

Athens City Planning Commission
Minutes of Regular Meeting
Thursday, May 19, 2016, 12:00 p.m.

The regular meeting of the Athens City Planning Commission was held in the Council Chambers, third floor, at City Hall on May 19, 2016.

Attendees: Matt Graiser, Jeff Risner

1. **Call to Order**

Nancy Bain called the regular meeting of the Planning Commission to order at 12:11 p.m. and administered the oath to all who intended to speak before the commission. Quorum was established, one member absent.

PLANNING COMMISSION MEMBERS:

RJ Sumney, Chair Absent (through minute 12:00 Item 4)
Christy Zempter Present
Nancy Bain, Vice Chair..... Present
Steve Patterson, Mayor Present
Paula Horan Moseley, Service-Safety Director..... Present

STAFF:

Paul Logue, City Planner Present
Rick Sirois, Code Enforcement Director..... Present

2. **Disposition of Minutes**

Paula Horan Moseley moved to accept the minutes of May 5, 2016. Christy Zempter seconded. All voted aye (one abstention, one absentee).

3. **Cases**

**Case #16-06 39 Water Tower Drive
Wireless Telecommunications Special Use Permit**

Rick Sirois: Introduction

- AT&T Mobility is planning to upgrade and add equipment and new antennas to the 149 ft. existing tower.
- Modifications will occur to the platform at the 137 ft. level of the tower.
- No changes to the height or the footprint of the tower will be made.
- Removing six antennas and replacing them with nine similar sized, more powerful, antennas.
- Proper supporting documents were provided and the request meets with Code requirements under Title 43.

Paula Horan Moseley has provided Ohio University (property owner) with this information. She recommended approval with the condition that OU approve the modifications. Steve Patterson seconded. All voted aye (one absentee).

**Case #16-07 Title 21, Minor Subdivision Lotsplit
70 Columbus Circle (Laurel Properties)**

Rick Sirois: Introduction

The current parcel, A028200006107, is a 20.029 acre parcel held by Athens Health Realty, LLC. The request is to split this parcel into two parcels: the first would be 6.827 acres (the Laurels of Athens is on this parcel), the second would be 13.202 acres and is comprised of retention ponds and freshwater emergent wetlands. The second parcel borders the Hocking River and acts as a storm water runoff area for the Laurels of Athens.

The request is being made to aid in the applicants HUD application to refinance the Laurels of Athens. HUD requires Athens Health Realty to be a single purpose entity in order to allow the refinancing. The request of Athens Health Realty, LLC is to allow the 13.202 acre parcel and “continuous and contiguous” requirements to be transferred to Athens Health Realty Holdings, LLC.

The request does not meet the requirement of Title 21, sub-division requirements 21.04.04. The split would provide for a landlocked parcel with no road access. It would be in the best interest of the City to hold Athens Health Realty, LLC or Athens Health Realty Holdings, LLC accountable for the “continuous and contiguous” requirement, and to require a road easement to access the 13 acre parcel. Requirements should be placed as deed restrictions.

- Paula Horan Moseley
 - Requested clarification of the original 55 acre parcel and the 20 acre parcel included in the request. A previous split already occurred.
 - Will require a variance so once the Commission makes a recommendation it will have to go to Council.
- Christy Zempter
 - Expressed concern with moving forward with the case as it is complex and there is no representation from Athens Health Realty, LLC present.
 - Complexities include: access easement, continuous and contiguous requirement, drainage easements on the secondary property, most of the undeveloped new parcel is in the floodplain, and Athens Health Realty is trying to seek a variance from HUD for the contiguous and continuous requirements, and the outcome of that is not known at this time.
- Steve Patterson
 - Locating an R3 (The Laurels) in a B3. The 13 acre parcel is zoned B3 and is in a floodway.
- Nancy Bain
 - Suggested that they consider rezoning to open space designation.
 - There is a potential for development on the south side and up the hill.

Paula Horan Moseley moved to table the request. Steve Patterson seconded. All voted aye (one absentee).

4. **Communications**

Proposed Subdivision Bonding Language Change to ACC 21.08.02

Rick Sirois: Introduction

The proposed changes do not remove the protections from the city. The current bond length (100% for two years) is unnecessary and excessive. The proposed change includes a 100% bond during construction and then switching to a 10% maintenance bond for 2 years after construction. This is the standard for other Ohio cities. Mr. Sirois provided a Bond Comparison Chart compiled by Atlas Ventures (attachment A), the recommended language changes (attachment B), and email communication of support from City Engineer, Andy Stone.

Paula Horan Moseley

Noted that on attachment A, Athens is the only statutory city listed on the spreadsheet. Statutory cities have to follow ORC.

Christy Zempter

Clarified that the change is just in separating the construction bond from the maintenance bond.

Jeffrey Risner

The statement of the bond was from the contractor's viewpoint. He would suggest that a statement from a bond company be obtained.

Matt Gaiser/Atlas Ventures

He has talked with three different bonding companies about the current code language, and they all confirmed that a bond based on the current language in the Code can't be purchased. A Performance Bond is valid up to the date of completion, and does not maintain the work after completion. Oakmont might have been the last project that would have worked under the current code, however, the "bonding world" has changed. The current Code doesn't allow for purchasing a maintenance bond. He was not aware of the difference in statutory vs. charter cities pointed out by Paula Horan Moseley.

Richard Sirois

He will research the statutory city/ORC question

Christy Zempter

Noted that the Performance Bond requirement will remain as written in the Code, and that she is fine with the proposed new language to include a 10% Maintenance Bond after construction is completed.

Paula Horan Moseley

Would like additional information regarding the question of the ORC and other Ohio statutory cities. Considers this a significant change and would like another two weeks for information gathering.

Steve Patterson

He would like to address the statutory city/ORC question and would like additional time as well.

Matt Gaiser/Atlas Ventures

A Maintenance Bond can't be purchased after construction is complete. He is being delayed because he does not want to begin construction without the knowledge that he will be able to purchase a Maintenance Bond. The Performance Bond is only good through to the end of construction. A Maintenance Bond would cover a failure in the road.

Their project is the road continuation at University Estates, Homestead Court. The plans have been submitted, reviewed and approved since 2015. The plans were approved by the commission in August of 2015. When they tried to purchase a bond in August/September of 2015, the bonding company advised them it couldn't be purchased. The delays have resulted in lost revenue.

Steve Patterson

This is the first time he has heard of the proposed language changes and issues they have been having. He wants to make sure that any language changes made do not conflict with Ohio Revised Code.

Paul Logue

City Council would have to approve this as well.

Paula Horan Moseley

The commission could move this along and recommend to Council, but time constraints will still exist because the number of hearings vary and Council has recess in July. The commission is not attempting to delay the project.

Nancy Bain

She likes to see due diligence when permanent changes to Code are proposed. The commission will be meeting in another two weeks.

Jeffrey Risner

Unless there is a legal opinion from the Law Director this is a non-starter, City Council will not approve the change if it is conflict with the ORC.

Matt Gaiser

It is his understanding that the Law Director has seen this and has been in discussion with Andy Stone about it.

Christy Zempter moved to support the proposed changes in the bonding language with the provision that a legal opinion from the Law Director be submitted. Steve Patterson seconded. 2 ayes, 2 nay, 1 abstained, motion failed.

Nancy Bain

Would like to read the legal opinion before recommending these changes to City Council.

Christy Zempter

The proposed changes in the language make sense to her, and can't see that there will be any conflicts with the ORC. If there is a contingency that the Law Director provide a legal opinion with the commission's recommendation to council, and it is found that there is a conflict with the ORC, then it would be negated.

Nancy Bain

The commission has not heard about this until now, and would like to move that the commission consider this at the next meeting.

Christy Zempter moved to recommend the changes to the subdivision bonding language in ACC 21.08.02 with the contingency that a legal opinion from the Law Director be presented to City Council along with the proposed changes. Steve Patterson seconded. 3 voted aye, 1 against, 1 abstained. Motion passed.

5. Report from City Planner and Director of Code Enforcement

Paul Logue

- The Building Doctor Clinic
 - The event begins this evening at 7 pm in Room B of the Athens Community Center, open to the public.
 - All ten slots are filled for home visits.
 - He will be assisting in tomorrow's home visits as a driver for the consultants to the various locations.
- Sustainability Commission
 - The plan is in final review and draft editing.
 - Elaine Goetz worked on formatting it.
 - A public meeting is being scheduled.

Rick Sirois

No report

6. Opportunity for Citizens to Speak

None

7. Announcements & Other Business

The next meeting of the commission will be June 2, 2016.

Steve Patterson

The City of Athens is exploring the West Union Streetscape Project. There will be an informational public meeting at the Army ROTC Department in Bromley Hall (north side entrance) on May 24 from 3:30 pm to 5:30 pm.

8. Adjournment

The meeting was adjourned at 1:00 p.m.

RJ Sumney, Planning Commission

Patricia Witmer, City of Athens