

**TOWN OF SWEDEN  
Planning Board Minutes  
September 25, 2006**

A regular meeting of the Town of Sweden Planning Board was held on Monday, September 25, 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, Jack Hassall

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

Correspondence passed to members for review.

Moved by Mr. Hertweck, seconded by Mr. Monno, that the minutes of September 11, 2006 be approved as amended.

Page 4, 1<sup>st</sup> paragraph, last word...CHANGE compromise TO relief.

Mr. Hale commented that the Board should monitor the parking lot renovations because the spaces are being restriped at 9 ft. x 18 ft./10 ft. x 18 ft. Mr. Butler added that the restriping is temporary and that he believes that Wegmans will comply and restripe the lot with 10 ft. x 20 ft. parking spaces.

Ayes – 6  
Abstain – Mr. Williams

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

Mr. Richard Maier addressed the Board. Mr. Kline owns Lot 3, which extends behind Lots 4 and 5. Mr. Kline is in agreement with Mr. Field, owner of Lot 5, to sell him the portion of land behind his property. The Board reviewed the plan.

Chairman McAllister clarified that the resubdivision will leave Lot R-3 with 2.858 acres and Lot R-5 will gain an additional 1.561 acres. The lots are currently on water, no sewer (inground septic systems).

Chairman McAllister asked when was the lot originally subdivided. Mr. Maier stated in 1967, and Mr. Kline bought the back property in 1990. The lots are preexisting, non-conforming and are zoned residential.

Moved by Mr. Hale, seconded by Mr. Minor, that the Sweden Meadows Section 2 Resubdivision be accepted for review.

Ayes – 7

The Public Hearing will be October 23, 2006.

**Michael J. Miles Subdivision & Site Plan. 8609 West Canal Road. 067.02-2-8.21**

Mr. Kris Schultz addressed the Board. The plans have been seen and approved by the DOH, and the Town Engineer's comments have been addressed. Lastly, a search of the abstract was completed to determine the overhead electrical lines. There is no easement on the property for the electric lines so the supplier of the electric was contacted. The existing overhead lines will be used to supply the home with no restrictions.

Mr. Oberst asked Mr. Schultz for the culvert detail. Mr. Schultz stated it was completed. Mr. Hale asked if the trees were taken care of, and Mr. Schultz stated yes.

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Mr. Butler will sign the plan in the absence of the Fire Marshal. Mr. Oberst is ready to sign the mylar.

Moved by Mr. Hale, seconded by Mrs. Bahr, that the final public hearing be waived, the Michael J. Miles Subdivision and Site Plan be granted final approval and the Chairman be authorized to sign the mylar.

Mr. Minor asked if the water statement was included on the plan. Mr. Schultz stated yes.

Ayes – 6  
Abstain – Mr. Williams

**WORKSHOP**

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

Mr. Hale asked for the definition of a public workshop and how it was different than a public hearing. Attorney Ortenberg explained that a legal notice would be required for a public hearing and that a workshop can be conducted during a regular scheduled meeting.

Mr. Schultz is looking for an advisory report from the Planning Board to the Town Board. Attorney Ortenberg is at tonight's meeting to address any of the Board's questions. Mr. Hale indicated that the 45 days would most likely be needed to put the report together. Chairman McAllister stated the object of tonight's meeting is to get as many questions answered as possible.

Mr. Minor asked if the plans should be reviewed as a site plan or concept. Attorney Ortenberg stated neither; the Town Board is requesting the Planning Board review the concept and give an advisory opinion limited to summarizing the beneficial aspects of it and for making any suggestions to enumerating the negative aspects and possible proposed mitigation.

Mr. Hale asked if there would be a coordinated SEQRA review with the Town Board as Lead Agency similar to the Heritage Square project. Attorney Ortenberg stated there would be a coordinated review. Mr. Hale added that the Planning Board would prepare its own findings statement during the subdivision and site plan review.

Chairman McAllister stated the Planning Board should discuss what the requirements are for the findings and final decision found on page 175:28 of the updated Zoning Chapter 175 (SEQRA, development capacity, public benefit, project quality, comprehensive plan). Attorney Ortenberg stated that hopefully the Board would receive enough information tonight to put together a written report. There is always the possibility of requesting an extension to the 45-day time limit.

Mr. Hale made the following point relative to the Comprehensive Plan. In regards to the future commercial component and Figure 24 of the Comprehensive Plan (Future Zoning Map), there is no such zoning. Also, any future uses to the south are not outlined on the map. In other words, the project does not conform to the Comprehensive Plan.

Chairman McAllister stated the special considerations listed below are what's being asked for in this application and would be a good place to start.

- Residential to commercial zoning
- Density development – R1-2 to MR-1 type

Mr. Schultz explained that the zoning would be Incentive Zoning with specific descriptions, not B-1 for the commercial part and MR-1 for the senior development. Chairman McAllister explained that because the

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commercial zoning is not by boundary that whatever goes in there cannot be changed until it is reviewed again under the Incentive Zoning. Attorney Ortenberg said that would be correct. Specific details would have to be reviewed for significant impact every time there is a change.

Attorney Ortenberg suggested that the advisory report include the suggestion of having the specific type of business required and that any change would bring the project back for a review and approval. Mrs. Bahr asked how would that be tracked? Mr. Monno stated a change of use/business could be made without the Town being notified. Attorney Ortenberg stated the worse case scenario is that the business would be in violation and the certificate of occupancy pulled until conformance.

Mr. Hassall asked if a specific type of business could be regulated or parameters established, i.e., low volume vs. high volume, as long as the use meets the intent of the zoning? This would save a lot of work on everyone's part. Attorney Ortenberg stated that a recommendation be included in the advisory report to the Town Board that low volume businesses only be approved to occupy the commercial piece. Plus, Mr. Schultz made the point that there will be a site plan review for new businesses and if the traffic or any other issue doesn't work, the plan won't be approved. Attorney Ortenberg stated that's true, but the parameters should be defined first before any site plan review takes place. Mr. Minor added, for example, the zoning could say no used or new car sales or outdoor inventory-type sales.

Mrs. Bahr asked what about adult entertainment businesses? She added how would you prevent this type of business without defined zoning? Chairman McAllister stated that an adult entertainment business has an overlay district. Attorney Ortenberg will verify the above. Mrs. Bahr asked what type of regulations would be followed under incentive zoning? Chairman McAllister stated if it's for commercial, then B-1 regulations.

Attorney Ortenberg stated any recommendation should be made in the advisory report to the Town Board identifying problems the Board sees as well as suggestions mitigating those issues. Chairman McAllister asked the Board to take a few minutes to go over the incentive zoning package so that more questions can be addressed.

Mr. Minor stated the total number of units is half of what was proposed in the residential development, a positive or negative. The total amount of green space obtained is greater, a positive. Mr. Autin agreed having increased green space and a wider buffer is a benefit. He added another way to look at this is that the project would be a final development so that the green space wouldn't be lost to future development.

Mr. Hale commented that in the original July 6 letter at the bottom of page 1, the open space, 10.89 acres @ \$10,000, would be the cash value of the incentive.

Mr. Hale asked for an update regarding page 2 of the July 6, 2002 letter from the NYSDOT, paragraph 4, ingress/egress at Talamora Trail. Mr. Oberst explained that Lowes, Wal-Mart and Mr. Hassall donated money to dissolve the bottleneck between Lowe's improvements and Wal-Mart's improvements. Lowe's engineers were given approval to go ahead and incorporate those changes into the design and submit the plans to DOT. DOT is close to approval on the design plans, which means there will be three lane sections from Owens Rd to Transit Way. Chairman McAllister said what is even better is that when the plans are approved; the funds will be in place to do the work.

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Mr. Minor asked if there was a timeframe for the approval. Mr. Oberst stated Lowe's is close to getting its final permits and obtaining all easements, but it is unlikely that road construction will start this year. Wal-Mart is proposing to finish by the end of the season (Hess to Wal-Mart's property line, Kuster's west property line).

Mr. Monno asked due to the increased traffic, what is proposed as far as traffic control at the intersection of Transit Way and the end of the Wal-Mart entrance? Mr. Oberst stated there would be a three-way stop.

Chairman McAllister mentioned that in the letter from the Town Board requesting the Planning Board's opinion, there is no mention of a commercial area. Attorney Ortenberg stated there's no particular reason.

Mr. Monno asked the Town Board to consider what the maintenance would be for every aspect of the property over the years. Is the property timber growing land? If the property isn't maintained, will there be diseased trees or the possibility of brush fires? The cost of this maintenance will be passed onto the taxpayers. Mr. Schultz stated he believes the Town doesn't want to own the open space, but have control over its maintenance with a conservation easement. The Town would want a homeowner's association to take care of the land. Discussion followed as to how to determine if the property is an area that will need to be maintained or keep as a "forever wild" area and let nature maintain it. Mr. Monno disagreed to leave it "forever wild" if the property has good timber growing.

Mr. Autin explained leaving the land "forever wild" in an urban/suburban setting is not an optimal thing to do. Managing the open space would be better, taking out a blight of trees or removing the brush that can start a wildfire. Chairman McAllister stated that the Town Board should be concerned with the management of the open space whether or not the Town owns it or it is privately owned. Mr. Schultz recommended that the ECB meet with the Town or homeowner's association on a consultation basis.

Mr. Minor stated he would opt for non-ownership of the open space. Mrs. Bahr suggested that once the open space reaches so many acres, that the ECB take on an advisory capacity. Mr. Hertweck asked, if the wooded open space is not taken over by the Town, does it come off the tax roll? Part of the association dues would pay the taxes.

Mr. Minor asked if there is a problem with water or drainage at this time as bare land. Mr. Oberst explained that even back with the watershed study twenty plus years ago, the tributary that goes under Rte. 31 by Kuster's property has always been taken into account. Wal-Mart oversized its pond for outside contributing areas. Mr. Minor asked does this project help or hinder the overall flow of drainage. Mr. Oberst added, ultimately the proposed ponds will have to have a release rate that doesn't exceed what's leaving the site now. It should be the same or improved upon. Mr. Minor stated that there could be a drainage benefit.

Mr. Monno asked for an approximate elevation from the road that goes in on the first corner to the cul de sac. Mr. Schultz stated the elevation would be 593/594 to 602 to 635, 33 feet of elevation.

Mrs. Bahr asked if there would be street lighting. Mr. Hassall stated yes, but not the same as the original Highlands.

Mr. Minor stated that the original residential plan didn't call for an exit going west. Mr. Schultz stated that it did; therefore, the incentive zoning doesn't help because a road was always planned.

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Mr. Minor asked if the commercial property was a benefit or detriment. Chairman McAllister stated it's hard to say without knowing what it will consist of. If it were a business not currently in the Town, then it would be a benefit, but if it's taking away something that's already here and leaving the Town with more commercial open space, then it is a negative.

Mr. Hassall explained that while he can't say, he is aware of the type of businesses that may come in and they would be a benefit to the Town (neighborhood retail).

Chairman McAllister stated the Planning Board's comments should be centered around certain areas, which have been defined for us to address in our response: environmental, development capacity, public benefit, project quality, relevance to the Comprehensive Plan. It may be that we don't have a response for all of the areas, but that isn't a problem. The other task the Planning Board is required to do is point out all the positives, identify any negatives and possible solutions for those negatives.

Per Mr. Monno's request and Chairman McAllister agreed, the Planning Board should have a continuation of this workshop next Monday, October 2 at 7 p.m. Attorney Ortenberg, Mr. Schultz, Mr. Hassall will attend the workshop.

**INFORMAL**

**Retail Center Subdivision & Site Plan. 1000 Transit Way. 084.01-1-1.113**

Mr. Kris Schultz addressed the Board and distributed updated drawings to the Board. The following changes were made:

- Eliminated the access off Brockport-Spencerport Road.
- The building shape changed to rectangular.
- Notched out and recessed a loading dock so it isn't visible from the road.
- Met with the Building Inspector and Fire Marshal regarding the need for a fire lane around the building and because of the size of the building and lot, Fire Marshal Sanford thought it wasn't necessary to have a dedicated fire lane. A fire truck can be put anywhere along Brockport-Spencerport Road and Transit Way in order to get a hose around the building. Because of this, the building was pulled back and the frontage opened up to provide a well-landscaped buffer along Brockport-Spencerport Road.

The variances requested are:

- Front setback off Transit way, 62.5 ft.
- Both side and rear setbacks are significant
- Signage used for other businesses to the south, corner sign that lists other businesses
- Parking spaces are short, but the developer has secured low volume businesses as tenants.
- Building coverage is 20%; the proposed structure is at 23% building coverage.

Mr. Schultz stated an application to the ZBA has been made and the public hearing will be in October. Depending upon the ZBA's decision, plans will be submitted for subdivision and site plan approval to this Board.

Mr. Monno asked about the loading dock. Mr. Schultz explained that the loading dock will probably not be recessed and it will have an overhead door. No tractor trailers, box trucks only. Mr. Monno confirmed that a truck would be able to make it through the parking lot without backing into the road. Mr. Schultz agreed.

Mr. Schultz stated that a very talented architect, Norbert Hausner, is joining the team. Elevations with landscaping will be ready for the ZBA public hearing.

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Chairman McAllister asked what the impact would be to traffic at Transit Way and Rte. 31 with the increased commercial development that has not been planned for, i.e., ABVI-Goodwill, Mr. Hassall's commercial development and this project. Also, if Rte. 31 road improvements extend west, the parcel will lose the green space in the front. Mr. Schultz explained that the storm sewer was run under the curb so the entire road section was in the existing R.O.W. Anything outside the R.O.W., would be an easement associated with sidewalks to the Town.

Mr. Schultz asked if the Planning Board has an issue with the developer coming out half the R.O.W. line with landscaping. Mr. Schultz will also get the approval from Mr. Perrine because it's a Town road. Chairman McAllister stated he has no problem with that, but with the understanding that if it has to be moved, it's lost at the developer's expense.

Chairman McAllister explained that if the ZBA approves the area variance for low volume businesses, what would happen if the businesses change. The ZBA may put some sort of condition on the type of business.

**ABVI-Goodwill Subdivision & Site Plan**

Chairman McAllister explained that when the Board was reviewing this project, it tried to help the applicant get matters lined up before the Wal-Mart SC put the new road in, and ended up not completing the SEQRA motion. A revised SEQRA motion needs to be given and recorded. Mr. Hale has prepared Draft A and B in order to correct this oversight. The Board decided to go with Draft B.

Moved by Mrs. Bahr, seconded by Mr. Hale, (1) that the SEQRA motion of April 24, 2006, be taken from the table; (2) that the Planning Board recognizes that the site was clear cut prior to March 2006 in possible violation of Section A177-16 (H) of the Town of Sweden Subdivision Regulations, which has been referred to the Town Supervisor and Town Attorney for action and/or mitigation; (3) that having reviewed the Project Information Form, comments from the Town Engineer, County Planning, Fire Marshal, and the Environmental Conservation Board, the Planning Board determines that the ABVI-Goodwill Subdivision and Site Plan is an unlisted action which will have no further significant impact on the environment; (4) that the Planning Board reaffirms its actions of May 22, 2006, granting preliminary and final subdivision approval, and June 12, 2006, granting site plan approval.

*Chairman McAllister stated that it was significant that the Planning Board had the foresight to bring the clear cutting to the Town Board's attention, and that no other action was required.*

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

Moved by Mr. Monno, seconded by Mr. Hale, that the September 25, 2006, Incentive Zoning Workshop – Highlands Senior Development, be continued on Monday, October 2, 2006 at 7 p.m. Ayes – 7

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**Planning Board Secretary**