

**TOWN OF SWEDEN
Planning Board Minutes
April 23, 2009**

The April 13, 2009 meeting of the Planning Board of the Town of Sweden was reconvened at the Town Offices, 18 State Street, Brockport, New York on Thursday, April 23, 2009, commencing at 7 p.m.

Members present: Craig McAllister, David Hale, David Strabel, Matt Minor, Richard Dollard and William Hertweck.

Absent: Arnold Monno.

Also present: Sweden Supervisor John Milner, Town of Sweden Special Counsel Reuben Ortenberg and Director of Finance Leisa Strabel.

The Woods at Sable Ridge – Phase I

Mr. Ortenberg presented a proposed Development Agreement between the Woods at Sable Ridge Subdivision and the Town of Sweden. The agreement had been executed by Alfred D. Spaziano acting as Manager of the Woods at Sable Ridge Subdivision. Mr. Ortenberg explained the agreement to the Planning Board members. Supervisor Milner executed the document.

Mr. Ortenberg then presented the following resolution::

WHEREAS The Sable Ridge Subdivision and site plan were approved by the Town of Sweden Planning Board on or about September 19, 2005, and Phase 1 thereof was filed in the office of the County Clerk of Monroe County on April 24, 2006; and

WHEREAS Section A177-19 of the Town of Sweden Code provides that subdivision and site plan approval shall expire after thirty-six months, unless the development is sufficiently complete for the issuance of a Certificate of Occupancy; and

WHEREAS It has come to the attention of the Planning Board of the Town of Sweden that the Sable Ridge Subdivision is not sufficiently complete to justify the issuance of a Certificate of Occupancy; and

WHEREAS Section A177-19 provides further for Reapproval of the site plan; and

WHEREAS Section A177-16 I requires that the Developer and the Town Board to enter into a written agreement for the completion of platted improvements, and that the Developer is required to tender dedication and deeds for all streets and easements, and to submit an irrevocable letter of credit the purpose of which is to assure the availability of funds to complete the installation of platted improvements; and

WHEREAS The Developer of the Sable Ridge Subdivision, WSR, LLC, has entered into an agreement with the Town of Sweden as required by Section A177-16 I, a copy of which is annexed hereto as Schedule A, and made a part hereof; and

WHEREAS The reapproval of the Sable Ridge Subdivision Plat is ministerial in nature, is required by Section A177-19 of the Town of Sweden Code and may not be denied by the exercise of discretion on the part of the Town Planning Board; and

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WHEREAS The reapproval consists of the renewal of an approval previously granted, where neither material change of conditions nor the increase of scope of the project is being authorized;

NOW, THEREFORE, on motion duly made by Planning Board Member David Hale, duly seconded by Planning Board Member William Hertweck,

BE IT RESOLVED by the Planning Board of the Town of Sweden, New York, as follows:

1. The re-approval of the Sable Ridge Subdivision and site plan is hereby declared to be a Type II action as contemplated by 22 NYCRR Section 617.5 (19) and (26), making further environmental review unnecessary;
2. That the Subdivision Plat and site plan for the Sable Ridge Subdivision, previously approved on September 19, 2005, and filed in the office of the County Clerk of Monroe County on April 24, 2006, which shall expire on April 24, 2009, is hereby re-approved for a period commencing as of April 24, 2009, and ending on May 31, 2010, subject to the following terms and conditions:
 - a. The Developer, WSR, LLC, shall tender dedication deed or deeds for all streets and easements shown on the approved plat, as required by Sweden Code §A177-16I, together with a preliminary report on title with respect to the property and easements offered;
 - b. The Developer, WSR, LLC, furnished previously an Irrevocable Letter of Credit, issued by M&T Bank, bearing number SB-909551-2000, in the original amount of \$2,126,037.56, on which Letter of Credit there remained a balance of \$1,665,022.25. WSR, LLC has represented to the Town of Sweden that the issuer of the Letter of Credit has refused or is likely to refuse to renew or extend the Letter of Credit to cover the reapproved subdivision Plat. The Town of Sweden has drawn down the remaining balance of the Letter of Credit, and holds and shall administer the funds pursuant to the terms of the agreement, which is annexed as Schedule A, and this resolution. The said remaining balance in the Letter of Credit shall constitute the amount fixed by this Planning Board as required by Sweden Code §A177-16K.
 - c. The Developer, WSR, LLC, has failed to install all of the public improvements, for which the Letter of Credit was issued, within the original three year life of the Sable Ridge subdivision plat. On this re-approval resolution, the uninstalled required platted improvements shall be installed in the order and on the schedule shown on the attachment to the agreement between WSR, LLC and the Town of Sweden (Schedule A), marked Exhibit A.

Chairman McAllister called for a roll call vote:

David Hale	Aye
Richard Dollard	Aye
Matthew Minor	Aye
David Strabel	Aye
William Hertweck	Aye
Craig McAllister	Aye

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Mr. Hale left the meeting at 7:18 pm.

There was some further discussion about the subdivision.

The meeting was adjourned by motion at 7:26 pm.

Clerk