

MINUTES OF A MEETING AS HELD BY THE
TOWN OF AURORA PLANNING & CONSERVATION BOARD

NOVMEBER 4, 2015

Members Present: Donald Owens, Chairman
Timothy Bailey
Douglas Crow
Laurie Kutina
David Librock
Norm Merriman
William Voss

Alternate Member:

Absent/ Excused: Richard Glover
Jerry Thompson

Also Present: Greg Keyser, CRA
William Kramer, Assistant Building Inspector
Chuck Snyder, Town Councilman
10 Members of the Public

Chairman Don Owens presided over the meeting which began at 7:02 p.m. at the Town Hall, 300 Gleed Avenue, East Aurora, New York. William Voss led the recitation of the Pledge of Allegiance to the Flag.

Douglas Crow made a motion to accept the minutes of the November 4, 2015 meeting. The motion was seconded by Norm Merriman. Motion carried.

Comments from the Audience:

Valerie Davis of Mill Rd indicated that she has lived across from the proposed Aurora Mills Cluster Subdivision site for 40 years. She discussed her concerns regarding village sprawl, the impact on Mill, Beech and Sweet Roads, the impact to wildlife, traffic, and the environment. She stated she does not think this proposal fits into the Town and totally opposes it.

Rosemary King of Mill Rd discussed the proposed subdivision which would be located in her backyard. She indicated that she will be looking at the roofs of the homes. She expressed

concern on the impact to wildlife and the environment. She further discussed traffic concerns at the Mill Rd and 20A intersection. She stated she opposes the proposal.

Paul Kloc of Mill Rd indicated he understands the need for development and also that he appreciated the efforts of the developer in working with the Town to somewhat change the plans. He further discussed the scope and size of the proposal and that it is inappropriate and not in keeping with the character of the Town. He mentioned the moratorium on subdivision and that this speaks to the concerns the board and other members of the Town have regarding development. He further mentioned concerns that although this project was in before the moratorium was enacted, if one project of this scope approved, then future ones will need to be approved.

Mary Ellen Flint of Mill Rd agreed with earlier public comments. She mentioned that the number of households between Beech and Sweet Roads is about 50 and that this proposal would triple what is there now. She indicated this would be unconscionable.

Joyce Walsh of Mill Rd indicated that not all existing homes are shown on the project map and that an accurate reflection of the number of homes whose value will be seriously impacted by a development of this size. She expressed concerns regarding wildlife, chemicals used on lawn maintenance, traffic impact (at Mill, 20A, Sweet, Beech, Center Roads), and the visual impact of the sea of roofs. She stated that although she knew it would be developed, she never thought it would be this. This is not East Aurora and this is wrong.

Old Business:

Gary Eckis and Pat Bittar appeared as agents for the Developer.

Don Owens reviewed the process to date and that after the project was referred back to the Town Board. There were discussions between the Town Board and the Developer and Consultant and some changes have been made as a result.

Mr. Eckis referenced the cover letter that was included with the recent packet. Over the last couple of months they had done some traffic work and view analysis with elevations. The Town Board requested further changes including moving the plan to the west and north. This would preserve the view from the existing homes on Mill and increase the landscaping buffer between Mill and the homes. The Town was not agreeable to public roads, so the plan has changed to include patio style homes on private roads.

Doug Crow reviewed discussion the Planning Board had regarding the project having both public and private roads.

Mr. Eckis stated that the Town Board did not want to maintain or replace the roads.

Doug Crow further mentioned that having all private roads was not unreasonable considering the Homeowner's Association was already a part of the project as previously presented. He asked how wide the road is.

Ms. Bittar referred to the plans and indicated that the road is 50' wide.

Doug Crow asked about inclusion of streetlights and sidewalks.

Ms. Bittar stated that those improvements were part of the public, residential portion of the plan, but since it is all private now, they are not included.

Laurie Kutina indicated that even though there are private streets, she would still like to see lights and sidewalks.

Ms. Bittar stated that since these are patio homes and presumably empty-nesters, they anticipate very few children in the development.

Mr. Eckis mentioned that Spring Brook Shores in Elma has approximately 160 units and there is one home with a child. That would be typical.

Laurie Kutina stated she is not in favor of single demographic development. Although there may be financial reasons for this, she does not agree.

Bill Voss asked if there is a 3D model of the development with a view from the street.

Mr. Eckis discussed the view analysis done for the Town Board that showed the elevation drop, about an 80' drop. The drop is such that with the placement of the patio homes and a berm with trees, there shouldn't be any part of the patio homes visible from the existing homes on Mill Rd. He further indicated that the view from the Mill Rd homes would still remain.

Bill Voss asked if there are trees on the property that will remain.

Ms. Bittar stated that the intent is to preserve as much of the existing buffer as possible.

Mr. Eckis mentioned that if there aren't trees, the buffer would be added. At the Preliminary Plan phase, the landscape design would be included. The buffer would be between the homes and along the front.

Greg Keyser discussed the Sketch Plan and the Preliminary Plan and the specifics of each. He further mentioned the grading and drainage would be detailed at the Preliminary Plan stage.

Bill Voss expressed concerns regarding the lack of a Comprehensive Plan for the town. He further mentioned that this is one of the reasons the Planning Board can't address whether or not this development fits the character of the Town.

Don Owens discussed the Vision Map for the town.

Bill Voss asked about road width.

Ms. Bittar indicated that it is 50'.

Bill Kramer clarified that 50' is the ROW.

Ms. Bittar agreed that the ROW is 50' and indicated the pavement width is 26'.

Bill Voss asked if the cul-de-sacs were sufficient for the Fire Department.

Mr. Eckis stated that there would be a coordinated review, with the Town and State and County agencies, once the engineering was started.

Ms. Bittar indicated that the plan has been drawn similarly to other subdivisions where this analysis has been completed. This would be a part of the Preliminary Plan phase.

Bill Voss asked about snow removal and handling the volume of snows like we had last year.

Mr. Eckis indicated that it would be similar to snow handling in the Village. The roads will be plowed and/or snow blowers would be used to clear the roads.

Bill Voss stated that there is no place to push the snow. Without a way to get the snow off the roads, the Homeowner's Association will have to pay for front loaders and dump trucks to haul the snow away.

Mr. Eckis indicated that snow removal will be looked at during the design phase.

Dave Librock asked if the Sewer Authority has been contacted.

Mr. Eckis stated that they have. He further mentioned that when an applicant wants to extend a sewer district, the Sewer Authority now requires repairs be made elsewhere in the district. It will take quite some time working with the County.

Dave Libroek asked if the capacity is there to handle 89 more homes.

Mr. Eckis stated that there is.

Ms. Bittar stated that if this process moves on to the next phase, it would require a full monitoring study, and they would also have to analyze flow meter results and capacity, at a minimum. Approvals will need to be given by the Health Dept and the DEC and the Sewer Authority.

Bill Voss asked if the pump station at the back is pumping all the way to the street.

Ms. Bittar stated that it does.

Tim Bailey asked about the preliminary traffic studies.

Mr. Eckis indicated they performed a trip generation analysis based on a recent DOT study of Mill Rd.

Ms. Bittar discussed the informal study. This was based on the earlier design that had the combination single family and patio homes. The general summary was that the number of trips generated by this development during peak hourly events would not warrant a traffic study.

Tim Bailey asked about the intersection at 20A and Mill.

Ms. Bittar stated that this study didn't look beyond the trips generated by this development.

Laurie Kutina indicated that this study was not based on existing conditions.

Ms. Bittar stated that this was based on traffic counts available on Mill Rd.

Mr. Eckis indicated that the last DOT study showed approximately 2267 vehicles/day.

Ms. Bittar stated that traffic study used this existing data combined with the development plan to generate the summary. She further indicated that counts at any intersection have not been done.

Bill Voss asked about the number of trips generated by the development.

Mr. Eckis reiterated that the trip generator summary was based on the earlier development plan of mixed residential and patio homes. He further mentioned that the new plan of all patio homes should result in lower numbers. In the morning peak hour, 14 cars would enter and 37 would leave. In the afternoon peak hour, 36 would enter and 26 would leave.

Bill Voss discussed the intersection of the Mill Rd and 20A. It is a big problem and also dangerous. He asked how it will be addressed.

Laurie Kutina stated that the concerns about this should be discussed with the Town and it should be stated that during their review the impact into the Village at that intersection should be addressed.

Bill Kramer stated that at some point the Village will look at this as a part of SEQR.

Don Owens stated that any additional traffic at Mill Rd and 20A is a concern.

Bill Voss also discussed the impact at Beech Rd and Center St. He stated that if the traffic situation isn't addressed up front, then he isn't certain why they would continue the process.

Ms. Bittar stated that at the sketch plan phase, the level of detail isn't available to answer the traffic questions.

Laurie Kutina discussed the current plan and mentioned that she liked the distance from the creek and wetlands, as well as the trails on the previous plan. She expressed concern regarding encroachment on the creek. She further mentioned that she understands the visual aspects from the existing homes, but more congestion in the creek corridor is a problem. The increase of impervious surfaces nearer the creek and wetlands is a concern.

Laurie Kutina asked about the next step.

Don Owens discussed holding a public information hearing at the next Planning Board meeting. He further asked about how the back of the property would be accessed with 15' between the buildings.

Mr. Eckis mentioned that the trail system hasn't been reconfigured yet, but there are a couple of openings on the plan. He further mentioned that the side yard setbacks are to code.

Ms. Bittar indicated this is a typical layout for patio homes.

Dave Librock asked about the gap between lots 6 and 7.

Ms. Bittar stated that the gap was left to connect to the trail and potentially to access utilities or the force main. But that hasn't been finalized yet.

Don Owens indicated that to answer the question of how close to the creek you can get a detailed topographic survey would help.

Ms. Bittar stated that in an effort to see everything, this map has 10' contours. The other map with 2' contours is very dense and it is difficult to see everything that is on it.

Doug Crow discussed scheduling the public information meeting next month.

Greg Keyser stated that no decisions have to be made tonight other than to schedule the public information meeting. Within 31 days from that meeting a recommendation will have to be made to the Town Board.

Doug Crow asked that if the recommendation is favorable then the project goes deeper into the SEQR process.

Greg Keyser indicated the Town Board approves the Sketch Plan then it goes into the Preliminary Plat with detailed design drawings, SEQR will start, traffic survey will occur, and any involved agencies will be contacted.

Don Owens indicated that this is a crucial step because it solidifies the concept.

Laurie Kutina discussed her concerns with all patio homes and the density.

Mr. Eckis asked if the problem with the density was how small they are or how many there are.

Laurie Kutina stated both.

Mr. Eckis discussed the number of units and stated that it's not economical to reduce the number. The private roads have a 25 year life and a million dollar cost and every home that is removed increases the cost to the balance. The goal has been to keep the 70 acres to preserve the corridors and make the development dense, as patio homes are.

Doug Crow asked if there will be a separate session for the Planning Board to discuss the public information meeting.

Don Owens stated yes, and that it can be after the public information meeting.

Bill Voss stated that it should be noted to the Town Board that without a definitive plan to resolve the traffic problem at Mill Rd and 20A, the project should not continue.

Attorney Peter Sorgi of Hopkins, Sorgi and Romanowski, PLLC appeared as Agent for West Herr.

Chairman Don Owens recused himself from this portion of the meeting due to a conflict of interest. He further indicated Laurie Kutina would serve as acting Chairperson for this discussion.

Mr. Sorgi stated that the Town of Aurora Zoning Board of Appeals has declared Lead Agency and the Planning Board is an Interested Agency. He indicated he was in attendance to answer any questions on SEQR. The guidelines require 30 days for review. This is a Type I Action pursuant to SEQR. Typically a project with 1000 parking spaces would be a Type 1 Action, but because this project borders Major's Park, the threshold is lowered to 25% of 1000. The Project site is 25.8Ac and the project impacts 7.9Ac. Approval from the ZBA is required for the use and a variance for the fence. A portion of the property has been offered to the Town as a donation. The Town Board has not made a decision on this donation yet. A letter from SHPO has been received about the possibility of an Indian Artifact area and the Applicant has agreed not to disturb the area. SHPO has signed off on the project as a result.

Doug Crow asked about the location of the area SHPO mentioned.

Bill Voss indicated the site is noted on the plan.

Mr. Sorgi noted that there is an engineering issue in terms of the flood plain and mitigation, and will need a permit from the Town. A DOT work permit and storm water discharge permit from the DEC are required and in process as well.

Tim Bailey asked if the lot was abandoned, could it be reused in the future.

Mr. Sorgi indicated that it would be a small area that could be used. He doesn't anticipate future abandonment of the lot, due to the issues dealerships have with car storage. The reason this particular site was chosen was due to the zoning of the property. It didn't need to be re-zoned.

Bill Voss asked if West Herr has a lot in Spring Brook on Seneca St.

Mr. Sorgi indicated that Spring Brook may be a potential use site. But if it is in process, he couldn't disclose any information.

Dave Librock asked about the NAPA store.

Mr. Sorgi indicated that if in the future the lot was abandoned or sold, the re-use could be similar to what exists at the NAPA store. This depends on the setback requirements.

Bill Voss asked about question C 2A of SEQR which refers to the comprehensive land use plan.

Mr. Sorgi mentioned that previous discussions have made mention of an Open Space plan.

Doug Crow asked Don Owens for clarification on the Open Space plan.

Don Owens discussed the Open Space Plan and the Vision Map.

Laurie Kutina discussed the Town's approval of the Open Space Plan. The creek corridors are of concern in this Plan. She further mentioned that the proximity to the creek is a concern.

Bill Voss asked about the mitigation plan and if the soils have been tested for toxic chemicals due to farm runoff.

Don Owens said not that he was aware of. He further mentioned that farming in the watershed region has decreased dramatically over the last several decades.

Mr. Sorgi mentioned that they could deed restrict the areas near the creek with as tight language as necessary. Or the Planning Board could recommend the Town Board accept the land donation.

Laurie Kutina questioned how to provide comments to the ZBA.

Doug Crow discussed the previous joint meeting with the ZBA and the request for a specific recommendation and conditions, if applicable.

Laurie Kutina mentioned that SEQR has started and the Planning Board is an Interested Agency and the information is needed by November 14.

Greg Keyser stated that the ZBA is looking for an opinion from the Planning Board that they can factor into their decision making process.

Mr. Sorgi mentioned that a list of concerns can be given to the ZBA and a request made of the ZBA for future review by the Planning Board.

Laurie Kutina discussed the November 14 deadline for recommendations to the ZBA.

Don Owens clarified that it is concerns that are to be submitted to the ZBA, not a recommendation.

Mr. Sorgi discussed the three phases of SEQR. The first is to identify the areas of environmental concern. Then take a hard look at those areas and have a reasoned elaboration as to the findings. Right now you are issue spotting the areas of environmental concern.

Bill Voss reiterated his concern of a lack of comprehensive plan which creates a problem in addressing this project in a community character standpoint. There have been many complaints received from residents who don't want a parking lot. He indicated that this project would have a negative impact on the character of the community. Bill also mentioned the need for having a formal disaster plan in place for a flood that area.

Mr. Sorgi discussed the zoning of the property and the approved uses. He indicated that from West Herr's perspective, they are relying on the zoning. It is difficult to say that this project is not part of the community character when it is an approved use for that zone.

Greg Keyser indicated that the reason West Herr is before the ZBA is because they have to put a fence around the parking lot and the applicant does not want a fence.

Bill Kramer stated that the ZBA approves the project.

Mr. Sorgi asked for confirmation that the ZBA issues the permit for the storage area and it would issue the variance.

Bill Kramer stated yes.

Laurie Kutina mentioned other issues of flooding, character, effect on the creek, and visual impact and lighting.

Mr. Sorgi asked who the lighting would be impacting.

Laurie Kutina mentioned that there are residents in the area, the park, and also residents on the other side of the creek, and there may be others. She indicated that there is the potential for impact and it should be looked at.

Laurie Kutina stated that she will review the last minutes, and put together the concerns from that meeting with those stated tonight. She will email them to the Planning Board for review and then submit.

Greg Keyser reviewed that for the flooding issue, they will need to obtain a permit from the Town and they will have to demonstrate that what they are proposing technically will work. And if they can't demonstrate that, they will not get a development permit.

Mr. Sorgi asked to receive a copy of the concerns submitted to the ZBA.

Norm Merriman discussed the DOT involvement on the project and that they will have to sign off on the project from the standpoint of drainage and the impact on Rt. 16.

Laurie Kutina indicated that she will write up concerns and email them to everyone next week.

Norm Merriman indicated that drainage wasn't extensively explained when Nussbaumer attended a previous meeting. He indicated that filling in the parking lot with +/- 10,000 cu yards from the floodplain, from 0-3' in the area indicated, in his opinion it would have no effect to flooding.

Bill Kramer stated that this is something that the Town Engineer should address.

Dave Librock mentioned that it is not the applicant's problem that water is coming off the east side of Rt.16 and crossing the road. He would like to see some engineering as to where the water is going to go and will it make things better.

Bill Voss indicated that it would be a thousand foot barrier to the water coming from the east side. And it will have to go through the ditch somehow to get off the road.

Norm Merriman indicated this will be part of the DOT review.

Bill Kramer indicated that the parking lot will be 3' above the road grade.

Bill Voss indicated that there isn't anything in the plan that could mitigate the damming of the flow from east to west. He asked how this problem could be addressed with engineering.

Don Owens mentioned that there would need to be more access points.

Dave Librock indicated that the water is currently flowing from east to west, ending up in the creek. After the parking lot is built, the water will still flow from east to west, the question arises of how.

Bill Voss agreed and further indicated that if access points aren't available and the street flooding problem isn't addressed, he is concerned it will be ignored.

Greg Keyser discussed the Flood Plain Development permit requirements. As far as the damming goes, or storm water drainage, they will have to prepare a storm water drainage pollution prevention plan that will demonstrate with their proposed ditching and catch basins will be sufficient. Both of these issues will have to be addressed.

Bill Voss mentioned that they won't do anything to mitigate the current problem.

Greg Keyser stated no, but they can't add to the problem. He further mentioned that they will have to demonstrate they are not impacting upstream or downstream.

Bill Voss clarified that the issue of flooding isn't just at the creek. Road flooding from heavy rains are a concern.

Don Owens mentioned that the Planning Board needs to identify the concerns so that the applicant can address each concern with engineering designs. And the Planning Board would like to see the engineering designs as a result of these concerns.

Doug Crow asked that if there is an implicit approval of the project once this list of concerns is met.

Laurie Kutina stated not necessarily. She indicated that the Planning Board doesn't have to make a recommendation until the results of the studies and engineering designs have been reviewed by the Planning Board.

Dave Libroek asked at what point the discussion becomes moot because the zoning is appropriate.

Laurie Kutina mentioned that because the ZBA has to give approval, if the ZBA doesn't feel the concerns have been met in SEQR then the project does not move forward.

Greg Keyser indicated that the project is compliant with zoning and the only way to deny the project is through environmental factors. The idea is to state your concerns and then the ZBA will compile those concerns with the answers from the other agencies and as a result will identify which concerns are to be addressed in detail. If those concerns are not met to the satisfaction of the ZBA then they can deny the project.

Correspondence:
None

A motion was made by Norm Merriman and seconded by David Libroek to adjourn at 8:32PM.

THE NEXT SCHEDULED MEETING WILL BE WEDNESDAY December 2, 2015 AT 7:00 P.M. AT THE TOWN HALL, 300 GLEED AVENUE, EAST AURORA, NEW YORK