

TOWN OF SWEDEN
Planning Board Minutes
September 12, 2005

A regular meeting of the Town of Sweden Planning Board was held on Monday, September 12, 2005, at the Sweden Senior Center, 133 State Street, Brockport, New York, commencing at 7:00 p.m.

Members present: David Hale, William Hertweck, Craig McAllister, Matthew Minor, Edward Williams

Absent: Ellen Bahr, Arnold Monno

Also present: James Oberst, Town Engineer, William Weber, Building Inspector, Jerry Foster, ECB, Rueben Ortenberg, Esq., Douglas Morris, Taylor McDermott, Frank Spiotta, Bryan Powers, Marc Romanowski, Esq., Al Spaziano, Kelly Pronti, Esq., John Bennett, Thomas Lucey, and please see the attached attendance list.

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

Correspondence passed to members for review.

Moved by Mr. Williams, seconded by Mr. Minor, that the minutes of August 22, 2005 be approved.

Mr. Hale reiterated to the Board that the discussion of Goodwill Industries involved a proposal for what is presently a landlocked parcel and that the Board was disinclined to review it in that state, which may not be the case in the future.

Ayes – 4
Abstain – Chairman McAllister

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

Ayes – 5

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.

Lowe's of Brockport. Owens Road and Route 31. 084.01-1-19.1

Mr. Douglas Morris, Paradigm Development, introduced Mr. Taylor McDermott from Lowe's and Mr. Frank Spiotta, CHA, and gave a brief overview of the project. Mr. Morris would also like to respond to comments received from the Town Engineer, James Oberst, and various departments.

The proposed Lowe's Home Center will be located on an approximately 52-acre parcel with about 30 acres remaining for additional commercial development, i.e., restaurant, bank, smaller stores. Wetlands on the parcel have been flagged and surveyed, and the commercial center will be designed around the wetlands to give a campus-style setting. The Lowe's store is approximately 170,000 sq. ft. including a garden center. The actual area for retail sales is 117, 000 sq. ft. The following questions were raised:

Ø Where are the access points?

There is one entrance off of Rte. 31. From that entrance to the existing Owens Road is 598 ft. That entrance is a right in, right out, left in, and no left turn leaving the Lowe's site. The traffic study showed this type of access would prevent cars from making a left turn across four lanes of traffic. In addition to that entrance, there are three proposed entrances off Owens Road; one at the beginning of the Lowe's

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parking area, one at the entrance to Lowe's, and one in the far back for truck access. The one access road on Rte. 31 will be non-signalized.

- Ø Mr. Morris was asked to comment on a discrepancy in the PIF and the SEQR detail regarding the amount of green space for the Lowe's site.

Mr. Morris believes this to be a calculation error. It was shown in the 29.8 percent range and 30 percent is required. When recalculated, the green space is at approximately 35 percent. Realistically, there is a lot of property to work with so that the buildings don't have to be squeezed together while still preserving the wetlands and meeting the green space requirement. The 35 percent of green space mentioned earlier strictly pertains to the Lowe's development and not the remaining lands.

- Ø Mr. Morris was asked to indicate on the map or explain where the railroad tracks and the Soldier's Monument are located.

Mr. Morris showed the audience on the map and stated that the distance from the intersection of Owens Road to the back of the Lowe's property is approximately 1,400 linear ft., and then approximately another 1,400 linear ft. to the railroad tracks. The Soldier's Monument is beyond that.

- Ø It was asked how the demographics support a big store like Lowe's in our small community.

Mr. Taylor McDermott replied that demographic analysis supports that a lot of business will come from the college. Students need many items to get their rooms set up. In addition, the northeast is the oldest area of the country, and older homes require a lot more remodeling.

Mr. Morris commented that Lowe's proposes to add two more lanes to Rte. 31 and improve Owens Road in response to the increase in traffic. Chairman McAllister commented that the bigger picture in helping with traffic congestion supports a new road from Owens Road to Sweden Walker Road with properties only having access off that internal road, not Rte. 31.

- Ø It was asked if the widening of Rte. 31 would be done before the proposed 531 extension happens.

Chairman McAllister stated if this project goes in the timeframe anticipated of one to two years, then it is a high probability that Rte. 31 will be widened before the 531 extension is completed.

- Ø Mr. Morris was asked to explain how far east and west will the widening of Rte. 31 take place, as well as how far north improvements will go on Owens Road.

Mr. Morris explained the traffic study report was just delivered to his office. Rte. 31 will have four lanes as far as Lowe's can provide the R.O.W. with additional turn lanes (decel/excel lanes) on Owens Road and Rte. 31. The Town has asked for sidewalks and a bike trail that Lowe's will provide. For people coming from the west there will be a turn lane. It was stated that it will be possible to make a left hand turn going into the property, but not a left hand turn going out. It was asked if there would be any signaling at the entrances/exits at Owens Road. The existing signal at Owens Road will be improved to a 5-way signal.

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Mr. Morris reviewed MRB's comments:

- Wetlands – It is understood that there are wetlands that need to be worked around. A wetlands study has been completed and the wetlands surveyed and flagged.
- Traffic Study – The traffic study was received today which will be sent to the Town and the DOT for comments.
- The requested changes to the application will be completed by Clough Harbour & Associates (CHA) LLP.
- Reference points (Ledgedale, Brockport Landfill) will be added to the plans.
- A water and sewer district map has been prepared.
- A wetland delineation report has been prepared.
- A landscape plan will be submitted to the Town which is a typical Lowe's landscaping plan, but will have an irrigation system to make sure the landscaping will stay green throughout the year.
- A variance for the height of the building will be required due to a few parapets at the top of the building; one is for screening the HVAC unit and the other two parapets break up the flat roof making it more pleasing to look at.

Mr. Taylor McDermott commented that Lowe's tries to keep the area in the parking lot from being unsightly, i.e., no merchandise display in the middle of the parking lot. Also, there are display areas in the front of the building for seasonal merchandise. At the back of the store there are two trailers for storing pallets so the back of the store is not unsightly. Used appliances are kept the same way. The location of the dumpster is adjacent to the truck well which has a chute from the inside. There is no need to go outside the store to service the dumpster.

- Water and sewer lines will be built across the property. The lines will be stubbed at the end and dedicated to the Town for future development.
- Sewers will be on the west side of Owens Road. Owens Road will be cut to bring the sewer across, and repaved when the improvements are done.

Other comments include:

- Ø There will be one shopping center pylon with Lowe's at the top panel and the other stores below.
- Ø To make sure the water and sewer lines are extended for future development beyond our parcel.
- Ø To obtain an area variance for the building height.

Chairman McAllister thanked Mr. Morris for the presentation and stated that the floor would now be open for public comment.

Frank Lapinski, 4016 Sweden Walker Road - Where is the location of the proposed road from Owens Road to Sweden Walker Road?

Mr. Morris showed Mr. Lapinski on the plan the line separating commercial and industrial zoning, and explained that anywhere in the industrial zoned area where most feasible. Lowe's has agreed to build the portion of the road when the back property is developed.

David Ritchie, 3239 Norway Road, Holley – Mr. Ritchie explained that after 50 years his family hardware business closed its doors. The store took a direct blow from Home Depot and Lowe's. Mr. Ritchie's store never had the product its competitors did. Mr. Ritchie lives in Holley and shops at Chase-Pitkin, Stull Lumber, Lakeside Builders and Grossman's Bargain Outlet, and feels that there is absolutely no reason to bring a Lowe's store into this community. Mr. Ritchie stated other small businesses will fail, too.

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Harry Shifton, 76 Talamora Trail – Mr. Shifton’s concern is where all the water will go. When Hurricane Katrina hit about a week ago, Canal Road flooded. Lowe’s will add well over 170,000 sq. ft. of roof and the additional blacktop. People in the community have stated that the problems with the canal and Canal Road are a disaster waiting to happen in the Village, north of the canal and other parts. Mr. Shifton’s major concern is with all the surface water and the existing water problems on the south side of Rte. 31; how will all the extra water be handled.

Mr. Morris gave an overview regarding drainage. The water is collected from the parking lot and the top of the roof, and goes underground through pipes into a pond. The water is released at the same rate or slower rate than it is today so that the neighboring properties will have a reduction in the amount of water received on their site. Mr. Oberst added that the drainage that comes across this development from the Highlands and flows north over to the Baltz property and ends at Canal Road floods approximately twice a year. Drainage on the east side of Owens Road where the Lowe’s property is located heads in a northeasterly direction and does not cross into the canal at that same location; further down Canal Road closer to Sweden Walker.

Walter Uhrman, 52 Centennial Avenue – Mr. Uhrman commented it appears that Rte. 31 will resemble Rte. 104 and Long Pond Road with the proposed Wal-Mart Supercenter, Lowe’s shopping center and widening Rte. 31 to four lanes. Mr. Uhrman hopes the Board takes this into consideration when reviewing this project.

David Preston, 5400 Redman Road – Mr. Preston stated this is a perfect opportunity for the Town to set limits on the size of commercial development; other towns have done so, i.e., Saratoga. The Town should scale the stores to the community. One of the reasons Mr. Preston moved to Brockport from Greece was to get away from commercial development.

Sandy Thompson, 121 Talamora Trail – Ms. Thompson is concerned with the increased traffic on Rte. 31; she feels it is a death trap. Ms. Thompson is very afraid with regard to the safety aspect.

Julie Lapinski, 4016 Sweden Walker Road – Ms. Lapinski stated that the fastest way to get into Town is to take Sweden Walker to Canal Road to Owens Road. Her concern is increased traffic especially with the existing conditions of Sweden Walker Road, that NYSDOT has chosen not to reduce the speed limit and that there is no signal on the corner of Sweden Walker and Canal Road. Ms. Lapinski feels that the whole area should be looked at in totality, not just adding a couple turn lanes off of Owens Road.

James Moore, 4 Talamora Trail – Mr. Moore stated he knows that it is inevitable that there will be development along Rte. 31, and that it will continue to be difficult getting in and out of Talamora Trail. Mr. Moore stated that the traffic study prepared may have been done well, but was it based on off peak traffic periods.

Peggy Hale, 26 Meadowview Drive – I would like to see Lowe’s ask for a variance to increase the height of the building and put a peaked roof on the whole building which would set a precedent for the whole community and be more in line of what this community needs.

Moved by Mr. Hale, seconded by Mr. Williams, that the public hearing be adjourned to the regular meeting.

Chairman McAllister stated that the Town offices would continue to take additional public input, please feel free to send comments to the Town offices or, if you prefer, to my home address, which is in the phone book.

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The Woods at Sable Ridge – Phase I, Subdivision & Site Plan. Lake Road & Redman Road.

Attorney Romanowski stated he is seeking final plat approval for Phase I of the Sable Ridge project. A number of details have been finalized on the project. The Town engineer has reviewed the plans and all of his concerns have been addressed. The remaining outstanding items are that sewer, water and drainage districts still have to be created. Approvals outside the Town include a DEC Wetland Buffer Permit has been reviewed and will receive final approval once it is publicized. Monroe County Water Authority has signed/approved all of the design proposals. Monroe County Pure Waters is in the same position. Monroe County DOT has reviewed the proposals and is ready to approve. The MCDOT's concern was relative to the sight line on Redman Road. With respect to that, Sable Ridge will enter into a sight line easement agreement with the property owner on the opposite side of Redman Road to maintain the vegetation and snow removal. MCDOH has asked for the Town's approval before DOH gives its approval. NYSDOT has granted approval relative to construction of the emergency access on Lake Road. The remaining items include some easements that need to be completed relative to the sewer and drainage systems. The Homeowners Association still needs to be created, but that will happen after the final plat is filed, which is several months away. Attorney Romanowski asked for the Board's final approval tonight so that the process of getting other approvals can continue.

Chairman McAllister confirmed that all of the Town Engineer's concerns have been addressed. Mr. Oberst agreed and stated the last concern was relative to the emergency access on Lake Road, which was given the okay by the NYSDOT via an email today.

Chairman McAllister stated the comments from MCDOH are different than what has been received before. This is the first time the MCDOH has required signatures from all the outside agencies prior to the DOH signing the plans.

Chairman McAllister asked Mr. Preston if the developer has met his buffering concerns. Mr. Preston stated that he was hoping to get some buffering, but didn't see anything on the plans. Attorney Romanowski stated that the final plans show that the limits of the clearing area have been designated. Along the Preston's property there will be a 15 to 20 ft. barrier with natural vegetation being left between the boundary line and where the clearing is limited. Attorney Romanowski stated that the buffer area would not be increased, but the existing vegetation maintained within 15 to 20 ft. of the property. Mrs. Preston asked if there would be sidewalks on the plan and Attorney Romanowski stated yes.

Mr. Minor stated that on August 17, 2005, Mr. Williams, Mr. Hertweck and himself met with Mr. Dave Goehring, NYSDOT, who showed them a letter written to NYSDOT by the applicant's attorney. The Town of Sweden Planning Board was not copied on this correspondence. The letter stated that post completion of Phase III, the Lake Road access would be completed and permanently opened. Mr. Goehring had a concern with this, and subsequently, the August 25, 2005, letter was written. This letter states number two, last sentence, "Therefore, the permanent and emergency access to Rte. 19 will not be allowed." Attorney Romanowski stated that is contrary to what happened at the meeting on Friday with NYSDOT. Mr. Minor stated that should be put in writing. Mr. Oberst stated an email was sent today confirming the matter has been resolved.

Mr. Minor added that in the future whenever there is communication between Mr. Romanowski and NYSDOT regarding a project involving the Town of Sweden, the Town should be copied on any correspondence. Attorney Romanowski agreed.

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Chairman McAllister asked Mr. Spaziano what affect would there be on the project by waiting to the next meeting to get final approval. Mr. Spaziano stated that the interest rates are going up and that the rate he committed to was given 90 days ago. The rate will probably go up two points, which will be significant.

Chairman McAllister stated that there would be a special meeting at 6 p.m. at the Town offices tomorrow for the mylar to be signed by the Fire Marshal and Highway Superintendent and a motion given for final approval contingent on the DOH's signature. Stantec will have to secure the Town Engineer's signature before coming to the Town offices.

Wal-Mart Supercenter. Brockport-Spencerport Road.

Attorney Kelly Pronti stated the FEIS was submitted on September 7, 2005. Also, provided was a letter from the NYSDEC and NYSDOT. The DEC letter indicates that a supplemental FEIS is not required. The DOT letter indicates they are comfortable with the proposed mitigation at this point.

Mr. Hale stated that per the August 22, 2005, DOT letter, there still seems to be two issues that are muddled. One, in the short term, the Planning Board is interested in getting through the environmental review. Two, the last phrase of the letter mentions a work permit, which is a long way from this point. It would have been better if the letter focused on what will help the Planning Board get through the environmental review.

Mr. Bennett commented that he had talked with Mr. Goehring, NYSDOT, and explained what sort of documentation was needed in the letter. Mr. Bennett, speaking on Mr. Goehring's behalf, stated he thought what the letter was saying is that the DOT is past the engineering review and has moved onto the permit review.

Chairman McAllister asked for Attorney Reuben Ortenberg's thoughts on acceptance of the FEIS. Attorney Ortenberg stated it is the responsibility of this Board to ensure that all of the items in the FEIS the Board is concerned with are addressed as best as possible and to the Board's satisfaction. Attorney Ortenberg stated that the Board has a very strict timeline after acceptance. There is a 10-day period for public comment and then 20 days thereafter to prepare findings and approve or disapprove the project. It's the Board's call, if there is a site plan issue that is an environmental issue, i.e., traffic, then the FEIS should not be accepted until that issue is adequately addressed.

Chairman McAllister commented that he spoke with Mr. Lucey and Attorney Pronti today regarding how dismally disappointed he was that the NYSDOT has not considered any mitigation outside the boundaries of the Wal-Mart site resulting in Rte. 31 having an "hourglass" effect. Rte. 31 has two lanes coming past the Sweden Corners Plaza to three lanes at the Hess Gas Station and back to two lanes all the way to Owens Road. Chairman McAllister stated that minimal requirements have been required on the part of the DOT, but that is not acceptable as far as the Town is concerned. The "hourglass" effect has to be eliminated all the way to Owens Road.

Mr. Lucey stated very strongly that traffic is a site plan issue and not an environmental issue. Discussion followed. Mr. Lucey believes that after dealing with the NYSDOT for the past two and a half years, the addition of Lowe's will make DOT look at improvements to the west of Owens Road. Mr. Lucey stated that

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Wal-Mart is aware of the improvements needed at Talamora Trail, but there are three parties involved now who should work together with the DOT to improve Rte. 31 to the fullest extent. Chairman McAllister stated the question is does the Board treat traffic as a site plan issue or as part of the FEIS.

Attorney Ortenberg stated it could be treated as a site plan issue, but it is really off the site. There may be some cases where you can't treat matters off site as part of the site plan mitigation. If the Board is not satisfied with some aspect, the Board has the right to require additional information.

Mr. Hale stated it is important to note that there are three players now: Wal-Mart, Lowe's and Mr. Hassall. Mr. Lucey stated that Wal-Mart would agree to put money in an escrow account for road improvements when the other two parties are able to do their share. The Town would hold the money, not DOT. Attorney Ortenberg stated another way to look at this situation is what would the findings statement say regarding traffic on the highway in front of the project; would the Board be satisfied.

Mr. Minor referred to the August 17 meeting with DOT, stating DOT mentioned another alternative which would have been to improve Transit Way and to make it signalized. Also, Wal-Mart would have an entrance off Transit Way. This would eliminate a curb cut on Rte. 31. Chairman McAllister stated that it was a little late in the day for that alternative to be mentioned. Mr. Minor added with all the reviews that have taken place, DOT should have suggested that alternative earlier.

Mr. Williams mentioned another item discussed at the August 17 meeting with DOT was the softening of the bend at the back access road so there isn't a 90 degree turn. Mr. Lucey explained that would come down to a drainage issue with that change affecting the bulk of the retention pond. The vision for that road is a "T" intersection which extends into the future development of the Highlands.

Attorney Ortenberg reiterated what would the Board say in its findings statement to mitigate traffic. Does the Board need more information or has everything been done possible to resolve the issues. Mr. Lucey explained that DOT is in the process of reviewing the Wal-Mart plan. Any proposed project after that would have to take into consideration the Wal-Mart plans. The main point here is that Wal-Mart is asking to get the FEIS accepted tonight with the 30 days thereafter to prepare the findings. If there are still issues regarding traffic in the corridor, Wal-Mart has expressed an interest to participate in a transportation district or put money in an escrow fund for future improvements. The findings statement could state something to that effect.

The topic of a transportation district was discussed. Mr. Oberst commented it has helped fund improvements on Highland Drive and Jefferson Avenue in Henrietta. It would be a fair way for everyone to help with the costs involved and not just have Wal-Mart pay for all the improvements. More research has to be done on this topic in order for it to become part of the findings statement.

Attorney Ortenberg stated that after acceptance of the FEIS, there is a 10-day period for public comment and 20 days after the public comment to prepare a findings statement. The Board asked the applicant if the time to prepare the findings statement could be extended for an additional 20 days, which would be 50 days out from tonight's meeting; November 1. Mr. Hale asked that Page 2 of the Notice of Completion of FEIS include a copy for review at the Seymour Library. The applicant agreed to the extension.

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Moved by Mr. Hale, seconded by Mr. Williams, to adopt the following resolution:

**RESOLUTION OF THE TOWN OF SWEDEN PLANNING BOARD
SEPTEMBER 12, 2005**

WAL-MART SUPERCENTER

ACCEPTANCE OF FINAL ENVIRONMENTAL IMPACT STATEMENT

WHEREAS, Wal-Mart (“Wal-Mart”) has proposed to construct a Wal-Mart Supercenter (the “Supercenter”) in the Town of Sweden; and

WHEREAS, this Board, on March 24, 2003, was established as SEQRA Lead Agency related to review of the Supercenter; and

WHEREAS, this Board, on March 24, 2003, issued a positive declaration under SEQRA for the proposed construction of the Supercenter; and

WHEREAS, this Board, on May 29, 2003, adopted a Final Scoping Outline for the Draft Environmental Impact Statement (“DEIS”); and

WHEREAS, on October 27, 2003, consultants to Wal-Mart submitted a proposed DEIS to the Board; and

WHEREAS, on December 17, 2003, the DEIS was accepted by this Board for purposes of scheduling a public hearing to solicit comments on the DEIS; and

WHEREAS, on February 9, 2004, a duly noticed public hearing was held where all interested persons were given the opportunity to express their opinions about the DEIS and the general Wal-Mart site plan; and

WHEREAS, an additional ten (10) day public comment period was permitted by this Board to further solicit public input on the DEIS; and

WHEREAS, On September 27, 2004 this Board directed MRB and Special Counsel to prepare a Final Environmental Impact Statement (“FEIS”); and

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WHEREAS, the Board and Wal-Mart have agreed to extend the usual deadline for preparation of the FEIS in order to allow sufficient time to prepare the statement adequately; and

WHEREAS, consultants to Wal-Mart have submitted a proposed FEIS to this Board and its legal and engineering consultants; and

WHEREAS, on June 20, 2005, a duly noticed public informational meeting was held where Wal-Mart provided the public with an update on all Wal-Mart site plan revisions since the DEIS; and

WHEREAS, upon review of the information contained in the proposed FEIS and upon advice of legal and engineering consultants retained by the Board, the Board is prepared to accept the FEIS; and

WHEREAS, the applicant has consented to extend to November 1, 2005, the period by which a findings statement is to be prepared and filed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This Board, as SEQRA Lead Agency, hereby accepts the FEIS; and
2. The Board hereby directs the applicant to file and circulate a Notice of Completion of FEIS as required by applicable regulations.

Ayes - 5

The meeting was adjourned by motion at 10:15 p.m.

Planning Board Secretary