



MEMORANDUM

TO: City Council
FROM: Ted Shekell, Director of Planning and Zoning
Walter Denton, City Administrator
DATE: April 16, 2007
SUBJECT: Frieze Harley-Davidson Wind Turbine – City Council Right-of-Review

Attached are the Zoning Hearing Officer's Findings of Fact and the Decision for ZHO2007-04, the Frieze Harley-Davidson Wind Turbine variance request. The City Council's 21 day right-of-review began on April 5, 2007, and will expire on April 26, 2007. In order to initiate the review, a motion must be passed at the City Council meeting on April 16, 2007. If the motion passes, staff recommends that the City Council make a final decision no later than 45 days from April 16, 2007, to remain consistent with the appeals procedure for Special Uses. This date would be May 31, 2007.

Below is an excerpt from Article XV: Variances and Appeals in the City of O'Fallon Zoning Code of Ordinances regarding the appeals process:

Section 15.060. Appeal from Final Decision of Hearing Officer.

Except where the jurisdiction of the matter subject to the petition has been reserved to the Council by ordinance, any officer, department, board or bureau of the City or any person whose legal rights, duties, or privileges have been affected by any decision of the Hearing Officer may present to the Circuit Court having jurisdiction in the county, a complaint, duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality. Such complaint shall be presented to the court within 35 days after the filing of the decision in the office of the Hearing Officer. In the event that the City is subject to home rule authority pursuant to Art. VII, Section 6 of the Illinois Constitution, this Section shall be deemed automatically superceded upon determination of that event and any appeal herein shall be to the City Council within 21 days of the filing of the decision in the office of the Hearing Officer. Such appeal shall be duly verified, shall state that such decision is illegal in whole or in part, and shall specify the grounds of the illegality.

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