

Elk Township Planning and Zoning Board Meeting

Regular Business Meeting March 19, 2014

Minutes

Call to Order: Board Chair called the meeting to order at 7:33pm.

Open Public Meeting Act: read by Board Secretary

Roll Call:

Present: Matt Afflerbach, Bill Carter, Jay Hughes, Dave McCreery, Ed McKeever, Eugene Shoultz, Patrick Spring, Jeanne White, Christine Yenner, Frank Goss

Also present: Joan Adams, Board Solicitor, Leah Bruder of Bach Associates, Board Planner, Stan Bitgood of Federici & Akin, Board Engineer

Absent: Gus Rosado

Flag salute, lead by Chairperson

Announcements:

- Notice to Public and Applicants: Board policy is no new business will commence after 10:30 pm and all testimony will stop at 11:00 pm, except for individuals wishing to speak during the general public session.

General Business:

- **Approval of minutes:**
 - February 19, 2014

Mr. Shoultz moved to approve the minutes of February 19, 2014, Seconded by Mr. McCreery.

Roll call:

Voting in favor: Afflerbach, Carter, Hughes, McCreery, Shoultz, Spring, White, Yenner, Goss

Against: None Abstain: None 9-0-0

- **Resolution(s):**

2014-08-Memorializing the grant of an Administrative Design Change to the approvals for the development of block 29, lot 24 to applicant, Aura Development Group, LLC.

Mr. Shoultz moved to adopt resolution 2014-08, Seconded by Mr. McCreery.

Roll Call:

In favor: Afflerbach, Carter, Hughes, McCreery, Shoultz, Spring, White, Yenner, Goss

Against: None Abstain: None 9-0-0

- **Old Business: None**

- **New Business:**

- Application #SD-03-03, *Completeness Hearing* - Aura II, Amended Preliminary Major Subdivision, block 29, lots 24.01, 28 and 29; block 31, lots 2.02, 5.01, 7 and 22; block 32, lots 1-9, block 58, lot 1, to applicant Aura Development Group, LLC.

Attorney for the applicant, David Oberlander, gave the following project overviews. Aura Development Group is seeking Amended Preliminary Major Subdivision approval for the project originally known as Latham Park. Latham Park's approval was granted in 2005 for 646 residential lots to Orleans Home Builders. Aura Development Group is a contract purchaser for 169 of these lots and can provide the water and sewer capacity. There is not sewer for the balance of the Latham Park project at this time. Aura Development Group wishes to add this 169 lot portion adjacent to its current project of 218 units which was approved in 2011 known as "Aura" (formerly the Grand at Elk). The 169 unit section will be known as Aura II. In order to integrate Aura II with the 218 units for Aura I (the "conversion project" age restricted community to market rate homes), the applicant proposes some minor modifications to the Latham Park subdivision design, roads, landscape, basin. No lots are being added and no variances are required.

The next application before the board is for a second subdivision within the Latham Park project to consolidate 12 lots into 4 conforming lots. The purpose of this subdivision is for title and financing reasons only and will not result in any construction. The proposed line changes relate to the approval of the first application before the board for Amended Preliminary Major Subdivision.

Mr. Oberlander had the following witnesses sworn in:

John Canuso, Aura Development Group, 1010 Kings Highway, South, Cherry Hill, NJ
Robert Bower, Aura Development Group, 1010 Kings Highway, South, Cherry Hill, NJ
Edward Brady, TWT, 124 Gaither Drive, Mt. Laurel, NJ

The applicant provided two display boards that were marked as exhibits. Exhibit "A-1" is a colored map of the entire Latham Park site that was approved in 2005. Exhibit "A-2" is a colored Landscape Plan of the proposed 169 lot and open space subdivision portion.

Mrs. Bruder referred to her completeness letter of March 3, 2014 explaining the applicant is proposing modifications to a previously approved subdivision (Latham Park), therefore her letter outlines the submission checklist items that relate to the proposed changes because everything else was submitted at the time of Latham Park's overall approval.

The applicant requests the following waivers from the application submission checklist:

Item 8: submit copies of all applications to and certifications of all outside agency approvals. The applicant has indicated that this item is not applicable.
Waiver is recommended for purposes of completeness but are required prior to final approval.
Applicant agrees to comply.

Item 11: requires the source and date of a current or recertified survey (within the last year). The applicant has agreed to testify that no alterations have been made to the property since the survey was prepared.
Waiver is recommended for completeness purposes. Applicant agrees to update survey for final approval. Board Engineer agrees for completeness purposes.

Item # 33: requires a statement and demonstration of compliance with affordable housing requirements as applicable.

Mrs. Bruder stated this has been provided for purposes of completeness and can be discussed further during public hearing portion.

Items 36 & 37 require a copy of any existing or proposed protective covenants, easements and restrictions of record, including the title policy.

Mr. Bower explained there are extensive amount of easements, deed restrictions, and HOA documents (a form of a deed restriction) all of which will be required to be recorded to effectuate the subdivision by the board's solicitor and are typically done prior to final plans being filed. Waivers are requested for completeness and agree to comply. Board solicitor confirmed that here have been no changes, regarding the current easements and restrictions, from the original approval.

Waiver for completeness purposes but will be a condition of final approval.

Item 38: requires the applicant to submit site photographs.

Waiver is recommended given the nature of this application.

Item #51 requires the location, design, dimensions of open space areas, buffer areas, pedestrian walkways and recreation areas and facilities.

Planner added that Recreation facilities have been discussed with the applicant and recommends the waiver for completeness. All the recreational facilities will be part of the open space

Item #66 requires a written commitment of sufficient capacity to provide sewer and water service to the project. The applicant should provide information on the status of water and sewer approvals.

Mr. Bower explained when the project was originally approved, it was approved by the Elk Township MUA (Municipal Utility Authority), which has since been disbanded. Now the New Jersey American Water Company has both the water and sewer franchise. The sewer routes up through Glassboro to the GCUA (Gloucester County Utilities Authority) system and the water, for Aura I, is on site – there is a water vault which has been built by NJ American. Mr. Bower agreed to have NJ American provide a letter of intent to serve the site. GCUA has limited sewer capacity in Elk Township, but Aura I and Aura II are accounted for.

Waiver for completeness, condition of preliminary approval. Applicant agrees and will provide letter of intent.

Item # 68 requires floor plan and front elevation of all proposed principal buildings.

Waiver is recommended for completeness and may be provided at time of final approval.

Applicant agrees & added that this item is actually not on the checklist for preliminary but will provide at final. Mrs. Bruder agreed.

Item #76 requires a recreation facilities plan and details.

Waiver recommended. Already discussed under item number 51 will defer the details to final.

Item #77 requires the size, type, copy, and location of proposed signs.

Waiver is recommended for completeness and may be provided at time of final approval.

Mr. Bower commented they will propose the same sign design & materials that were approved for Aura I.

Item #79 requires a municipal development agreement between the developer and the municipality where off tract improvements are contemplated.

Waiver. Applicant agrees to provide at final approval as this item is not included on the checklist for preliminary approval.

Mr. Bitgood, Board Engineer, had no other comments relating to completeness items.

Mayor Spring asked for clarification of item #79.

Mrs. Adams explained a developer's agreement is a separate document, or contract between the town and the developer that puts in one document some of the more specific obligations the developer has to undertake as part of the project. The reason we specifically mention this is because one is usually needed for off tract improvements. This is an area where the law has said that the town has very limited discretion as to what off tract improvements the town can require. You are really only permitted to make the developer do things that front against the development or that you can tie directly a health and safety connection with the project. For example, a developer will come in where a significant off tract improvement was proposed as part of an original project that depended on an outside agency agreement/approval, for instance a roadway change. Therefore a developer's agreement, in this instance, is essential for it to be legally enforceable by the township. However, a contract cannot be drafted until we know what needs to be said in the contract so that's why it is left until final approval.

Mrs. Adams also clarified the "Completeness" process. She explained a submission checklist was created based on what items the board would like to see based on certain types of projects. Every project will not require every item listed on the checklist. When an application is received it is compared to the checklist requirements, is the item received or not, and that is how it shows up in the planner's letter. At the "completeness hearing" we decide whether or not the item can be waived or do we need it this information to make a decision as to whether or not we can move on to the public hearing. Just because the board waives an item doesn't mean the applicant doesn't have to give you the information. It just means the applicant can move on to the next step. For the applicant to proceed to the public hearing, the board must grant the waiver(s) and deem the application complete. The board is just saying they don't need the information at this moment and are going to move forward to talk about the application.

The only time the board would deny a waiver request is if it is a fundamental item to the application.

Mayor Spring moved to grant waivers for the submission checklist items identified in Mrs. Bruder's letter of March 3, 2014, and deem the application "Complete." Seconded by Mrs. White.

Roll Call:

Voting in favor: Afflerbach, Carter, Hughes, McCreery, McKeever, Shoultz, Spring, White, Yenner

Against: Abstain: 9-0-0

Public Hearing:

- Application #SD-03-03, *Public Hearing* - Aura II, Amended Preliminary Major Subdivision, block 29, lots 24.01, 28 and 29; block 31, lots 2.02, 5.01, 7 and 22;

block 32, lots 1-9, block 58, lot 1, to applicant Aura Development Group, LLC.

Solicitor confirmed with Board Secretary that proper formal public notice had been completed by the applicant and that the board had jurisdiction to proceed. Board Planner, Leah Bruder, was given Oath of Office by board solicitor for the 2014 year.

Mrs. Bruder reviewed comments section of her letter dated March 10, 2014.

- 1) Subdivision configuration. The applicant is taking 169 lots that were previously proposed, changing some of the lot sizes to accommodate the revisions of their design. They are proposing roadway connections between Aura I and Aura II which from a planning standpoint is desirable providing an interconnection creating a more unified community.
- 2) Recreation. Former applicant of Latham Park had agreed to a \$2000 per unit recreation contribution with a maximum of \$600 credit to be applied for facilities that would be provided on site. The credit calculation is to be completed prior to final approval. Roughly, 169 units would result in a \$338,000 (\$2000 x 169) recreation contribution. The applicant proposes to provide some recreation amenities onsite with a maximum credit of \$101,400 (\$600 x 169) therefore the minimum contribution to the Township's recreation fund will be \$236,600. This breakdown ensures amenities will be provided on site that will be used and maintained by the residents of the development, HOA.

Mr. Bower referred to a display board that was marked as Exhibit A-3. The display was a color map of Aura I and Aura II integrating the recreation facilities and open space.

- 3) Affordable Housing. The original approval provided 32 units for affordable housing. At this time the 32 unit obligation still applies. As part of this 169 unit subdivision, the applicant has been working with the town and agrees to provide 8 affordable housing units that will be added to the townhouse section in Aura I. Prior to final approval the applicant must provide a detailed compliance plan showing the phasing of these units in accordance with COAH requirements. Mrs. Bruder is satisfied with the additional 8 units of affordable housing.
- 4) Landscape:
The plan has been revised in a positive manner to reflect the character of the area and to recognize the inter connection between the two developments, Aura I and Aura II. She identified the following changes:
 - a) Buffer plantings proposed between Aura I and Latham Park have been eliminated since it will now be one development (Aura I & Aura II)
 - b) Buffer plantings around existing lots 25 & 26 on Aura Road have been reduced are only proposed in the backs of these lots as the single homes that were originally approved have been removed. The applicant has agreed to provide a buffer screen to delineate the existing lots and the development parcel. The buffer screen is subject to the review and approval of the Board Planner.

- c) The relocation of 3 lots between the entrance from Aura Road and the first parallel residential street has created a more open entry to the community than what was previously proposed. The applicant is proposing to add plantings in the open area along the entryway, a curved crop formation, of cherry trees which will be enclosed by a 3 foot split rail fence representing an orchard that will be maintained by the HOA (the same trees of 6 to 8 ft. are proposed at the Aura I site). The applicant agrees to enlarge the size of the 23 street trees. There is also a wildflower meadow proposed at the entrance, but that has indicated they may revise this area.
- 5) Signs. Applicant agrees to review at a later time.
- 6) Lighting. Residential decorative street lights are not part of their design for the entryway but will discuss internally and report back at time of final approval. (original approval included decorative lights)
- 7) School Site. Applicant proposes to dedicate a 24.464 acre lot at the intersection of Whig Lane, Clems Run and Aura Road to the Township for future expansion needs of the school district. Latham Park Resolution indicates this will happen at the first building permit of Aura II.
- 8) Roadway Realignment. A Latham Park condition of approval was a realignment of County Route 623, and the land to be dedicated. The roadway realignment would require acquisition of private land in order to vacate a portion of CR 623 where it now separates the existing school site from the land to be dedicated and the creation of a new intersection with Whig Lane to the west of the existing school. This requirement was not completely resolved at the time of Latham's preliminary approval. It is the planner's understanding that Latham Park was not able to acquire the land necessary, at market value, and perhaps that created the standstill.

Aura Development Group believes that the realignment may not be necessary depending on how the School Board opts to use the 24 acres to be dedicated.

Board Engineer, Stan Bitgood, referred to his letter of March 18, 2014 addressing the following: Stormwater System Design.

Mr. Bitgood explained the proposed system and although he agreed some items could be resolved at final approval, overall he was not comfortable with the design.

Mrs. Adams added that preliminary approval is the time to set the requirements and recommended the board have enough information to know the system would function properly as storm water is a direct public safety issue. She did not recommend the Board wait until final approval.

Mr. Goss had concerns about drainage on the parcel to be dedicated as a future school site.

Mr. Bitgood explained this review did not include that portion of the Latham Park project.

Mr. Brady added that the 169 unit section is designed to drain to the north and it is not going toward the school site. When the school site is designed, it will have its own drainage design plan. There are no improvement proposed for the school site at this time.

Mr. Oberlander commented this basin design system was approved by the board in 2005 as part of the preliminary approval. Ms. Yenner responded that although a prior board approved the system & plans, they need to work together with this board to make sure the system will function properly with the revisions. Ms. Yenner confirmed that once Aura I and Aura II are completed,

the basins then become the responsibility of the HOA's. The applicant's engineer added that not only did the board engineer review and approve the basin design back in 2005, it was also approved by the DEP and Gloucester County Engineering Department.

Mrs. Adam added the Township has since adopted stormwater regulations - 2006. Preliminary approval doesn't protect from changes in the ordinances that deal directly with health and safety design issues; storm water is one of them. If it was poorly designed in the beginning, now is the time to correct it. Mr. Oberlander did not agree and added they have been working with the current board engineer making modifications. They are not giving up any vested rights under the preliminary approval and will work to find a reasonable solution.

Mrs. Adams read into the record a portion from MLUL (Municipal Land Use Law) 40:55D-49(a).

That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; and, in the case of a site plan, any requirements peculiar to site plan approval; except that nothing herein shall be construed to prevent the municipality from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety;

The Township adopted specific stormwater regulations to comply with the NJ DEP regulations to comply with the new sewer requirements of the DEP and to update our Stormwater requirements. As the board's attorney, her advice is the time to assure that the site functions safely and according to the health standards required by the township is at the time of preliminary approval.

Additional stormwater management discussion followed and Mr. Bitgood continued with his letter addressing grading, traffic, crosswalks, and curbing.

Pedestrian Crosswalks.

The plans should be revised to eliminate the mid-block crosswalks connecting the two developments as they are inherently dangerous and recommended the applicant use physical traffic calming. Applicant agreed to add curb bulb outs and to work with the board engineer and planner to accommodate traffic calming measures.

Wet basins.

A means to drain the basin has been shown as an added basin structure and an improved basin access driveway leading to the structure. The intent of which is to allow access with a temporary pump to the structure so dewatering by pumping into the discharge pipe could be accomplished. If pumping is to be further considered, a table of pump size and draw down time should be provided, along with cost data for contracting such work under public contract rates. . The applicant's engineer will contact NJDEP, concerning the environmental situation (swamp pink), to discharge into pond as suggested by Mr. Bitgood and if they cannot, they will use the pump system that is recommended by the Board Engineer.

Phasing Plan.

The proposed phasing includes the main entrance to Aura-Richwood Road within phase 2A which is to be the 3rd phase constructed.

The main construction entrance will be along the main entrance and multiple entrances will be added for the various sections and builders. There are seven phases.

Lighting.

Will be reviewed at the time of final approval. The applicant proposes cobra type lighting. The location of the poles have been adjusted to the board engineer's satisfaction.

Mr. Oberlander added it is the applicant's intention to use the same fixtures that were proposed in Aura I. The applicant will consider cobra lighting on aluminum poles verses wooden poles.

Recreation Lighting

Lighting is proposed for the pathway system and will be reviewed by the board planner.

Overall, Board Engineer, Mr. Bitgood, is not satisfied with the current stormwater management plan and feels the functionality of the design still needs revision to manage the stormwater on the site.

Board attorney Adams suggested the board consider postponing a decision until the board engineer and the applicant's engineer can agree on a solution. John Canuso assured the board they will work through any issues the board professionals have with the project.

Board member Carter, felt the board should not disregard Mr. Bitgood's concerns and it's important to have the stormwater design right to function properly, Ms. Yenner agreed.

Mr. Goss moved to open to the public, seconded by Ms. Yenner. With all members in favor, the motion was carried.

The following residents were sworn in:

Jim Gaglianone, 1642 East Buckshutem Road, Millville, NJ

Owns the warehouse property adjacent to Aura School. He commented that regarding the road alignment issue and purchasing his ground, that no one has ever contacted him about any purchase.

He also had a concern about water runoff on to his property from the school site and felt it should be addressed now.

Scott Leslie, 805 Clems Run

Mr. Leslie addressed the board about a flooding issue on his property resulting from soil remediation completed by Latham Park 6 or 7 years ago.

Board Attorney Adams commented she has no knowledge of the remediation and that it was completed by the Orleans Company. NJDEP approves soil remediation plans, the State has superseding jurisdiction over municipalities.

From the Township's prospective, this is civil dispute between the two property owners and that he should consult an attorney. The future owners may be interested in hearing about the situation as they would want a land transfer that is free of any claims.

Mr. Shoultz moved to close to the public, seconded by Mr. Goss. With all members in favor, the motion was carried.

Mr. Oberlander stated for the record that they are willing to work with the board's professionals, however they are not waiving any rights they have that are vested under the existing preliminary

approval which includes the drainage system, but are willing to work with the board engineer to find a mutually acceptable solution.

Madam Chair moved to postpone this hearing to the April 16 2014, and the major subdivision application, seconded by Mr. Carter. With all members in favor, the motion was carried

Board Attorney, Joan Adams, formally announced to the public that the current application would be continued to the April 16, 2014 meeting date and that no other formal notice would be given. Also the applicant's second application for Major subdivision, dividing a parcel into 4 lots, will also be postponed to the April 16, 2014 and that no other formal notice will be given.

General Public Portion:

Mr. Carter moved to open the general public portion, seconded by Ms. Yenner. With all members in favor, the motion was carried.

With no comment from the public, ***Ms. Yenner moved to close the general public portion, seconded by Mr. McCreery. With all members in favor, the motion was carried.***

- **Correspondence:** None
- **Adjournment:**

Ms. Yenner moved to adjourn, Seconded by Mr. Goss. With all members in favor, the motion was carried.

Adjournment time: 10:20pm

Respectfully submitted,


Anna Foley
Board Secretary