

EAST AURORA PLANNING COMMISSION
REGULAR MEETING

August 14, 2007

7:00 PM

Present	Dan Castle, Chairperson Stacy Oar Randolph West Laura Mehl Patrick McBurney Dan Bermingham Lowell Dewey	Code Enforcement Officer, Bill Kramer Deputy Clerk, Sue Wolff Others Present Representing the Aurora Ice Assoc. Anthony DiFilippo IV Sam Miller Carol Halter Don Fishback Andrew Gow, Nussbaumer & Clarke, Inc. Jack McMahon from Clough Harbour Robert Warhus and 20 members of the Public
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Chairman Dan Castle called the meeting to order at 7:00 PM

Stacy Oar moved that the minutes of the June 20, 2007 meeting be approved. Randy West seconded the motion, which was then followed by a unanimous vote to approve.

**PRESENTATION OF AURORA ICE ASSOCIATION
ICE RINK - RILEY STREET**

Chairman Dan Castle asked the Aurora Ice Association for their presentation of the revised site plan that was discussed at the informal meeting of 6/20/07. Dan went on to explain that the planning commission would listen to their presentation and then break for approximately 20 minutes to go to the site on Riley Street. The Ice Association was nice enough to actually stake out the proposed building area so as the Planning Commission and the public could get a visual. The planning commission would then reconvene, with public input and move along with recommendations & findings.

Randy asked if the planning commission would be able to ask questions at the site and receive answers from the Aurora Ice Association, to which Dan Castle said yes, however it would not be recorded so anything pertinent would have to be mentioned once the commission reconvened.

Sam Miller from the Ice Assoc. went on to detail the modifications to the development plan.

The key changes were:

- Moving the building 6' forward to allow 10' setback from property line in back.
- 130 shared parking spots with lease agreement.
- Reversal of traffic flow around building (clockwise).
- The building corners were removed so as it could be set kitty-cornered on the lot.
- The parking study has been completed with positive recommendations.
- Signage same as elevation plan shows.

Dan Castle asked Jack McMahon, from Clough Harbour, about the traffic study. Jack replied that the study does not show any increase of traffic.

Dan asked if they knew which rinks were used for the study. Jack replied that he did not know.

Lowell asked Jack if he had looked at the storm water control calculation and design and was he satisfied with it. Lowell went on to explain that he remembered the review had some comments about looking downstream and perhaps studying a different way.

Jack replied that more information would be coming when final site plan is ready but at this time is was acceptable.

Lowell made a comment that only a preliminary drawing has been submitted and eventually in order to build on this site the Planning Commission will need a complete grading plan. What is your intent? Are you waiting to hear if you have approval on this project before proceeding?

Andy Gow replied that they were hoping for a conditional approval, so as the Village Board could start the SEQR process. Once that happens, more detailed information would be forth coming.

Dan Castle questioned Code Enforcement Officer, Bill Kramer, what the status of the SEQR process was with the Village Board. Bill replied that once the Planning Commission makes their recommendation the Village Board will start the SEQR process.

Lowell Dewey made a comment that it is very hard for the Planning Commission to decide on grades without having drawings that the SEQR process would generate. Dan Castle indicated that is was the purpose of SEQR to allow for a more informed decision making process by the lead agency and involved agencies, and that without the benefit of the SEQR process being played out, it was not possible for the Planning Commission to vote “yes” or “no” on the proposed project. Lowell also questioned if the Village was going to be the lead agency, to which Bill Kramer replied yes.

Dan Castle asked if the building was moved closer to the sidewalk, to which Sam replied yes.

Jack McMahon said that perhaps the Planning Commission could recommend SEQR process before doing anything more.

Dan Castle mentioned that once the SEQR process starts, the Ice Association will have to look at alternative sites or locations. Because the SEQR process hasn’t been started and since the Ice Association has already purchased a site, they have not had to check on alternative sites, but that will be something that will be asked of them once the SEQR process starts. This may be a challenge to the Ice Association.

Lowell Dewey questioned what the minimum square footage is for a SEQR Type 1 action. Bill Kramer researched it and found it to be 100,000 sq. ft. for communities with population less than 150,000.

Dan Castle made mention that there wasn’t an updated Environmental Assessment Form. He also remarked on the trips generated in the traffic study to reflect 126 per hour, and there being only 130 parking spaces. In response to an answer on their EAF, Dan Castle asked for clarification on the peak hourly traffic generation. Is to be 126 cars per hour? To which Sam Miller and Carol Halter replied “yes”. Not all the 126 cars would park and many would drop off users in front of or behind the structure. This still amounts to 1 car every 30 seconds entering or leaving this site.

Sam Miller answered by saying that the spaces change per hour. Carol Halter also mentioned that people would drop off and not stay which would reflect the trips generated but not reflect on parking spaces. Dan Castle mentioned this was misleading.

Motion to recess meeting at 7:25 PM to walk and view site was made by Dan Bermingham, seconded by Patrick McBurney, all voting in favor.

Motion made by Patrick McBurney to reconvene meeting at 8:15 PM seconded by Lowell Dewey, and passed unanimously.

Dan Castle asked if each Planning Commission member would like to give their account of findings or recommendations.

Lowell Dewey expressed concerns on the following:

- Massive structure on small site.
- As an engineer would like to see more detail.
- Retaining wall against floodway.
- Lease agreement would have to be controlled indefinitely if for some reason the particular use of this site would no longer exist.
- Drop off lane a plus.
- Fake windows on front a bit unusual but alright.

Randy West had the following concerns:

- North property line close to creeks edge.
- Would like more details on retaining wall. Should be made to look attractive.
- Will have an impact on traffic.
- More details on parking. The corner of the proposed building near the Riley Street Station building will be tight and crowded.

Stacy Oar concerns:

- Lease agreement with Riley St. Station for parking.
- Building too close to creek.
- Storm detention on lease property. Tony DiFilippo said the sub-surface detention was on their property. It was noted that the Site Plan before the Planning Commission clearly shows the sub-surface detention retention facility on lands owned by the CSX and within the railroad right-of-way. Mr. DiFilippo assured the Planning Commission that the subsurface retention facility would be relocated onto their property

Dan Bermingham concerns:

- Questioned the general traffic flow.
- Also amount of spaces required for buses at ice rink? Carol Halter replied that usually parents do their own dropping off of children or students for ice rink time/practice. Even during tournaments, buses will probably drop off at a hotel with children/parents being shuttled to rink. She indicated that very few buses will be accessing this site.

Patrick McBurney concerns:

- Building much too large for the site (Example putting 10 gallons of water in a 5 gallon bucket)
- Retaining wall will squeeze creek & water volume. Water flows, ice jams, flooding and high water table are all concerns that need to be addressed.
- Storm water runoff will increase and cause significant problems for downstream and nearby residents.

- Depth to groundwater is shallower than the Aurora Ice Association EAF indicates.

Dan Castle concerns:

- Huge building on small site that will change Riley Street. As a matter of fact it is 20% larger than the Village Code or even the Town Code allows for commercial/retail development.
- Size of the project will change the character of this part of the Village.
- The Village could use a recreational site for young people, and the use is good. However, this site is problematic.
- One of the issues that I have is that you have not looked at alternative sites. Anthony DiFilippo commented that 14 alternative sites for development were looked at and that information was given to the Planning Commission on June 18. The Planning Commission was not aware of any such document and the Aurora Ice Association submittal was not in the package of information provided to members. Dan Castle feels that not taking a “hard look” at reasonable alternatives is a significant omission in their plans submitted to date.
- Expressed reservations and concerns about encroachment of road/parking on Tannery Brook, removal of vegetation, and channeling of this portion of the stream with a wall.
- Need to further clarify peak traffic generated in trip distribution as it relates to traffic flow in the vicinity of the site.
- Clarify loan guarantee for the Board. Does it constitute Federal Funding? Anthony DiFilippo replied that the loan is from Citizens Bank it is not Federal Funds.
- An updated EAF needs to be submitted by the Aurora Ice Association in order for the Village to make their SEQR determination.

Stacy Oar questioned if the DEC had been involved with the retaining wall. Anthony replied NO they have not. NYSDEC and the USACE will need to issue a permit, but this application will not be made until they feel the project will get approved, as part of the Final Design.

Lowell questioned if the compressors used would be noisy. Sam Miller replied that the compressors would be on the first floor and that they would be sound proofed. Lowell also questioned about an exit for the Zamboni. Sam replied that there would be two zambonies one per rink and they would both exit to the rear.

Dan Castle indicated that he was not comfortable setting a precedent where an Applicant can use someone else’s property to satisfy parking requirements and storm water detention facilities. The Aurora Ice Association is relying on parking spots that are also being used by the Riley Street Grill, thus double-counting these. The currently proposed Storm water detention facility is located on the railroad property/right-of-way. Even given an easement or written agreement for the use of these lands for 20 years, these can be terminated and then the proposed use would not have sufficient parking or storm water retention capabilities. This would set a bad precedent for future development applications.

Lowell Dewey, Dan Castle, Randy West and Pat McBurney all indicated concern over the fact that the proposed storm water management structure was located on CSX property and that the Aurora Ice Association could not guarantee it would be kept if CSX changed their minds and terminated their lease. Tony DiFilippo indicated that the Aurora Ice Association would relocate the Storm water Detention Structure entirely on their property during the final design process, possibly under the Ice Rink Building (and still above the 100 year floodplain).

Being no further questions or concerns from the Planning Commission, Dan Castle opened the meeting up to the public to receive public comments.

Several area residents spoke out against the Ice Association.

John Spooner - 395 Girard Ave.

Read a prepared statement, from the Residents for Relocation, which will be made part of this record.

William Hanavan – 81 Church St.

- Concerns on storm water regulations.
- Thought pesticides should be cleaned up from soil when it was a grain & garden center.

John Pagliaccio – 409 Girard Ave.

- Understands there is a 2nd floor that will have a meeting room/viewing area. Has seating been taken into consideration for that second level when figuring the amount of parking spaces needed?
- Feels that the Aurora Ice Association is trying to do something for the community, but is asking the Planning Commission and others to make a decision on a project with limited information. Feels that the Ice Association needs to spend the money and have all the necessary information available so the Planning Commission is in a better position to make a decision.

John Schaffer – 749 Warren Dr.

- Spoke on preserving the unique character of the Village as the Regional Development Plan states.
- The main trunk of the sewer line goes under the Railroad Track. Tony DiFilippo responded to that comment that yes it does go under the tracks, but whatever the County requires will be addressed once they receive the go ahead.

Since there were no further comments from the public, the Planning Commission decided to make their final decisions & recommendations.

Randy questioned what the Planning Commission was really being asked to vote on. What did the Village Board really want from them? Recommendations? It was determined that the Village Board has requested input on the project in advance of the Board's initiating the SEQR process. The Planning Commission does not have enough information to consider the Development Plan Review Application.

Dan Castle replied that he doesn't want to hold up the process and maybe what the Planning Commission could do is give the Village Board a list of comments/concerns and recommend that the SEQR process get started, keeping the PC involved through the process for additional input on both the SEQR process and the Development Plan Review. The Planning Commission really can't vote on the site plan because they don't feel they have all the information yet. It is also premature to "vote" on the SEQR as the SEQR process has not yet begun and no Lead Agency is set.

Lowell Dewey explained that there is a site plan ordinance of things that have to be considered. Is it your opinion that everything has been considered on this particular site plan?

Bill Kramer explained that the check list that Lowell is referring to was in the original development plan packet and Bill feels that everything was included with the original filing.

Bill Kramer went on to explain that everything that was questioned at the first meeting has been addressed with further documentation, such as drainage. Lowell went on to explain that one of the checked items on the list is a grading & drainage plan showing existing & proposed contours to the land topography. There are no proposed contours Lowell stated.

Dan believes that the Planning Commission should recommend the SEQR process to start, and that it is premature for the Planning Commission to make any further decisions at this time. The SEQR process will allow the Village Board to begin considering the project and will allow for public input and a full consideration of alternatives.

Randy questioned if the Planning Commission was in a position to take a vote on the land use in general & not the site development.

Lowell said as a member of the Planning Commission we are obliged to review the site plan and it is not complete, so therefore, not comfortable with making decision.

Dan stated again that he feels it should be recommended that the SEQR process start, but not the Site Plan Review. They are a separate process and can be conducted simultaneously.

Lowell Dewey made a motion to recommend to the Village Board to begin the SEQR process (example, designate themselves Lead Agency and initiate the SEQR and Site Plan Review process simultaneously. The motion noted the need for the Applicant to submit more information to the Planning Commission when it becomes available, and to review and consider alternative uses for this site, seconded by Randy West and passed unanimously.

Issues that the Planning Board feels needs to be addressed:

1. Storm water Management
2. Aesthetics of building for community character.
3. Details of retaining wall along Tannery Brook.
4. NYSDEC/USACE Permit for storm water and stream work.
5. Sewer line through property.
6. Traffic & Parking Study.
7. Guarantee of no flooding from drainage.
8. Landscaping Plan (to address loss of vegetation and vegetative buffer on site and adjacent leased property).
9. Contamination of land from past uses and pesticide storage.
10. Complete Development Application & Check List.

REVIEW OF LIGHT CODE

John Spooner mentioned that all changes noted by the Planning Commission have been made and the final draft is ready.

Randy feels that the Village really needs this lightening code.

Dan Castle questioned if existing uses are grandfathered until which time, change of owner? Yes, Robert Warhus said but if lighting could be modified to meet the code it would be recommended, such as bulb changing, screening or shields.

Dan Bermingham made a motion to refer the light code to the Village Board to be considered, seconded by Patrick McBurney. Motion carried unanimously.

The Planning Commission had further discussion on the presentation of the Aurora Ice Association.

Upon further discussion, Randy West made a motion to recommend to the Village Board that they issue a Positive Declaration under SEQR and require the applicant to prepare an EIS, seconded by Stacy Oar all voted in favor. While the proposed action does not meet the Type 1 Thresholds under SEQR, the Planning Commission strongly feels that allowing for a 66,000 + sq. foot structure in the center of the Village on a 3 acre parcel may result in significant adverse impacts to the environment, existing traffic/parking, and character of the Village, and thus a Positive Declaration is the appropriate course of action considering the size and scope of an Unlisted Action.

It should be noted that the Planning Commission DID NOT consider, nor vote on the proposed Site Plan/Development Plan as submitted. It was determined that the current application is incomplete and inadequate, and as such no vote was taken. The Planning Commission will need to consider the complete Development Plan Review Application at such time as it is submitted by the Aurora Ice Association.

A motion was made by Patrick McBurney to adjourn the meeting at 9:50 PM, seconded by Laura Mehl. Motion carried.

Respectfully submitted,

Susanne M. Wolff
Deputy Clerk