

REDUCTION OF TRANSMISSION TOWER SETBACK REQUIREMENTS

Request by Eco-Site, LLC for property at 2802 University Parkway located in the Northwest Ward.

This item is for consideration of a reduction of two required setbacks for a proposed transmission tower. The item is quasi-judicial and notice of the public hearing has been given through signage, a legal advertisement in the newspaper, and a letter to each property owner with 500 feet of the subject property.

The applicant proposes placing a Transmission Tower on a site zoned Highway Business (HB). Transmission Towers are allowed in the HB zoning district with staff review, provided they meet the requirements of the UDO. In such cases, no elected or appointed body review is required. However, in this case, the proposed tower does not meet the setback requirements of the UDO and therefore the applicant is requesting alternative compliance, which does require Elected Body review.

Below is the specific UDO language from Chapter B. 2-5.79 (D) (1) that applies to this request:

Alternative compliance. A developer may propose a setback that varies from the strict application of the provisions of this section in order to accommodate the unique character of the site and the surrounding area. Application for alternative compliance shall be made in an application to the Elected Body. When evaluating alternative compliance, the Elected Body may consider the following factors and should only approve the request upon a finding that the proposed setback fulfills the intent and purposes of this section as well or better than would strict conformance with the requirements of this section:

- a. Topography.
- b. Surrounding development plans.
- c. Existing or proposed development on the property.
- d. Existing and proposed screening and buffering.
- e. Distance to existing residential structures.
- f. Vegetation and tree canopy.
- g. Visibility of the tower from the proposed location from public rights-of-way.
- h. Other site development issues.

The proposed tower is a 140 foot monopole tower with exposed antennae. In the HB zoning district, towers of up to 300 feet are allowed. The UDO requires the tower be set back a minimum of 100 feet from any adjoining residential zoning district and a minimum of 40 feet from any other adjacent zoning lot. Also, towers must be set back an equal distance to the tower height from public streets.

Due to site limitations, the proposed tower is unable to meet all of the requirements. To meet the 100 foot setback requirement from a residential zoning district, the tower is proposed to be placed five feet from an adjoining zoning lot which is also zoned HB, which requires a 35 foot setback reduction from the adjoining property line. The tower is also proposed to be closer than the height of the tower to a public street and therefore a 40 foot setback reduction from the right-of-way of Carriage Drive is also being requested.

All other UDO requirements for transmission towers would apply to this proposal, such as the prohibition of signage on the tower and the bufferyard requirements. In this case, the UDO requires a Type III bufferyard and security fencing around three sides of the site, including the tower, any ground buildings or equipment, and opaque security fencing adjacent to the HB property to the east, so as to provide spatial separation and create visual screening from adjacent properties and streets.

Unlike a Special Use Permit which requires affirmative findings of four items, this request requires a single finding that the proposed setback fulfills the intent and purposes of the UDO as well or better than would strict conformance with the requirements.