

Athens City Planning Commission
Minutes of Regular Meeting
Thursday, September 7, 2017, 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 September 7, 2017.

Attendees: Jim Bloom, John Sole, Sarah Conley Ballew, Kaela Ciancibello

1. **Call to Order**

RJ Sumney called the regular meeting of the Planning Commission to order at 12:01 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 Present
Nancy Bain, Vice Chair..... Present
Steve Patterson, Mayor Absent
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 August 17, 2017 minutes. RJ Sumney seconded. All present voted aye. Motion passed.

3. **Cases**

**Case #17-16 Title 21 Minor Subdivision/Lot Split
Madison Heights
Diversified Properties**

Rick Sirois/Synopsis

Title 21 lot split minor subdivision of the Madison Heights area. Unique request for lot splits of Madison Heights at the corner of East State and Madison; 1.188 acre lot split into 5 parcels. Project is being approached as a minor subdivision, first seeking lot split approval and then following with rezoning parcels A, B & D2 to R1 and parcels C & D1 to R3. Plan is to construct single homes on parcels A & B and duplexes on C & D1. Submission to the Board of Zoning Appeals will be required to obtain approvals on the required variances.

Jim Bloom/Diversified Properties

252 East State Street (Madison Heights). They have owned the property almost 12 years, and considered different concepts for development throughout the years. This is the plan that they think is the most appropriate. Submitted originally to the Code office and they addressed the issues that were presented after review, and went through as a communication earlier. They withdrew from the scheduled case hearing in order to consult with their attorney about a potential ingress/egress issue.

Ingress/Egress issues as they relate to this property are significant and complex. They have access to this property with easements that exist for adjacent property owners who have real estate further back on the property without road frontage. There is another loop that is a granted easement from an adjacent property owner for ingress/egress for the other part of the property where the single-family lots will front. Made sure with their attorney that the existing easement would apply for parcels A and B. As it exists today, the ingress/egress easement is granted. If this original easement is granted again to a future party, it will be diluted. So for parcels A and B (where they plan to construct single-family homes), the advice from their attorney is that they will need to attach the existing easement specifically to each of those lots so they have the rights to ingress and egress. The easement will be in perpetuity and will be available to attach to each of the individual lots.

This is an irregular piece of property. On the orange properties the existing garage will be demolished and replaced by two 2-bedroom units with four parking spaces underneath. The existing flower shop will also consist of two 2-bedroom units and the parking will be addressed in parcel D2.

Discussion

Jim Bloom, in response to the commissioner's questions and review of the plans:

- Parcel D2 is not affected by the new easement because it is covered under the old easement.
- We have access to all the easements that exist.
- Retaining the easement for D2.
- The easement grants all the rights and conditions that are afforded to them. A brand new easement is a recommendation by their attorney.
- The houses that abut East State St. still have permanent use of the easement.
- Doesn't envision a time that the public will be prohibited to use the loop because of the complicated easement language.
- Other caveats are the disconnection between lot D and parking, and shared maintenance agreements.
- The new easement will be attached and recorded with the deed for each parcel.
- C1 will have parking under the building.
- The parking will be retained uphill.
- Have no problem prohibiting Madison frontage access to that parcel.

RJ Sumney: Traffic at Madison and East State is a dangerous situation already – this will increase traffic.

Rick Sirois: Andy Stone didn't see an issue with it. Will be re-addressed when they go to the BZA for variances.

Nancy Bain: Would like to see open space.

John Sole: The topography is very challenging and nothing will be developed up there. The parking that is outlined is about all the parking there ever could be in that location.

Jim Bloom: Language to be very specific about future use.

John Sole: Could put a demarcation as green space and zone it as open space.

RJ Sumney: Garbage trucks on Tuesdays stop very close to the D1 parking. Where is the garbage going to be placed?

John Sole: There is a space in the parking area that would take care of both C1 and D1.

Rick Sirois: The parking spaces meet code requirements.

Paula Moseley: A new waterline has been installed on Madison, so a utility easement will be required for parcel B from A or C.

John Sole: Two water taps have already been made for them.

Jim Bloom: We would like the Planning Commission's endorsement if we will be required to go before the Board of Zoning Appeals.

Rick Sirois: That is the current structure we were going with because we are treating this as a minor subdivision and not a PUD.

The Planning Commission members, Paul Logue, Rick Sirois, and Diversified Properties discussed at length the PUD process vs. the Title 41 Lot split/Minor Subdivision processes, and the roles that the Planning Commission, BZA, City Council, etc. play in the process. Diversified Properties decided to move forward as presented.

Paula Moseley: The case that is presented today can be voted on.

Nancy Bain moved to recommend the Title 21 lot split for the property on Madison and recommend rezoning as follows:

1. Recommend the lot split as outlined on the plat of the survey attached.
2. Recommend rezoning as indicated in the memo that is the two orange areas that go from B1 to R3 and the remaining parcels B and C and the parking parcel D2. Parcels A & B rezoned as R1 and R3 on the two that have buildings on them would be redone (C and D).
3. Recommend that the parking lot be established as drawn on the map and rezoned as noted, and the rest be designated as open space.
4. Recommend that the parking on Madison be retained with a retaining wall.
5. Recommend that action be taken that there will be no access to Madison from parcel A (other than the existing easement).
6. Recommend that the enhanced loop ROW/private road as shown on the map be continued that would allow access from other properties and the public.
7. Recommend that there be a shared maintenance agreement.
8. Recommend a new easement for the existing ingress/egress easement that retains access to D.
9. Recommend that all relevant easements be recorded on the deeds and copies be provided to the Code Office.

Christy Zempter seconded. All present voted aye. Motion passed.

4. **Communications**

SolSmart/Sarah Conley Ballew, SolSmart advisor

Facilitating the process to achieve SolSmart designation for the city. The designation process included review of the city code to identify any barriers or gaps to solar development. She provided her review in a memo that she discussed with Paul Logue and Rick Sirois. This presentation today will achieve points toward the designation. After feedback from today and further meetings with Paul Logue, she would like to draft ACC language to present to the Planning Commission in October. The goal is to have the language drafted in time before the Comprehensive Plan review process beginning in November, to allow for public review and adoption by City Council.

Barriers/Gaps in the code language to solar development:

- Accessory use structures. Current zoning languages limits accessory use structures to two. Best practice asks to be exempt from this accessory use structure requirement. Impact would be if a resident wanted to ground mount. In Athens the trend is to install roof top systems. It is not in city's interest to make changes in code to accommodate the ground mount system.

Rick Sirois: This will encourage roof top systems because they are simpler and you don't have to deal with setbacks and complaints from neighbors, etc. Would like to treat these solar systems as accessory structures. Roof top mounts do have some potential issues with trees and other buildings blocking the sun. Most ground mounts are static, like at Devils Kettle, and they had to abide by the set back requirements.

Paul Logue: The main concern is in taking away the accessory use language with respect to ground mount in a single-family neighborhood (vs. commercial). Single family zoning in a compact neighborhood would probably get concerns from citizens about ground mount systems.

Christy Zempter: Language can be incorporated in the code specific to solar panels.

Rick Sirois: Adding a section would be his preference, rather than going through the entire code and changing everything that pertains to accessory structures.

Sarah Ballew: We will take no action to that recommendation.

Christy Zempter: We would add language to specifically address ground mounted solar panels.

- Height Regulations for residential structures. Exceeding a maximum allowable height can prevent installation of solar systems. No precedent set has been set in the city. Is this a priority for the city?

Paula Moseley: Height is always an issue.

Paul Logue: Less permissive recommendation in her memo (like for chimneys, cornices, etc.) would allow flexibility.

Sarah Ballew: Flush mounted vs. ballast mounted probably should not be specified because it opens it up to restrictions.

Rick Sirois: Installation at the 15' level will be very costly. His recommendation is 5' at the greatest.

RJ Sumney: We should still endorse a maximum height restriction.

- Gaps in current code language. Items that don't exist in the code.
 - Add definition of solar energy systems to our code. She has offered two suggested definitions. The second definition may be the most appropriate. The first definition is lengthier and more permissive.
 - Permitted use in residential areas. List solar energy systems as a "by right" use in all zoning districts or specific zoning districts?

Christy Zempter: Agrees that we need a definition especially if a section is going to be added for solar panels. Regarding "by right", we would want to maintain certain zoning restrictions as defined in the code.

Sarah Ballew: Ground mount is the complicator here. Is it correct to conclude that the city doesn't have an interest in creating a "by right" use for ground mount?

Christy Zempter: If we added the language that ground mount solar systems don't need to meet the accessory use structure requirements in terms of number, but still need to meet all of the other zoning requirements that would address her concerns.

- Solar access easement. Protect the property owner's ability to build a solar system with adequate access to sunlight. Onus is on the owner to have an agreement with the neighbor. Does the Planning Commission see the need to take a more proactive approach to a solar easement or is the commission comfortable with a recommendation strategy on a solar easement process.

Paula Moseley: Both of the less permissive ones seem reasonable.

Christy Zempter: Likes the last one where the city is out of it and it is between the private property owners.

W. Union Lot Splits/Art Oestrike

Mr. Oestrike is not in attendance. Communication tabled.

Bylaws and Rules of Order

Tabled the communication pending Law Director review and presence of full quorum.

5. Report from City Planner and Director of Code Enforcement

Paul Logue

- Comprehensive Plan: There will be a public visioning session 9/21 at the Community Center. After the session they plan to post an online survey system for those who can't attend.

Rick Sirois

- There is a Wireless Telecommunications modification scheduled for the 9/21 meeting

6. Opportunity for Citizens to Speak

None

7. **Announcements & Other Business**
None

8. **Adjournment**
The meeting was adjourned at 1:34 p.m.

RJ Sumney, Planning Commission

Patricia Witmer, City of Athens