

**MINUTES OF MEETING
ZONING AND PLANNING COMMISSION
WEDNESDAY, OCTOBER 25, 2023 4:00 P.M.**

Chairman Moore introduced himself, covered the basic procedures, and called the meeting of the Zoning and Planning Commission to order at 4:05 P.M. The following members were present:

Chairman McPherson Moore
Commissioner Susan Gausnell
Commissioner Maggie Holtman
Commissioner John Lochhead
Commissioner Robby Toft

Also present were Mayor Spewak; Erin Seele, City Attorney; Anne Lamitola, Director of Public Works; Andrea Sukanek, City Planner; and Lori Mullins, Deputy City Clerk.

Approval of the Minutes from the meeting on September 27, 2023

Commissioner Toft requested an amendment to the minutes; the amended minutes were approved unanimously upon motion by Commissioner Toft and second by Commissioner Gausnell.

Items for Consideration

ZPC 23-04 Discussion of revocation of Special Use Permit issued in 2001 for a cell tower at 9159 Clayton Road (ZPC #00-19) due to noncompliance with conditions of permit. Property is in the G1 zoning district.

Attorney Mark Brady, representing Crown Castle Telecommunications, requested a continuance on the revocation of the Special Use Permit for the cell tower at 9159 Clayton Road, in order to gather information. Having just been engaged last week, a letter was submitted to the City, requesting a continuance in order to do due diligence, researching the history, current use, and zoning regulations regarding the S.U.P. The request is to return to the next meeting with information for the Commissioners to consider. Crown Castle is the lease holder of the tower. The property has transitioned, and mergers have occurred in the cellular industry, and understanding all the interests is part of his due diligence efforts. Mr. Brady's stated his understanding is that Crown Castle has acquired the easement that authorizes the location of the tower. Mr. Brady had limited information regarding letters/notices from the City regarding the validity of the S.U.P.

In response to questioning, Ms. Sukanek reported that the holder of the S.U.P. is responsible for notifying the City of any change in ownership, allowing the City to evaluate and determine if the S.U.P. will be transferred to the new owner. This was not done by the previous S.U.P. holder. T-Mobile passed ownership of the tower to Global Signal Acquisitions without notifying the City.

Mr. Brady stated his understanding is that Crown has acquired the easement rights. The easement provides the ability to locate the tower on the real estate. Crown also acquired the leasehold rights for the cell tower operator, but the tower itself may still be in the name of the original holder of the S.U.P. or the direct successor. There may be an antenna still located in the tower; the use of which is unknown at this time..

The original S.U.P. for the tower was issued in 2001. T-Mobile has since moved to a different tower.

Commissioner Toft questioned what standing Crown Castle has to challenge the revocation of a S.U.P. that is not held by Crown Castle. Mr. Brady stated he hoped to provide clarity on that through his due diligence efforts but believed that Crown has a legal property interest in the location of the tower and interest in the tower staying on the site.

Impact on pending case ZPC 23-10, and time needed to advise the City in writing were discussed.

Randy Renner of Period Restoration shared that his company has invested 2 years working to develop the site and trying to discuss with someone concerning the tower; he was not in favor of the Commissioners granting a continuance.

Commissioner Toft respectfully suggested within 10 days, Mr. Brady provide to the City, in writing, a statement as to Crown Castle's relationship to the tower, who owns the tower and what is in the tower.

Mr. Brady agreed to diligently try to provide the document and stated if grant continuance subject to those conditions, they will make it happen. He is working with the City to review documents through the Sunshine Act, and a property title review is under way.

Mr. Michael Lazaroff, 820 S. Price, shared support for the development and removal of the tower.

After discussion, Commissioner Toft moved that a contingent continuance be granted, prefaced upon the applicant (the party opposing the revocation of the Special Use Permit) within 10 days, providing in writing, to the City of Ladue, a document stating clearly who owns what rights in regard to the this pole, and supporting documents; with the understanding that this is a singular continuance, and at the next hearing if the party opposing revocation fails to prove their case, the Commissioners will be unlikely to grant another continuance, as this impacts the property rights of someone who has already made a considerable investment in the City of Ladue. Commissioner Holtman asked if the motion included analysis showing Crown has standing to object to revocation of the S.U.P. and Commissioner Toft affirmed. With that amendment, the motion passed unanimously upon second by Commissioner Holtman.

ZPC 23-10 Request for approval of Site Development Plan for 9155-9159 Clayton Road. The proposal would add a 2-story building to the existing commercial property in the G1 zoning district

Mr. Ken Keitel of Terraspec Architectural and Landscape Engineers, has been working on developing the site plan. The tower has been there throughout, with the status in limbo. The proposal, without the tower, will require a number of variances, for landscape, green-space and setbacks.

The proposal with the tower will require a number of variances for parking alone. The brick enclosure with the tower equipment sits to the east of the accessible parking spaces.

After review of the Fire Department, an alternate plan includes a secondary entrance off of Price Road to allow firetrucks to get through, and an additional fire hydrant. Missouri American Water will locate the new hydrant as shown in the alternate plans.

Mr. Brady inserted that the plans being reviewed have the tower removed, and he is of the belief that the tower will remain.

Ms. Sukanek explained the Commissioners are permitted to waive the following for properties less than 2-acres:

*Floor Area Ratio max is 40%, the proposal is 42.4%

*Green-space requirement is 30%, the proposal is 21.64%

*Required 10' Planting strip, proposal between 5 and 10 feet

*Required 20' Buffer between residential and commercial property, proposal is 8'

A variance will be required for the setback encroachments. It was noted that the property did not qualify for a monument sign.

Discussion ensued regarding the lack of greenspace on the site currently and the other waivers sought. The applicant was asked if the tower remains, will there still be interest in moving forward? The applicant was unsure.

Discussion included at what date the tower ceased operation as a functioning tower, and when and how Crown Castle was given notice that there was an issue.

Commissioner Toft suggested an amendment to the previous motion to include in writing within 10 days the date the tower ceased operation as a functioning tower, and when and how Crown Castle was given notice of the issue regarding the functioning of the tower. The amendment passed unanimously upon second by Commissioner Holtman.

Mr. Lazaroff requested when and if the proposal goes through that use will end at 8:00 p.m. nightly.

Commissioner Toft moved, in light of the continuance of the revocation of the S.U.P. for the cell tower, that the renovation for the 9155-9159 Clayton Road be continued, which passed unanimously upon second by Commissioner Gausnell.

Adjournment

Commissioner Gausnell moved adjournment at 5:57. The motion passed unanimously upon second by Commissioner Toft.


Chairman McPherson Moore