350 cars over there.

Mr. Leja: Exactly which is the case right now, actually more probably. Currently, the whole fenced in area can store cars.

Mr. Leone: You are asking for specifics and I am going to be specific. You need to bring the renderings for the office building in a completed fashion. What it is going to look like, you are going to skirt it, you are going to put these things together, you are going to have steps going up there, etc. That needs to be addressed. Is it going to be on pavement? Is it going to be sitting in a mud hole? Is it going to be fenced? Is it going to be stoned? Is it going to be grassed? We need the architectural features and its appearance with whatever landscaping you plan to do. For the pole barn, I have no idea what you are talking about. Is it metal? Is it wood? What color is it?

Mr. Smith: Does it have a stone floor?

Mr. Leone: We need the finished site plan with your driveways closed. You need to discuss the double gate issue. Again, I would say this to the Board quickly, they are proposing two gates. One gate is to exit/enter the GSA space. And, the other gate is to enter this space. I don't know the width that you have here.

Mr. Leja: 16 feet.

Mr. Leone: I am not sure that is enough for a drive lane. I think that it has to be 22 feet on a commercial piece of property so that two cars can pass side-by-side, coming and going. Are you going to have someone backing all the way up if someone is coming in and someone is coming out?

Mr. Leja: There is room for them to come out. The GSA is direct. That is just the one gate.

Mr. Dean noted the required width for commercial driveways, 22 feet. I have already

talked to Andy about that.

Mr. Leone: Those are the things that need to be buttoned down that are not addressed in your site plan. You want us to comment on the site plan that you just walked in with. Is that fair?

Mr. Leja: I appreciate your doing just what you have done now, telling me the items that need to be ironed down. I appreciate the Board's patience with this but at the same time please understand that I am trying to take your questions and based upon several meetings and several different discussions, and figure out oh you don't need to worry about this or you do need to worry about that.

Mr. Leone: The last part of the question is I don't think we want cars sitting there for a year. I don't think that we want cars sitting in the GSA space. I don't think that it was envisioned that cars would be sitting in the salvage yard for years. That is what has happened. So, I think we need to address a time line. What kind of reasonable turnover could you expect for a car to be in your repossession yard or the GSA yard? I think someone needs to address that.

Mr. Leja: I think you are mixing two different things. You are talking about property appearance versus turnover of parked vehicles.

Mr. Leone: You are right. That is when it comes down to a number of cars that are going to be parked. Because we do not have turnover rates some of those cars could be there who knows? Years? You are talking about bringing in 2-3 cars per day.

Mrs. May: The minutes say 4-6.

Mr. Leone: Okay, 4-6. So, ultimately you should be able to calculate your turnover rate. You are going to run out of room. In one year if you brought 4-6 cars in per day---what is the math?

Mr. Leja: If there is not turnover, right.

Mr. Smith: You are only going to bring 4 cars in and out of the site per day?

Mrs. May noted minimum.

Mr. Leja: That is what we asked for, correct.

Mr. Leone: The issue of turnover rates is an issue of parking. If you are telling me they could sit there for six months maybe the Board will say 150 spaces is too many. We do

not want a sea of cars over there.

Mr. Leja: We have got that right now. We have that permitted right now. You are saying if we come in for a site plan you are going to limit the amount ofI am trying to identify what you are after. Are you after limiting the number of cars there or limiting turnover rates or are these property maintenance issues?

Mr. Leone: I am after the number of cars that are going to eventually be parked there. You have a maximum of 150. If you tell me that is what you are going to park there, I need to think really hard about that. If you are telling me you are bringing in 4-6 cars per day and you have turnover rates of a week or two weeks, you will never get to 150 cars.

Mr. Leja: I would suggest you check my site plan. That has an explanation of how many cars we anticipate. The 150 number was specifically requested by this Board only as a maximum of what this lot could take. That is not what we said would be there.

Mrs. May reviewed Mr. Favor's statement from the previous minutes stating: How many vehicles do you propose in the re-po yard at one time? 4-6 per day for repossession.

Mr. Leja: The question and the answer are two different things. I am not looking at the minutes because I don't have those. I am looking at the official version in my narrative details.

Mr. Leone: How many cars would be leaving per day?

Mr. Leja: We had estimated, I believe, something along the lines of 20-30 cars would be stored at any given time. That was in the minutes somewhere because I know I said it. It is in my site narrative as well.

Mr. Leone: Then why do you need to park 150 cars there?

Mr. Leja: Again, you asked us to indicate the maximum cars that we would store.

Mr. Leone: So, if we told you that you could only store 50 there, you should be elated. That is double the number that you anticipate.

Mr. Leja: I would want to know the Board's justification for limiting the number of cars there.

Mr. Smith: Because we are limiting the traffic.

Mr. Leone: Appearance.

Mr. Leja: You are also putting a limit on his business, on his ability to conduct business. You are okay with that?

Mr. Smith: We want to know how the traffic will flow. If you are going to move 150 cars it is entirely different than moving 50 cars.

Mr. Leone: We limit businesses all the time, either by traffic functions, by the size of their parking area, by the number of customers—we limit parking fields all the time.

Mr. Leja: Based upon the ability of those cars going in and out, the traffic flow from those parking spots.

Mr. Leone: Maybe we need to get a better traffic count of what we anticipate from the whole site and determine whether or not there needs to be a light there. Based upon your car count, based on what is coming out of Butler now, what is coming out of the GSA site, what is coming out of the salvage yard, what is coming out of the golf course—and we will collectively put it together. Now that this application and this property is all one, we need to determine whether or not there needs to be a traffic light at that main driveway.

Mrs. May agreed.

Mr. Leone: We may need an extra turn lane there as well. You have not really given us the full story for the site.

Mr. Leja: The issue of traffic counts was raised by this Board. The issue was directed to the engineer and was responded to.

More discussion occurred.

Mr. Leja: I don't understand what you mean by reasonable count. If you are asking how many cars will be in and out, it is in my narrative.

Mr. Leone: I want to know why you need 150 maximum cars if you are planning on storing 20-30 cars there. Why do you need that size facility?

Mr. Leja: All we are doing is utilizing existing space that is already car storage.

Mr. Smith: How many cars are parked in the building, the facility out back? Now that he is asking for 350, isn't there something with SEQR that says if it is over 1,000 parking spaces we have to take a different kind of look at this?

Mr. Leone: I think that it is a Type One action at 400+.

Mr. Leja: These are not parking spaces though. They are not defined as parking spaces. There is a difference under SEQR between a parking area, parking lots and parking in and out, and storage sites. These cars are, if you took the wheels off them, they would be junk. You can't say that they are parking spaces. SEQR has already been done on the salvage management.

Mr. Smith: This is all one parcel. The entire parcel is in for site plan approval.

Mr. Leone reviewed the information that the Board wants from the applicant. Mr. Smith asked if the information could include the number of vehicles stored on the entire site. Mr. Leja requested a copy of the minutes. He noted the difficulty in providing information in projection form for the next meeting. Mr. Leone explained that projections allow the audience to see the plan being discussed. He expects Mr. Leja to use this media form at his next meeting. More discussion occurred.

**SITE PLAN, PAUL DELIMA COMPANY, INC.
8550 PARDEE ROAD, PROPOSED WINDMILL INSTALLATION
KURT STROMAN, ESQUIRE**

(ATTACHMENT A: OBG LETTER, ATTACHMENT B: PAUL DELIMA LETTER)

Representative: Kurt Stroman, Esquire

Mr. Stroman introduced himself. I am here to discuss something that the Board has already discussed, energy conservation. We are proposing to install a wind turbine on a property at 8550 Pardee Road. We propose to install it 75 feet from Pardee Road, which is within the Town's 75' required setback and 55 feet from the front of the building.

Mr. Leone clarified this was an Industrial zone.

Mr. Stroman continued. The maximum height of the turbine would fall within the zoning classification which requires it to be 160 feet. The maximum tip of the rotor blade on the turbine unit would reach an elevation of 60 feet. It would be a 44' monopole tower with no guide wires. It would be supported and installed on a re-enforced concrete pad.

Mr. Leone noted the structure height. You are treating it like a building. The new building regulations allow it to be 60 feet in that zoning designation. It has nothing to do with it being treated like a sign, which is completely different.

Mr. Stroman stated that was correct. The site plan addresses the issue raised by the Town Board and the Planning Board. We also received the County Planning Board's response.

Where our original submittal included a distance of 65 feet off the road, the subsequent submittal puts us 75 feet off the road which addresses the County's concerns.

Mr. Parrish noted that he had received the County's response. I believe the 75' setback meets what they are suggesting.

Mr. Leone: The distance from another structure needs to be discussed. If this structure toppled 100% would it be topple onto another building? It would topple onto a building owned by the applicant. It was discussed that the tower's structure was far enough away from the building—the structural part would not hit a building. A part of a blade might touch the building.

Mr. Stroman stated that is correct. The proposed location is 55 feet from the front of the building. If the tower were to fall directly in the direction of the building, the tip of the tower itself would be approximately 44 feet, or 10 feet from the building. The pole itself, which is steel, would land 10-11 feet away from the building. The rotor blades are constructed of fiberglass. They decrease in width and mass as they reach the tip. If that blade was to fall and hit the structure, I suggest that it would hit the concrete and steel building and would likely shatter.

Mr. Leone: The Board is wrestling with the whole wind tower phenomenon. We had a moratorium which the Town Board waved specifically for Paul Delima. We have modeled the initial draft of the regulations after many other town's regulations. Wayne, Heather and Mark have worked on this diligently. We are trying to apply those draft regulations to this application. This is not a regulatory requirement. It is only a condition of site plan that we are able to apply here.

Mr. Smith noted this was a separate, specific site plan. It should not be interpreted to be anything broader. This is a site plan specific to this location.

Mr. Leone agreed that needs to be made very clear. I would like you to talk about the accessibility to the tower and the tower's noise. You used balloons to show a picture of the tower's height. I would have liked to have seen super-imposed pictures of the wind tower including what it is going to look like, where it is going to sit and views from the areas around that. This is similar to what is done for cell tower applications. We probably would not see much, especially during the summer when foliage had grown in.

We noted the issues of height. We noted the FAA issue. We noted the issue of sound. The applicant notes the sound would be around 5 dBA within 15 feet. That has not been supported by an outside consultant. There will be conditions for a final inspection by our engineer. If the noise is over what the applicant stated, we have a problem. Because this is one of the first wind tower applications to come before this Board, we may not be

100 % comfortable that we have all of the issues addressed.

Mr. Smith: I think everyone has gone over and looked at the existing wind tower suggested by the applicant. I think that we discussed the sound to some level and the fact that there is a Town Code in place. You understood that Route 81 produces more sound than your operation.

Mr. Leone: It could. We never got the true back-ground level.

Mr. Stroman: If you have ever been on Pardee Road, it is very difficult to have an audible conversation with someone because of the noise from Route 81. I realize that has nothing to do with our windmill application and the noise that it would generate on its own. But, it is a part of the back-ground noise that the wind turbine would have to overcome in order to be heard and/or audible to anyone on our site or off of our site.

I represent the turbine manufacturer as well as Paul Delima Coffee. They are both owned by the same parent company so this is a unique situation for me. As the turbine manufacturer we conduct testing at our research facility in Clay. That is where we have determined by dBA what the 10 kilowatt turbine will produce under normal wind conditions. Normal wind conditions are the typical day-to-day conditions. Typically it operates under 5 dBA. In a high wind situation, 50-60 mph, the turbine would spin a little faster. We are talking about a 120 rpm turbine. We are unique in the industry. We have a very slow spinning generator. The manufacturer is stating that we have conducted research and testing on the sound submitted from the turbine. As the applicant we are taking the information supplied to us by the manufacturer (us) and submitting it to you.

The other issue is sight line, a valid issue to the Town and to us. The turbine location was chosen for a variety of reasons. The entire site is surrounded by fully matured trees. Some are in excess of 50 feet tall. 60 % of them are in the neighborhood of 60-85 feet tall. We went out with a series of balloons on a string, put them up 60 feet in the air and took photographs to provide you with the locations to determine what you would actually see. I would submit if you are not located within the sight line of this and you are behind the trees you will probably not even see the tip of the blades.

Mr. Smith: That is why this is site specific. This is specific to just the Paul Delima site. We might look at this entirely different if it were at another location.

Mr. Leone: No additional lighting is going up. There are some questions about fencing for climb control.

Mr. Parrish: I do not think that there is any type of climbing apparatus on it. It is a monopole structure which does not lend itself to be climbed. You would need a bucket

truck or crane to service the structure.

Mr. Leone: This is not in close proximity to the wetlands. Have there been any studies done relative to bird kill for this size tower?

Mr. Stroman: Several studies have been done as the wind industry has grown over the years especially in our portion of the industry which is 100 kilowatts or less. They are well documented by the American Wind Association, the National Association of Scientists and the Audubon Society. A bird is 5,000 to 1 times more likely to die by striking a building than they are by getting struck by a rotor blade or a wind turbine. Wind turbines are rated the lowest or the second lowest man made impact on birds.

Mr. Leone: It is not located within a floodplain. We are concerned about the decommissioning of these towers. We ask that a letter of formal agreement be executed with the Town for decommissioning. I am not sure if we talked about securities, but we need a way to assure that if this is not used for a certain period of time and the applicant does not decommission or take the tower down, the Town would have a right to do that at the applicant's expense.

Ms. Cole: It is something that I have seen in several of the windmill legislation laws I have taken a look at. It is a reasonable request. I believe that Mr. Stroman maybe prepared to answer this as I believe it was brought to his attention.

Mr. Leone read a June 17th letter from the applicant. The applicant hereby agrees that if the tower or turbine are unused for a period of 12 consecutive months and are determined to be obsolete, the applicant will decommission the turbine and the tower and remove the same from the property within 6 months of decommissioning. This is a formal acknowledgement that this will have to be done.

Mr. Stroman: That is in response to a question and addressed. It was suggested that we review the cell tower regulations as they exist and address this in a similar manor. Paul Delima is a very good corporate citizen within the Town of Cicero. We will absolutely remove everything as was mentioned.

Mr. Leone: For the record, there will be no lighting installed on the tower. You are not proposing to put any ground lighting in on the tower whatsoever. The tower, turbine and blades will be painted white using non-reflective paint to minimize glare and visual impacts. There will be no signs or advertisements located on the tower or blades. There will be no signage located in the proposed facility.

Does the Board want to see sight visuals?

Mr. Smith responded because this is site specific, no. I hope that when the Town Board does pass some regulations that they require sight distance drawings and renderings.

Mr. Leone: There are no residential areas within a close proximity.

Mr. Dean added there are no associated panels or ground equipment with this. Everything is within the structure.

Mr. Stroman noted the electrical current would run down through the pole. The underground channel would be in conduit in compliance with all building codes. The entire electrical connection of this system must be accepted by National Grid because we do intend for it to be inter-tied to the National Grid distribution facility that serves the property. It is inspected by National Grid on behalf of the Public Service Commission and National Grid to insure compliance.

Mr. Smith: Do we get engineering fees for a final inspection?

Mr. Parrish: It is already in place. We have reviewed all of the items in the letter. Without some regulations to go by we have tried to address the issues from a common sense standpoint. It seems like that has been done.

Ms. Cole: Late this afternoon I finished a revised set of draft regulations which were emailed out. We are still pushing forward.

Mr. Leone asked that the Paul Delima letter be included for the record. We are basing a good part of our final decision on your response to Mark's letter.

Mr. Stroman: We submitted it in to be used by the Board.

Mr. Smith asked Mr. Conway if he thought the Board missed anything from the Town Board's perspective.

Mr. Conway responded everything sounds good.

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. Purdy: Yes

Mr. Rowe:	Yes
Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes
Mr. Leone:	Yes

Mr. Leone made a motion to approve the site plan for the wind tower for Paul Delima Coffee/Warner Energy, LLC with a revision date of June 27, 2008. This is very site specific to this site only. Conditions for wind tower placement can and may change from site to site. Incorporated in the final approval is the letter from Paul Delima Coffee authored and signed by Kurt Stroman, the representative for Paul Delima, dated June 17, 2008. It addresses the Town through the Planning Board engineer's concerns. **Mrs. May seconded the motion.** The motion was **approved** with the following vote:

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

Mr. Stroman stated we intend to get started within the next 60 days.

**FINAL SUBDIVISION PLAN, PARK 277 FEES
STONEBRIDGE MANOR, SECTION 2
9446 BREWERTON ROAD, 32 LOTS
COSIMO ZAVAGLIA
(SEE ATTACHMENT C: OBG LETTER)**

Representative: Rudy Zona, RZ Engineering PLLC

Mr. Zona introduced himself. We are here for final subdivision approval for Bayshore Manor (Stonebridge Manor) section 2.

Mr. Leone noted this is for the townhouses. There are 32 lots. Mark, you went to the Town Board with the final plan review asking to accept it and asking for securities?

Mr. Parrish responded for securities. That was accepted. We are waiting for them to be posted. The Town Board has acted upon them.

Mr. Leone added he could not sign off on the final plans until the fees were posted.

Mr. Parrish: The plan is substantially in conformance with the approved preliminary plan. Other than identifying park fees, we are recommending that the Board approve the final plan.

Ms. Cole added SEQR was probably already done.

Mr. Leone made a motion to accept the final plan with a revision date of March 20, 2008. You are near Plank Road Park. This Board is in a position to accept park fees in lieu of land. On that basis you have 32 lots at \$ 475.00 per lot and park fees will be \$ 15,200.00. **Mr. Smith seconded the motion.** The motion was **approved** with the following vote:

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

Mr. Zona thanked the Board.

INFORMAL DISCUSSION:

COMPLAINT DISCUSSION, TIM MURPHY

Representative: Tim Murphy

Mr. Murphy stated he was surprised to be on the agenda, but appreciated having the opportunity to speak

Mr. Leone explained the rules. The Planning Board chairman has a right to put things on the agenda. The zoning officer and I decide. If there is something on the formal agenda that people want to address, I give them the opportunity to speak. If it is not a formal agenda item it does not come up. But generally I am here after the meeting to address concerns that people raise. I think I have availed myself to that more often than not. Apparently, I have not or have not been able to address your issue which I was supposed to be aware of through the Town Board but not directly through the Planning Board or directly to me. If you needed to come in to be heard you could have asked to be placed on the agenda. Anyone can ask to be placed on the agenda. If it is a reasonable request, you will be put on the agenda.

Mr. Murphy thanked Mr. Leone and went straight to the point. There are kids that are

endangered in the neighborhood because there is no fence. Do you have the power to address this issue or does the Town Board?

Mr. Leone: We have the power to address that issue during site plan review.

Mr. Murphy: That is past. What do we do now?

Mr. Leone: It is an enforcement issue. If you have people trespassing on your property you need to get the police involved. At this point the Town Board does not have the authority to go back and ask for a fence, unless the Town pays for the fence.

Mr. Dudzinski has written a letter—if he did not author it the Board authored a letter via Jay Seitz to Mr. Tom Seay of Seayco who owns the property buffering that area.

Mr. Murphy: We went through this all last year. They took Lot 3 and moved construction around all summer. Every summer they come back and push dirt around creating dust. The fence would help that.

Mr. Leone: Whether they have the right to move dirt on their property is a zoning issue. You have the right to move dirt around on your property.

Mr. Murphy: I do, but I don't have a right to fill the neighborhood with dust.

Mr. Leone: Again, that is an enforcement issue. You are coming back to the Planning Board for an issue we have no control over. How are the children endangered?

Mr. Murphy: We have criminals running through there all of the time. There have been 5-6 incidences.

Mr. Leone suggested perhaps the neighbors could put up a fence. On your behalf we met with Wal-Mart. We asked them to put up the fence. They denied it.

Mr. Murphy: Doesn't that make them a not a good corporate citizen?

Mr. Leone: They felt that they did their due diligence during site plan and installed the things that they needed to install on their property.

Mr. Murphy: That does not make them a good neighbor. Obviously, they are good for the community with tax money, etc, but it is not like they can not afford it.

Mrs. May: We can not force them to put a fence up.

Mr. Murphy: So your answer is there is nothing that you can do.

Mr. Leone: Not until they come in with their next project on that property.

Mr. Murphy: That is not the point here. This Board, the Town Board created the issues. The problems are coming from there. I am asking you for help. That is why I am here.

Mr. Smith: We don't have the authority. We can not force them to.

Mr. Leone: As a good neighbor we expected, when we met with them within Wal-Mart—the Chief was there, I was there, some of your neighbors were there---were you there?

Mr. Murphy: Yes I was defiantly there.

Mr. Leone: Okay. You don't think that we put our best foot forward trying to get you the fence after the fact? You don't think that we helped?

Mr. Murphy: I understand that but we are dredging up the past again. And you say we can not do anything now. You were not there when the guy ran by the 5 and 6 year-olds. These are just little kids. Maybe that would not bother you but to me that seems like a safety issue.

Mr. Leone asked if the fence would have stopped him.

Mr. Murphy responded it would have slowed him down. So would a locked door but I do not want to debate semantics with you. It would have been more.

Mr. Smith: As far as moving soil around, this Board is on record asking the Town Board to pass some sort of cut and fill ordinance. Our chairman and/or this Board have no authority unless the Town Board gives us a resolution. Mr. Dean can not go out and say you can not cut and fill. The fact that they are allowed to, not only at your location but all over the Town is a travesty. I suggest you ask the Town Board to do something about it.

More discussion occurred regarding moving soil and possible wetland issues. Mr. Leone noted the site has a pay me now or pay me later situation.

Mr. Murphy: If that wetland mitigation came in and they had new wetland indicator plans, would they be responsible for doing a new wetland study? Would that be a feasibility? Can I go back on them on the SPEDES permit?

Mr. Leone was unsure. The Town Board has no more authority than this Board does. Authority is achieved out of a cooperative nature. They will have to deal with this sooner or later. In some way their uncooperative nature will be a problem for them in the future.

Mr. Murphy: We are still dealing with the issue in the here and now. I am not sure how to address this issue. It is a safety issue.

More discussion occurred.

Mr. Leone: If your neighborhood group sets up another meeting with Wal-Mart, I will be there on you behalf and representing the Planning Board. Every single member of the Board, if someone stops them after a meeting, will talk to them. If you have an issue that you need or want to take up with me, you do not need to go through the Town Board.

Mary Jo Hoover: Last year they mapped out a footprint for Store 3. Is that allowed?

Mr. Leone: That does not matter. That is acceptable under cut and fill. The footprint is in but they did not put in a foundation, which is an action that requires a building permit.

Mr. Parrish noted that there are cut and fill regulations but it is within an acre of disturbance.

Mrs. Hoover noted some gravel was placed in a drainage corridor, where the drainage site goes across Reis Drive. A landscaper put a load of gravel near the edge where the drainage ditch is. It fell into the drainage ditch that goes over by Mike's Ice Cream. It is forming a dam. Chris Woznica told me that C. Mattes has a contract to clean out that entire drainage swale sometime this summer. Rumor has it that the Town is having trouble paying Mr. Mattes.

Mr. Dean: I contacted Charlie today asking him to do an emergency measure. He did it without asking or having us sign a paper or anything. There has never been a problem with him getting paid.

Mrs. May made a motion to adjourn. **Mr. Mott seconded the motion.** The motion was **approved** unanimously.

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD,
THE MEETING WAS ADJOURNED AT 8:55 P.M.

Dated: July 16, 2008

Tonia Mosley, Clerk _____

June 25, 2008

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

Attachment A

Attention: Patrick Leone, Chairman

Re: Paul Delima/Warner Energy Windmill
Application Review
File: 101.25439.337

Dear Board Members:

We have reviewed the following materials for the above referenced project relative to Town Code requirements for Site Plans and Communication Towers and effect on Town utilities and roads:

1. As Built dated July 10, 2008 last revised July 11, 2008
 2. Letter from Paul Delima Coffee dated June 17, 2008 including Photographic Renderings
 3. 10 KW Pole and Foundation Design (2 sheets) dated June 18, 2008
 4. Wind Mill Design Calculations dated June 18, 2008.
- D.W. Hannig and Associates prepared item 1, Paul Delima Coffee prepared item 2 and St. Germaine & Aupperle Consulting Engineer, LLP prepared items 3 and 4.

The applicant is proposing to construct a 44-foot high self-supporting windmill tower with 16-foot long rotor blades resulting in a total structure height of 60 feet on a 28.4-acre parcel located on the east side of Pardee Road. The site contains an existing building, parking area and other site improvements associated with the Paul DeLima Coffee operations. The site is zoned Industrial. Our comments are as follows:

1. The windmill is to be located between the building and Pardee Road. The plan provided for review indicates the tower is to be setback 65 feet from the Pardee Road right-of-way but an email from the Applicant indicates this is to be amended to 75 feet. This results in a setback of approximately 55 feet from the building. As previously noted the windmill is has a 44-foot high self-supporting windmill tower with 16-foot long rotor blades resulting in a total structure height of 60 feet. The Board should review the setbacks with the Applicant and confirm they are adequate. For the Board's information the front yard setback in an Industrial District is 75 feet and the maximum building height is 60 feet. The design information from St. Germaine & Aupperle Consulting Engineer, LLP is signed by a licensed professional engineer.
2. Other than the tower the Plan does not show any exterior improvements such as access roads, utility services, other equipment, etc. The Board should determine the location of the utility service to the windmill and confirm that no other exterior improvements or equipment is associated with the project.
3. The Board should review the photographic renderings to confirm the location of the windmill is reasonable from an aesthetic viewpoint and if any buffering or landscaping should be provided. The letter indicates the color of the windmill will be white using a non-reflective paint and that no advertisements or signage will be provided.
4. The letter indicates Warner Energy testing has shown that during normal operating conditions the turbine will emit less than 5 dBA above the background conditions within 15 feet of the base of the tower. This cannot be independently confirmed but if true is well within the Town Code requirements for noise levels.
5. No additional lighting, fencing or climbing control will be installed for the project. The letter indicates these measures are not being provided as the turbine and blades cannot be accessed without use of a crane or bucket truck and equipment associated with the project will be installed underground or inside the existing building. The letter also notes the height of the structure is below the FAA threshold for lighting.
6. The site will not require any sanitary or water facilities and does not show any changes to the grades on the site. As such the project should not effect Town utilities or stormwater runoff.
7. The contains Federal wetlands per the National Wetland Inventory Mapping and State wetlands per the NYSDEC Wetland Mapping. The location of the windmill does not appear to be located within the wetlands but the Developer is responsible for obtaining and complying with any necessary permits for wetlands.
8. The site is not within a 100-year flood plain according to the 1994 FEMA Flood Insurance Rate Maps.
9. The Board should review the Applicants agreement for decommissioning of the facility, which is outlined in the letter and determine if a formal agreement should be executed with the Town.

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

June 25, 2008

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

Attachment C

Attention: Patrick Leone, Chairman

RE: Stonebridge Manor Section No. 2 Final
Plan Review
FILE: 0101/25439.311

Dear Board Members:

We have reviewed the Final Plan dated October 6, 2004 last revised March 20, 2008 prepared by Robert C. Goodeve, L.S. for the above referenced project. Stonebridge Manor Section No. 2 consists of 16 multi-family residential units on 32 lots bounded on the north by Bayshore Manor Phase 6, on the south by undeveloped land, on the west by Stonebridge Manor Section 1 and on the east by property abutting Interstate 81. The site is zoned Residential R-M. The above materials are in general conformance with Town Code requirements for Final Plans subject to the following comments:

1. The Board should identify appropriate park fees for the project.

We have furnished a letter to the Town Board providing required security deposits for utilities and uncompleted work. Upon approval of the Final Plan by the Planning Board, we recommend the Chairman delay signing the Final Plan until the Town Attorney has verified the Developer has the necessary agreements and securities in place.

The applicant should continue to provide and maintain all necessary sediment and erosion control measures as outlined on the approved Sediment/Erosion Control Plan until vegetation is established on all areas disturbed by construction. As utility construction is essentially complete the Codes Enforcement Office should inspect the sediment and erosion control facilities for the Town.

If you have any questions, please do not hesitate to contact us.

Very truly yours,

O'BRIEN & GERE ENGINEERS, INC.

Mark C. Parrish, P.E.
Managing Engineer