



City of Columbus

Office of City Clerk
90 West Broad Street
Columbus OH 43215-9015
columbuscitycouncil.org

Legislation Text

File #: 0903-2007, Version: 1

Rezoning Application # Z07-012

APPLICANT: Bernard Radio LLC; c/o James M. Groner, Atty.; 10 West Broad Street, Suite 2100; Columbus, OH 43215.

PROPOSED USE: AM radio transmission facility.

DEVELOPMENT COMMISSION RECOMMENDATION: Approval (7-0) on May 10, 2007.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The requested CPD, Commercial Planned Development District was submitted to fulfill a condition of Council variance application CV06-029 which was approved on September 11, 2006. Construction is almost complete, and operation of the radio transmission facility is to begin this year. The CPD text contains use restrictions (office and radio transmission uses only) and includes development standards that address appropriate setbacks, screening, landscaping, and lighting controls. With the proposed restrictions and development standards, the requested CPD, Commercial Planned Development District is compatible with the adjacent residential uses and consistent with the zoning and development patterns of the area.

To rezone **2708 MORSE ROAD (43231)**, being 9.33± acres located on the north side of Morse Road, 233± feet west of Chesford Road, **From:** L-AR-3, Limited Apartment Residential District, **To:** CPD, Commercial Planned Development District (Rezoning # Z07-012).

WHEREAS, application #Z07-012 is on file with the Building Services Division of the Department of Development requesting rezoning of 9.33± acres from L-AR-3, Limited Apartment Residential Development District to CPD, Commercial Planned Development District; and

WHEREAS, the Development Commission recommends approval of said zoning change; and

WHEREAS, the City Departments recommend approval of said zoning change because the requested CPD, Commercial Planned Development District was submitted to fulfill a condition of Council variance application CV06-029 which was approved on September 11, 2006. Construction is almost complete, and operation of the radio transmission facility is to begin this year. The CPD text contains use restrictions (office and radio transmission uses only) and includes development standards that address appropriate setbacks, screening, landscaping, and lighting controls. With the proposed restrictions and development standards, the requested CPD, Commercial Planned Development District is compatible with the adjacent residential uses and consistent with the zoning and development patterns of the area, now, therefore:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the Official Zoning Map of the City of Columbus, as adopted by Ordinance No. 0179 -03, passed February 24, 2003, and as subsequently amended, is hereby revised by changing the zoning of the property as follows:

2708 MORSE ROAD (43231), being 9.33± acres located on the north side of Morse Road, 233± feet west of Chesford Road, and being more particularly described as follows:

Situated in the State of Ohio, County of Franklin, City of Columbus, being located in Quarter Township 3, Township 2, Range 17, United States Military Lands and being 6.103 acres out of Parcel 1 and 3.223 acres out of Parcel 2 as conveyed to Columbus Urban Growth Corporation by deed of record in Instrument Number 200012140252823 (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and being described as follows:

Beginning for reference at the Franklin County Geodetic Survey Monument Number 1135 in the centerline of Morse Road, being South 85° 48' 31" East, 1916.22 feet from a Monument Found at the intersection of said Morse Road with Cleveland Avenue;

thence South 86° 38' 06" East, with the centerline of said Morse Road, a distance of 132.49 feet to a point in the westerly right-of-way line of that 58.466 acre tract as conveyed to Consolidated Utilities Railroad Corporation by deed of record in Instrument Number 199806290161477, and being the southeasterly corner of that 0.916 acre tract as conveyed to Franklin County Commissioners by deed of record in Instrument Number 199909290244848;

thence North 29° 41' 40" East, with said westerly right-of-way line, being the easterly line of said 0.916 acre tract, a distance of 89.26 feet to an iron set in the proposed northerly right-of-way line of said Morse Road and being the True Point of Beginning;

thence North 86° 38' 06" West, across said Parcel 2, with said proposed northerly right-of-way line, being 80 feet northerly of and parallel to said centerline, a distance of 60.00 feet to an iron pin set;

thence North 03° 21' 54" East, across said Parcels 1 and 2, a distance of 1055.21 feet to an iron pin set in the southerly line of that subdivision entitled "Brandywine Meadows Section 8" of record in Plat Book 76, Page 81;

thence South 86° 07' 05" East, with the southerly line of said subdivision, and the southerly line of that subdivision entitled "Brandywine Meadows Section 9" of record in Plat Book 80, Page 72, (passing an iron pin found at 196.37, 598.32, 658.68 and 784.89 feet) a distance of 824.81 feet to an iron pin found in the westerly right-of-way of said 58.466 acre tract, being on the arc of a curve to the left;

thence southwesterly, with said westerly right-of-way line, being the arc of said curve (Delta = 22° 23' 49", Radius = 2925.85 feet) a cord bearing and distance of South 40° 53' 35" West, 1136.45 feet to an iron pin set at a point of tangency;

thence South 29° 41' 40" West, continuing with said westerly right-of-way line, a distance of 163.45 feet to the True Point of Beginning, and containing 9.326 acres of land, more or less.

Subject however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen-sixteenth (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initial EMHT, INC.

Bearings are based on the Ohio State Plane Coordinate System as per NAD 83. Control for bearings was taken from monuments using Global Positioning Systems procedures and equipment, in which a portion of the centerline of Morse Road has a bearing of North 85° 48' 31" West.

To Rezone From: L-AR-3, Limited Apartment Residential District,

To: CPD, Commercial Planned Development District.

SECTION 2. That a Height District of thirty-five (35) feet is hereby established on the CPD, Commercial Planned Development District on this property.

SECTION 3. That the Director of the Department of Development be, and he is hereby authorized and directed to make the said changes on the said original zoning map in the office of the Building Services Division and shall register a copy of the approved CPD, Commercial Planned Development District and Application among the records of the Building Services Division as required by Section 3311.12 of the Columbus City Codes; said plans being titled, "**COUNCIL REZONING SITE PLAN SHEETS 1 & 2,**" and text titled, "**CPD TEXT,**" both signed by James M. Groner, Attorney for the Applicant, dated May 31, 2007, and the text reading as follows:

CPD TEXT

PROPOSED DISTRICT: CPD, Commercial Planned Development
PROPERTY ADDRESS: 2708 Morse Road (43231)
OWNER: Columbus Urban Growth Corporation

APPLICANT: Bernard Radio LLC
DATE OF TEXT: May 31, 2007
APPLICATION NUMBER: Z07-012

1. INTRODUCTION: The site is on an approximately 9.326 acre parcel of undeveloped land (the "Site"). The Site is zoned L-AR -3. The Applicant wants to redevelop the site for use as an AM radio transmission facility. The transmission facility shall consist of four (4) eighteen inch (18") wide, one hundred fifty foot (150') tall towers, together with four foot by four foot (4' x 4') coupler buildings on six foot by six foot (6' x 6') foundations. Additionally, the Applicant will build a twenty foot by thirty foot (20' x 30') transmission building on the Site. In Ordinance No. 0852-06 enacted on September 11, 2006, Columbus City Council granted a use variance which permits the Applicant to construct an AM radio transmission facility on the Site (the "Variance Ordinance"). Section 4 of the Variance Ordinance required the Applicant to file this rezoning application within six (6) months of the effective date of the Variance Ordinance. The Applicant entered into a twenty (20) year Ground Lease dated September 12, 2006, with Columbus Urban Growth Corporation, the fee simple owner of the Site, which permits Applicant to use the Site.

2. PERMITTED USES: The only permitted uses are (a) those contained in Section 3353, C-2, Office Commercial District of the Columbus City Code, and (b) AM radio transmission facility, including four (4) transmission towers. The following shall not be permitted on the Site: telephone call centers, uses set forth in Section 3353.03B of the Columbus City Code, libraries, contractors, educational facility, business, computer, management and training facilities, educational facility, professional, secretarial, technical and trade schools, museums, post offices, public park and recreation centers, schools (as defined in City Code Section 3303), adult and child day care centers and dwelling units (as allowed under City Code Section 3353.05).

3. DEVELOPMENT STANDARDS: Unless otherwise indicated in the submitted written text, the applicable development standards shall be those contained in Chapter 3353, C-2, Office Commercial District of the Columbus City Code.

A. Density, Height, Lot Coverage, and Setback Requirements:

1. Parking setback from Morse Road shall be eighty (80) feet.
2. Building setback from (i) Morse Road shall be eighty (80) feet; (ii) the western boundary line of the Site shall be twenty-five (25) feet; (iii) from the northern boundary line of the Site shall be sixty (60) feet; and (iv) from the eastern boundary line of the Site shall be twenty-five (25) feet.
3. For structures and paved areas including sidewalks, lot coverage shall not exceed eighty-five percent (85%).
4. Except as set forth in Section 3.G. below, no building or structure shall be erected to a height in excess of thirty-five (35).

B. Parking Standards, Access, and Traffic: All access to the Site shall come from the internal private driveway located on the property directly adjacent to the western boundary of the Site.

C. Buffering, Landscaping, Open Space and Screening Commitments:

1. Twenty-five (25) evergreen trees shall be planted on the Site as indicated on the two (2) page Site Plan titled "BERNARD RADIO PROPOSED AM TRANSMISSION FACILITY" drawn by Evans, Mechwart, Hambleton & Tilton, Inc., dated April 26, 2006, and signed by James M. Groner, Attorney for the Applicant on April 18, 2007 (the "Site Plan").
2. A fence shall be installed along the entire north property line of the Site. The fence shall be located south of the existing drainage swale and shall avoid removing existing vegetation along the north property line if possible. This fence shall match the existing fence installed along the north property line and western boundary line with the Morse Glen Apartments.
3. All landscaping shall be maintained in a healthy state. Any dead material shall be removed and replaced with like materials within six (6) months or the next available planting season, whichever occurs first. The size of the new material shall equal the size of the original material when it was installed.
4. The minimum size of the evergreen trees at installation shall be six (6) feet.
5. The earthen mound approximately fifty (50) feet south of the north property line shall be maintained as it currently exists.

D. Building Design and/or Interior-Exterior Treatment Commitments: NOT APPLICABLE.

E. Dumpsters, Lighting, Outdoor Display Areas and/or Other Environmental Commitments:

1. Light poles, if any, shall not exceed eighteen (18) feet in height. .
2. Lights shall have fully shielded, recessed lamps directed downward to prevent glare and not shine above the horizontal plane.
3. All external outdoor lighting fixtures to be used shall be from the same or similar manufacturer' s type and color to ensure aesthetic compatibility.
4. Building-mounted area lighting within the parcel shall utilize fully shielded cut-off style fixtures and be designed in such a way to minimize any off-site light spillage.

F. Graphics and Signage Requirements:

1. All graphics and signage shall comply with the Graphics Code, Article 15, Title 33 of the Columbus City Code as it applies to the C-2, Office Commercial District of the Columbus City Code, and any variance to those requirements will be submitted to the Columbus Graphics Commission for consideration.

G. Miscellaneous Commitments:

1. Variances Requested. The following variances are granted for and only apply to the AM radio transmission use:
 - a. Applicant requests a variance from City Code Section 3309.14, Height Districts, so that each of the four (4) radio towers can be constructed on the Site up to a maximum height of one hundred sixty (160) feet as shown on the Site Plan.
 - b. Applicant hereby requests a variance from City Code Section 3342.19, Parking Space, which allows stacked parking in the driveway for only single-family and two-family dwellings. The Applicant proposes two (2) stacked parking spaces at the terminus of the transmission facility driveway as indicated on the Site Plan.
 - c. Section 3372.912 of the City Code, Landscaping and Screening, requires certain landscaping and screening requirements in a regional commercial overlay as it applies to Morse Road. The Applicant hereby requests that the requirements of Section 3372.912 be waived for the Site, and the landscaping and screening requirements for the Site shall be as set forth in this CPD Text and on the Site Plan.
 - d. City Code Section 3372.914, Lighting, requires certain lighting requirements in a regional commercial overlay as it applies to Morse Road. The Applicant hereby requests that the requirements of Section 3379.914C of the City Code are hereby waived and the parking lighting being installed on the Site shall be in conformance with the terms of this CPD Text.
2. Within thirty (30) days after the approval of this CPD Text by the Columbus City Council, Applicant agrees to pay \$3,730.40 to the City of Columbus, Department of Recreation and Parks. The payment represents the Applicant's full compliance with the requirements of the Parkland Dedication Ordinance.
3. Initially, the Site shall be developed in accordance with the submitted Site Plan. The Site Plan may be slightly adjusted to reflect engineering, topographical or other Site data developed at the time of development or when engineering plans are completed. Any slight adjustment to the Site Plan shall be reviewed and may be approved by the Director of the Department of Development or his designee upon submission of the appropriate data regarding the proposed adjustment. Notwithstanding the foregoing, future buildings and improvements can be constructed on the Site not in conformance with the Site Plan provided such buildings and improvements comply with the development standards set forth in this CPD Text.
4. CPD Criteria:

A. Natural Environment: The Site is currently undeveloped.

B. Existing Land Uses: To the north are residential, one-family homes; to the east are commercial retail buildings; to the south

across Morse Road is a multi-family apartment complex; and to the west is a multi-family apartment complex.

C. Transportation and Circulation: Access shall be from Morse Road and an internal private driveway.

D. Visual Form of the Environment: The Site will be developed in accordance with this CPD Text and the Site Plan.

E. View and Visibility: In the development of the Site and in the location of the buildings and access points, consideration will be given to the visibility and safety of the motorist and pedestrians.

F. Proposed Development: Commercial uses as set forth in Section 2 "Permitted Uses" of this CPD Text.

G. Emissions: No adverse effects from emissions shall result from the proposed development.

H. Behavior Patterns: The proposed development should not change the behavior patterns.

SECTION 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.