

**PLANNING COMMISSION  
CITY OF WILLOUGHBY  
AUGUST 25, 2016  
PUBLIC HEARING  
MINUTES**

**PRESENT:** R. Fiala; C. Cox; K. Kary; G. Patt; G. Merhar, Chairman

**ABSENT:** No One

**OTHERS:** John Wiles, Law Director; Stephanie Landgraf, Asst. Law Director;  
Stephen Byron, Special Counsel; Janice Lipscomb, Econ. Devel. Mgr;  
Darryl Keller; Chief Bldg. & Zoning Official; Vicki Grinstead, Secretary

**Chairman Gerald Merhar called the public hearing to order at 7:00 p.m.**

**The legal notice was read into the record for the following:**

**Kirtland Country Club**  
39438 Kirtland Rd.

**Amended Review- CUP**

The following spoke **FOR** the proposal:

Mr. Frank Floyd, President KCC  
Shaker Hts., OH

Chairman Merhar asked Mr. Floyd to explain what changes the Kirtland Country Club (KCC) has made to its current Conditional Use Permit (CUP). Mr. Floyd explained that the City of Willoughby gave KCC a very important activity back to the KCC and it is very important to them that they support their family activities. Mr. Floyd stated that the KCC has abided by all conditions as set forth last year and they are here tonight seeking approval for improvements to the skeet shooting range.

The following spoke **IN OPPOSITION** of the proposal:

**Mayor Doug Davidson**  
**City of Kirtland**  
**10290 Chillicothe Rd.**  
**Kirtland, OH 44094**

Mr. Doug Davidson, Mayor for the City of Kirtland stated that this evening he delivered a list to Vicki Grinstead and a copy of each of the members of the Planning Commission of residents names and addresses, not the complete list of impacted residents, but the ones that had called through January to the Mayor's office initially. Mayor Davidson stated he also included a map showing the location of the affected residents off of Google Map. Mayor Davidson stated that all these residents were affected by the exercise of the Conditional Use Permit that the Planning Commission issued. Mayor Davidson went

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on to say that his term as Mayor began on December 1<sup>st</sup> and the first complaint that came in to his office in regard to the skeet shooting was December 2<sup>nd</sup>. Mayor Davidson stated that these complaints have continued to come in to his office through various avenues, such as email, Council meetings etc. through the end of the season. Mayor Davidson stated that he did not believe it was their intention when they were appointed to the Commission to disrupt people's quiet enjoyment of their property through their actions and decisions; however, in granting the permit you have disrupted the quiet enjoyment of my residents and you have placed the recreation and revenue of the country club over my people's property on Elm Street, Maple Street, Coudry, Conley, Russellhurst, Markell, Forestdale, Fairidge, Kirtland-Chardon among others. I recognize that you cannot vote to revoke but I think it would be a vote of political courage to revoke even with the Counsel's opinion. In the absence of that he hopes that the Planning Commission would amend the conditions and direct the club to relocate the shotgun range toward the north and toward the Willoughby residents. Mayor Davidson states he appreciates the civility with which Mayor Anderson, the Commission and the Kirtland's residents have conducted themselves during this entire time.

Chairman Merhar asked Mayor Davidson if he was not in opposition to them (KCC) changing and did he want it to stay the way it is. Mayor Davidson stated that his position is that he would like it revoked, but in the absence of revoking it, he would like to see it amended to the degree that it is no longer a nuisance or a disruption of the quiet enjoyment of the property of his residents.

**Mr. William Wynder, Director  
Historic Kirtland Visitors Center  
7800 Kirtland-Chardon Road  
Kirtland, OH 44094**

Mr. Wynder states that he has written to the Planning Commission twice and would like to confine his remarks to the issue before the board this evening. Mr. Wynder stated that he appreciates the Kirtland Country Club trying to reduce the admitted adverse impacts the skeet shooting program has on residential properties. Mr. Wynder stated that he has not seen the amended CUP yet from the KCC and cannot comment on it in detail, but the proposals in detail as he understands it is in part among other mitigation measures redirects the discharge area and therefore the sound will go east. This will exaggerate the sound that will be directed toward Historic Kirtland Visitor's Center. Mr. Wynder states that Historic Kirtland brings in 75,000 visitors a year and many of their visitors have expressed concerns about the gunshot sounds. Mr. Wynder stated that this issue is two-fold for Historic Kirtland, one of the issues being the decibel levels. Mr. Wynder stated they have seen nothing in the sound study that the Planning Commission was provided that will measure post mitigation measures that are under consideration, the decibels that will go toward Historic Kirtland and to measure those in a leaf-free winter where the surrounding vegetation will not act in part to absorb that sound. Mr. Wynder goes on to say that the other element that creates a problem for Historic Kirtland is the intermittent nature of the sound and it causes anxiety. Mr. Wynder stated that from Historic Kirtland's perspective they would like to see the Planning Commission do a couple of things.

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Mr. Wynder stated that the only way to mitigate the sound is to redirect the sound to the north into Willoughby. Mr. Wynder believes that the people who incur the impacts of this operation should not be an adjoining community. Mr. Wynder reiterates that he believes they should redirect the noise to the north away from Historic Kirtland. Mr. Wynder stated he would like the Planning Commission to reject tonight's amendments to the KCC's CUP.

Mr. Wynder would like the Planning Commission to place on agenda for future consideration a Public Hearing to determine whether or not this CUP is invalid automatically by operation of the City of Willoughby's municipal code. Mr. Wynder stated he sent a letter to the Planning Commission this afternoon stating that the city's outside counsel failed to take into account a critical provision of the Codified Ordinances of the city which says breaches of a Conditional Use Permit automatically invalidate that permit and they also violate constitutions of the City's zoning code. Mr. Wynder states that if they are to accept the city's outside legal counsels opinion that only your building and zoning inspector has the authority to enforce the zoning code and not the Planning Commission and accepting this to be true as a matter of law there is nothing in that opinion or in the city's code that prevents the Planning Commission from making a finding that breaches of the CUP result in its automatic invalidity and in his opinion the Planning Commission could issue a cease and desist letter. Mr. Wynder went on to say the representative from the KCC stated that they have completely complied with all the conditions of the CUP and he stated this is not true. In Mr. Wynder's earlier letter to the Planning Commission they talked about sections of the city's code which are implied in law as conditions of the approval of the city's CUP. Mr. Wynder stated that at least three of those subsections have been violated in his opinion. Mr. Wynder stated he believes the Planning Commission has the authority to agendize a finding of violations of those subsections. Chairman Merhar asked Mr. Wynder if he is an attorney and Mr. Wynder states he is. Mr. Wynder states that the Planning Commission will not be able to resolve the secondary pernicious impacts from a skeet shooting range by simply redirecting it away from a lot of residences toward fewer residences, churches, a community college and Historic Kirtland. Mr. Wynder stated that if they are going to amend the Conditional Use Permit amend it to require the discharge sound be discharged to the north or if that is not acceptable to this applicant, reject the application and would respectfully urge the Planning Commission to agendize a public hearing to consider whether the Planning Commission can make findings that the CUP be automatically terminated for violation of provisions of the city's code.

**Mr. Kevin Potter, Councilman  
City of Kirtland  
7851 Russellhurst Dr.  
Kirtland, OH 44094**

Mr. Potter states that he is here tonight to discuss the proposed sound mitigation plan that is before the Planning Commission. Mr. Potter states that nearly one year ago he was elected for the first time to the City Council for the City of Kirtland and consequently the KCC began its skeet shooting program at about the same time.

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Mr. Potter stated shortly after his swearing in on December 1 of last year, his name, email address and personal phone numbers were published on to the city's website. Mr. Potter stated that almost immediately he began receiving complaints from people in his ward about the sheet shooting. He stated the complaints were those he would never have thought he would ever receive as a Councilman for the City of Kirtland and were about a repetitious barrage of gunfire. He stated that the grievances resulted from the introduction of the KCC's skeet shooting program. Mr. Potter stated that as those of us elected to city government began to discuss the matter at hand and the common theme amongst them was they would absolutely maintain respect for ourselves, for country club shooting advocates, and for the city that helped to make this unfortunate reality come to pass. In the early months of this new year the residents and city officials alike attempted to piece together a path back to the peace and tranquility that was accustomed to their city. Mr. Potter stated that several of the city officials for Kirtland were contacted by the president of the KCC, Mr. Frank Floyd. Mr. Potter stated that Mr. Floyd first spoke with Mayor Davidson, and then reached out to Mr. Potter. Mr. Potter stated that as a result of a phone call Mr. Floyd invited Mr. Potter to lunch to discuss both the convictions and concerns for those that they both represented. As Mr. Potter listened to Mr. Floyd describe his intent to be a good neighbor he could not help but be discouraged as each time he described the malady of one resident or another Mr. Floyd's repeating response was one that described the incessant gunfire as no more than a noise. Mr. Potter went on to say that he became especially discouraged as he described the testimony of a resident who had lost a loved one to the hands of a firearm and how this resident leaves her home when the shooting begins. He revealed to Mr. Floyd she does so because she cannot bear to hear that noise that so reminds her of that violent loss. Mr. Potter stated he gave another example to Mr. Floyd who again referred to this as a noise that people can get used to. Mr. Potter stated that he understands that Mr. Floyd is working on behalf of a small minority that wishes to expand their club's shooting program and is looking to build comradery and revenue for his ailing club's balance sheet and that can be appreciated. Mr. Potter went on to say that what is not appreciated is the lengths he and other members of the club have been willing and are still willing to go to disrupt the lives of hundreds of residents in Kirtland and that the KCC is willing to stay the course that negatively impacts property values and eliminates the inherent right to peace, and is reprehensible. Mr. Potter addresses Mr. Floyd and says he will only ask him one last time tonight to tear up the permit and if will not then he asks the Planning Commission, who mistakenly authorized the permit, to have the courage to do so. Mr. Potter reiterated that no mitigation effort is good enough; softening of gunfire on a Saturday or Sunday afternoon will work. Mr. Potter stated the residents of his city deserve better and so does Historic Kirtland whose visitors deserve respect as they make pilgrimage to the city that has cornerstone to their faith. He stated the people that the indefensible permit affects are hard working, decent people. These are elderly, children, and cancer patients and asks to please have their peace back.

**Mr. Don Lewis  
4620 Sherwin Road  
Willoughby, OH 44094**

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Mr. Lewis stated he's lived at his residence for 30 years and that 30 years ago they had skeet shooting to be renewed annually. Mr. Lewis stated the KCC had to renew their permit with the Planning Commission and the residents of south Willoughby got together a petition with 200 signatures to stop the shooting. Mr. Lewis stated that 30 years ago the Planning Commission and the Zoning Department voted against the KCC for them to have a shooting range and has enjoyed peace in his home ever since.

He wants to know what gives the Planning Commission the right this time to let them have a permit to begin shooting again and wants to know what the residents have to do to not have to listen to this. Mr. Lewis stated what legal right do they have to sheet shoot.

**Mr. Kevin Eilerman, Councilman at Large  
City of Kirtland  
8066 Pinehurst Dr.  
Kirtland, OH 44094**

Mr. Eilerman stated he and his wife purchased their home 18 years ago because it was in a very quiet community. He stated unfortunately now they have to listen to gunfire on Saturdays and Sundays inside their own home making it very difficult to entertain friends and family. Mr. Eilerman states that he speaks to the Commission as a business owner as he owns a business at 9165 Chillicothe Rd. in Kirtland. Mr. Eilerman stated they are trying to seek renters for their office space since they acquired their building last year. Mr. Eilerman stated that he has had a few interested parties stop in on Saturdays and Sundays in the January, February time frame and when these prospects stopped in, there happened to be these loud noises. One of these possible renters, a real estate company, voiced their concerns about the disruptive noises because most of their business would be on Saturdays and Sundays. Mr. Eilerman stated is has made it almost impossible for them to rent out their space to someone who would be doing business on the weekends. Mr. Eilerman stated that he is also a Council at Large member for the City of Kirtland and he reiterates everything the Commission has heard from Councilman Potter and Mayor Davidson that their residents can no longer enjoy the quiet peace that they have grown to love in Kirtland. Mr. Eilerman stated he would like to see the Commission completely revoke, but given the fact that does not sound like an option, at a minimum, the Commission should make the condition to have the sheet range point north and no longer point it south toward Kirtland.

**Mr. Mark Gerber  
4176 Clark Ave.  
Willoughby, OH 44094**

Mr. Gerber stated that he wanted to be on record that a Willoughby resident objects and that the people in Kirtland are good folks and he did not want everyone to think Kirtland residents are the only people objecting to this shooting range. Mr. Gerber stated he agrees with the people of Kirtland that if Willoughby will allow the KCC to have a sheet range then let the people of Willoughby handle the noise. He stated they should point the range north and let the Willoughby residents object next time.

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**Mrs. Pat Lewis  
4620 Sherwin Road  
Willoughby, OH 44094**

Mrs. Lewis stated what she does not understand is why this is a problem of reviewing, rather than adjusting something that is obviously a major problem. Mrs. Lewis stated that the property (KCC) no matter which way you turn it, that noise will still be there and is annoying. Mrs. Lewis stated that both communities are a wonderful place to live but the shooting range is not making that acceptable at all. She stated that she does not understand why, as in the past, as Mr. Lewis stated, there isn't an annual review. Before, finally, the shooting stopped because it became such a nuisance. Mrs. Lewis stated she wants the shooting stopped for both communities.

**Mr. Matt Schulz  
10664 Chillicothe Road  
Kirtland, OH 44094**

Mr. Schulz stated that he is here on behalf of the Kirtland residents who are here to voice their opinions on this matter. Mr. Schulz stated he wanted to bring forth a couple of issues that he recalled from the last meeting. Mr. Schulz stated that there was discussion about remedial issues and while he feels they are past the point of having this revoked, that he would like to see the skeet shooting pointed north. Mr. Schulz stated that Mr. Floyd and his team spoke about all these reductions on decibel levels and he stated he believed it was Mr. Fiala who mentioned some type of computer modeling of the acoustics and he would really like to see that come to fruition and understand what the City of Willoughby has gotten itself into and what Kirtland is forced to deal with and it should be in their conditions. He believes the KCC will need to abide by every jot and tittle that is on that permit and if they do not, the permit should be shredded. Mr. Schulz believes they need computer data to help prove that they are meeting what they had proposed they were willing to do and he believes that this is fair to hold the KCC to task. Mr. Schulz stated he believes it should be a way they can shred the permit and should be done on a yearly basis. He then thanks the Commission for the opportunity to speak.

**Mr. Scott Haymer  
8110 Forestdale Dr.  
Kirtland, OH 44094**

Mr. Haymer stated he is opposed to the shooting and wishes the Planning Commission would find it in their hearts to revoke it, but if it cannot be revoked then he would like it turned toward Willoughby.

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Mr. Haymer stated they have 280 acres there and they use one small section to shoot toward Kirtland. Mr. Haymer stated this is his formal complaint to the Zoning Inspector, stop the shooting.

**Mr. Michael Arcidiacono  
8953 Elm Street  
Kirtland, OH 44094**

Mr. Arcidiacono addressed Mr. Merhar and asked if he has it correct that the Planning Commission issued a Conditional Use Permit without a one year expiration date on it. Chairman Merhar stated yes. Mr. Arcidiacono asked if this was normal and Chairman Merhar stated the Commission has never issued a permit with a one year expiration and this is a first. Mr. Arcidiacono asked then why did they get together after one year to discuss this if they had opposition to them in the first place. He asked Chairman Merhar if the permit could be revoked after one year and Chairman Merhar stated no it couldn't be. Mr. Arcidiacono asked why they discussed revoking it at the last meeting then and Chairman Merhar stated they did not discuss that. Chairman Merhar stated that Mr. Wynder of Historic Kirtland sent the Commission a letter stating the city should seek an outside legal opinion, so the city went to the expense of hiring outside counsel to review the decision made by the city's own Law Department and that decision was even more firm than our own Law Department, so there is no revoking it. Chairman Merhar stated the Planning Commission does not have that power. Mr. Arcidiacono stated now the residents have to listen to this from November to March from now on so a few members of the Kirtland Country Club can enjoy the sport of shooting clay pigeons. He then stated how much money does this bring in to the City of Willoughby, none, maybe tax dollars and they will continue to disrupt residents' lives in Kirtland so a few members can shoot clay pigeons. Mr. Arcidiacono stated he feels like his concerns have fallen on deaf ears along with all the other residents of Kirtland because they cannot do anything about it. Mr. Arcidiacono stated that if he goes to sell his house he won't be able to list it between November and March because it will never sell. Mr. Arcidiacono stated Mr. Floyd keeps stating he wants to be a good neighbor and says at this point they are not good neighbors. He stated Mr. Floyd never came into the affected neighborhoods to talk to the residents and maybe come to a compromise to maybe shoot once a month and he would have no problem with that. Mr. Arcidiacono stated so at this point they will just have to sit in their homes every weekend and listen to the skeet shooting. He stated now they are going to shoot toward Lakeland College, Historic Kirtland and make them both mad and the residents of Kirtland as well, but the Willoughby residents aren't affected. Mr. Arcidiacono asked who can revoke the permit and asked Mr. Keller (Building/Zoning Chief Inspector) if he can revoke it. Mr. Keller stated not unless there is a violation and Mr. Arcidiacono asked if this is one of the CUP conditions and Mr. Keller stated correct. Mr. Arcidiacono stated just end the skeet shooting in any way possible.

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**Mr. Todd Davidson  
9022 Elm Street  
Kirtland, OH 44094**

Mr. Davidson stated he had a question about the issuance of the permit itself. Mr. Davidson wanted to know if the grading and changing of the topography was taken into account when the permit was issued for the KCC and was there an EAS (Environment Assessment Statement) filed that is a requirement and passed by City Council. Mr. Davidson asked if Mr. Keller gave the KCC a waiver. Mr. Keller stated whether there was an EAS issued he does not recall. Mr. Davidson stated he thought it was part of the code that an EAS has to be passed by City Council before you can issue that permit. Mr. Davidson stated if that was not done, then that makes the permit null and void and then it's a violation of code and he's asking the Commission to revoke.

**Mrs. Christine Toma  
7450 Markell Rd.  
Waite Hill, OH 44094**

Mrs. Toma stated she spent two years buying her home in Waite Hill. She stated they walked in to their home in the fall to finally close after clearing a dozen liens and catching up a lot of taxes that go to you guys in the six figure range, and walked in to Armageddon. Mrs. Toma stated she believes she is the closest if not the second or third closest home to KCC in Waite Hill. Mrs. Toma stated she is in the country clubs demographic and the reason country clubs are failing because they are not appealing to the younger crowds of people who can afford to join. Mrs. Toma stated if you make those people angry then they do not want to join and causing symptoms of P.T.S.D. (Post-traumatic stress disorder) and if people have these symptoms it will make people angry as well and she wonders who will pay the medical costs for the people who are affected by this. Mrs. Toma stated she closed on her home thinking she had purchased what would be a very good investment after a two year wait, but she stated as previous people reiterated before her, that she will not be able to sell her home because the people who can afford this type of home will not want to put up with this level of noise. She stated you are my elected public officials or appointed officials, and you need to protect me against what I consider to be a big bully. Mrs. Toma stated this shooting will cause mental health problems if you have to listen to it all day long two out of seven days a week. Mrs. Tomas stated for those of us who work 100 hours a week so that we can live in quiet in the country and spent 10 years trying to locate and two years trying to buy a home and now she has to listen to gunfire and it is not right. Mrs. Toma addresses the KCC members and stated she cannot believe people that are supposed to provide civility, good will, relaxation, comfort, all the things a club promotes, would want to do this to people who are not your members but may have wanted to be members.



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**Mr. Joe Smolic  
7295 Ledgewood Dr.  
Kirtland, OH 44094**

Mr. Smolic stated that he is also a business owner but in the City of Willoughby, Smolic Machine and has been in Willoughby for 51 years and just wanted to concur with everyone else who spoke in opposition of the shooting range.

Chairman Merhar asked if there was anyone else in opposition and there was no one.

Chairman Merhar asked if there was any one that would like to speak in favor of rebuttal for the proposal and there was no one.

The following spoke in **favor of REBUTTAL** for the proposal:

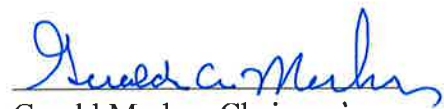
NO ONE

Chairman Merhar asked if there was any one that would like to speak in rebuttal for the proposal and there was no one.

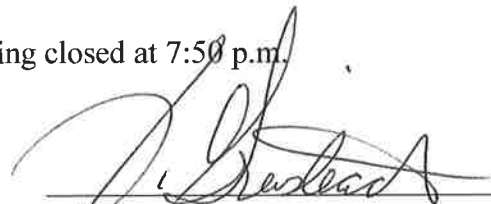
The following spoke in **REBUTTAL** for the proposal:

NO ONE

There being no further business the regular meeting closed at 7:50 p.m.



Gerald Merhar, Chairman



Vicki Grinstead, Secretary

*\*Note: After the public hearing ended Mr. Kevin Potter handed Vicki Grinstead a petition to end the skeet shooting and would like it entered as part of the record. The petition was date stamped.*