


TJS

FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 E. FAYETTE STREET, 8 th FLOOR		
	SUBJECT	CITY COUNCIL BILL #09-0412/ZONING-CELL TOWERS		

TO

DATE:
November 20, 2009

The Honorable President and
Members of the City Council
City Hall, Room 400
100 N. Holliday Street

At its regular meeting of November 19, 2009 the Planning Commission considered City Council Bill #09-0412, which is for the purpose of requiring that conditional use applications for antennas towers, microwave relay towers, and similar installations for communications transmission or receiving be referred to the Historical and Architectural Preservation Division, Department of Planning, for certain determinations; and specifying certain required findings and conditions of approval for these uses.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended amendment to and approval of City Council Bill #09-0412 and adopted the following resolution, seven members being present (seven in favor).

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #09-0412 be amended and passed by the City Council.

If you have questions, please contact Mr. Wolde Ararsa, Division Chief of Land Use and Urban Design Division, at 410-396-4488.

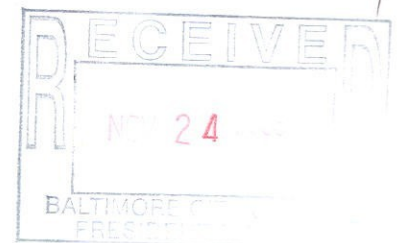
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Attachments

cc:

- Mr. Andrew Frank, Deputy Mayor
- Mr. Demuane Milliard, Chief of Staff
- Ms. Angela Gibson, Mayor's Office
- The Honorable Rochelle "Rikki" Spector, Council Rep. for Planning Commission
- Mr. David Tanner, BMZA
- Mr. Geoffrey Veal, Zoning Administration
- Ms. Nikol Nabors-Jackson, DHCD
- Mr. Larry Greene, Councilmanic Services

F/A





Sheila Dixon
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

November 19, 2009

REQUEST: City Council Bill #09-0412 / Zoning – Cell Towers

For the purpose of requiring that conditional use applications for antenna towers, microwave relay towers, and similar installations for communications transmission or receiving be referred to the Historical and Architectural Preservation Division, Department of Planning, for certain determinations; and specifying certain required findings and conditions of approval for these uses.

RECOMMENDATION: Amend and approve. The amendment is as follows:

- That a provision similar to §14-203 is included that would allow the Board to move forward on an appeal where HAP did not comment in a timely fashion.

STAFF: Eric Tiso

INTRODUCED BY: President Rawlings-Blake, Councilmembers Clarke, Henry, Middleton, Cole, Welch, Reisinger, Spector, Kraft, Conaway, Branch, and Holton.

HISTORY:

There are no previous legislative or Planning Commission actions regarding this site.

CONFORMITY TO PLANS:

This proposal supports the Comprehensive Plan's Goal 2: Elevate the Design and Quality of the City's Built Environment, Objective 2: Streamline and Strengthen the Development Process by modernizing the zoning code to meet current needs. It also supports Goal 2, Objective 4: Protect and Enhance the Preservation of Baltimore's Historic Buildings and Neighborhoods by strengthening CHAP ordinance enforcement by providing dedicated staff to proactively enforce CHAP guidelines.

ANALYSIS:

Bill Overview:

This bill will modify §14-317 of the Zoning Code to require that when all conditional use reviews for cell towers are filed for review by the Board of Municipal and Zoning Appeals (the Board), they are also referred to the Historical and Architectural Preservation Division (HAP) in Planning for review. Within ten days of receiving the referral, HAP must report to the

Board with a determination of whether or not the property is: 1) On a Baltimore City landmark list property or within a Baltimore City historical and architectural preservation district, 2) On a property or within a district listed on the Maryland inventory of historic properties; or 3) On a property or within a district listed on the National Register of Historic Places.

If the property meets one of more of the three criteria, then HAP will have a further 45 days to comment to the Board on 1) Whether the installation will have an adverse effect on the property or district; and 2) If so, whether and how that adverse effect can be adequately mitigated.

Once the case is reviewed by the Board in its public hearing, the Board must find that either the property does not meet any of the three criteria listed above, or if it does meet one or more of the criteria above, that it will either not have an adverse effect on the property or the district or that the applicant will adequately mitigate any adverse effect, as specified in the report from HAP.

This amendment to the Zoning Code is a generally positive change, in that it will bring more attention to historic properties and other properties within historic districts when cell towers and antennas are being proposed. Cell service providers are required to contact the local jurisdiction's historic agency as part of their licensure application. However, this often happens after the use approval is made, which can be too late to meaningfully modify a plan to impose less on historic properties. In some cases, if this inquiry is not made, no review is made of potential impacts to historic buildings or districts.

Amendment:

While a reasonable amount of time is designated for HAP review, the process is not clear on what happens if HAP fails to comment on a qualifying property as required. In that case, it would appear that the Board cannot move forward with their review and findings in the proposed §14-317(c). There should be a "failure to submit" provision similar to that governing the Planning Department's comments under §14-203 in some cases before the Board: "If the Department of Planning fails to submit its report and recommendations within the period specified in subsection (a) of this section, the Board may proceed without the report and recommendations." Staff recommends that the Council consider a similar provision that would allow the Board to move forward on an appeal where HAP did not comment in a timely fashion.

Notification:

Staff notified 23 organizations on the mailing list of the Commission on Historic and Architectural Preservation, as well as the Baltimore Development Workgroup.



Thomas J. Stosur
Director