

MINUTES
ONTARIO PLANNING COMMISSION
AUGUST 13, 2014

The Ontario Planning Commission met in regular session on August 13, 2014, at 7:00 p.m., in the Municipal Building with Chairman Fred Zahn presiding. The following Committee members were present at roll call: Chairman Fred Zahn, Mayor Randy Hutchinson, Service-Safety Director Jeff Wilson, and Jill Knight. Also in attendance were: Law Director Andrew Medwid, City Engineer Linda Timmer, Zoning Inspector Dan Herrold, and Clerk of Council Cathy VanAuker.

Commission member Mick Motley was excused from this evening's meeting.

Mr. Zahn presented for approval the minutes of the regular Planning Commission meeting held July 9, 2014. Mrs. Knight made a motion to approve the minutes as presented and Mayor Hutchinson seconded the motion. Four members voted Aye, zero Nay, and the motion to approve the minutes passed.

Mayor Hutchinson referred to Robert's Rules of Order which defines the rules followed during a meeting. He specifically reviewed not speaking unless recognized by the chairman, and vote on the evaluation of the facts presented and measure the impact on the city, the citizens and the parties involved.

The next item on the agenda was the final site plan approval for Eric's Outdoor Furniture to be located at the corner of Lewis Road and Park Avenue West on the northeast side. Weldon Hostetler came before the Commission.

- Mr. Herrold said everything meets code with the exception of how many parking spaces were allowed because there isn't code specific to this type of business. Seven spaces are being presented with one ADA which should be sufficient.
- The maneuvering lane is 25' instead of the required 24'.
- Lt. Mullins requested a fire extinguisher inside the office which will be a moveable building.
- There will not be water inside the building so an outhouse will be located on the property. The Health Department was contacted regarding the outhouse and they have no issues as long as it is properly maintained.

Mr. Wilson made a motion to approve the final site plan for Eric's Outdoor Furniture. Mrs. Knight seconded the motion. At roll call, four members voted Aye, zero Nay, and the motion passed.

The next item on the agenda brought Ken Brown of Buffalo Wild Wings and Keith Cobb of Litech Lighting before Commission members for the final sign plan review for Buffalo Wild Wings located at 949 North Lexington-Springmill Road. Mr. Herrold said the main sign on the front of the building could be 100 sf or 15% of the wall area. The 846.2 sf wall would allow a 126.93 sf sign but the proposed size is 131.6 sf which requires a 5' variance. All other wall and accessory signs meet code.

Mayor Hutchinson made a motion approving the 5' variance request for the sign located on the front of the Buffalo Wild Wings located at 949 N. Lex-Springmill Road. Mrs. Knight seconded the motion. At roll call, four members voted Aye, zero Nay, and the motion passed.

Mr. Wilson made a motion approving the final sign plan for Buffalo Wild Wings located at 949 North Lex-Springmill Road. Mayor Hutchinson seconded the motion. At roll call, four members voted Aye, zero Nay, and the motion passed.

Next to come before the Board was Andrew Daniels, COO Avita Health Systems, and Brian Bauer of MKC Association, requesting Phase 1 of the final sign plan review for Avita Health Systems located at 716 Richland Mall Drive. Mr. Bauer distributed a document titled Key Facts Regarding Digital Signage Technology to the Board members. Mr. Daniels said Avita agrees to the provisions within this document and a copy is attached to the minutes. Mr. Daniels presented three variance requests.

- The 'hat' of the building has their logo as part of the building material and was approved as a wall sign. Current code allows for one wall sign per side so a variance is needed for the building signage. Avita is requesting two signs on the east side of the building and one sign on the north side, two of the exterior signs will say Avita Ontario Hospital. The signs meet all requirements but there is an additional sign. This proposal would require approving two variances.
- The third variance request is at the location of the current Richland Mall sign. The variance is necessary due to the size of the digital display located within the requested sign. The sign meets code in height, setback, and the overall size. The digital display produces static images every 6 to 8 seconds, it doesn't scroll, flash or feature moving pictures. Digital technology uses the minimal amount of light and adjusts to the amount of light available in the surrounding environment which meets the federal criteria and lighting industry standards. The Federal Highway Association recommends an eight-second display item. The State of Ohio recommends a minimum of one inch of height per 30 feet of legibility. The location of this sign is 750' to the edge of the property and 515' from the intersection which would require letters between 25" - 33". Code states a maximum sign size of 18 sf but this technology does not exist that small. Per the RDA Agreement this signage proposal must be signed-off by the owners of Sears, J.C. Penney's, the mall and Avita. One of the existing mall signs would be moved to put this sign in place.
- When Mayor Hutchinson asked for confirmation the display message was not a distraction, Mr. Daniels said the message was static and it was not part of the technology to flash or scroll.
- Mr. Herrold said one wall sign was permitted per side of the building and the hat was a separate wall from the building. The sign on the hat was part of the rubber membrane material used on the exterior of the structure.

Mr. Wilson made a motion to approve the sign variance request for the east side of the Avita Health Systems building located at 716 Richland Mall Drive. Mayor Hutchinson seconded the motion. At roll call, four members voted Aye, zero Nay, and the motion passed.

Mrs. Knight made a motion to approve the sign variance request for the north side of the Avita Health Systems building located at 716 Richland Mall Drive. Mr. Wilson seconded the motion. At roll call, four members voted Aye, zero Nay, and the motion passed.

Mr. Wilson made a motion to approve the sign variance request for the electronic message sign for Avita Health Systems located at 716 Richland Mall Drive. Mrs. Knight seconded the motion. At roll call, four members voted Aye, zero Nay, and the motion passed.

Mayor Hutchinson made a motion to approve the first phase of the final sign plan for Avita Health Systems located at 716 Richland Mall Drive. Mr. Wilson seconded the motion. At roll call, four members voted Aye, zero Nay, and the motion passed.

The next item on the agenda was the discussion of information submitted by Law Director Andrew Medwid in reference to The Electric Guard Dog Fence Company as it relates to activating the electric fence portion of the theft deterrent system located at SAIA Freight Company, 815 Beer Road. Mr. Medwid thanked everyone who helped with his research in gathering information and he was not able to find anything disallowing an electrified fence. Someone attempting to scale a fence after business hours is trespassing and the property owner owes no duty other than to not act reckless or with disregard to safety and there would be no liability to the city.

Mr. Medwid said he did not have any issues with an electric fence installation with appropriate caveats. Sample ordinances from other cities were circulated.

- Mr. Medwid spoke with Professor John Webster of the University of Wisconsin - Madison and learned that no one has been killed by an electric security fence, there have been injuries, but that would be the consequence of someone scaling the fence with three rows of barb wire at the top to get to the electric portion of the fence. If you just grab the electric fence, you're fine.
- Mr. Medwid did not have a problem with the electric fence if it was the secondary fence enclosed by a primary non-electric fence.
- During non-business hours if the electric fence is deactivated by a code, the fence remains off until the code is reset. During business hours the electrified portion of the fence is off.

Nathan Leaphart, CFO of the Electric Guard Dog Fence Company and Jeff Johnson, SAIA local manager, came forward to explain the electric fence is similar to a home security system where a code activates/deactivates the alarm. Electric Guard Dog Fence Company only installs the electric fence behind a perimeter fence in non-residential areas. The motorized gate cannot be opened unless the code is entered to deactivate the electric fence.

- Mr. Medwid said the Fire Chief and Police Chief are fine with this installation.
- When Ms. Timmer asked if the fence height would prevent deer from jumping the outer perimeter fence, Mr. Medwid said he did attempt to contact the ASPCA. This is the standard fence height used by The Electric Guard Dog Fence Company.
- Caution signs will be posted every 60' in both English and Spanish.
- Codes 1145.11 and 521.07 pertains to barbed wire and electric fences. To change the zoning code a recommendation to Council would be necessary.
- Mr. Herrold said some portions of the city have residences within an Industrial Park zoned area and felt the new code should reference this situation. Mr. Medwid said in this case if a property owner has an electric fence they become liable for any instances. Mayor Hutchinson suggested excluding residences in an Industrial Zone from having electric fences.

Commission members discussed what should be included in the new ordinance:

- The fence height will follow county code.
- The secondary interior fence will be 2' higher than the primary exterior fence.
- The electric fence can only be installed in an Industrial Zone as a secondary fence with properly identified signs and not activated during business hours.
- Installation of a Knox Box for emergency services.
- A residence located within the industrial zone is not permitted to install an electric fence.

Discussion of the electric fence continued.

- Mr. Johnson said the industry standard is a 10' fence height with 4" - 12" between the primary and secondary fences.
- Mr. Leaphart said the company's insurance policy is per occurrence and would indemnify SAIA. A copy of the insurance certificate could be mailed to the city. Mr. Medwid said any injuries would be a civil matter and would not involve the city but if he finds that something can be addressed he will include it in the legislation.
- The fence is powered by a 12-v solar battery. The International Electrical Technical Commission 60335-2-76 governs many of the topics discussed such as required signage and distance between fences.
- Mr. Medwid said he is using the sample ordinance from the City of Philadelphia, item (1) Electrification, and sections (a) and (b) as a baseline in the legislation for Ontario.

Mayor Hutchinson made a motion for the Law Director to prepare legislation for the next Planning Commission meeting and upon approval it will be presented to Council. Mr. Wilson seconded the motion. At roll call, four members voted Aye, zero Nay, and the motion passed.

Two topics were addressed during the last item on the agenda.

- Mayor Hutchinson provided an update on the property at the corner of W. 4th Street and Home Road. They are working on logistics of the previous tanks and proper remediation. A decision has not been made but they are moving forward.
 - The owner has six months to pick up the permit to proceed and approximately half of that time has elapsed. Mr. Zahn requested they check into the progress.
- Mrs. Knight said each business has their own insurance and not additional insurance for the city.
 - Ms. Timmer commented that on a construction project the contractors are required to name the city as an additional insurer which doesn't cost the contractor anything so possibly something similar could be done.

At 8:43 p.m., with no further business to come before the Planning Commission, Mayor Hutchinson made a motion to adjourn with a second by Mrs. Knight. At roll call, all members voted Aye and the meeting was adjourned.