

Cuyahoga Falls City Council
Minutes of the Planning & Zoning Committee

January 4, 2022

Members: Susan Spinner, Chair
Jerry James
Adam Miller

Mrs. Spinner called the meeting to order at 6:43 p.m. All members were present.

The minutes of the November 15, 2021, and December 6, 2021 Planning and Zoning Committee were approved as written.

Legislation Discussed:

Temp. Ord. B-136

Discussion:

Temp. Ord. B-136

An ordinance accepting the Planning Commission's recommendation for the approval of a conditional zoning certificate for a wireless communication facility on City property at Oak Park located at 2136 13th Street and declaring an emergency.

Mr. Rob Kurtz, Planning Director, presented Temporary Ordinance B-136 to Council. The proposed project consists of the construction of a 143'-high monopole tower and wireless communication equipment to replace an existing installation atop the city's nonfunctioning water tower near the northwest corner of Oak Park. The tower would be within a fenced area south of the existing the water tower and adjacent to an existing utility building.

In 2005, the City entered into a long-term License Agreement with T-Mobile (successor in interest to VoiceStream Columbus, Inc.). The agreement is essentially for a 30 year period (until 2035). Subsequent to the License Agreement, the Oak Park Water Tank was removed from service, and, over the years, the water tank's structural integrity has become questionable. The City sought approval from the Ohio EPA to demolish the tank, which was granted via letter dated October 18, 2019. The City has 5 years from the date of the EPA letter in which to demolish the water tank. During this time, the City conveyed its intent to demolish the tank to T-Mobile. As a result, T-Mobile's Corporate Counsel sent a letter to the City stating that "[t]he City does not have the right to demolish its tank due to obligations under the Lease."

To avoid lengthy litigation involving the interpretation of the agreement, the City began exploring an alternative resolution which will enable the City to remove the obsolete water tank and allow T-Mobile to continue uninterrupted service to its customers. The City was approached by TowerCo, a cell tower company that has worked amicably with the City in the past. Based upon existing City infrastructure, it was not possible to demolish the water tank and construct a cell tower on the same site. The proposed location will not interfere with the park patrons' use of the park. The proposed cell tower will be much smaller in circumference and shorter than the existing water tank. It is our intent to move forward with this project so that we can meet our legal

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obligations under the existing 2005 agreement, maintain and improve phone services in Cuyahoga Falls and eliminate a deteriorating water tank.

At the November 16, 2021, Planning Commission meeting, the Commission members voted to recommend approval of the Conditional Zoning Certificate of Project CZ-21-00047 subject to the following stipulations:

1. Continued conditional use and maintenance of the wireless telecommunication facilities are subject to the specific standards as detailed in Ch. 1135 Wireless Communication Facilities of the General Development Code and the plans and review associated with file CZ-21-00047.
2. The area be fully enclosed and screened to minimum General Development Code Standards. Submission of a refundable cash landscape/site completion bond payable to the City in the amount of no less than fifty percent (50%) of the cost of quantities specified in the plan be provided prior to permit approval.

Mrs. Spinner stated that she wanted to confirm that TowerCo is building and paying for the tower. Mr. Jason Woodard, Director of Business Development for TowerCo, stated that is correct. Mrs. Spinner asked if they will be leasing space to T-Mobile for their transmitter. Mr. Woodard stated that the tower is designed to hold multiple tenants. Mrs. Spinner stated that this they are just replacing what currently exists on top of the water tower onto this other tower.

Ms. Nichols-Rhodes thanked the Administration and, in particular, Ms. Janet Ciotola, Law Director. They have spent several years putting a plan in place and no stone has been unturned to figure out the best solution. She has met with several of her constituents about this, and everything is open and aboveboard.

Mr. Gorbach asked if other vendors may want to put up a pole, would the City direct them to this pole if it were in the general area that they want to serve and would the City have a hand in making the decision about that. Ms. Ciotola stated that a company cannot construct a cell tower wherever they want. They have to reach an agreement with the private property owner. To co-locate is cheaper and better. They would be incentivized to go on an existing cell tower rather than trying to find a location and go through the hoops to construct a new one. It is an expensive process through the FCC with a lot of regulations and a lot of costs. If they scope out the area and if their equipment is compatible with a certain tower, they would certainly want to co-locate.

Mr. Woodard state that TowerCo has master license agreements with all the major carriers in order for them to co-locate on their tower, and it's encouraged. They likely would not want to build a tower in close proximity unless there was another need in the area. This tower covers a great deal of areas surrounding with existing sites, so that would be a tower that would co-locatable. Based on the current codes, a key location is required to be fully exhausted before a new tower could be built.

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Mrs. Spinner thanked everyone in attendance for the swearing in of Council and organizational meeting held this evening. She also wished Noah Spinner, a Ward 2 constituent and her son, a Happy Birthday.

Mr. James moved to bring out Temp. Ord. B-136 with a favorable recommendation, second by Mr. Miller. Motion passed (3-0).

The meeting adjourned at 6:55 p.m.