

THOMAS MORE SOCIETY

A National Public Interest Law Firm

October 15, 2009

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The Hon. Juany Garza
2nd Ward Alderman
752 E. Galena Blvd.
Aurora, IL 60505

The Hon. Stephanie Kifowit
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The Hon. John S. Peters
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The Hon. Scheketa Hart-Burns
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Alderman-at-Large
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The Hon. Richard C. Irvin
Alderman-at-Large
2701 Shetland Drive
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RE: Final Plan Revision for Planned Parenthood Facility, NA20/3-09.212-Fpn/R

Dear Alderman,

A petition for final plan revision to allow the expansion of the Aurora Planned Parenthood facility, for additional parking, is currently pending before the City of Aurora. In this petition, Planned Parenthood has requested 27 additional parking spaces, an increase in the number of spaces of almost 40% over the initial parking needs presented to the City just three years ago.¹

The City Council plays an important community protection role in consideration of plans in Aurora Planned Development Districts. In a recent notable example, the Council exercised that role by rejecting a proposed hotel plan, due to economic considerations, even though the property owner otherwise fulfilled the requirements of Aurora law for the development.

Furthermore, our clients, the majority of whom are Aurora citizens, have brought suit against Planned Parenthood (and the City) over zoning and building code violations related to the Planned Parenthood headquarters facility. That lawsuit asserts that the plans for the facility

¹ Three years ago, the facility was presented to the people of Aurora as the "Gemini Outpatient Facility," not a Planned Parenthood regional headquarters and the largest abortion facility in the Midwest.

misrepresented the applicable parking requirements by 26 spaces – one short of the number now being requested by Planned Parenthood in its final plan revision. This explains why, even though Planned Parenthood has refused to provide any traffic flow numbers, much less numbers sufficient to buttress a request for 40% more parking, it persists in requesting 27 more spaces.

Our clients' lawsuit also alleges that the final plan approvals and subsequent permits for the facility are invalid, due to the deceptive way in which Gemini (a Planned Parenthood affiliate in whose name permits were sought and obtained) conducted itself before the City of Aurora. The suit alleges that the development does not meet the standards of the governing Planned Development District ordinance, O93-124. The suit further alleges that the use of the facility as a nonprofit health facility is not allowed in a B-B Business Boulevard district and that the facility does not meet the zoning standards for parking, setback, etc., as required in a B-B zoning district.

In support of these very substantial allegations – wholly unaddressed in the September, 2007, city review of the Planned Parenthood development process – you may recall that the ordinance governing the property, O93-124, and the zoning district governing the property, B-B Business Boulevard, were only identified for public consumption after the Planned Parenthood facility opened on October 2, 2007. Not one of the three attorney reports solicited by the City and released October 1, 2007, identified the correct ordinance governing the zoning for the property, O93-124, or the correct zoning district for the property, B-B Business Boulevard.² And, over two years after opening, it appears that the correct PDD ordinance and zoning district standards have never been enforced against the property by City staff.³

You may not realize that the first key hearing in the zoning lawsuit will be held just over one week from today, on Friday, October 23. At that hearing, the Court will hear arguments about Planned Parenthood's contention that "nothing can be done" about the violations on the property. Should the Court deny Planned Parenthood's contention, we will proceed to litigate the merits of the zoning violations that are alleged in our clients' lawsuit.

Our clients consider this new zoning petition a crude attempt by Planned Parenthood to escape legal accountability for its gross deception and evasion of compliance with Aurora's zoning laws – laws that must be applied even-handedly to all citizens, without special favors being granted to those, like Planned Parenthood, who wield political clout and lavish (through 'Personal Pac' and other vehicles) their campaign contributions on those who vote their way. Aurora officials should *not* dispense special favors for Planned Parenthood, or for anybody else. The City of Aurora should either reject this petition or table it – putting off consideration of this petition – and any other proposed changes to the property – until the legal process runs its course. Let the chips fall where they may!

² The Martens report identified the property as a B-1 zoning district. The Leutkehans report identified the property as some combination of a B-1, B-2, B-3, or O zoning district. The Barsanti report did not identify a zoning district.

³ Some of the specific B-B district violations currently existent on the property – and which do not appear to be remedied by the current final plan revision – include that B-B parking spots are required to be 10' wide with 25' backup space. The Planned Parenthood parking spots, however, appear to be 9' wide with 24' backup space. And, the front yard setback required in a B-B district is 35', while Planned Parenthood has only provided 30' of setback. A "visibility clearance zone" for drivers is also required in a B-B district but is currently obstructed by thick trees.

At the time the permits were issued for this facility in October, 2007, City staff stated that they were powerless to remedy the wrong done by Planned Parenthood in deceptively locating in the midst a residential neighborhood and in a prohibited zoning district. Even if those statements were correct then – e.g., even if were true that the City could not reopen the final plan approvals previously granted to Planned Parenthood front company “Gemini” – the same statements ring hollow today, in the face of an actual petition now pending before the City.

Planned Parenthood has refused to provide any traffic flow information to support their current petition, citing “confidentiality.”⁴ Yet our clients, who are often at the clinic site, have seen with their own eyes that plenty of spaces remain open for parking during business hours, both in the employee and client lots. In the alternative, to claim that the clinic site is “unsafe” is a slander, both to the people of Aurora who peacefully pray and offer assistance at the clinic and to the Aurora police officers who ably patrol the neighborhood around the clinic.

Even more, the “security” and “confidentiality” justifications cited by Planned Parenthood should sound familiar to you: these were the same justifications given in 2007 when Planned Parenthood representatives attempted to explain, after the fact, why they concealed and misrepresented the true tenant of this facility, both in testimony before the Planning & Development Committee and on required City forms for approvals and permits.

The parents of Aurora teach their children the old adage, “Fool me once, shame on you. Fool me twice, shame on me.” If Aurora aldermen were fooled the first time by Planned Parenthood, then shame on Planned Parenthood. However, if Aurora aldermen are fooled a second time, then the blame would fall squarely on their shoulders. We ask you to reject this duplicitous petition – an effort to rewrite a sordid part of history and, in part, to escape legal accountability.

Yours very truly,



Peter Breen
Executive Director & Legal Counsel
Thomas More Society,
A public interest law firm

PB/map

⁴ However, when not speaking to the City of Aurora, Steve Trombley, CEO of Planned Parenthood, has been quoted and cited in numerous media outlets providing client flow projections and estimates for the Aurora facility, “confidentiality” considerations aside.