

**TOWN OF SWEDEN
Planning Board Minutes
October 22, 2007**

A regular meeting of the Town of Sweden Planning Board was held on Monday, October 22, 2007, at the Town Offices, 18 State Street, Brockport, New York, commencing at 7:00 p.m.

Members present: Ellen Bahr, Richard Dollard, David Hale, William Hertweck, Craig McAllister, Matthew Minor, Arnold Monno.

Also present: Charles Sanford, Fire Marshal, Whitney Autin, ECB, James Oberst, MRB, Robert Blood, Robert Storie, Jim Meinecke, George Wohlers, Randy Spurr, David and Dorothy Warner, John Stirk.

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

Correspondence passed to members for review.

Moved by Mr. Monno, seconded by Mrs. Bahr, that the minutes of September 24, 2007 be approved.

Ayes – 7

Chairman McAllister and Mr. Hale recused themselves from the first public hearing for Thunderbolt Auto Sales – Special Permit E, Public Service.

Moved by Mr. Minor, seconded by Mr. Hertweck, that the regular meeting be adjourned to the public hearing.

Ayes – 5

Acting Chairperson Bahr read the notice of public hearing and affidavit of publication.

Thunderbolt Auto Sales Special Use Permit E – Public Service. 5371 Lake Road. 098.02-1-9.1

There was no comment from the public. Chairperson Bahr moved to the next public hearing, Burger King.

Burger King Subdivision & Site Plan. 6375 Bkpt-Spen Road. 084.01-1-7

Chairman McAllister and Mr. Hale returned to the meeting. Mr. Robert Blood addressed the Board and asked if there were any questions.

Dorothy Warner, 6396 Bkpt-Spen Road – Mrs. Warner asked where the curb cut would be located. Mr. Blood stated the existing curb cut would be used.

David Warner, 6396 Bkpt-Spen Road – Mr. Warner asked if the Board recalls that when Tractor Supply was approved, DOT stated any further development would have a common driveway with Tractor Supply. Chairman McAllister stated that agreement was between the Spurr Dealership and Tractor Supply. The Burger King project proposes to use the existing curb cut off Rte.31 plus a new access road from the Burger King site into the old Ames (Sweden Corners) plaza. If the remaining plaza vacant land in the plaza were to be developed, access would be off the new road. Mr. Warner confirmed that there wouldn't be any additional turn lanes for this site.

Mr. Blood stated that DOT is currently reviewing this site and a work permit application is pending at this time.

TOWN OF SWEDEN
Planning Board Minutes
October 22, 2007

Mr. Warner also asked about signage. Mr. Storie stated there would be one freestanding sign with no signage on the building. Mr. Warner asked how much light spillover would there be from the sign? Mr. Storie stated the lighting would be controlled, and shut off automatically when the building is closed at night. Mrs. Bahr asked what time would closing be? Mr. Storie wasn't exactly sure, either 11 p.m. or midnight.

Mr. Warner also asked about additional odors and noise. Mr. Storie stated the only additional noise would be a speaker post, which would be pointed back towards the woods. Also, the new Burger King will have a catalytic converter to cut down on the smoke and food smell.

Mr. Warner asked about drainage and hopes that it will be addressed satisfactorily. Mr. Storie stated that all drainage would be coming back to the existing pond behind the plaza. The existing pond will have significant improvements made to it. Mr. Warner was concerned about the old culvert that was just covered up with gravel.

Mr. Warner asked if the elevation of the lot would be similar to Tractor Supply's elevation. Mr. Blood stated it would be about two feet higher than what the lot is now.

Mr. Warner asked what plans are there for the greenspace shown? Mr. Blood stated extending the sidewalk, planting some additional trees and installing signage. Mr. Blood confirmed that Carrols Corporation would be responsible for the access road into the plaza, improvements to the retention pond and the new sidewalk.

Mr. Warner stated that although he's not happy about this project, all of his questions had been answered.

Mr. Minor asked about the overhead electric service on the property. Mr. Storie stated that the overhead service would be removed and put underground using the existing pole by the road.

Mrs. Warner had one additional question regarding the water pressure. She stated the water pressure was pretty bad at her house. Mr. Storie stated the water pressure shouldn't be affected with the size of the existing main.

Mrs. Warner asked when could the north side of the road be rezoned to commercial. Chairman McAllister stated that the Town Board could be asked anytime.

Mr. Hertweck asked what was directly behind the property. Mr. Storie stated there is a huge swale, and lots of trees; it's naturally wooded. Mr. Hertweck questioned the possibility of putting a road in from the back of the Burger King to Transit Way. He added, then the access road into the plaza wouldn't be needed. Chairman McAllister stated the access road would also benefit any future development in the plaza, eliminating any additional curb cuts along Rte. 31.

Mr. Dollard's concern is the safety of pedestrians/truck drivers who park in the plaza and use the access road with no sidewalks to walk to the Burger King restaurant.

Per Mr. Blood, the sidewalk will be extended in front of the store, but not on the access road.

Mr. Dollard asked if the new building would be the same size as the existing Burger King? There will be more parking, but the building will be a little smaller. The actual size of the building is 2,900 sq. ft., and with the cooler, it is 3,100 sq. ft.

**TOWN OF SWEDEN
Planning Board Minutes
October 22, 2007**

Mr. Autin asked if the past history of this site is known. Mr. Blood stated that the Phase I Environmental Assessment states that no hazardous material was found. There's nothing buried on the property. Mr. Warner added when the Agway gas tanks were removed, some dirt was removed too. Mr. Autin added, when construction starts, things that were buried might be a concern.

Moved by Mr. Monno, seconded by Mr. Dollard, that the public hearing be adjourned to the regular meeting.

Ayes – 7

Spurr Dealerships Amended Site Plan. 6325 Brockport-Spencerport Road. 084.01-1-7

Mr. Randy Spurr addressed the Board and distributed some additional drawings. He stated the manufacturer is requiring some updates to the facility due to the Subaru franchises' being moved to the current Pontiac-Buick-GMC building, and the GM brands' being moved into the Chevrolet building. The factory is asking for two brand identification storefronts for the GM brands. The Subaru building requires some small changes, including a tile chimney on the front of the building. A small 7 ft. Subaru sign will replace the current freestanding sign and the panels will be installed in the current Chevrolet sign, same frame. The other Pontiac-Buick-GM sign will be replaced. Drawings were submitted for all of the proposed signs.

Mrs. Bahr asked if Spurr is required to make these changes. He stated yes as a result of a study done in the late 1990s of the surrounding areas that determined Sweden should have a two-dealership presence whether owned by the same person or different. Through compromise and legal consultation, GM has agreed to these changes.

Mrs. Bahr stated she really liked the new design of the Subaru building and wondered if there was any way to incorporate a similar design for the GM building without the blue coloring. Mr. Spurr would look into it.

Signage was discussed further; however, it is the responsibility of the Building Inspector/CEO to approve/disapprove building signage. Mr. Monno was interested in seeing pictures of how the proposed signage would look and the type of lighting for the signage.

Mr. Minor confirmed that the two buildings are on one parcel. The parking (expansion) lot is a separate parcel and there is a smaller parcel located east of the buildings.

Moved by Mr. Hertweck, seconded by Mr. Hale, that the Spurr Dealerships' Amended Site Plan be accepted for review.

Ayes - 7

Public Hearing will be November 26, 2007.

Thunderbolt Auto Sales – Public Service. 5371 Lake Road. 098.02-1-9.1

Chairman McAllister and Mr. Hale recused themselves from the meeting. Acting Chairperson Bahr continued review of this application.

Mr. Minor confirmed there are no physical changes to the property. Fire Marshal Sanford stated the property would require a Fire, Life and Safety inspection before the business could open to the public. The Fire Marshal, Building Inspector and DEC will complete the inspections.

TOWN OF SWEDEN
Planning Board Minutes
October 22, 2007

Chairperson Bahr stated that with inspections, oil/fluids would be changed and collected/disposed. Mr. Wohlers has already worked with the DEC to get the certification for the holding tank for the used oil, which is the only requirement.

Chairperson Bahr read the ECB comments. They are requesting the planting of one native species or deciduous shrub or tree on the property to help mitigate what's been lost with the approval of the first Special Permit E. Mr. Wohlers stated he could plant one or two trees along the north side of the house, but not near the front, to avoid blocking the view of the drivers coming from the south.

Mr. Dollard asked if there would be any changes to the signage. Mr. Wohlers would want to add that NYS inspections are available. Chairperson Bahr confirmed that there was plenty of parking to accommodate the new service being offered. Mr. Dollard asked what the new hours would be? Mr. Wohlers stated Monday through Friday, until 5:30 p.m., Tuesday or Thursday until 8 p.m., Saturday until 3 p.m. and Sunday, closed.

Chairperson Bahr asked if the outdoor lighting would be changed. Mr. Wohlers stated no, he doesn't feel there is a need for that right now. Mr. Dollard asked how many additional cars would be on site. Mr. Wohlers stated three to five cars.

Mr. Monno asked what is the weight limit of the cars he would be inspecting? Mr. Wohlers stated 18,000 lbs.

Moved by Mr. Minor, seconded by Mr. Hertweck, that having reviewed the project information form, comments from the Fire Marshal and Environmental Conservation Board, that the application for Special Use Permit E is an unlisted action that will not have a significant impact on the environment.

Ayes – 5

Moved by Mr. Minor, seconded by Mr. Monno, that the Thunderbolt Auto Sales – Public Service application for Special Use Permit E be approved conditioned upon:

- A Fire, Life and Safety inspection is performed.
- All DEC requirements are met.

Ayes – 5

Chairman McAllister and Mr. Hale returned to the meeting.

Burger King Subdivision & Site Plan. 6375 Brockport-Spencerport Road. 084.01-1-5

Chairman McAllister asked the status of the Town Engineer's review. Mr. Oberst stated that the review was almost done, still finalizing drainage.

Mr. Minor asked Mr. Oberst to summarize the drainage for this property. He stated the applicant is proposing to extend the drainage into the easterly Ames pond, which is part of the watershed that goes under the canal just east of Owens Road. The plan has been to upgrade that pond along the way. Improvements have been done as a result of the Wal-Mart Supercenter application. A study was done in the 1980's for this area. Burger King was asked to bring the pond into more compliance with the current standards. These design improvements to the pond would include a gravel access road, regrading, and a quality component. Mr. Minor clarified that this pond empties into the Tractor Supply pond, and then, into the Westway pond. Mr. Minor asked if as-builts were provided to determine if the ponds are sized correctly. Mr. Oberst stated the as-builts were finally received and are correct.

TOWN OF SWEDEN
Planning Board Minutes
October 22, 2007

Mr. Jim Meinecke stated Carrols Corporation has an agreement to have the work done to the pond and the new access road. The plaza owner, Gibraltar Management, would be responsible for the maintenance of the new road and pond.

Mr. Monno asked if a sample of the pavement of the new access road could be taken and tested to make sure it will hold heavy truck traffic in the same spot consistently. Also, the access road should be striped. Chairman McAllister asked Mr. Oberst if there are road standards for an access? Standards are in place for Town roads, not a privately owned road/access.

Mr. Minor stated that any development to the west of Burger King would have its access off this new road. Mr. Blood commented that the DRC had asked the applicant to provide a full build-out plan for the area between Burger King and the end of the plaza, but didn't feel it was Burger King's responsibility to do a master plan for the plaza. Also, the DOT would be the only agency to permit additional curb cuts off Rte. 31. It was discussed that the plaza could fit two or three more buildings.

Mr. Minor asked if the pond and upgrade is being done for a complete build out or just what drainage the Burger King will produce, and then, the next applicant would be responsible to upgrade the pond for any additional drainage. Mr. Oberst will be looking into the pond calculations to see how much it can hold.

Mrs. Bahr asked how wide is the new access road. Mr. Blood stated 20 ft. Mrs. Bahr is in favor of a walk/bike path on the access road.

Mr. Dollard added that the access road would become a pedestrian thoroughfare. Without a sidewalk on the south side of Rte. 31, pedestrians will use the access road causing many traffic safety concerns. Mr. Storie suggested that speed bumps be used to slow traffic down on the access road. Mr. Blood added that stop signs at the beginning and end of the access road would be used.

Mr. Hertweck suggested the idea of a new road being put in from the back of the property through Transit Way. This idea was discussed, but isn't feasible at this time.

Mr. Oberst still needs to get updated plans for the drainage.

Fire Marshal comments

Mr. Blood stated there is an ansul system in the hoods. Mr. Storie added there are smoke detectors in the HVAC's. The Fire Marshal confirmed that the smoke detectors are only in the HVACs. Mr. Storie stated that was correct because that's where smoke is first detected.

Fire Marshal Sanford asked about the fire alarm plan. If the detection system in the hood/duct work goes off, what gets triggered? Mr. Storie stated an internal alarm. Fire Marshal Sanford confirmed that the alarm doesn't go outside the building to another location. He added that if there is a fire in the hood system at 1:30 a.m. and the alarm goes off, who would call 911? Mr. Storie stated that Carrols Corporation uses catalytic converter/type 2 hoods now, which doesn't allow the grease to get in like the previous type.

Fire Marshal Sanford strongly recommends that a fire system be installed which is monitored outside the building. Mr. Storie stated that an ADT security system would be installed and could possibly monitor the fire alarm as well. Mrs. Bahr asked if there would be an outside alarm that would go off, and how would someone

TOWN OF SWEDEN
Planning Board Minutes
October 22, 2007

be notified. Mr. Storie stated if there were a fire, an alarm (outside) would go off; if it is a burglary, it's a silent alarm. The monitoring system would pick up the fire alarm.

Fire Marshal Sanford suggested the best way to proceed is to have a central monitoring service be notified if there is a fire so that the fire service can be notified and not the manager of the store. It should lower insurance costs as well. Also, he wanted to know who to talk to about putting a curtain (domestic sprinkler system) between the kitchen and food servicing area. Mr. Storie stated he could answer any questions.

County Planning comments

1. Backflow and sanitary sewer applications have been submitted.
2. Plans were sent to the DOH.
3. Monumentation will be checked.
4. There is an existing curb cut for the Burger King parcel and the new connector road would handle future development of the plaza.
5. SPEDES/NOI applications will be made.
6. A project review form for this site will be submitted to SHPO.
 - Aerial photos dated back to the 1950's; however, there is a need for proof of the car wash/gas station. The Clerk will look through the files/minutes for documentation.
 - The Federal Fish and Wildlife Service reported that the Bog turtle is endangered in the Town of Sweden. Mr. Blood is in contact with the Regional Forester at the DEC's Bath office as to how to proceed. Mr. Oberst suggested checking the Highlands and/or Wal-Mart studies. He can supply Mr. Blood with a contact name.

Discussion followed that the Board doesn't need to see responses back from DRC, but that all concerns have been addressed. However, final approval from SHPO and/or that all concerns have been answered must be received.

Mr. Monno wanted to discuss the new access road. The only other similar road was in the old Wal-Mart plaza and there was a definite traffic pattern. The point is that this new access road should have a definite pattern to get to it from Rte. 31. Chairman McAllister didn't see any parking spaces noted on the site plan in that traffic pattern.

Mr. Minor asked who will own the access road into Burger King and who owns the parking lot. Gibraltar Mgmt. owns both. Mrs. Bahr asked to what extent has Gibraltar Mgmt. been involved in having their parking lot serve as an entrance into the newly created access road. Mr. Meinecke stated that they've been working together for the past five months regarding the pond, access road, etc. He added that Gibraltar Mgmt. is working on plans to renovate the shopping center and bring in new tenants. As far as the access road, Gibraltar Mgmt. is well aware that they are responsible to maintain it.

Mrs. Bahr stated the Board appreciates the efforts of Carrols Corporation to put in an access road and address the drainage. She added that a separate meeting with Gibraltar Mgmt. should be held to determine how it plans to potentially amend the internal drive areas of their existing parking lot. Regarding safety, visual cues will be needed. Mrs. Bahr commented that Gibraltar Mgmt. is presently doing a poor quality job re-topping the existing lot, which makes her very concerned.

Mr. Minor confirmed that this new access road will not have to meet any standards and will not be dedicated. Future applicants that will use this property, will have to share in the maintenance of the road. Discussion

TOWN OF SWEDEN
Planning Board Minutes
October 22, 2007

followed whether or not there are any parcels left to buy and/or lease. Mr. Minor's point was what will happen in the future when the next applicant wants to build next to the Burger King. It was determined all the details, i.e., frontage, sidewalks, landscaping, etc. will have to be worked out at that time.

ECB comments

Mr. Blood asked for clarification as to whether the comments are recommendations or directives.

Chairman McAllister stated we all share the same feeling regarding vacant commercial property and that we haven't really been able to do anything about that. It should be noted that this Board has never formally petitioned the Town Board to enact a moratorium on future development of commercial property until existing developed commercial property is fully utilized. It has been discussed, but nothing officially has been sent to the Town Board.

Mr. Dollard added they are private parcels and the taxes are being paid. Also, some have long-term leases and it's up to the current owners to do something with their property, not the Town. Chairman McAllister agreed. He added the maintenance ordinance for commercial properties should be enforced so that the properties that are becoming vacant are properly maintained as if they were fully occupied.

Mr. Autin stated he realizes that at the planning permit process, it is not always the place or time to make a decision on what is best for the community. By the same token, the Comprehensive Plan is being consistently deviated from little by little. Through a series of impacts, we are driving the entire focus of commercial development away from where the Comprehensive Plan states it should be, routes 19 and 31. Also, to disagree politely with Mr. Dollard, it is not the Town's position to try and guide the economic forces of this community or the people that want to come to our community, but it is our responsibility as a Board to maintain what the citizenry feel they need, which is understood as conceptual. While applicants may meet all the requirements to obtain approvals and permits, it doesn't necessarily mean that the project is good for the community, good for the environment, or good for the economy.

Mr. Hale stated he has been on four Comprehensive Review/Revision Committees since the 1970s and the maps and language indicate that anything west of the Wal-Mart site is fair game. In other words, the construction of a Burger King is not deviating from the Comprehensive Plan or least the ones he's worked on. Mr. Autin agreed that Burger King alone isn't deviating from the Comprehensive Plan, but the collection of actions over the years is causing the development to deviate away from the Comprehensive Plan. Mr. Hale added that Mr. Autin's comments would be much more relevant if the Board were discussing a rezoning application, with which he would then totally agree.

Mrs. Bahr asked where the greenspace was on the plan? Mr. Blood stated there is 30 percent of grass and trees. Mr. Minor asked what types of trees are across the front. Mr. Storie stated deciduous. Mr. Oberst stated part of the problem with putting landscaping across the front are the utilities. The Town does have a concern with any conflicts with any underground utilities.

Mr. Storie added that one adjustment made is that the backflow will now be inside the building so the enclosure will go away. He added that per Fred Perrine there might be a need for an easement for the walkway and sewer line. Fred is checking into it and will get back to Mr. Storie. There is both a temporary and permanent easement that runs across the property. Mr. Oberst stated it is for water, but there will still be a need for a sewer easement. Mr. Oberst explained that a map and description should be submitted to the Town Attorney for review. The easement should be included on the boundary map.

**TOWN OF SWEDEN
Planning Board Minutes
October 22, 2007**

Mr. Monno asked how many parking spaces would be lost due to snow removal? Mr. Storie stated none because this is not a curbed site and the snow would be pushed to the side and back.

Mr. Minor confirmed that the parking requirements have been met. Mr. Blood agreed and stated the two parking spaces in front of the dumpster will remain, but will be for managers/employees only. Dumpsters are serviced early in the morning before the store opens. These two spaces are actually two spaces over the required amount and wouldn't affect compliance, if required to remove.

Mr. Monno had questions regarding any interference that might occur between the drive-thru waiting line and any truck traffic that has to go around the back. Mr. Storie explained that there is room for a truck to get around the drive-thru; large van trucks won't be able to use the drive-thru. There is a clearance sign for 9 ft., 6 in. The arrows need to be changed to show a one-way direction around the building.

Fire Marshal Sanford asked if there are any plans to increase the height of the curb at the front door of the restaurant to prevent vehicles from driving into the building. No plans.

Chairman McAllister stated the Board should receive the findings from SHPO before an environmental motion is given. Also, Mr. Minor would like to see the pond calculations completed.

Chairman McAllister asked Mr. Blood if he wanted to request a special meeting tonight? Mr. Blood stated the way he understood the previous comments are that he couldn't until he heard back from SHPO. Chairman stated as long as Mr. Blood has prepared a response and documentation for SHPO and copied this Board, a motion could possibly be given.

Mr. Monno stated common sense says that trucks entering the Burger King site off the access road should enter at an angle, thus eliminating some of the striped area and parking space to avoid an accident. Mr. Hale stated that trucks are more likely to come in off Rte. 31. Mr. Blood stated that if the delivery trucks come in off the access road, it is designed so that there will be enough room.

A special meeting has been planned for Monday, November 5, 2007 at 7 p.m.

The meeting was adjourned by motion at 9:50 p.m.

Planning Board Secretary