

**City of Aurora  
PLANNING COMMISSION  
MEETING MINUTES  
FEBRUARY 3, 2010**

The Aurora Planning Commission met in a regularly scheduled meeting on Wednesday, February 3, 2010, in Council Chambers of Aurora City Hall. The meeting was called to order at 7:05 p.m. by Planning Commission Vice Chairman Maria Hydell.

**ROLL CALL:**

Present: Kathi Grandillo  
Ken Grohe (arrived at 7:09)  
Maria Hydell  
Joe Kastelic  
Roy Shafer

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

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

**AMENDMENTS TO AGENDA:**

None

**APPROVAL OF MINUTES:**

**MOTION: To approve the meeting minutes of January 20, 2010, as submitted**

Mr. Shafer moved; Mrs. Grandillo seconded; and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Shafer, Mrs. Grandillo, Mr. Kastelic, Mrs. Hydell

Nays: None

***Mr. Grohe arrived at this point.***

**AGENDA ITEMS:**

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

J. Hunter Banbury of Aurora Recreation LLC and John Lateulere, the Project Manager from Atwell-Hicks, were present to discuss the Aurora Country Club rezoning request.

At the last meeting, the applicant submitted a report that stated Aurora Recreation LLC would be willing to change their zoning request from R-4 to R-3. Mrs. Hydell asked the applicant how he wanted to proceed with his rezoning request. Mr. Banbury stated that he did not want to start over with a new R-3 application so he decided to stay with the current request. Mrs. Hydell asked Mr. Banbury if he had any further information to submit and he did not.

Mr. Wehrenberg commented that the staff had no further information to submit. It was noted that the 2/3/10 staff report was the same as the 1/20/10 report except for some minor revisions. Mrs. Hydell suggested that report revisions be highlighted for easier review. Mr. Wehrenberg agreed and said they will start highlighting with future reports.

Mrs. Hydell introduced Amy Brennan, the Director for the Chagrin River Watershed Partners. Mrs. Brennan presented information about the impact the proposed rezoning request would have on the environment. She stated that the increase in the number of housing units would increase the amount of soil disturbance, tree removal, impervious cover, and, therefore, increase storm water runoff. Any further development would also negatively impact the Aurora branch of the Chagrin River and Sunny Lake. It could ultimately have an economic impact on the City as well. She stated that the proposal would increase impervious cover of hard surface from 3.43 to 12.5 acres which, in turn, could require the need for capital improvements to the City's wastewater treatment facility.

Mr. Lateulere commented that 12.5 acres or 5% impervious cover is very low for the entire site of 200 acres. He stated that their proposed concept plan meets the goals and objectives of a low impact conservation development as defined by the City's ordinances. Although R-4 zoning would allow approximately 500 residential units, their proposed development is only for 276 units. Mr. Lateulere suggested the use of deed restrictions as a way to keep the development from adding more than the proposed 276 units. Mr. Banbury added that his goal is to find a way to develop the property that is favorable to the community. He thought the best way to reach that goal is to work out an arrangement that would be agreeable to both the landowner and to the City without getting a third party involved.

Mr. Shafer said that he never heard of a deed restriction with regard to a zoning change. Mr. Reitz stated that it is possible legally. He said that Planning Commissioners do not have the authority to negotiate this but the City Council does. He stated that the use of deed restrictions is one way to reach a middle ground for the City and the developer. The restriction would be added to the plat and state clearly that the restriction cannot be modified or removed without the consent of City Council. This restriction stays with the land and subsequent landowners are bound by it.

George Mazzaro, 186 Eldridge Road, stated that he is opposed to the destruction of nature and no one that he has spoken to in the community is in favor of this development. He would like the Commission to vote no.

Craig Moore, 525 S. Bissell Road, stated that the City should buy the property. He suggested that the

City could keep the golf course and sell some of its surrounding property as residential lots.

The members had a discussion about the standards for analyzing the proposed application. Mr. Reitz referred to Code Section 1139.05(b) which states that the application “shall include evidence that the existing zoning regulation is unreasonable with respect to the particular property and deprives the property owner of the lawful and reasonable use of his land and/or evidence that the proposed amendment would materialize in an equal or better zoning regulation than that existing.” So the Commission must refer to this Code Section when establishing the facts on which the decision will be based. Mr. Reitz stated that each member should be prepared to state the facts for his/her decision and this will be summarized in a Findings of Fact report.

Because of the amount of information discussed, Mrs. Hydell suggested that the members review everything and prepare to take action at the next meeting on February 17<sup>th</sup>. The members all agreed.

Amended Findings of Fact – Application #0907008 by Lamplight Communities (Cedar Fair L.P.)

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

**(WI) word/words inaudible**

Hydell: The next item on our agenda tonight is the Amended Findings of Fact for Lamplight Communities (Cedar Fair L. P.). Mr. Wehrenberg and Mr. Reitz, I have to say I was a little bit surprised when this item showed up in our package this past weekend. And I thought that we’d wrapped it up last time and I was wondering if you can kind of tell us little bit why it’s back.

Reitz: I can. As you know, this matter has been appealed by the applicant to the City Council and that requires a very complete record of the proceedings before the Planning Commission to be prepared. And while the staff was doing that, they put together the record, just about had it done, and our Law Director looked at one of the transcripts and contacted me and said, “Tom, I’m not convinced that

the Findings of Fact that have been passed by the Planning Commission are accurate because the vote isn't right." And I said, "Well, it's right. I was there. Come on." And what he'd do, he drew my attention to the transcript starting on page 157 and ending at page 167, which was provided to you in your packet. Specifically, he pointed my attention to page 166 and you can read it there and you can see that your vote of one of your members was not entirely clear. And I am reluctant since this has been an issue that's been a real concern to some of the Commission members. I'm not trying to force it into any particular direction and so I did change the Findings of Fact which you passed at your last meeting. There are two changes on it. One in its heading. It used to say "Findings of Fact" and it now says "Amended Findings of Fact." And if you turn to the second page where it says the "November 18, 2009 Vote of Planning Commission", instead of showing what I thought was the vote, it now says "vote is as reflected on the attached transcript page 166." And so, it is the staff's and my proposal that you amend the Findings of Fact so that it includes page 166, because I'm not really sure what that vote means and I'm not, I'm not going to try to interpret it for you. So that's why it's back before you and I would request that you consider the amendment that's proposed.

Hydell: Okay.

Grohe: Madame Commissioner, can I ask a question? Are we redoing the vote that we

did back in November or we redoing the vote for Findings of Fact?

Reitz: We are taking a new vote to approve the Amended Findings of Fact.

Grohe: Okay.

Reitz: The vote that took place in November is as it is and no, no attempt is being made to adjust that.

Grohe: Okay.

Hydell: Okay then.

Grohe: Could I, sorry to interrupt.

Hydell: Go ahead.

Grohe: Could I ask that, is it possible to insert something into the Amended Findings of Fact to make it an Amended Amended Findings of Fact?

Hydell: For what purpose?

Reitz: What do you have in mind?

Grohe: I liked the way the vote was actually spelled out from before. Because what happens is you've got a vote as reflected on transcript or page 166, you go to 166 which refers to a dialogue which I think is accurate dialogue.

Hydell: It's the official record.

Grohe: It's the official record of the Findings of Fact but nowhere in there does it refer to the actual vote that took place, I think, in November.

Grandillo: No. This is the vote. **(WI)** This is from November.

Hydell: This is what happened that night.

Reitz: This is a transcript of November. Yes.

Grohe: From November? Oh, really?

Reitz: Yes.

Hydell: That is exactly what happened that night.

Grohe: Was it?

Hydell: Yes.

Reitz: Yes, this is a transcript from the November 18, 2009 meeting and so . . .

Grohe: Okay. Understood. I misread it.

Hydell: Yes.

Grohe: Okay. I came with the understanding that thinking that we had to redo the vote for November and then do this.

Reitz: No.

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Hydell: No.

Reitz: Okay.

Grohe: I understand. Clear enough. Thank you.

Reitz: Okay.

Hydell: Okay. Any other comments from the Commissioners?

Grohe: Would I have, Madame Commissioner, do I have an opportunity to spell out what I think I did vote that day?

Reitz: Yes. If you want to speak this evening and say this is what was intended, please feel free to go ahead and do so.

Grohe: That would be great. Do I do that now or after the motion?

Reitz: Sure.

Grohe: At the time of November, and I apologize not having the specifics of the date, I was voting for the property owner to get the actual conditional zoning certificate at the time. I believe I voted yes. I do believe the transcript is accurate. Maybe I did slightly before this or slightly afterwards, but my intention was, what I believe I did, was vote yes for that. I thought the vote was 3-1 with one abstention. That's what I thought had happened that day. And it was probably

reported in some paper, paperwork afterwards. So I apologize for any misconception.

Reitz: Okay. Good. And your statements this evening will be forwarded to the Council so they'll get the benefit of your explanation.

Grohe: Thank you.

Hydell: Okay. All right then. Any other comments or questions? Hearing none, then I would ask for a motion to accept the Amended Findings of Fact for Cedar Fair L.P.

Kastelic: So moved.

Shafer: Second.

Hydell: Ms. Craine, please call the roll.

Mazzaro: Mrs. Hydell.

Hydell: Oh, Mr. Mazzaro. I apologize. I can't see you from that angle.

Mazzaro: Mrs. Hydell and members of the Commission, my name is George Mazzaro, 186 Eldridge. Of course, this is the third Findings of Fact, Amendment of Facts, whatever you want to call it, and it's still not complete. One, as I understand it and at the last meeting, one Commissioner was questioned, and questioned and questioned about his motion to abstain which legally he had all the right to do.

However, if you recall the November 18<sup>th</sup> meeting, three members voted no and not one question was raised by your Legal Advisor why they voted no. Your transcript tells you that. So, in essence, the Findings of Fact is not complete, because none of the people who voted no ever was questioned why their vote was no. Last but not least, if you recall correctly, my right to vote or to speak at that meeting was denied. You've taken away my right, under your rules, to speak and that's not part of the Findings of Fact. It will be part of the hearing that takes place on the 22<sup>nd</sup>. Thank you.

Hydell: Thank you, Mr. Mazzaro. Okay. We have a motion on the table and we're prepared to take the roll. Let's call the roll. Ms. Craine, please call the roll.

Craine: Mr. Kastelic.

Kastelic: Yes.

Craine: Mr. Shafer.

Shafer: Yes.

Craine: Mrs. Grandillo.

Grandillo: Abstain.

Craine: Mr. Grohe.

Grohe: Yes.

Craine: And Mrs. Hydell.

Hydell: Yes. Okay. That covers that.

**MISCELLANEOUS:**

Discussion of R-3 Zoning Memo

Mr. Wehrenberg stated that the memo was written per the Commission's request. The memo explains the density, uses and setback requirements for R-3 zoning. Mr. Wehrenberg pointed out the important fact that multi-family housing is not allowed in R-3.

Discussion of Lamplight Communities Appeal

Mr. Wehrenberg stated that the Council hearing on Lamplight's appeal will be on February 22<sup>nd</sup> at 5:15 p.m. in Council chambers. He noted that the complete record is available for their review.

**ADJOURNMENT:**

Mr. Shafer moved to adjourn at 8:07 p.m.; Mrs. Gradillo seconded, and the motion carried, 5-0, on a voice vote.

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Maria Hydell, Vice Chairman

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Corinne Craine, Clerk Pro Tem