



**The City of Lee's Summit**  
**Action Letter**  
**Planning Commission**

Tuesday, April 25, 2017

5:00 PM

City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

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**CALL TO ORDER**

**ROLL CALL**

**Present:** 5 - Board Member Jason Norbury  
Board Member Colene Roberts  
Board Member Fred DeMoro  
Board Member Don Gustafson  
Board Member Brandon Rader

**Absent:** 4 - Board Member Fred Delibero  
Board Member Donnie Funk  
Board Member J.Beto Lopez  
Board Member Herman Watson

**APPROVAL OF AGENDA**

**A motion was made by Board Member Roberts, seconded by Board Member DeMoro, that this agenda be approved. The motion carried unanimously.**

**APPROVAL OF CONSENT AGENDA**

[TMP-0490](#) Appl. #PL2017-046 - FINAL PLAT - Arborwalk North, 1st Plat, Lots 1-100 & Tracts A-E; CMH Parks, Inc., applicant

**A motion was made by Board Member Roberts, seconded by Board Member DeMoro, that this Final Plat be approved. The motion carried unanimously.**

[2017-1136](#) Minutes of the April 11, 2017 Planning Commission minutes

**A motion was made by Board Member Roberts, seconded by Board Member DeMoro, that these minutes be approved. The motion carried unanimously.**

**PUBLIC HEARINGS**

[2017-0872](#) CONTINUED PUBLIC HEARING - Appl. #PL2016-209 - REZONING from R-1 & CP-2 to PMIX and PRELIMINARY DEVELOPMENT PLAN - Pryor Lakes,

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approximately 32 acres located at the northwest corner of NW Chipman Rd and NW Pryor Rd; Christie Development Association, LLC, applicant (continued to a date certain of June 13, 2017, at the applicant's request)

A motion was made by Board Member DeMoro, seconded by Board Member Rader, that this rezoning and preliminary development plan was continued to the Planning Commission, due back on 6/13/2017 The motion carried unanimously.

[2017-1049](#)

CONTINUED PUBLIC HEARING - Appl. #PL2017-017 - VACATION OF RIGHT-OF-WAY - an approximately 600' section of NW Lowenstein Dr located at the northwest corner of NW Chipman Rd and NW Pryor Rd; Christie Development Association, LLC, applicant (continued to a date certain of June 13, 2017, at the applicant's request)

A motion was made by Board Member DeMoro, seconded by Board Member Rader, that this vacation of right-of-way was continued to the Planning Commission, due back on 6/13/2017 The motion carried unanimously.

[2017-1154](#)

PUBLIC HEARING - Application #PL2017-045 - VACATION OF RIGHT-OF-WAY - portions of SE Bailey Road located approximately ¼ mile east of SW M-291 Hwy.; The Grove at Lee's Summit, LLC, applicant.

Chairperson Norbury opened the hearing at 5:04 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Ferd Niemann of the White Goss law firm, gave his business address as 4510 Belleview Avenue in Kansas City and stated that he was present representing the applicant. He displayed an aerial view of the site, noting that it was southeast of M-291 and pointing out the land along Bailey that had originally been dedicated as the right-of-way of the Bailey bridge. It had been identified as such during the platting process; however, it was now considered excess land that would not be needed for that purpose, as the bridge was complete. Tonight's application would vacate the unneeded right-of-way so that the land could be included in the project. Mr. Niemann added that the applicants had filed the first final plat and final plan last Friday.

Following Mr. Niemann's presentation, Chairperson Norbury asked for staff comments.

Ms. Stanton entered Exhibit (A), list of exhibits 1-13 into the record. She confirmed that the right-of-way was left over from the Bailey Road bridge project. This was shown in the preliminary development plan as being vacated at a future point and serve as part of setbacks, which was the intent of this application. There are no utilities located there.

Following Ms. Stanton's comments, Chairperson Norbury asked if there was anyone present wishing to give testimony, either in support for or opposition to the application. Seeing none, he then opened the hearing for questions for the applicant or staff.

Chairperson Norbury asked why this application had a public hearing and was not on the consent agenda. Mr. Soto explained that all right-of-way vacations required a public hearing. Vacations of easements did not.

Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:10 p.m. and asked for discussion among

the Commission members or for a motion.

Mr. DeMoro made a motion to recommend approval of Application PL2017-045, Vacation Of Right-Of-Way: portions of SE Bailey Road located approximately 1/4 mile east of SW M-291 Hwy.; The Grove at Lee's Summit, LLC, applicant; subject to staff's letter of April 21, 2017. Mr. Rader seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

A motion was made by Board Member DeMoro, seconded by Board Member Rader, that this vacation of right-of-way was recommended for approval to the City Council - Regular Session, due back on 5/18/2017 The motion carried unanimously.

[2017-1143](#)

PUBLIC HEARING - Application #PL2017-070 - UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT #61 - Article 10 Special Uses, revisions to the regulation of telecommunication towers; City of Lee's Summit Applicant

Chairperson Norbury opened the hearing at 5:11 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. McKay entered Exhibit (A), list of exhibits 1-8 into the record. He related that staff had introduced this amendment last year, following the State's legislation that had in effect taken away the regulatory authority cities previously had regarding telecommunication towers. Staff had redone the City's telecommunication ordinance, which was in Article 10 under "Special Use." Since the purpose was to comply with the State regulations, most of the amendment consisted of strike-throughs; many of which represented information the City was no longer allowed to consider or request from an applicant for a telecommunication tower.

Originally the City had required a telecommunication tower to have a setback of 4 times the distance from the tower to a property line in an R-1 district. The new setback requirement for a 'stealth' monopole tower, with all the antennas encapsulated in the pole itself, was the tower's height. Setbacks for a monopole with exterior antennas, or a lattice tower which took up more space, or any tower needing guy wires, had to be 1.5 times the tower's height. Article 10 did stipulate that "these separation distances may be waived if the Governing Body legislatively determines the application of these requirements would effectively prevent the provision of wireless telecommunications services within the City." The State's legislative changes were reflected in the provision that "the Governing Body shall not mandate design requirements which have been found to be unreasonable under Missouri law."

A requirement had been added under "Accessory uses" requiring that accessory structures "shall be placed in an underground vault when located within visual sight of an historic property or adjacent to or within the public right-of-way." In the case of a historic property the impact would be visual; for a public right-of-way, it was a matter of safety. Staff had put in some language indicating the co-location was highly desirable, although the City could not require it. This was usually in the practical and financial interest of cell service providers. References to the capacity of a tower or to demonstrated need were now prohibited, and these were being deleted. The City could no longer set time limits, as these were now voluntary. Regarding replacement or alteration, however, "the Director may approve the replacement or alteration of an existing telecommunications tower under a current existing and valid Special Use Permit. This was contingent on the other cited conditions being met and "the replacement or alterations of telecommunication towers does not result in an increase in height at or above 25% of the height of the existing telecommunication tower." This meant that the tower operative

had the option to increase its height up to 25 percent.

Nonconforming towers that were installed and in use by November 1, 2001 would be allowed to continue operating as a legal non-conforming use. The amendment concluded with the statement that "nothing in this Section shall apply to any application or circumstance where to do so would violate applicable and valid provisions of Federal law or laws of the State of Missouri."

Following Mr. McKay's comments, Chairperson Norbury asked if there was anyone present who wished to give testimony regarding this application. As there were none, he opened the hearing for questions from the Commission.

Regarding the requirement of the 1.5 times tower height separation distance for a tower with exposed antennae, Mr. DeMoro asked if an applicant would be encouraged to look at all possible locations. Mr. McKay answered that staff would definitely work with an applicant for any new tower to find a location with the best conditions possible. He added that he preferred the stealth towers, as they had a cleaner look and could blend into their surroundings better. Mr. DeMoro noted that the last applicant for a tower had a list of possible locations he had checked out.

Ms. Roberts asked if the difference in the separation distance was likely to be an incentive to choose stealth towers. Mr. McKay believed that it would be. It would provide an applicant with more opportunities. A tower might even bring an economic benefit on the right piece of property. One of his concerns about lattice towers or those with guy wires was that they took up so much more space on any given piece of property. The stealth towers allowed for more flexibility. Ms. Roberts asked if these separation requirements would still apply if the tower's height was increased by 25 percent and Mr. McKay answered that they would. Allowing the change of height was staff's decision, not a State requirement; it was equivalent to allowing a 25 percent increase in the size of a commercial building before a new development plan was required. He added that this all required a Special Use Permit; however, these SUPs had a time limit and when the currently existing towers' SUPs were up for renewal, the City was no longer allowed to renew with the same term. There was a requirement for an engineering structural analysis every three years; but after an SUP had reached its time limit this analysis was the only contact the City would have concerning any particular tower unless the owner wanted to change the height. That would require another SUP.

Chairperson Norbury asked if there were any other areas where the City would be allowed any kind of authority or oversight. Mr. McKay replied that the City still had some enforcement ability, in terms of the public safety aspect.

Mr. Gustafson noted the language in the amendment about abandoned poles, and asked if the City would be notified should this happen. Mr. McKay was not sure how City staff would know, unless the owner was seen removing equipment. They did not necessarily notify the City. They would most likely find out when the time came from the periodic engineering structural analysis. He was not sure how often this happened, as cell tower owners tended to want to keep a good location once they had it. The example he knew of was a very tall tower on the south side of I-470 that was completely replaced. Chairperson Norbury also recalled on 3rd Street and Blue Parkway, and Mr. McKay added that this was a nonconforming tower that did not meet any setback requirements.

Mr. Gustafson asked Mr. McKay if he knew of any new technology. Mr. McKay cited some of the smaller poles, which were increasingly located closer and closer to rights-of-way; and staff was following that topic. If a pole was going to be in or near a right-of-way, it was especially important for the ground equipment to be placed in a vault.

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Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing and asked for discussion among the Commission members, or for a motion.

Mr. DeMoro made a motion to recommend approval of Application PL2017-070, Unified Development Ordinance (UDO) Amendment #61: Article 10, Special Uses, revisions to the regulation of telecommunication towers; City of Lee's Summit applicant. Mr. Rader seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

A motion was made by Board Member DeMoro, seconded by Board Member Rader, that this unified development ordinance amendment #61 was recommended for approval to the City Council - Regular Session, due back on 5/18/2017. The motion carried unanimously.

OTHER AGENDA ITEMS

PUBLIC COMMENTS

ROUNDTABLE

ADJOURNMENT

For your convenience, Planning Commission agendas, as well as videos of Planning Commission meetings, may be viewed on the City's Internet site at "[www.cityofls.net](http://www.cityofls.net)".