

**City of Aurora
PLANNING COMMISSION
MEETING MINUTES
JANUARY 20, 2010**

The Aurora Planning Commission met in a regularly scheduled meeting on Wednesday, January 20, 2010, in Council Chambers of Aurora City Hall. The meeting was called to order at 7:00 p.m. by Planning Commission Chairman Roy Shafer.

ROLL CALL:

Present: Kathi Grandillo
Ken Grohe
Maria Hydell
Joe Kastelic
Roy Shafer

Present: Thomas Reitz, Law Advisor
Richard Wehrenberg, Planning, Zoning &
Building Director
Denise Januska, City Planner
George Horvat, Councilman, Ward Four
Corinne Craine, Commission Clerk Pro Tem

Mr. Reitz swore in those in attendance who wished to speak this evening.

ORGANIZATIONAL:

NOMINATIONS - CHAIRMAN, FIRST VICE CHAIRMAN & SECOND VICE CHAIRMAN:

MOTION: To open the floor for nominations

Mr. Kastelic moved; Mrs. Hydell seconded, and the motion carried, 5-0, on a voice vote.

MOTION: To nominate Roy Shafer as Chairman

Mr. Kastelic moved; Mrs. Hydell seconded, and the motion carried, 5-0, on a voice vote.

MOTION: To close the nominations for Chairman

Mr. Kastelic moved; Mrs. Hydell seconded, and the motion carried, 5-0, on a voice vote.

MOTION: All in favor of Roy Shafer being Chairman

The motion carried, 5-0, on a voice vote.

MOTION: To nominate Maria Hydell as First Vice Chairman

Mr. Kastelic moved; Mrs. Grandillo seconded, and the motion carried, 5-0, on a voice vote.

MOTION: To close the nominations for First Vice Chairman

Mr. Kastelic moved; Mrs. Grandillo seconded, and the motion carried, 5-0, on a voice vote.

MOTION: All in favor of Maria Hydell being First Vice Chairman

The motion carried, 5-0, on a voice vote.

MOTION: To nominate Joe Kastelic as Second Vice Chairman

Mrs. Hydell moved; Mrs. Grandillo seconded, and the motion carried, 5-0, on a voice vote.

MOTION: To close the nominations for Second Vice Chairman

Mrs. Hydell moved; Mrs. Grandillo seconded, and the motion carried, 5-0, on a voice vote.

MOTION: All in favor of Joe Kastelic being Second Vice Chairman

The motion carried, 5-0, on a voice vote.

AMENDMENTS TO AGENDA:

MOTION: To approve the meeting agenda of January 20, 2010, as written

Mrs. Grandillo moved; Mrs. Hydell seconded, and the motion carried, 5-0, on a voice vote.

APPROVAL OF MINUTES:

MOTION: To approve the meeting minutes of December 2, 2009, as submitted

Mrs. Hydell moved; Mr. Kastelic seconded; and the motion carried, 4-0-1, on a voice vote. (Mr. Kastelic abstained.)

AGENDA ITEMS:

Conclusions of Fact – Application #0907008 by Lamplight Communities (Cedar Fair L.P.) for a Conditional Zoning Certificate for an Assisted Living Facility – Comparable Use

(A transcript of this portion of the meeting will be included as part of the minutes.)

Shafer: Item 6a., we're revisiting the Conclusions of Fact—Application #0907008 by Lamplight Communities (Cedar Fair L. P.), for a Conditional Zoning Certificate for an Assisted Living Facility – Comparable Use. It was rewritten to include some more detail. You all had a chance to look at this in your packet. Any comments from the Commissioners?

Grohe: No.

Shafer: That's okay.

Grohe: I appreciate the extra points. Thank you.

Shafer: Okay. Let's take a motion to approve the Findings of Fact as written.

Hydell: So moved.

Kastelic: Second.

Shafer: All in favor to . . .

Reitz: Roll call please.

Shafer: Roll call vote. Ms. Craine, please call the roll.

Mazzaro: Mr. Shafer.

Craine: Mrs. Hydell.

Shafer: I'm sorry. I'm sorry. I looked around the corner.

Mazzaro: Mr. Shafer and members of the Commission, my name is George Mazzaro, 186 Eldridge. I appreciate the work that's been done on this one and the last one. There's a considerable amount of differences from the one that was submitted back in December and there doesn't seem to be any discussion on that. And I would call it a conclusion of, you know, facts, and finding of facts. I mean there's a lot of difference between the two and I'm just saying why were the changes made and who made the changes and were they approved by a legal counsel. The other thing that you refer to in here were made and submitted by the applicant in reference to some of the statements made. And I assume that only three of you can vote in favor of this because one voted no and one was absent. So I assume there's going to be a 3-1-1. Thank you.

Shafer: Ms. Craine, please call the roll.

Craine: Mrs. Hydell.

Hydell: Yes.

Craine: Mr. Kastelic.

Kastelic: Yes.

Craine: Mrs. Grandillo.

Grandillo: Abstain.

Craine: Mr. Grohe.

Grohe: Is this for the roll or the vote?

Shafer: The vote.

Grohe: Abstain.

Craine: Mr. Shafer.

Reitz: Time out, Mr. Chairman. Mr. Chairman, if I may interject at this point. Mr. Grohe, may I ask why you are abstaining?

Grohe: It can't go without me voting yes for it?

Reitz: It can, but you were a participant and you, if you have some objections to it, you should voice it. If you feel it's inaccurate in some fashion, we would appreciate you telling us that so we can make a correction if that's your position.

Grohe: If it can go forward without me voting yes, I'd appreciate it. If not, I'll vote yes.

Reitz: Well, the question is whether this is an accurate Findings of the Fact. It's not whether you agree with the vote or the proposal itself. The question is whether this is consistent with what actually took place. Now if you elect to abstain, I'm going to ask you to state your reasons for that, just like I would with anybody else, and I would be interested in hearing why you're deciding not to participate because that's what an abstention is.

Grohe: The idea of abstaining was that I had a negative vote. And I do agree that what's stated in the six points are factual, but I still believe it's a mixed message, and if it could carry

without, with me doing abstain, I'd appreciate that. If not, I'll vote yes.

Reitz: Well, your vote was in favor and that's noted on this. You voted for the application.

Grohe: Correct.

Reitz: As accurately stated and it's your position that the six points made under specific Findings of Fact are accurate? Yes?

Grohe: I find them to be. I prefer to stay at abstain. If it could move forward to Council with me saying abstain, that would be better.

Reitz: Well, actually no it wouldn't because an abstention is not a vote. It's indicating that you're not going to perform the duty of the Planning Commissioner. Now if you have, if you have a conflict which says you can't participate or some other reason which you believe keeps you from being objective . . .

Grohe: I'd like to stay on the Planning Commission obviously. I think there's a lot of good work that needs to be done. But this one specific point, I didn't know this would relinquish me myself off of the Planning Commission by abstaining on a stated fact.

Reitz: That's not what I said. Perhaps you misunderstood me. I'm not telling you you're going to be removed from the Planning Commission. That's not the case. But when you joined the Planning Commission, you took an oath, similar to the one taken by Mrs. Hydell this evening, that you would follow the Laws of the State of Ohio and the Ordinances of the City of Aurora.

Grohe: I remember that. Yes.

Reitz: Okay. This is a requirement of the Laws of the State of Ohio, that a Planning Commission make Findings of Fact, particularly, in the instance where an appeal has been brought. And so this has been brought back to the Commission this evening, fleshed out some by me, in an effort to accommodate the concerns that you raised at the last meeting. So I'm asking you to go ahead and perform the duties that you've taken an oath to perform and you just can't say "I don't want to vote on something." If you have a reason for not voting, tell us that.

Grohe: The, I don't want to hold this up. But my only complaint that I would say is the six points of fact, I read them to be accurate. I believe the other Commissioners did a great job on it. I believe there was a difference of opinion obviously and no we're not always going to agree, that's why it's a council and a very good council, a very diverse council, I don't know if it accurately represents all the different testimony that the applicant put forward though.

Reitz: It does not. It is the Findings of Fact that the Planning Commissioners made that evening.

Grohe: I prefer . . .

Reitz: The entire record is forwarded to the City Council. This is not the only thing that the City Council gets. The City Council literally gets everything that was submitted to the Planning Commission, the minutes that were generated and approved by the Planning

Reitz: Commission, and it's my understanding that a verbatim testimony is also being prepared. Is that right, Mr. Wehrenberg?

Wehrenberg: Yes.

Reitz: So this is certainly not the only thing that the City Council gets. This is prepared to be in compliance with the Ohio Revised Code.

Grohe: I don't want to be difficult. I just, I'm still at a point personally that I think it sends a mixed message. And if it could carry on without my vote, that would be great.

Reitz: Okay.

Shafer: Mr. Wehrenberg.

Wehrenberg: Commissioner Grohe, all you're saying by endorsing this at this point is not that you agree with what the Commission decided, but that as of as being there as being part of it. This is what they did in fact decide and it is noted in there that you disagreed with what they decided. But this is required by the Ohio Revised Code, in case this does go to court. So basically we're just asking you to be a witness to what actually occurred at the Commission.

Grohe: Can I ask Counsel then what a no vote would then do?

Reitz: A no vote would be your opinion that these Findings of Fact do not accurately reflect what transpired, what was found by the Planning Commission.

Grohe: What assurances do I have as a Commissioner that everything--I don't go to Council I apologize, I'm not able to go on Monday nights--but assurances do I have that the long list of things that the applicant that we as Commissioners went through be or submitted to the Council beyond just these six points?

Reitz: What assurances do you have?

Grohe: Yes.

Reitz: Well, that's what the staff is telling you. And I suppose that if you really have that substantial of doubt that the staff is doing its job, you can . . .

Grohe: No, not doubt. Again I'm not . . .

Reitz: You can go. You can go to the City Council meeting or you can make a request for information under the Freedom of Information Act for a copy of whatever is submitted to the City Council.

Grohe: I'm not. I'm not questioning the staff. To me, and I went through this for a month now, I just don't, and people outside of the Council have said "hey, good job" or "not good job" or whatever their opinion is. I'd rather abstain.

Reitz: I'm not going to tell you to change your vote but I do want you to make an informed decision.

Grohe: Okay and you've helped me. Thank you. I'll abstain.

Shafer: Just for the record, let's, I was going to ask for the vote again.

Reitz: All you need to do is complete it.

Shafer: I'm not sure where we left off.

Craine: Well, I do. I know. Mr. Shafer.

Shafer: Yes. That's it?

Craine: Yes.

Reitz: The vote is three yeases and two abstentions. Okay.

Aurora Recreation LLC (Aurora Country Club), 50 Trails End – Zoning Amendment (0909016)

John Lateulere, the Land Development Project Manager from Atwell-Hicks, was present to discuss the Aurora Country Club rezoning request.

It was noted that the members recently received two reports for their consideration: the staff report which included a recommendation for Council to disapprove the requested rezoning and the applicant's response to the staff report. Mr. Shafer stated that the members were not prepared to discuss the applicant's response since they just received it today and therefore didn't have time to review the contents.

Mrs. Hydell asked if there were any deadlines that apply to this particular rezoning application. Mr. Reitz referred to Code Section 1139.05(c) and stated that for this specific application, there is no deadline provision that sets a time frame for the Planning Commission to review or to consider this proposed amendment. He stated that the Commission did not have to act this evening and he encouraged the Commission to accept the applicant's response as part of the record and take the time to review it properly.

Mr. Wehrenberg presented a short summary of the staff report and explained the different issues that were relevant for evaluating this application. He referred to Section 1139.05 that states that the application "shall include evidence that the existing zoning regulation is unreasonable with respect to the particular property concerned." Mr. Wehrenberg stated that the staff report concludes that the current R-2 zoning is in fact reasonable and the proposed rezoning to R-4 and C-1 is incompatible with existing zoning, land use plans and environmental aspects of the property. The report recommendation to Council is to disapprove the rezoning request.

Mr. Shafer reminded the members that although the applicant's concept plan is for 276 residential

units, the R-4 zoning would allow approximately 500 units. It was also noted that multi-family homes are allowed conditionally in R-4 zoning. Mr. Shafer stated that if the property is rezoned to R-4, there is no guarantee that some future property owner couldn't then build 500 units.

Referring to his response report, Mr. Lateulere stated that if it was more acceptable to the City, the applicant would be willing to seek R-3 zoning. Mr. Wehrenberg stated that R-3 zoning would allow approximately 301 residential units but multi-family homes are not allowed. He stated that if the applicant wanted to seek R-3 zoning, then a new application must be submitted and the review process would start over.

George Mazzaro, 186 Eldridge Road, stated that the staff report was a thorough and good report. He agreed with the conclusions of the report and said that the report mirrors what the community wants.

David Benjamin, 362 Eldridge Road, stated that he and other neighbors are very concerned about the over development that is proposed for this property. He suggested that the members hear from other concerned homeowners before taking action on this application.

George Horvat, Councilman, Ward Four, stated that the Commission needs to also consider the impact that 500 homes would have on the schools. With a possible two children per home, there would be a huge impact on the already "squeezed" school system. He would like the Commission to vote no on this project.

George Heisler, 233 Trails End, stated that this is not the only option for this property. He suggested that the applicant could build 70 homes and still keep the golf course. He stated that the applicant is not considering options that would be good for the community but only options that would maximize the applicant's profits.

Mr. Shafer suggested that the members digest all the information that has been provided and discuss this further at the next meeting. Although he will not be in attendance, he stated that if the members had a quorum, then they could take action at the next meeting. He would send his comments to the members. The members agreed that further discussion was needed.

MOTION: To accept the Atwell-Hicks Response Report, dated January 19, 2010, and the Chagrin River Watershed Partners Memo, dated October 30, 2009, for study

Mr. Shafer moved; Ms. Grandillo seconded, and the motion carried, 5-0, on a voice vote.

MOTION: All in favor of accepting the Staff Report #0909016 Rezoning, dated January 20, 2010, for study

The motion carried, 5-0, on a voice vote.

MISCELLANEOUS:

Landscape Buffer Plan for 1340 Page Road

The members reviewed the buffer plan for the Streetsboro Auto & Truck at 1340 Page Road. Mr. Wehrenberg stated that the buffer plan was approved by the staff and the City Arborist as being compliant with the applicable City codes.

George Mazzaro, 186 Eldridge Road, asked if the neighbors had an opportunity to review this buffer plan. He suggested that a copy of the buffer plan be mailed to the neighbors whom expressed concern.

Mr. Shaffer asked Mr. Wehrenberg to mail the buffer plan to the concerned neighbors.

There was a brief discussion about possible in-house Planning projects for 2010.

ADJOURNMENT:

Mrs. Hydell moved; Mrs. Grandillo seconded, and the meeting ended at 8:10 p.m.

Roy Shafer, Chairman

Corinne Craine, Clerk Pro Tem