

**Athens City Planning Commission
Minutes of Regular Meeting
Thursday, August 18, 2022 12:00 p.m.**

The regular meeting of the Athens City Planning Commission was held in City Council Chambers, third floor of City Hall, on August 18, 2022.

Attendees: John Sole

1. Call to Order

Steve Patterson called the regular meeting of the Planning Commission to order at 12:05 p.m. and administered the oath to those in the audience planning to speak. Quorum was established with five members present.

PLANNING COMMISSION MEMBERS:

Steve Patterson, Chair	Present
John Kotowski, Vice Chair	Present
Nancy Bain	Present
Austin Phillips	Present
Andy Stone, Service-Safety Director	Present

STAFF:

Paul Logue, City Planner	Absent
David Riggs, Code Enforcement Director	Present

2. Disposition of Minutes

- *John Kotowski moved to approve the July 21, 2022 minutes. Nancy Bain seconded. Motion passed 4:0 (one abstention).*

3. Cases

Case #22-03 Title 41 University Estates Medical Office Building

David Riggs

- Requested that this be removed from the agenda and placed on the September 1, 2022 agenda as the developer was not ready to present yet.
- The Shade Tree Commission passed preliminary approval of the landscaping plan.

John K. moved to table Case #22-03. Andy S. seconded. Motion passed 5:0.

**Case #22-04 Madison Heights Zoning Change Request
Diversified Properties**

David Riggs

- Diversified Properties is requesting to rezone two parcels from R1 to R2.
- Change is based on conforming to the existing neighborhood and best use of existing property.

John Sole/Diversified Properties

- The public notification has been advertised. They are ready to move forward and can answer any questions or concerns.

Discussion Points

- John S. clarified with John K. that the two front parcels are R-3, the parcels in the back are the ones that are currently zoned R-1 that they are requesting to be changed to R-2.
- Andy S. noted that the change will allow to develop with more density. With the increased density he asked if fire access to the back parcel will be adjusted to mitigate the risk.
 - John S. noted that the fire hydrant is only about 60' from the property line, so he doesn't feel it is a detriment. He has had previous development projects that were approved by AFD that were higher in density than this one and further from access.
 - Andy S. noted that the question is whether the Planning Commission and City Council will be willing to assume the risk of not having a truck able to access the rear. Chief Rymer recommends truck access.
- Nancy B. inquired about the traffic on the pathway and the loop, if they found that it is been an issue with people or a point of aggravation.
 - John S. replied that traffic isn't an issue. To his knowledge, people aren't aggravated.
- David R. noted that the BZA previously approved a setback reduction and this would still apply.

Nancy B. moved to approve Case #22-04 and provide a recommendation to City Council for their review/approval. Austin P. seconded. Motion passed 4:1.

4. **Communications**

Proposed Changes to Code

David Riggs

He would like to clean up sections of Title 23 as follows and per attached handout:

1. **23.04.04. – B-1 Neighborhood Business Zone.** Add "Outdoor dining shall be permitted." Under (A) (1)
2. **23.04.07. – B-3 General Business Zone.** Add "Outdoor dining shall be permitted." Under (A) (1)

John K. asked if permitting outdoor dining would require an enclosure. David R. said that none was included. Steve P. this pertains more to restaurant like Sol and Ciderhouse, and not the sidewalk dining uptown. David R. also noted that this does not speak to public right of way use. Andy S. suggested that language be added, like "shall be allowed in a clearly delineated area".

3. **23.04.07. B-3 General Business Zone.** Additions/deletions in section (A) (3)

David R. commented that this is per the recent Mythril Court Case judge's recommendation. It will match the rest of code. Andy S. noted that this is the case that the city lost, the establishment was either an eating or drinking establishment. David R. said that both KFC and Sonic would need a variance because they are still too close.

4. **23.06.02. Certificates and permits.** *Additions/deletions to clean up outdated/old language in sections (B), (C), (E), (F) and (G).*
5. **23.03.11. Accessory structures.** *Add sections for Accessory Energy Systems.*

David R. pointed out that for the added section on Wind Powered AES he is also suggesting a conditional permit so that there would be another layer of approval (would have to go to the BZA).

Discussion Points

- Andy S. commented that the City of Athens has a Sol Smart designation.
- Steve P. said that the city currently is at the bronze level. These changes could get us to the silver or gold level. The city wants to reduce carbon emissions by 50% by 2030.
- Steve P. asked that for the wind section, as part of the conditional use, should they be required to do a wind study, to show that they have done their due diligence? David R. said that this could be added.
- John K. inquired about screening requirements. David R. said that screening is only required for dumpsters or certain parking areas that abut other property.
- Nancy B. commented that neighbors get upset about ground mounted solar systems. David R. agreed, these changes are for private systems. A section will be added for the larger commercial systems.
- Andy S. cautioned about allowing those in M zones and B zones where no income tax can be collected. If it is an ancillary use it is still not a principle use. David R. said that the preferred locations for primary systems are Brownfield and Open Spaces.

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

David Riggs

- No Report

7. **Opportunity for Citizens to Speak**

None

8. **Announcements & Other Business**

- Next meeting September 1, 2022

9. **Adjournment**

John K. moved to adjourn. Austin P. seconded. Motion passed 5:0. The meeting was adjourned at 12:49 p.m.

23.04.04. - B-1 Neighborhood Business Zone.

(A) Principal permitted uses: Any local retail business or service establishment supplying commodities or performing services primarily for residents of the neighborhood:

(1) General conditions:

(a) Business in enclosed buildings: All business, services or processing shall be conducted wholly within a completely enclosed building. **OUTDOOR DINING SHALL BE PERMITTED.**

23.04.07. - B-3 General Business Zone.

(A) Principal permitted uses: Any use permitted and as regulated in the B-2 and B-2D Zones, except as hereinafter modified in the following general conditions:

(1) All businesses, services or processing shall be conducted wholly within a completely enclosed building, except for the sale of automobile fuel, lubricants and fluids at service stations, loading and unloading operations, parking, the outdoor display or storage of vehicles, materials and equipment and the uses specified in Paragraphs (A)(9), (10) below. **OUTDOOR DINING SHALL BE PERMITTED.**

23.04.07. B-3 General Business Zone.

(A) Principal permitted uses: Any use permitted and as regulated in the B-2 and B-2D Zones, except as hereinafter modified in the following general conditions:

(1) All businesses, services or processing shall be conducted wholly within a completely enclosed building, except for the sale of automobile fuel, lubricants and fluids at service stations, loading and unloading operations, parking, the outdoor display or storage of vehicles, materials and equipment and the uses specified in Paragraphs (A)(9), (10) below.

(2) No building customarily used for night operations, such as a bakery or milk bottling and distribution station, shall have any opening, other than stationary windows or required fire escape within 100 feet of any R-Zone and any space used for loading or unloading commercial vehicles in connection with such an operation shall not be within 100 feet of any R-Zone.

(3) Eating and drinking establishments—**PROVIDED THAT RESTAURANTS WITH** Drive-ins, drive-through**S, and eating and drinking places, provided the principal building shall be HAVE THE DRIVE-IN/DRIVE-THROUGH** at least **200 100** feet from any R-I or R-2 Zone.

23.06.02. Certificates and permits.

- (A) Zoning permit: It shall be unlawful for an owner to use or to permit the use of any structure, building or land, or part thereof, hereafter created, erected, changed, converted or enlarged wholly or partly, until a zoning permit has been issued by the zoning administrator. Such zoning certificate shall show that such building or premises or a part thereof, and the proposed use thereof, are in conformity with the provisions of the zoning code. It shall be the duty of the zoning administrator to issue a zoning permit, provided he is satisfied that the structure, building or premises, and the proposed use thereof, and the proposed methods of water supply and disposal of sanitary wastes conform with all applicable requirements of the zoning code.
- ~~(B) Certificate of health officer: In every case where the lot is not provided and is not proposed to be provided with public water supply and/or the disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a certificate of approval by the health officer of the city of the proposed method of water supply and/or disposal of sanitary wastes.~~
- ~~(C) Occupancy permits: The purpose of any occupancy permit is to certify that the premises comply with the provisions of this and all other local codes and ordinances and is being used for the purposes set forth in the occupancy permit. Prior to the use or occupancy of any land or building for which a zoning permit is required, or for any change of use of any existing building or for any change of use of land, an occupancy permit shall be secured from the zoning administrator. All applications for occupancy permits shall be in writing on forms to be furnished by the zoning administrator.~~
- ~~(D)~~(B) Certificate of nonconforming use: The owner of the premises occupied by a lawful nonconforming use or building shall secure a certificate of nonconforming use from the zoning administrator. Such certificate shall be for the purpose of insuring to the owner the right to continue such nonconforming use.
- ~~(E) Excavating permit: No permit for excavation shall be issued by the zoning administrator unless the plans, specifications and the intended use conform to the provisions of the Athens City Code. A permit shall be established by separate ordinance.~~
- ~~(F)~~(C) Filing plans: Every application for a zoning permit shall be accompanied by plans in duplicate, drawn to scale in black line or blue print or in a form acceptable to the zoning administrator, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part; the exact location, size and height of any building or structures to be erected or altered; in the case of a proposed new building or structure or proposed alteration of an existing building or structure as would substantially alter its appearance, drawings or sketches showing the front, side, and rear elevations of the proposed building or structure, or of the structure as it will appear after the work for which a permit is sought shall have been completed; the existing and intended use of each building or structure or part thereof; the number of families or housekeeping units the

building is designed to accommodate; and, when no buildings are involved, the location of the present use and proposed use to be made of the lot; and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of the zoning code. One copy of such plans shall be returned to the owner when such plans shall have been approved by the zoning administrator, together with such zoning permit as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started. **PERMITS WITHOUT THE ABOVE INFORMATION SHALL BE CONSIDERED INCOMPLETE.**

- ~~(G)~~(D) Administration schedule: The zoning administrator shall act upon all such **COMPLETE** applications on which he is authorized to act by the provisions of the zoning code within 30 days after they are filed in full compliance with all the applicable requirements. He shall either issue a zoning permit within the 30 days or shall notify the applicant in writing of his refusal of such certificate and the reasons therefore.
- (H) Fees: For all other zoning permits (including, but not limited to, remodeling and new construction) there shall be a fee as established by ordinance.

23.03.11. Accessory structures **AND ACCESSORY ENERGY SYSTEMS**

- (A) Detached accessory structures—Accessory structures that are not attached to a principal structure may be erected in accordance with the following restrictions:
 - (1) No accessory structure shall be located closer than five feet to the side and rear lot lines.
 - (2) No accessory structure shall be located closer to the street than the required front yard setback of the principal structure.
 - (3) On corner lots, accessory structures shall not be located on the side street side between the side street and the required front yard setback line of structures fronting on the side street.
 - (4) No accessory structure shall contain permanent living quarters.
- (B) Attached accessory structures—When an accessory structure is attached to the principal building, it shall comply in all respects with the requirements of the zoning code applicable to the principal buildings.
- (C) Accessory buildings in R-Zones; without a principal building. In any R-Zone no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal or main building except for continuous and contiguous lots under common ownership.

(D) ACCESSORY ENERGY SYSTEMS

ENERGY SYSTEMS THAT ARE DESIGNED PRIMARILY FOR THE ON-SITE CONSUMPTION OF ELECTRICITY OR HEAT EXCHANGE ARE CONSIDERED ACCESSORY ENERGY SYSTEMS (AES). ALL PARTS OF AN AES SHALL BE CONSIDERED TO BE ONE ACCESSORY STRUCTURE. ALL AES INSTALLATIONS SHALL REQUIRE A PERMIT. PERMIT FEES SHALL BE ESTABLISHED BY SEPARATE ORDINANCE.

(1) ROOF-MOUNTED SOLAR

ROOF-MOUNTED AES ARE A PERMITTED ACCESSORY USE WITHIN ALL ZONING DISTRICTS. ROOF-MOUNTED SOLAR AES SHALL NOT COUNT TOWARD THE MAXIMUM NUMBER OF ACCESSORY STRUCTURES PERMITTED ON ANY LOT AND SHALL MEET THE FOLLOWING REQUIREMENTS:

(i) HEIGHT:

- a. **ON A PITCHED/SLOPED ROOF, AES SHALL BE INSTALLED PARALLEL TO THE ROOF SURFACE AND MAY NOT EXTEND BEYOND THE EDGE OF THE ROOF PEAK.**

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- b. ON A FLAT ROOF, ACES ARE NOT PERMITTED TO EXCEED THE ZONING DISTRICT HEIGHT LIMITS BY MORE THAN 18-INCHES.
 - (ii) EMERGENCY ACCESS: ROOF-MOUNTED SOLAR AES SHALL COMPLY WITH APPLICABLE STATE AND LOCAL FIRE CODES TO ENSURE EMERGENCY ACCESS TO THE ROOF, PROVIDE PATHWAYS TO SPECIFIC AREAS OF THE ROOF, PROVIDE AREAS FOR SMOKE VENTILATION, AND PROVIDE EMERGENCY EGRESS FROM THE ROOF.
 - (iii) SCREENING: ROOF-MOUNTED AES ARE EXEMPT FROM SCREENING REQUIREMENTS.
 - (iv) SOLAR ACCESS EASEMENTS: OWNERS OF AES ARE SOLELY RESPONSIBLE FOR NEGOTIATING WITH OTHER PROPERTY OWNERS FOR ANY DESIRED SOLAR EASEMENTS TO PROTECT ACCESS TO SUNLIGHT. ANY SUCH EASEMENTS MUST BE CONSISTENT WITH THE REQUIREMENTS OF SECTION 5301.63 OF THE OHIO REVISED CODE.
- (2) GROUND-MOUNTED SOLAR
- GROUND-MOUNTED SOLAR AES ARE A PERMITTED ACCESSORY USE WITHIN ALL ZONING DISTRICTS, EXCEPT THE HISTORICAL OVERLAY DISTRICT, AND ONLY WHEN INCIDENTAL TO ONE OR MORE PERMITTED PRIMARY AND/OR ACCESSORY STRUCTURE(S), SUBJECT TO THE FOLLOWING DEVELOPMENT STANDARDS:
- (i) HEIGHT: GROUND-MOUNTED SOLAR AES SHALL COMPLY WITH THE ZONING DISTRICT'S ACCESSORY STRUCTURE HEIGHT STANDARDS, WHEN THE PANELS ARE ORIENTED AT MAXIMUM DESIGN TILT (HIGHEST POINT OF THE SYSTEM).
 - (ii) SETBACKS: GROUND-MOUNTED SOLAR AES SHALL COMPLY WITH THE ACCESSORY STRUCTURE SETBACK REQUIREMENTS OF THE ZONING DISTRICT IN WHICH IT WILL BE INSTALLED.
 - (iii) SCREENING: GROUND-MOUNTED SOLAR AES ARE EXEMPT FROM SCREENING REQUIREMENTS.
 - (iv) PLACEMENT:
 - a. GROUND-MOUNTED AES SHALL BE LOCATED IN THE SIDE OR REAR YARD OF THE PROPERTY.
 - b. GROUND-MOUNTED AES SHALL NOT BE PLACED IN ANY LEAGAL EASEMENT OR RIGHT-OF-WAY LOCATION OR PLACED IN ANY STROMWATER CONVEYANCE SYSTEM THAT WOULD IN ANY MANOR IMPEDE STORM WATER RUNOFF.

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- c. APPROPRIATE SAFETY/WARNING SIGNAGE CONCERNING VOLATGE SHALL BE PLACED AT GROUND MOUNTED DEVICES, EQUIPMENT, AND STRUCTURES. ALL ELECTRICAL CONTROL DEVICES ASSOCIATED WITH THE AES SHALL BE LOCKED TO PREVENT UNAUTHORIZED ACCESS OR ENTRY.
 - (v) LOT COVERAGE/IMPERVIOUS SURFACE: GROUND-MOUNTED SOLAR AES ARE EXEMPT FROM MAXIMUM LOT COVERAGE AND TOTAL LOT COVERAGE REQUIREMENTS IF THE AREA UNDER THE SYSTEM CONTAINS VEGETATIVE GROUND COVER.
 - (vi) SOLAR ACCESS EASEMENTS: OWNERS OF ACCESSORY SOLAR ENERGY SYSTEMS ARE SOLELY RESPONSIBLE FOR NEGOTIATING WITH OTHER PROPERTY OWNERS FOR ANY DESIRED SOLAR EASEMENTS TO PROTECT ACCESS TO SUNLIGHT. ANY SUCH EASEMENTS MUST BE CONSISTENT WITH THE REQUIREMENTS OF SECTION 5301.63 OF THE OHIO REVISED CODE.
- (3) GEOTHERMAL HEATING AND COOLING
- GEOTHERMAL AES ARE A PERMITTED ACCESSORY USE WITHIN ALL ZONING DISTRICTS EXCEPT THAT SYSTEMS IN THE WELLHEAD PROTECTION OVERLAY DISTRICT WILL REQUIRE APPROVAL FROM THE WELLHEAD PROTECTION TEAM.
- GEOTHERMAL HEATING AND COOLING AES SHALL MEET THE FOLLOWING REQUIREMENTS:
- (i) A GEOTECHNICAL REPORT PROVIDED BY A QUALIFIED PROFESSIONAL DESCRIBING THE LAYOUT, HISTORY, SOIL STABILITY, AND UNDERLYING GEOLOGY OF THE PROJECT SITE WILL BE REQUIRED AS PART OF THE GEOTHERMAL AES PERMIT.
 - (ii) OPEN-LOOP GEOTHERMAL AES SHALL NOT BE PERMITTED IN THE WELLHEAD PROTECTION OVERLAY DISTRICT OR ON ANY LAND WITHIN 200 FEET OF A PRIVATE SANITARY SYSTEM OR PRIVATE WELL.
 - (iii) OPEN-LOOP GEOTHERMAL AES WITH A SURFACE WATER DISCHARGE WILL BE CONSIDERED A POINT DISCHARGE AND WILL REQUIRE PERMITTING THROUGH THE OEPA NPDES GENERAL PERMIT FOR GEOTHERMAL SYSTEMS.
 - (iv) OPEN-LOOP GEOTHERMAL AES WITH A SOURCE WELL SHALL OBTAIN ALL REQUIRED PERMITS FROM ODNR AND OTHER STATE AGENCIES AS REQUIRED.

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- (v) OPEN-LOOP GEOTHERMAL AES WITH A RETURN WELL SHALL OBTAIN A PERMIT FROM THE COUNTY HEALTH DEPARTMENT AND FROM OEPA-UIC.
 - (vi) SUB-SURFACE GEOTHERMAL AES CLOSED-LOOP SYSTEMS SHALL INCLUDE A CONDUCTIVE TRACER WIRE INSTALLED SO THAT BURIED PIPE AND EQUIPMENT CAN BE LOCATED.
 - (vii) VERTICAL AND SUBSURFACE CLOSED-LOOP GEOTHERMAL AES SHALL INDICATE THE TYPE OF HEAT TRANSFER FLUIDS TO BE USED ALONG WITH THE FLUID MSDS SHEETS USED IN THE SYSTEM.

(4) WIND POWERED AES

WIND POWERED AES ARE A CONDITIONALLY PERMITTED ACCESSORY WITHIN ALL ZONING DISTRICTS.

- (i) WIND POWERED AES SHALL BE LOCATED IN SUCH A MANOR AS TO HAVE THE LEAST VISUAL IMPACT POSSIBLE.
- (ii) WIND POWERED AES SHALL BE DESIGNED IN SUCH A MANOR AS TO HAVE MINIMAL IMPACT TO RESIDENTS, PUBLIC AREAS INCLUDING CITY PARKS, STREAMS, CREEKS AND RIVERS.
- (iii) WIND POWERED AES SHALL NOT BE PLACED IN ANY LEAGAL EASEMENT OR RIGHT-OF-WAY LOCATION OR PLACED IN ANY STROMWATER CONVEYANCE SYSTEM THAT WOULD IN ANY MANOR IMPEDE STORM WATER RUNOFF.
- (iv) APPROPRIATE SAFETY/WARNING SIGNAGE CONCERNING VOLATGE SHALL BE PLACED AT GROUND MOUNTED DEVICES, EQUIPMENT, AND STRUCTURES. ALL ELECTRICAL CONTROL DEVICES ASSOCIATED WITH THE AES SHALL BE LOCKED TO PREVENT UNAUTHORIZED ACCESS OR ENTRY.
- (v) THE PERMIT FOR WIND POWERED AES SHALL INCLUDE AS A MINIMUM:
 - a. STANDARD MANUFACTURERS DRAWINGS AND ENGINEERING SPECIFICATIONS OF THE TURBINE STRUCTURE, TOWER, BASE, AND FOOTINGS.
 - b. A STATEMENT THAT THE SYSTEM SHALL COMPLY WITH ALL STATE PERMITS AND REGULATIONS.
 - c. A PLOT PLAN SHOWING THE WIND POWERED AES RELATIVE TO ALL PROPERTY LINES, ON-SITE STRUCTURES, OFF-SITE STRUCTURES WITHIN 1.5 TIMES THE HEIGHT OF THE

**PROPOSED WIND POWERED AES, OVERHEAD UTILITY
LOCATIONS, PARKS AND PUBLIC OPEN SPACES.**