

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

A regular meeting of the Town of Sweden Planning Board was held on Monday, October 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, MRB, James Butler, Building Inspector, Whitney Autin, ECB, Richard Maier, Kris Schultz, Brian Sorochty, Jack Hassall, Carrie Reynard

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 Mr. Hertweck, that the minutes of September 25, 2006 be approved.

Ayes – 6

7:05 p.m. - Board Member Minor arrived.

Moved by Mrs. Bahr, seconded by Mr. Hale, that the workshop minutes of October 2, 2006 be approved.

*Mr. Hale commented that at a recent New York Planning Federation Conference, he asked what the correct procedure was for continuing a workshop/meeting to another date under the Open Meetings Law, and he was told that publishing a legal notice isn't required, but the local papers should be notified of the new date. Publishing the list of scheduled meetings for the year is also recommended.*

Ayes – 4

Abstain – Mr. Minor

Abstain – Mr. Monno

Abstain – Mr. Williams

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

Ayes – 7

The Chairman read the notice of public hearing and affidavit of publication. The Chairman asked if there were any questions or comments from anyone present at the public hearing.

**Sweden Meadows Section 2 Resubdivision. 114 White Road. 098.02-1-26.1**

Mr. Richard Maier addressed the Board. Mr. Kline is subdividing a portion of his back property to be sold to his neighbor, Lot 5 of the Sweden Meadows Section 2.

Chairman McAllister asked if there was anyone present with comments or concerns relative to this project. There were none.

Moved by Mr. Monno, seconded by Mr. Williams, to adjourn the public hearing to the regular meeting.

Ayes – 7

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Chairman McAllister continued with the review of this project.

Mr. Hale asked why the lots were pre-existing, nonconforming. Mr. Maier explained that the lot frontage is 105 ft. wide, and today's requirement is 150 ft. with public water. The only change is the subdividing of Mr. Kline's back property, which doesn't add to the non-conformance. Chairman McAllister confirmed that there is no proposed development.

Mr. Autin, commented on behalf of the ECB, that there wasn't a lot to say because the only change is to the lot line.

Moved by Mr. Hale, seconded by Mr. Monno, that having reviewed the Project Information Form, comments from the Town Engineer, Fire Marshal, and the Environmental Conservation Board, the Planning Board determines the Sweden Meadows Section 2 Resubdivision is an unlisted action which will not have a significant impact to the environment.

Ayes – 7

Moved by Mr. Hale, seconded by Mr. Minor, that the Sweden Meadows Section 2 Resubdivision be given preliminary approval.

Ayes – 7

Moved by Mr. Hale, seconded by Mr. Monno, that the final public hearing be waived, the Sweden Meadows Section 2 Resubdivision be granted final approval contingent upon obtaining the required signatures, and the Chairman be authorized to sign the mylar.

Ayes – 7

**Daniels Amended Site Plan. 1065 White Road. 097.02-1-4.11**

Mr. Kris Schultz addressed the Board requesting the driveway be relocated to a flatter slope. Mr. Hale asked how far would the driveway be moved? Mr. Schultz stated approximately 80 to 90 ft. Chairman McAllister asked if the change would infringe on the proposed leachfield. The answer was no. There are no sight distance issues. Chairman McAllister asked if additional trees would have to be removed. The answer was no.

Moved by Mrs. Bahr, seconded by Mr. Hertweck, that the Daniels Amended Site Plan be accepted for review.

Ayes – 7

Chairman McAllister asked the Town Engineer if he was okay with the amended site plan. Mr. Oberst stated there were three concerns he wanted to look at, such as, any impact to the leachfield, sight distance change, and drainage. Mr. Oberst stated the above areas were not affected negatively.

Mr. Monno asked with the driveway relocation, if the leachfield could still be added to in the future? Mr. Schultz stated it wouldn't be a problem because the proposed leachfield is inground.

Mr. Hale asked Mr. Autin to comment on behalf of the ECB. Mr. Autin stated he has no comments other than to make sure the new driveway location doesn't conflict with the driveway on the north side of the road.

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Moved by Mr. Minor, seconded by Mr. Hale, that having reviewed the SEQRA Form, comments from the Town Engineer and the Environmental Conservation Board, the Planning Board determines that the Daniels Amended Site Plan is an unlisted action which will not have a significant impact on the environment.

Ayes – 7

Moved by Mr. Hale, seconded by Mr. Williams, that the public hearing be waived, the Daniels Amended Site Plan be granted final approval and the Chairman authorized to sign the mylar.

Ayes – 7

**Fisher Subdivision & Site Plan. Corner of Beadle Road and Sweden-Ogden TL Road.099.04-2-5.1**

Mr. Brian Sorochty addressed the Board. All Town and agency comments have been addressed. All required signatures have been obtained. The only change since the last meeting is per Mr. Monno's suggestion to raise the finished floor so that the basement has a gravity drain. Also, the corner of the house was pushed back to 249 ft. so a bubble wouldn't be required.

Chairman McAllister stated there are no outstanding issues. Are there any other comments, questions or concerns? There were none.

Moved by Mr. Hertweck, seconded by Mr. Minor, that the final public hearing be waived, the Fisher Subdivision & Site Plan be granted final approval contingent upon obtaining all required signatures, and the Chairman authorized to sign the mylar.

Ayes – 7

**INFORMAL**

**Heritage Square Subdivision & Site Plan. Redman Road. 068.03-1-13.111.14.1, 18, 19**

Mr. Kris Schultz addressed the Board. He stated that this project just recently received approval for rezoning from the Town Board. The developers look forward to meeting with the Planning Board, but first there are a number of site design issues as well as offsite issues that they will be working on as part of the Section I plans. One of the improvements will be the Redman Road/31 intersection, which will require review and approval from both the NYSDOT and MCDOT. Also, there will be offsite water improvements, which will involve Mr. Northrup's subdivision, and potentially, the Town Park. Plans will detail the main run from Redman Road into the Town Park.

**Vaccher Subdivision. Reed Road (60 ft. access). 129.01-1-2.11**

Mr. Kris Schultz addressed the Board. Mr. Schultz explained that this subdivision was approved a few years back. It is located off Reed Road, east of Rte. 19. The proposed development was for four lots, 75 acres, in the Town of Bergen with a 60 ft. strip of land (access) left in the Town of Sweden.

Mr. Schultz asked how does this Board want the access to be? Chairman McAllister stated the access could be 60 ft. for one lot or a dedicated road. Mr. Schultz added that he had spoken with the Sweden Highway Superintendent to see how he would handle the maintenance of a Town road that was partly in the Town of Bergen. Mr. Perrine stated if it's a Town road, the Town maintains it.

Mr. Schultz is asking the Town of Sweden Planning Board first for its input, and then, will go to the Town of Bergen. Chairman McAllister stated the parcel was subdivided as such purposely so as not to create a landlocked parcel even in another Town.

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**Highlands at Brandonwood Senior Development, Transit Way Ext/Talamora Trl. 084.01-1-14.113**

Chairman McAllister asked the Board Members if they had an opportunity to review the advisory opinion that Attorney Ortenberg had prepared. Attorney Ortenberg commented that essentially the opinion is the original draft prepared by Mr. Hale reorganized to match what the code section provides to the benefits, negatives and how to ameliorate the negatives. The Town Engineer's recent comments were added to the opinion.

Mrs. Bahr asked per Mr. Hale's comments earlier regarding continuing a meeting under the Open Meetings Law, does the third paragraph, 1<sup>st</sup> page, need to be reworded? Discussion followed. It was decided that since the original intent was to hold one workshop, it should be left at that, and if necessary, corrected later. Mr. Hale added since the ordinance calls for a public workshop, it should be stated as that and the word "meeting" dropped in both the second and third paragraphs.

Mrs. Bahr stated that paragraph 2 doesn't really describe how the preservation of green space is going to happen. Attorney Ortenberg stated that the preservation of green space is a positive, how it is preserved is treated as a negative in paragraph 10.

Mr. Autin asked why is the green space only at 25% and not the required 30%. Chairman McAllister stated the required 30% green space is applicable only to the commercial parcel, which it meets.

Mr. Hale commented that paragraph 10 states the Town doesn't want to accept the green space due to the increased costs to our taxpayers. Mr. Minor added how to ameliorate that negative is covered in paragraph 14.

Mr. Minor read paragraph 11 noting that houses are not accessible to the handicap. He asked isn't that a design feature for a particular house or shouldn't that be on an as needed basis? Attorney Ortenberg explained that the Town Comprehensive Plan calls for handicap accessible housing and if it isn't in there, it's a negative. Mr. Hassall explained that the houses would be set up with the major components, such as, doorways are open, paddle switches, etc. Ingress/egress will be added in the future.

Mr. Autin commented that who decides that a senior development becomes an incentive. The ECB agreed that senior developments are needed with parameters set, but how is the development going to be geared for a certain audience. It should be clearly understood as to what you're getting in return for providing the incentive. Mr. Autin stated it is the Town Board's responsibility to set the parameters. Attorney Ortenberg stated the purpose of the advisory opinion is to aid with that task.

Mr. Monno asked about paragraphs 7 and 13. Is it possible to just have paragraph 7 because how is the Town going to know when business owners change. Chairman McAllister stated that's why paragraph 13 is listed as a negative, and why paragraph 16 suggests eliminating the commercial building and/or the need to set specific requirements for low volume businesses.

Mr. Autin asked what type of constraints could be put in place based on existing code? The Board suggested sound, time of day and size. Attorney Ortenberg stated incentive zoning is contract zoning. The developer signs a contract as to what he may or may not do.

Mr. Minor stated you might want to regulate the square footage of the building and the number of tenants. Chairman McAllister stated since the Planning Board can't set any criteria, it is important for the Town Board to review the discussion items in the minutes. Mrs. Bahr envisions the retail part as satellite services.

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Mr. Minor referenced paragraph 11 again, how does one provide affordable housing. Attorney Ortenberg stated it requires some percentage of housing that meets the standards set by the Department of Housing & Urban Development, and there is a specific formula (income related). Chairman McAllister stated if paragraph 11 is a negative, where is it covered below as a positive? Attorney Ortenberg stated there may or may not be a positive. He added affordable housing is through income level for people beginning in their careers. Mr. Hassall stated this is an age-restricted (55 and over) community, it is not intended for young families.

Mr. Autin commented that one thing he's noticed while tracking projects on the ECB, is that he doesn't very often see the difference between defining a justifiable economic need and defending it with hard data. In environmental theory, that's differentiated into justification analysis versus rationalization analysis. Rationalization analysis is we think we can do this; a justification analysis looks at the market conditions. When you look at the demographics of Brockport and the economic situation in Brockport, affordable housing is going to be much more marketable than higher end housing. With this project, maybe the incentive could be tied to building something the community really needs. Mr. Autin stated in his opinion, he seriously questions whether this project will work or not.

Attorney Ortenberg stated that's why the Board is taking this project one step at a time. The job of the Planning Board at this stage is to try and identify positives and negatives. Is there a need for affordable housing, does the Comprehensive Plan say that there is, and is there a presumption that the Town Board came to that conclusion after studying the facts. The Planning Board's task is to point out the positives and negatives, no decisions. Mr. Williams commented that the Planning Board shouldn't leave the Town Board with the impression that the Town has to provide affordable housing. There doesn't have to be a positive.

Chairman McAllister is looking forward to hearing if this Board's first attempt at preparing an advisory opinion was helpful. Mr. Monno stated he surely hopes that the Town Board spends at least one full meeting on the advisory opinion because it is important.

Chairman McAllister asked if there were anymore recommended changes. The Clerk confirmed that the word "meeting" should be deleted twice.

Moved by Mr. Hale, seconded by Mr. Monno, to adopt the following Advisory Opinion:

**TOWN OF SWEDEN**  
**PLANNING BOARD**  
18 State Street  
Brockport, New York 14420

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ADVISORY OPINION TO THE TOWN BOARD, TOWN OF SWEDEN, PURSUANT TO §175-65 D (1)  
THROUGH (3), TOWN OF SWEDEN CODE,  
ON APPLICATION FOR INCENTIVE ZONING BY HOMESTEAD N.Y. PROPERTIES, Inc. FOR A  
PROJECT KNOWN AS  
HIGHLANDS AT BRANDON WOODS

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TO: THE TOWN BOARD OF THE TOWN OF SWEDEN

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On July 6, 2006, supplemented on August 8, 2006, the applicant, Homestead N.Y. Properties, Inc., applied to the Town Board for incentive zoning designation for approximately 30 acres of land (“the subject parcel”), bearing Tax Account No. 084.010-01-014-111, lying south of Route 31, adjacent to the recently approved Wal-Mart Super-Center site. While the subject parcel is already subdivided under the R-1 residential zone, the applicant seeks to have the unimproved portions of the land rezoned under the Town of Sweden Incentive Zoning Law (“IZL”).

Pursuant to §175-65 D(1) through (3) of the Sweden IZL, upon a referral from the Town Board, the Planning Board shall give an advisory opinion to the Town Board, after a public workshop, listing the beneficial aspects of the proposal and the means by which negative aspects might be ameliorated.

The Planning Board held a public workshop on September 25, 2006, which continued on October 2, 2006. The Planning Board issues the following advisory opinion:

The Beneficial Aspects of the Proposal

1. The proposal would enhance the ability of senior citizens to access shopping locations and thus encourage and foster independence among senior citizens.
2. The application proposes to preserve 10+ acres of green space, not including detention ponds.
3. The provision of a variety of housing types (single, double, and quad-unit townhouses) meets the objective of the Comprehensive Plan for “a variety of housing styles and patterns of development” (4.A.1).
4. Though not inherent in the incentive consideration, since a westerly ingress/egress has always been proposed for this area, the provision of this access via Transit Way and Wal-Mart’s signalized exit to Route 31 should provide relief for residents, including those of Talamora Trail wishing to turn west.
5. Representatives of the Applicant have suggested that they may be able to provide some excess detention volume. If such additional detention capacity results, there may be a small benefit with the proposed ponds having a release rate no greater than and potentially less than that, which leaves the site now.

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6. The proposal includes sidewalks, as required by the Town, implementing an objective of the Comprehensive Plan (4.A.2. [d]).
7. There may be a benefit if the proposed commercial building is used by a business not currently in the town. The Board recommends that the lot and area requirements of the B-1 Retail Business District (§175-41. E [1-9]) be used.
8. There may be a benefit as the relatively small commercial building provides a transition from the Wal-Mart Supercenter to residential.
9. It appears that sufficient infrastructure exists or can be provided to support the proposal.

The Negative Aspects of the Proposal

10. The set-aside of approximately 10 acres of green space raises issues as to the physical and financial burden of maintaining the green space. The additional cost to taxpayers is a negative aspect of the proposal.
11. We note that the application makes no explicit provision of “housing accessible to the handicapped” (4.A.1 [d]), in this case seniors with some limitations but not (yet) requiring assisted living. Nor is there any provision for affordable housing (4.A.3 [a]).
12. The application proposes a 35,500 +/- sf commercial building. In the Comprehensive Plan neither Figure 21 (“Future Land Use”) nor Figure 24 (“Future Zoning Map”) envisions commercial use or zoning south of what is now the Wal-Mart property. In being contrary to the Comprehensive Plan in this respect, this is a negative aspect.
13. If the commercial building is used by something that is already here, leaving the Town or Village with more vacant commercial space, this would be a negative.

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The Means By Which Negative Aspects May Be Ameliorated

14. We recommend, in order to ameliorate the negative aspect, in terms of burden and cost, of the green area set-aside, that the ownership of this land be transferred to the homeowners association, with a conservation easement to the Town.

15. We further recommend that the maximum density and minimum setbacks and parking requirements of the MR-1 Multiple Residence District be used (§175.39. B [3-6], C [1-3]).

16. The negative aspect described in paragraph 13 might be ameliorated by deleting the commercial building. Alternatively, the Board discussed extensively what limits could be placed on commercial uses, what parameters for low-volume business or neighborhood retail could be established, but no consensus was reached.

Additional Comment

17. The need for senior housing is a matter of demographics. According to the 2000 Census, about 24% of the population of the Town and Village of Brockport was over 45 years of age (Comprehensive Plan 2.B. Table 3). With the rash of new senior developments built or proposed in Sweden and surrounding communities, it remains to be seen how much of a market will materialize for any of them.

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*Mr. Minor asked Mr. Williams if he was satisfied with the status of paragraph 11, under Negative Aspects. Mr. Williams stated he was okay with paragraph 11 as long as a positive wasn't suggested.*

**Ayes – 7**

Rezoning of Duryea Property South of Aldi, Inc. Lake Rd.

The Planning Board was asked to comment on the rezoning of the Duryea parcel south of Aldi's. Mr. Minor stated this property was included in the Comprehensive Plan for B-1, Retail-Business zoning with its access off the internal road now known as Bader's Way, not Rte. 19. Chairman McAllister commented that with commercial zoning setbacks, there might be little room for development. Does it make good sense to rezone it or to use incentive zoning?

Mr. Monno suggested that some of the Board Members should visit the site to see the location off the internal road. Chairman McAllister stated that in this particular situation with it so clearly written in the Comprehensive Plan that he firmly believes if NYSDOT were to grant access off Rte.19 to a developer, this Board would agree that a site plan would not be approved because there is access already with the internal road.



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Mr. Hale offered to document what was discussed tonight as this Board's comments. November 13 is the next Planning Board meeting and the public hearing for the rezoning is November 14. Mr. Minor has no problem with the rezoning because it is specifically addressed in the Comprehensive Plan using the internal road as its access.

**New York Planning Federation Conference**

Mr. Hale stated he attended the above conference. Mandatory training was discussed, but he sees that the Town Board is waiving it and he's not sure why. Chairman McAllister thought this had to do with the difficulty of scheduling training outside of normal working hours. Another point addressed is that design standards are one or two steps down from a full blown architectural review. Presently, we have some design standards in our code as to what a building should look like, but the Planning Federation has some models to deal with unattractive buildings, i.e., Tractor Supply. One of the speakers at the conference explained that if Boards are tough on how businesses look, then it is to the Town's benefit because a good-looking business does better than an ugly one.

Mr. Monno commented that while he was on a trip to Pennsylvania, he saw a lot of rectangular buildings, i.e., Gander Mountain. Mr. Monno visited the store and thought it was very nice for a rectangular building, but he was amazed at how much ammunition was for sale.

The meeting was adjourned by motion at 9:20 p.m.

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**Planning Board Secretary**