

CENTERVILLE PLANNING COMMISSION
Regular Meeting
Tuesday, April 29, 2014

Mr. Briggs, Acting Chair, called the meeting to order at 7:30 p.m.

ATTENDANCE

Present: Mr. James Durham, Mr. James Briggs, Mr. Bill Etson, Mr. Robert Muzechuk, and Mr. Kevin Von Handorf. Also present: City Planner Andrew Rodney, Assistant City Engineer John Sliemers, Municipal Attorney Scott Liberman and Assistant Clerk of Council Julie Weaver.

Absent: Ms. Amy Korenyi-Both and Mr. Paul Clark.

MOTION: Mr. Etson moved to excuse Ms. Korenyi-Both and Mr. Clark. Mr. Von Handorf seconded the motion. The motion passed 5-0.

APPROVAL OF MINUTES

Mr. Von Handorf noted a correction on page three of the minutes of March 25, 2014. The center walkway would help meet UDO requirements for common access easement, alley or pedestrian pathway every 400 feet, not for traffic calming measures.

MOTION: Mr. Muzechuk made a motion to approve the minutes of the Planning Commission Meeting of March 25, 2014, with the correction. Mr. Etson seconded the motion. The motion passed 5-0.

PUBLIC HEARINGS

**UDO Text Amendment to Allow Cellular Antennas on Existing Tall Structures
Outside a Wireless Communications Overlay District**

Mr. Rodney explained the need for rewriting Section 9.55 of the Unified Development Ordinance, the wireless communications section, to reorganize the guidelines and clarify the verbiage for cell towers, antennae and their related facilities. The updates would speak to this unique use itself and where the use would be allowed. The changes would allow cellular antennae to be co-located on an existing structure outside a Wireless Communications Facility Overlay District with the approval of a Conditional Use Application. No other sections related to wireless facilities would be affected. Mr. Rodney noted that few tall structures exist in the City of Centerville outside commercial zoning districts.

When Mr. Von Handorf asked for the definition of a tall structure, Mr. Rodney stated that tall structures were not seen as a particular height. Limiting the antenna to ten feet above the structure on which it is mounted would be the determinant.

Mr. Briggs opened the public hearing.

Mr. Ed Block, GPD Group of Akron, Ohio, on behalf of AT&T Mobility, explained that the cellular provider was trying to improve coverage for its area customers. Demand for greater amounts of data and increased speed was slowing service within nearby neighborhoods, but, because the area is very residential, no new towers could be built. In searching for a suitable site within this search ring, only the water tanks provided acceptable locations. In order to accomplish this, a text amendment to the UDO was needed.

With no other speakers, Mr. Briggs closed the public hearing.

MOTION: Mr. Durham made a motion to recommend the Unified Development text amendment to Council as recommended by staff. Mr. Etson seconded the motion. The motion passed with 5 ayes.

Application P-2014-0010, Conditional Use Application for a Wireless Communications Antenna and Ground Facility at 190 N. Johanna Drive

Mr. Rodney gave the staff report for the application to place a cellular antenna and its related ground facility on the 1.6 acre property owned by Montgomery County at 190 N. Johanna Drive. Mr. Ed Block, GPD Group of Akron, was the applicant on behalf of AT&T Mobility. The area is zoned R-1d, residential, with Tower Heights Middle School and Stingley Elementary School adjacent to the site. Mr. Rodney used aerial photos and pictures to explain the proposal for a cellular antenna on the northernmost of the two water towers. The applicant is requesting an antenna height of 20'6" with a variance of 10'6" (also on the evening's agenda). The related ground facility would be 319 square feet. Approval by Planning Commission would be subject to Council approval of the text amendment and also this Conditional Use Application. He presented the staff analysis and discussed the Standards for Approval. In general, he felt that the requested use was not much different for the neighborhood than the existing use; the new impact would be minimal. He noted that Item A of the Standards for Approval was not currently met, but three variances were being sought. Staff recommended approval contingent upon adoption by Council of the previously discussed text amendment.

Mr. Briggs opened the public hearing.

Mr. Block of GPD Group said that he had already explained why AT&T wanted to make use of the water tower for its antenna and that he was present to answer questions.

Mr. Briggs closed the public hearing.

MOTION: Mr. Etson made a motion to recommend approval of Conditional Use Application P-2014-0010 to the City Council, as recommended by staff with the following condition:

1. The approval shall be contingent on the adoption of a zoning text amendment to permit the proposed use in the R-1d zoning district.

Mr. Muzechuk seconded the motion. The motion passed 4-1, with Mr. Durham voting no.

Application P-2014-0011: Variances submitted by Ed Block of the GPD Group for AT&T Mobility at 190 N. Johanna Drive

Mr. Rodney gave the staff report explaining the three variances requested by Mr. Block for the wireless communications facility at 190 N. Johanna Drive. The three variances related to the requirements in Article 9.55 of the Unified Development Ordinance were as follows:

1. A 10'6" variance for height of the antenna which would stand 20'6" above the water tank. Ten feet is maximum height allowed.
2. A reduction of nine feet in the required twenty feet landscape buffer yard on the east and the waiving of the requirement to plant canopy shade trees in the landscape buffer.
3. A reduction of 89 feet in the required setback from the ground facility to the property line of the home to the east.

Mr. Durham questioned why the text amendment had not covered the 20'6" antenna. Mr. Rodney said there was a specific need for a service door to access the antenna in this case. Staff wanted to maintain close control of antenna height; ten feet antennae would be sufficient where access from a roof was possible and more acceptable in the downtown. Mr. Liberman concurred that staff had not wanted to approve 20'6' antennae *carte blanche* and that the timing of the process was unusual. However, any approvals for variances or the site plan would be subject to adoption of the text amendment and the conditional use application being approved by Council. Mr. Durham urged careful crafting of ordinances to avoid the need for future variances and noted the difficulty of adjudicating hardship when the same body creates the hardship and determines the need for the variance at the same meeting. He suggested the text amendment might have had a section to deal with antenna height for water tanks when a service or man door was required.

Mr. Rodney returned to the descriptions of the variances. On the Montgomery County water tower, the applicant proposed placing the antenna atop a pod that included a service door for access for maintenance of the tank and the antenna. The pod, the antenna and a lightning rod created a unit 20'6" high. The code allowed ten feet. The City Planner then explained the requested variance of 9' for the required 20' landscape buffer yard, because the ground facility was only 11' from the east property line. He said a border of 6' arborvitae would be provided as screening except where the access road or underground structures made planting the shrubs impossible. He agreed with the applicant that it was impractical to plant canopy shade trees in the landscape buffer with the unusual underground infrastructure, water valves, overflow swales and cables in the immediate area. For the third variance, Mr. Rodney used a map to show the distances between the ground facility and the adjacent residential properties. The nearest home was 142 feet away to the east; the house was a vacant rental with no immediate plans for occupancy. Mr. Rodney went over the Standards for Approval of Article 5.17 (D.) of the UDO and recommended approval of the three variances with specific mention that shade trees not be required in the landscape buffer. Mr. Rodney's recommendation did note that there was no clear evidence of hardship in meeting the requirement for a 20' buffer yard.

Discussion of procedures and questions of the applicant followed. Planning Commission concurred to vote on the variances separately. Mr. Block stated, at ten feet high, the antenna would need to be dismantled and out of service for maintenance (repainting) of the water tank and would have to be welded onto the tank exposing the tank to corrosion issues. Montgomery County Environmental Services preferred no landscaping be required.

Inquiries from the Planning Commission included the frequency of employees visiting the site, how the location of the telecommunications building was determined, other options for the placement of the building, and the possibility of attaching the antenna to the side of a pod instead of atop the access door unit. During the discussion, Mr. Etson pointed out that if the building were shifted 9' further from the property line residential boundary on an angle more up and under the tower, no variance would be required for the size of the landscaping buffer. In this case, the nearest house would be 150 feet from the ground facility, even if the property line was only 20 feet. After checking the survey map, Mr. Block agreed that the possibility of moving the structure could be pursued.

Mr. Durham summarized the situation from his perspective. He noted that the reasons for granting a variance for antenna height were strictly economic—a consideration that was not a valid motivation. He stated he was in favor of waiving the requirement for canopy shade trees as part of the landscaping plan because of the practical difficulty of the underground elements of the site. He pointed out that denying the third variance and reducing the variance from 89' to 80' would cause the building to be moved, as had been discussed, and clear the need for the variance for the width of the landscape buffer.

MOTION: Mr. Muzechuk made a motion to approve the request for a variance of 10'6" for the antenna on the water tank, subject to the conditions recommended by staff. Mr. Etson seconded the motion. The motion was denied by a vote of 1-3-1, with Mr. Muzechuk voting aye and Mr. Briggs abstaining.

MOTION: Mr. Durham made a motion to omit the requirement for canopy shade trees in the landscaping plan, as recommended by staff. Mr. Von Handorf seconded the motion. The motion carried by a vote of 4-1, with Mr. Briggs voting no.

MOTION: Mr. Durham made a motion for approval of the variance for a reduced landscape buffer. Mr. Etson seconded the motion. The motion was denied by a vote of 0-4-1, with Mr. Briggs abstaining.

MOTION: Mr. Durham made a motion for approval of a setback variance of no more than 80 feet. Mr. Von Handorf seconded the motion. The motion passed 4-1, with Mr. Etson voting no.

Mr. Liberman advised Mr. Block that the decisions of the Planning Commission could be appealed to the City Council by filing an appeal application with the Clerk of Council within 15 days of this meeting.

Unified Development Omnibus Text Amendment: 2014 Clean-up

Mr. Rodney gave the staff presentation summarizing this request for numerous updates to the Unified Development Ordinance. In his explanation of the amendments, he highlighted various items from his memo in the Planning Commission packets. Updates included:

1. Clarifying the vote count needed to adopt a motion of Planning Commission or the Board of Architectural Review.
2. Easing of some requirements for Major Site Plan Review.
3. Adding a requirement that a Major Site Plan must comply with an approved Final Development Plan.
4. Requiring greater detail for Plan Review for a Certificate of Zoning Compliance.
5. Requiring a super majority vote to overturn the decision of the planner, the Planning Commission or Board of Architectural Review on appeal.
6. Adding regulations for charitable donation bins.
7. Adding new permitted uses in I-1 zoning districts.
8. Removing internal setback standards for Planned Development zoning districts.
9. Modifying landscape regulations to give greater flexibility to landscape designers when developing site plans.
10. Permitting up to 25% of the area used strictly for storage to be omitted from the gross floor area computation used to determine the number of required parking spaces for a business.
11. Clarifying intersection design and stormwater regulations and including additional documents for applicants to review.
12. Easing design standards for residential accessory structures.

Mr. Durham initiated discussion of the number of votes of Planning Commission required for passage of an item. The new requirements would include the need for a super majority, a majority of the whole commission, not just the members present, so 3-2 votes would fail. In a 4 person quorum, a single commissioner would have the power to veto any issue. Mr. Durham was not in favor of such a system, although Mr. Rodney felt that super majorities were important should cases be litigated. It was pointed out however, that at the Planning Commission level, everything can be appealed prior to action in the courts.

Mr. Liberman shared a brief history on the matter and pointed out that the Ohio Revised Code now required a super majority of Council votes overturning a Planning Commission decision.

Mr. Von Handorf asked about the changes to landscaping requirements for Residential Cluster Developments. Mr. Rodney stated that the change would allow greater flexibility to determine what would be appropriate, on a case by case basis.

Mr. Briggs opened the public hearing.

MOTION: Mr. Durham made a motion to table consideration of these clean-up items amending the Unified Development Ordinance to the next meeting of the Planning Commission on May 27, 2014. Mr. Muzechuk seconded the motion. The motion passed 5-0.

OLD BUSINESS

Application P-2013-0007: Rezoning of Two Areas in the Northeast Quadrant of Cornerstone North From B-PD to R-PD

Mr. Durham made a motion to remove Application P-2013-0007 from the table for consideration. Mr. Briggs seconded the motion. The motion passed 5-0.

Mr. Rodney gave a brief history of the application, noted that it had been tabled several times in the past and stated that the applicant had requested withdrawal of the application in a recent communication from Mr. Robert Hall. Mr. Rodney stated staff's agreement that it was better to withdraw the application and concentrate on current issue in Phase 1 of the development of Cornerstone North. No action was required of the Planning Commission related to the withdrawal of the application.

NEW BUSINESS

Application P-2014-0012: Major Site Plan for a Wireless Telecommunications Facility for AT&T Mobility at 190 N. Johanna Drive

Mr. Rodney gave an abbreviated staff report because of the familiarity of the group with the plan, at this point of the meeting. He went over the staff responses to the Standards for Approval, saying he felt the Major Site Plan met the standards and that the votes on the variances had not required substantive changes to the site plan. Staff recommended approval subject to one condition related to the submission and approval of a stormwater plan and a grading plan.

MOTION: Mr. Durham made a motion to approve Application P-2014-0012, the Major Site Plan for the wireless telecommunications facility at 190 N. Johanna Drive, subject to the condition recommended by staff. Mr. Muzechuk seconded the motion.

Mr. Etson stressed the need to mention the variances from earlier in the meeting in the motion.

MOTION: Mr. Durham amended his motion to approve the Major Site Plan, with the following two conditions:

1. A detailed stormwater and grading plan, in accordance with Article 9.35 of the UDO, shall be reviewed and approved by the City Engineer.
2. The ground facility building shall be moved, in accordance with the earlier votes on the variances.

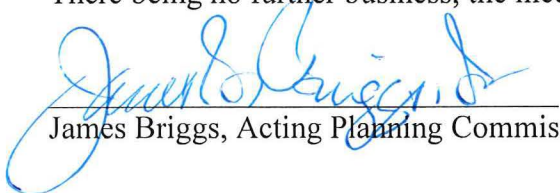
Mr. Etson seconded the motion. The motion passed unanimously 5-0.

COMMUNICATIONS

Under Communications, Mr. Rodney pointed out the need to appoint a Vice-Chair at the May meeting, gave an update on Cornerstone North and reported on the Council meetings of April 21 and May 12 where the Zengel plat Preliminary Development Plan was approved with conditions.

The next meeting of the Centerville Planning Commission is May 27, 2014 at 7:30 p.m. in the Council Chambers. Mr. Durham stated that he would not be present for said meeting.

There being no further business, the meeting was adjourned.



James Briggs, Acting Planning Commission Chair