

Athens City Planning Commission  
Minutes of Regular Meeting  
Thursday, May 17, 2018, 12:00 p.m.

---

The regular meeting of the Athens City Planning Commission was held in City Council Chambers, third floor, at City Hall on May 17, 2018.

**Attendees:** Steve Pierson

**1. Call to Order**

RJ Sumney called the regular meeting of the Planning Commission to order at 12:05 p.m. and administered the oath to all who intended to speak before the commission. Quorum was established.

**PLANNING COMMISSION MEMBERS:**

RJ Sumney, Chair ..... Present  
Christy Zempter ..... Absent  
Nancy Bain, Vice Chair..... Present  
Steve Patterson, Mayor .....Present  
Andrew B. Stone, Service-Safety Director.....Present

**STAFF:**

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

*RJ Sumney welcomed Andy Stone, newly appointed Service-Safety Director, to the Planning Commission.*

**2. Disposition of Minutes**

*RJ Sumney moved to accept the April 19, 2018 minutes. Steve Patterson seconded. Motion passed 3:0, with one abstention, one absent.*

**3. Cases**

**Case #18-04                      Verizon Wireless  
    Modifications  
    13 E. Washington St.**

Rick Sirois

Verizon Wireless is planning to upgrade and add equipment and new antennas on an existing 34' self-supporting tower (total height of the tower including the garage is 104') located on the top level of the City Parking Garage. This new request involves modifying an antenna platform on the tower. No changes to the height or footprint of the tower will be made. The platform will be modified by adding three RRH's (remote radio heads). Proper documents were provided for the structural analysis of wind and foundation

requirements. After a review of the documents it was determined that the request met with code requirements under Title 43.

This case was tabled from the last meeting to allow for contract negotiations. The contract has since been renewed so Steve Patterson moved to approve Case #18-04. Nancy Bain seconded. All present voted aye. Motion passed 4:0.

#### 4. **Communications**

##### **Hoon, Inc. /Herrold Avenue Lot Split**

###### Rick Sirois

Cassandra Bowen/Hoon, Inc. has submitted an application for a minor subdivision lot split. He has questions regarding easements and whether this should be considered a minor or a major subdivision. There are some drainage considerations as well.

###### Steve Pierson/representing Cassandra Bowen, owner of Hoon, Inc.

Ms. Bowen is requesting to split Parcel #A028010002001 (20 Herrold Avenue) in order to transfer a portion and the building on it to a potential buyer. The closing date has been delayed so that they could come before the Planning Commission. The application is for a minor subdivision, not a major subdivision. The only issue to consider is a variance for a private easement in lieu of public road frontage. He and Ms. Bowen have been in email communication with Rick Sirois.

###### Discussion

**Rick Sirois:** Under the major subdivision it references item C “involves division or allocation of land that is a utility or drainage easement”. There is a history on this property regarding drainage. On the deed restrictions it is specified that any concerns or movement of property will require that the pond remain on the property for drainage. He would like the Planning Commission’s direction on that; if the Planning Commission is comfortable with this being a minor subdivision than he is ok with that as well.

**Andy Stone:** This portion of the city has had challenges related to drainage. The retention pond in the aerial photo is functionally the leftover low-ground from the ditch that used to be beside the railroad. Over time the ditch has been filled in and the fairgrounds have experienced intermittent flooding with heavy rains. In 2004, EPW worked with Ms. Bowen’s father for a solution to overflow into the Herrold Avenue storm line that would prevent the fairgrounds from flooding. A full storm sewer was not built at the time because it wasn’t public and the Herrold Avenue storm line was too small. In 2009, the Herrold Avenue storm line was enlarged so the pond could be filled in now and storm water could be diverted to the Herrold Avenue storm sewer. Whether this should be a public or private improvement is something that should be discussed. Another concern is that six parcels will be served by an access easement across private property from Herrold Avenue, and further, the utility access for city owned utilities is from Herrold Avenue. A small garage that is owned by Larry Young is served via a private utility easement that goes along the same route as the drainage easement shown on the proposed lot split. Multiple properties would use the same easement to drain to.

One owner is workable but when you have several owners (including Visiting Nurses, the Get Group and Larry Young) this will be difficult for the city to manage and could result in a significant public expense.

The commissioners discussed the location of the various properties, buildings, pond, etc. shown on Exhibit B of the packet provided by Mr. Pierson. Andy Stone noted that exhibit B is a survey that was done several years ago (dated 10/7/2004), prior to the overflow project. The pond is smaller now. Andy Stone would support a subdivision because it would support development but considerations would have to be put in place for the easements. Mr. Sumney noted that the priority is to determine whether this should be considered a major or minor subdivision and then go from there. Andy Stone suggested that this be discussed with the Law Director's Office.

**Steve Pierson:** Regarding the earlier definition of a major subdivision: 1. "a division of land when more than 5 lots are being split from an original parent parcel." In this case that is not applicable, 3 will be created from this split but the total will be 5 and that falls below the threshold. 2. "extension of new easements for access ingress/egress and new easements for utilities". No new easements are being created. They are all existing easements and each are recorded in the deeds, especially for storm water retention. (Mr. Pierson discussed University Commons and how runoff was dealt with historically.) Not proposing any development at this time for this application, just dividing land and so the existing building can be sold. The pond is something that should be dealt with but at this time there is nothing proposed.

**Andy Stone:** In 2013, the city funded the design of a storm system that would allow elimination of the pond completely to capture storm water from the fairgrounds, University Commons and all the parcels involved here and pipe it to Herrold Avenue, and to include storm water pollution prevention features at the fairgrounds. In his opinion this design is a permanent solution but the question is who builds it. The design was provided to the owners at that time (Ms. Bowen, Get Group, Larry Young). His concern with this lot split is that there will be another owner involved now without any knowledge of the history, yet will be encumbered with the easements and requirements over time that have been established. He would like this to be made clear to the new owner. Regarding Mr. Pierson's reference to 5 parcels, the original was a railroad parcel. Exhibit B shows 5 parcels and with the split there will be 7 (unless the frontage with the Get Group doesn't count).

**Steve Pierson:** How far back in time do you go to determine what the parent of the original parcel is? This parcel was sold by the CSX railroad. His understanding is that each new owner is permitted up to 5 splits.

**Andy Stone:** CSX had it since 1855. The splits started in the 1980's.

**Steve Pierson:** It is his contention that this does not meet the criteria of more than 5 splits.

**Rick Sirois:** Redirected back to his original question and read from ACC current code:

*21.03.07- Outline of conditions for major subdivision.*

*A proposal involving any of the following shall be subject to major subdivision procedures:*

*(A) More than five lots, any one of which is less than five acres, including the original tract.*

*(B) Creation, widening or extension of a street or access easement.*

*(C) Division or allocation of land as a utility or drainage easement.*

**Steve Pierson:** We aren't creating any new easements, they already exist.

**Paul Logue:** "A proposal involving any of the following (C) Division or allocation of land as a utility or drainage easement."

**Rick Sirois:** They are existing but once this is all said and done you will have to have new requirements. Read from a general reference deed.

**Steve Pierson:** In response to Andy Stone's other comment, there will be no new property owner to deal with the existing situation. Hoon will retain the pond. The property they will sell will not require a new easement for utility or access. Hoon will retain the area in the middle and will be willing to address it later when they know what their development plans are for the area. Ms. Bowen understands that she will have to maintain the requirements.

**Andy Stone:** On the exhibit Exline Survey, the 25 ft. wide easement is shown. Who owns it?

**Steve Pierson:** He understands that Larry Young uses that easement for water and sewer.

**Andy Stone:** Is he the exclusive owner? Functionally, that easement would have to be jointly owned for others to use it to cross it (Tract 3).

**Steve Pierson:** The lot retention by Ms. Bowen would be the existing deed less that parcel she is wanting to split off. She is not proposing to use that easement.

**Andy Stone:** Could Larry Young say "that is my easement you can't use it"? The access easement against the 60' wide Visiting Nurses property is for the purposes of everybody. The one in the back is the one he is more concerned about for public utilities.

**Steve Patterson:** You reference the VFW, is that the Visiting Nurses?

**Andy Stone:** That is the previous owner.

**RJ Sumney:** Nothing would be done with the pond until a new owner was established?

**Steve Pierson:** Yes, continue with the status quo.

**Nancy Bain:** Why not do it now? Do it right and get it done.

**Steve Pierson:** Economically, it is not a good time for Hoon, Inc. It will happen eventually.

**Nancy Bain:** But the economy is forecasted to be good, why not do it now?

**RJ Sumney:** Prefers to get legal clarification and review on the question of major vs. minor subdivision.

**Steve Patterson:** Concern is not knowing how the language of the easement reads. He would like clarification.

**RJ Sumney:** Would also like the legal department to determine how many lots we are talking about.

**Andy Stone:** The road as it stands now is owned by Athens Visiting Nurses, not Ms. Bowen. The problem could be solved if the Athens Visiting Nurses would dedicate the road to public right-of-way. Has anyone approached the Visiting Nurses to see if they would be agreeable?

**Steve Pierson:** Reviewed some history regarding Larry Young's property and city's regulations and the previous splits.

**Paul Logue:** If they don't have access to a utility easement where would they drain?

**Andy Stone:** They would have to change the ingress/egress easement to include ingress/egress but also utilities.

**Paul Logue:** That would go back to the major subdivision definition of adding a private easement.

**RJ Sumney:** Since we are at the communication stage, we should have the legal department look at this for clarification. Some of the points here are that Steve Pierson believes that the lot split should occur regardless of the pond issue. Some commissioners want to find out if the pond issue can be cleared up at the same time.

**Steve Pierson:** Asked if clarifications could also be made to determine whether the easement can include other utilities and not just storm.

**Andy Stone:** The 25' utility easement doesn't include the pipe that Mr. Hoon installed that comes out of the pond. The pipe is running beyond the 25' easement.

**RJ Sumney:** So the pond is germane to whether the split can occur?

**Andy Stone:** If the split is allowed then it should address the location of the pipe. When you look at the picture the pipe is outside of the 25' easement. He would like to see that as a minimum; the storm line being shown in its actual location on the Exline survey document.

**Steve Pierson:** If that is a problem it has existed for 10 years now and should be addressed regardless of this lot split.

**Nancy Bain:** Come back with a general statement about why that road will be made or not made. It is the law today, the past is not relevant today.

**Steve Pierson:** The Planning Commission made that determination in the recent Sole & Bloom case off E. State Street. It wasn't considered a major subdivision. We want equal consideration.

**Andy Stone:** Historically this particular situation has resulted in significant public expense to the city of Athens. If this split is granted he would like some protection against further public expense.

**Steve Pierson:** We are just looking for clarification about what we need to do to accommodate the split.

## 5. **Report from City Planner and Director of Code Enforcement**

### Paul Logue

- Comprehensive Plan: There are a series of neighborhood open houses scheduled this summer:
  - 6/7 Far East Side at the Community Center, 11-1 & 6-8
  - 6/12 Near East Side at the Public Library, 11-1 & 5-7
  - 6/14 North Side at the Highland Park Pavilion, 11-1 & 5-7
  - 6/26 West Side at Arts West, 11-1 & 5-7
  - 6/28 South Side at the OU Inn, 11-1 & 5-7Will have online and other forms of citizen participation for those unable to attend the open houses.
- Athens is participating in National Bike to Work Day on May 18<sup>th</sup>. There will be four stations around town to stop and get snacks/coffee.

- Athens Armory Day, Saturday, May 19<sup>th</sup>. An historic marker from Ohio History Connection will be installed at 11 am. Armory will be open and the SE Ohio History Center will be open for free.

Steve Patterson: Parking study for uptown area is a good read, valuable information.

Paul Logue: Active Transportation Study (ODOT grant)/will have a draft at the end of the month, will incorporate into the Comprehensive Plan.

Rick Sirois

- Grass growing season is upon us, please mow your lawns.
- Staff is inundated with contractor registrations.

Steve Patterson: Vegetation is also growing in gutters which breeds mosquitoes, so please keep your gutters clean.

Andy Stone: In doing the environmental clearance for the NW bike path spur, ODOT District 10 noted that it is possible by June, 2019 monarch butterflies will be on the endangered species list which will impact what you are allowed to mow.

Working with City Planner on Stimson corridor project and looking at land use on Stimson Avenue --- zoning changes may occur.

**6. Opportunity for Citizens to Speak**

None

**7. Announcements & Other Business**

Steve Patterson distributed an article about micro estates (or humble homes) in Tempe, AZ. There are several city owned parcels where this could be explored.

The next meeting will be June 7, 2018.

**8. Adjournment**

The meeting was adjourned at 1:03 p.m.

---

RJ Sumney, Planning Commission

---

Patricia Witmer, City of Athens