

**TOWN OF SWEDEN
Planning Board Minutes
January 23, 2006**

A regular meeting of the Town of Sweden Planning Board was held on Monday, January 23, 2006, at the Town Offices, 18 State Street, Brockport, New York, commencing at 7:00 p.m.

Members present: Ellen Bahr, David Hale, William Hertweck, Craig McAllister, Matthew Minor, Arnold Monno, Edward Williams

Also present: James Oberst, Town Engineer, Charles Sanford, Fire Marshal, Fred Perrine, Highway Superintendent, Doug Morris, Ron Bronstein, Shane Hajjar, Kelly Pronti, Esq., Thomas Lucey, John Bennett, Amanda Kime, Ken Reid, James Moore

The meeting was called to order at 7:00 p.m. by Chairman McAllister.

Correspondence passed to members for review.

Moved by Mrs. Bahr, seconded by Mr. Minor, that the minutes of January 9, 2006 be approved as amended:

Page 6, 1st sentence – Change...Mr. Minor to A member of the audience

Ayes – 6
Mr. Williams – Abstain

Lowe's of Brockport. Owens Road & Rte. 31. 084.01-1-19.1

Mr. Ron Bronstein distributed copies of the revised subdivision plan noting that the property owner, Irene D'Agostino, had been added, and the signature block revised. The Town Engineer, Fire Marshal and Highway Superintendent have signed the mylar.

Moved by Mr. Hale, seconded by Mr. Monno, that the final public hearing be waived, the Lowe's of Brockport Subdivision be granted final approval, and the Chairman be authorized to sign the mylar.

Ayes – 7

Mr. Shane Hajjar discussed the following site plan revisions:

- Layout of traffic moving along the front of the store. The plan now shows a 100 ft. pedestrian zone with stop signs at the beginning and at the end. Also, yield signs have been added at the pedestrian crosswalk to the Garden Center. Two cart crossings were added to the median strip in the parking lot in case a customer exits at the opposite end of the store from where entered.
- Per discussions with Mr. Oberst, the guardrail was relocated from the east side of the driveway to the back of the sidewalk to protect the pedestrians from inadvertently going into the drainage swale.
- Per Mr. Perrine, the raised concrete crosswalks were changed to raised asphalt and painted red for lower maintenance.
- Additional trees were added to the retention basin to help screen the truck well. Landscaping mounds are now shown between the middle and north and middle and south drives on the Landscaping Plan, CE-10, with a notation that the mounds will be 24 to 36 inches in height. Another grouping of trees has been added at these intersections to better shield the sight line into the truck well area without interfering with the proposed utilities. Mr. Monno asked if landscaping was proposed at the north property line and Mr. Hajjar explained that the existing trees will be retained as landscaping.
- The plans have been signed by MC Water Authority, MC DOH, and MC Pure Waters. Mr. Bronstein showed the MC Planning & Development's letter stating there were no comments. Mr. Bronstein asked if there were any additional comments on the revisions made.

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Mr. Minor asked for clarification regarding the berm along the side of the store on Owens Road and in the parking lot. Mr. Hajjar stated mounding is shown between the sidewalk and the curb on the Landscaping Plan. The berm is purposely stopped short of the driveways as to not obstruct sight lines in and out of the intersections. Mr. Minor requested the mounding be shown on the Grading Plan as well to avoid any discrepancies with the construction of the berm similar to what happened with the Tractor Supply store. Mr. Hajjar stated because the landscaper typically plants the trees and constructs the mounds, it is included on the Landscaping Plan, which includes a signature block.

Mr. Hale commented that he was still not happy with the location of the middle driveway, especially after going to the Greece Lowe's Wednesday morning, and then, Saturday afternoon. Getting in and out of the Greece store involves some maneuvering around, but it didn't appear that customers had too much difficulty. Mr. Hale stated he was disappointed that the middle driveway was left as a straight shot in front of the Brockport store.

Mr. Minor asked if a plan with no driveway in front of the store was ever considered. No discussion or action was taken.

Mr. Monno asked if the tree line was far enough away from the pavement for snow removal on the road that comes off Rte. 31. Mr. Hajjar stated there is 6 feet between the curb and the sidewalk, which is 5 ft. wide, and the trees are approximately 8 feet behind the back of the sidewalk. Mr. Monno also asked if there was a storm sewer facility for part of the low area of that road. Mr. Hajjar stated yes and that on CE-5, there are storm sewers that pick up the low points and take it to the storm water management pond.

Mr. Minor asked if the stream channels get redefined. Mr. Hajjar stated just at the culvert under the driveway. The rest of the stream channel is kept natural.

Mr. Minor stated that the Board should request the elevations for the berm be put on the Grading Plan. Some discussion took place as to what happened with Tractor Supply. Chairman McAllister asked Mr. Hajjar to include the mounds on the Grading & Drainage Plan, CE-5, as well as the Landscaping Plan, CE-10. Mr. Hajjar stated he would make that change.

Moved by, Mr. Williams, seconded by, Mr. Monno, that the following resolution be adopted:

**RESOLUTION OF THE TOWN OF SWEDEN PLANNING BOARD
January 23, 2006**

**APPLICATION FOR SITE PLAN APPROVAL
FOR THE LOWE'S OF BROCKPORT PROJECT**

WHEREAS, Lowe's Real Estate Business Trust (or the "Applicant") submitted applications on August 5, 2005, to the Town of Sweden Planning Board (the "Board") under the Town of Sweden Zoning Code ("Zoning Code") and Subdivision_Regulations_for site plan approval on Brockport-Spencerport Road, NYS Route 31, Sweden/Brockport, New York (the "Site").

WHEREAS, the proposed project is the construction of a 171,000 square foot Lowe's center (including retail uses), with paved parking, access driveways, utilities and storm water management facilities to support the proposed uses (collectively the "Lowe's Project") on a site consisting of 19.94 acres. The project site is zoned B-1 Business.

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WHEREAS, the Town of Sweden Planning Board held a public hearing on the project on September 12, 2005, and received written comments from the public and involved and interested agencies;

WHEREAS, Lowe's in a voluntary effort to assist the Town of Sweden, has offered to make an escrow payment of One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) to the Town of Sweden to be used for future traffic improvements to be performed by the Town of Sweden, its contractors or assigns, from the intersection of Route 31 and Owens Road, to the Wal-Mart project, westerly on Route 31 in the Town of Sweden, Monroe County, New York ("Route 31 Improvements Project").

WHEREAS, Lowe's in furtherance of its voluntary offer, above mentioned, has agreed that prior to issuance of a building permit for its project, an agreement between it and the Town of Sweden shall be entered regarding the said offer of \$150,000.

WHEREAS, the Town of Sweden Planning Board, acting as State Environmental Quality Review Act ("SEQRA") Lead Agency for the Project, engaged in a review process which culminated in the issuance of a Negative Declaration statement with respect to SEQRA adopted by the Board on December 15, 2005 and incorporated by reference herein; and

WHEREAS, the Zoning Code Section 175-38 (A)(7) states that permitted principal uses in a B-1 Business Zone include "stores...conducting any legitimate retail business." The uses proposed by Lowe's include retail store, utilities, storm water management facilities, paved parking, and access driveways. All such uses are permitted within the B-1 Business Zone.

WHEREAS, the Board now wished to adopt this Resolution approving the Project plans for the Site. The Project plans shall be identified as, Lowe's Home Improvement Center of Brockport, which is incorporated by reference herein (the "Plans").

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This Board hereby approves the Lowe's Site Plan.
2. The Applicant is responsible for obtaining all other permits or approvals needed for the Project, including NYSDOT Permit, USACOE Permit, Department of Health Permits, NOI/SWIPP from New York State Department of Environmental Conservation, Backflow Prevention and Service Permit from NYS Health Department and Monroe County Water Authority, Building Permit, and any other applicable or required permits. Upon receipt of such other permits or approvals, the Applicant shall promptly provide copies of the same to the Code Enforcement Officer who shall maintain and record of such other approvals.
3. These approvals include the following condition: Prior to the issuance of a building permit, Lowe's and the Town of Sweden shall enter into a written agreement regarding the voluntary offer of Lowe's to participate in a certain traffic project on Route 31 by the contribution of \$150,000.
4. The Grading and Drainage Plan, CE-5, should reflect the elevations to resemble that of a berm. Such berm to be located on the western edge of the Lowe's property, and shall be approximately three ft. (36") higher than the centerline elevation of Owens Road. Landscaping Plan, CE-10, shall correspond accordingly to elevation changes on CE-5.
5. The Planning Board shall file this Resolution with the Town Clerk.

Mrs. Bahr - Aye
Mr. Hale - Nay
Mr. Hertweck - Aye
Mr. Minor - Aye
Mr. Monno - Aye
Mr. Williams - Aye
Chairman McAllister - Aye

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Wal-Mart Supercenter. Brockport-Spencerport Road. 084.01-1-14.112, 14.2, 14.12, 35, 1.119 (part of)
Mr. John Bennett addressed the Board requesting preliminary and final approval for the Wal-Mart project. Mr. Bennett and Mr. Oberst met last week to review the final plans.

Mr. Oberst stated the plans were resubmitted this morning after making the revisions from last Tuesday's meeting. The plans were reviewed and there were only a few minor points that still needed to be addressed. Mr. Bennett has agreed to those changes.

Mr. Bennett stated there was one question from the last meeting regarding the toxicity of the berry plantings. The landscape architect researched this concern and found that only the Hick's Yew may be toxic, and those plantings will be replaced with Junipers.

Mr. Bennett stated he has the revised site plans, which reflect almost all the changes Mr. Oberst has requested. The subdivision plan shows one lot as discussed at the last meeting. Mr. Bennett stated MC Water Authority, Pure Waters, and DOH are ready to sign.

Mr. Perrine stated he was not happy with the lack of a hammerhead at the south end of the entrance, heading easterly towards Mr. Hassall's property. Mr. Hassall was not contacted to purchase additional land due to his objection to the project early on. Mr. Bennett stated the hammerhead proposed is not the required 60 ft., but should be satisfactory to turn the plows around. Mr. Perrine would not give his approval. Discussion followed. The suggestion of Wal-Mart performing the snow removal was considered, but would the level of service the Town expects when plowing dedicated roads be maintained. It was discussed and agreed to ask Mr. Hogan, who owns the land to the south, to provide the land for a hammerhead. This would be the best solution and provide a future 4-way intersection. Mr. Perrine will contact the owners of the Schoolhouse regarding donating the portion of land needed to complete the "T" intersection at Transit Way and the dedicated road.

Moved by Mr. Hale, seconded by Mr. Hertweck, to adopt the following resolution be adopted:

**RESOLUTION OF THE TOWN OF SWEDEN PLANNING BOARD
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**APPLICATION FOR SITE PLAN APPROVAL, SPECIAL USE PERMIT, AND SUBDIVISION APPROVAL
FOR THE WAL-MART PROJECT**

WHEREAS, Wal-Mart Real Estate Business Trust ("Wal-Mart" or the "Applicant") submitted applications on November 20, 2002 to the Town of Sweden Planning Board (the "Board") under the Town of Sweden Zoning Code ("Zoning Code") and Subdivision Regulations for subdivision/resubdivision approval of five (5) lots to one (1) lot on Brockport-Spencerport Road, NYS Route 31, Sweden/Brockport, New York (the "Site"); site plan approval, and special permit for a public garage.

WHEREAS, the proposed project is the construction of a 203,091 square foot Wal-Mart Supercenter (including retail uses and Tire Lube Express ["TLE"], which is a public garage use) with paved parking, access driveways, utilities and storm water management facilities to support the proposed uses (collectively the "Wal-Mart Project") on a site consisting of 26.0 acres. The project site is zoned B-1 Business.

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WHEREAS, on December 23, 2002, the Wal-Mart Project was referred to the Monroe County Department of Planning, in accordance with General Municipal Law §239-M. In a letter dated January 13, 2003, the Monroe County Department of Planning issued its comments with respect to the Wal-Mart Project;

WHEREAS, on October 18, 2005, the Wal-Mart Project was referred for a second time to the Monroe County Department of Planning, in accordance with General Municipal Law, §239-M. In a letter dated November 14, 2005, the Monroe County Department of Planning issued its comments with respect to the Wal-Mart Project;

WHEREAS, the Town of Sweden Planning Board held public hearings on the project on January 13, 2003, and November 14, 2005, and received written comments from the public and involved and interested agencies;

WHEREAS, Wal-Mart, in a voluntary effort to assist the Town of Sweden, has offered to make an escrow payment of One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) to the Town of Sweden to be used for future traffic improvements to be performed by the Town of Sweden, its contractors or assigns, from Route 31/Talamora Trail to Route 19 in the Town of Sweden, Monroe County, New York ("Route 31 Improvements Project"). This voluntary offer is set forth in a letter (and attachments), dated October 27, 2005, to the Planning Board Chair from Harter, Secrest & Emery, LLP, counsel to Wal-Mart;

WHEREAS, Wal-Mart, in furtherance of its voluntary offer, above mentioned, has agreed that prior to the issuance of a building permit for its project, an agreement between it and the Town of Sweden shall be entered regarding the said offer of \$150,000.00;

WHEREAS, the Town of Sweden Planning Board, acting as State Environmental Quality Review Act ("SEQRA") Lead Agency for the Project, engaged in a lengthy review process which culminated in the issuance of a SEQRA findings statement adopted by the Board on November 2, 2005 and amended by the Board on November 14, 2005 and incorporated by reference herein; and

WHEREAS, the Zoning Code Section 175-38 (A)(7) states that permitted principal uses in a B-1 Business Zone include "stores...conducting any legitimate retail business." The uses proposed by Wal-Mart include retail store, utilities, storm water management facilities, paved parking, access driveways and public garage (i.e., the TLE area of the Supercenter building). All such uses are either permitted uses or uses permitted by a special permit (Section 175-38 (C)(1) within the B-1 Business Zone.

WHEREAS, the Board now wishes to adopt this Resolution approving the Project plans for the Site. The Project plans and building elevations shall be identified as (insert designation of Final APD Plan as reviewed by MRB), which is incorporated by reference herein (the "Plans").

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This Board hereby grants preliminary approval to the Wal-Mart subdivision/resubdivision, waives the final hearing on the subdivision/resubdivision, and grants final approval.
2. This Board hereby approves the Wal-Mart site plan contingent upon receiving the signatures of the Town Engineer and Highway Superintendent, and the Chairman be authorized to sign the mylar.
3. This Board hereby approves the Special Permit for the Tire Lube Express use.
4. The Applicant is responsible for obtaining all other permits or approvals needed for the Project, including NYSDOT Permit, USACOE Permit, Department of Health Permits, NOI/SWIPP from New York State Department of Environmental Conservation, Backflow Prevention and Service Permit from NYS Health Department and Monroe County Water Authority, Building Permit, and any other applicable or required permits. Upon receipt of such other permits or approvals, the Applicant shall promptly provide copies of the same to the Code Enforcement Officer who shall maintain and record of such other approvals.

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5. These approvals include the following conditions: a) Wal-Mart shall construct a sidewalk from the eastern edge of its property to Talamora Trail, b) that, before a Certificate of Occupancy is issued, the southern portion of the property designated to be a public road be dedicated to the Town of Sweden, and © prior to the issuance of a building permit, Wal-Mart and the Town of Sweden shall enter into a written agreement regarding the voluntary offer of Wal-Mart to participate in a certain traffic project on Route 31 by the contribution of \$150,000.00.

6. The Planning Board shall file this Resolution with the Town Clerk.

Mrs. Bahr - Nay
Mr. Hale - Aye
Mr. Hertweck - Aye
Mr. Minor - Nay
Mr. Monno - Aye
Mr. Williams - Aye
Chairman McAllister - Aye

The meeting was adjourned by motion at 8:45 p.m.

Planning Board Secretary