

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
January 15, 2015**

A meeting of the Louisville Metro Planning Commission was held on Thursday, January 15, 2015 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

David Proffitt, Vice Chair
Jeff Brown
Vince Jarboe
Robert Kirchdorfer
Clifford Turner
David Tomes

Commission members absent:

Donnie Blake, Chair
Robert Peterson
Chip White
Carrie Butler

Staff Members present:

Emily Liu, Director, Planning & Design Services
John G. Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
David Wagner, Planner II
Joseph Reverman, Planning Supervisor
Christopher Brown, Planner II
Steve Hendrix, Planning & Design Supervisor
Chris Cestaro, Management Assistant (minutes)

Others:

The following matters were considered:

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Approval of Minutes

December 18, 2014 – 1:00 p.m. Planning Commission Regular Meeting

On a motion by Commissioner Tomes, seconded by Commissioner Turner, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on December 18, 2014.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Jarboe, Kirchdorfer, Turner, and Tomes

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, White, and Butler

ABSTAINING: No one.

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Business Session

Case No. 14CELL1004W

Request: Vote on the waiver request to reduce the buffer width from 35 feet to 10 feet. (Although the cell tower application was approved on December 18, 2014, no action was taken on the waiver request.) **No further testimony.**

Project Name: Verizon Cell Tower

Location: 5811 Lovers Lane with access from Billtown Road

Owner: Virginia M. and Joseph Bland
5811 Lovers Lane
Louisville, KY 40299

Applicant: Celco Partnership d/b/a Verizon Wireless
Amy Harper – Contact
2421 Holloway Road
Louisville, KY 40299

Celco Partnership d/b/a Verizon Wireless
One Verizon Way, Mailstop 4AW100
Basking Ridge, NJ 07920

Representative: Brent Rice
McBrayer Attorneys at Law
201 East Main Street Suite 900
Lexington, KY 40507

Engineers: Philip Heid
BTM Engineering
3001 Taylor Springs Drive
Louisville, KY 40220

FStan Land Surveyors & Consulting Engineers
933 South 3rd Street
Louisville, KY 40203

Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel

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Business Session

Case No. 14CELL1004W

Case Manager: Steve Hendrix, Planning Supervisor

Agency Testimony:

00:08:48 Steve Hendrix explained that the cell tower application was heard and approved at the December 18, 2014 Planning Commission public hearing; however, the Waiver request portion was not voted on at that time. (See recording for detailed presentation; see staff report from December 18, 2014 for detailed waiver request.)

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

00:16:16 Commissioner Jarboe made a motion to approve the waiver request. Motion seconded by Commissioner Kirchdorfer.

The vote was as follows:

YES: Commissioners Turner, Jarboe, and Kirchdorfer.

NO: Commissioners Proffitt and Tomes.

NOT PRESENT: Commissioners Blake, Peterson, White, and Butler

ABSTAINING: Commissioner Brown.

The motion failed due to a tie.

00:17:33 through 00:23:01 Commissioners' deliberation.

00:23:01 On a motion by Commissioner Jarboe, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will adversely affect adjacent property owners; and

WHEREAS, the Commission further finds that the waiver will violate Guideline 3 – Compatibility of Cornerstone 2020; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; now, therefore be it

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Business Session

Case No. 14CELL1004W

RESOLVED, the Louisville Metro Planning Commission does hereby **DENY** the requested Waiver to reduce the required width of the buffer area from 35 feet to 10 feet.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Jarboe, Turner, and Tomes

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, White, and Butler

ABSTAINING: Commissioner Kirchdorfer.

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Public Hearing

Case No. 14CELL1003

Request: Applicant has requested that this item be continued indefinitely pending the completion of additional studies of possible alternate locations for the proposed facility on the subject property. ORIGINAL REQUEST: to construct a 135-foot tall tower with a 5-foot tall lightning arrestor for a total height of 140 feet with a 5,625 square foot compound area.

Project Name: Verizon Cell Tower

Location: 7200 Woodhaven Road, PVA address, cell tower location is across from 7202-7206 Quail Ridge Road.

Owner: Rays Development Corporation

Applicant: Cellco Partnership d/b/a Verizon Wireless
Amy Harper – Contact
2421 Holloway Road
Louisville, KY 40299

Representative: Stephen Lentz and Robert Grant
Pike Legal Group PLLC
1578 Kentucky 44 #6, Shepherdsville, KY
40165

Jurisdiction: Louisville Metro

Council District: 2 – Barbara Shanklin and 24-Madonna Flood

Case Manager: **Steve Hendrix, Planning Supervisor**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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Case No. 14CELL1003

Agency Testimony:

00:26:24 Steve Hendrix presented the request for an indefinite continuance.

00:27:27 Commissioner Proffitt read the applicant's justification for their request into the record.

The following spoke in favor of the proposal:

Stephen Lentz (attorney for applicant), P.O. Box 369, Shepherdsville, KY 40165

Robert Grant (attorney for applicant), P.O. Box 369, Shepherdsville, KY 40165

Summary of testimony of those in favor:

00:27:58 Stephen Lentz explained the continuance request (see recording for detailed presentation.) He explained that investigations into other sites are already underway.

The following spoke in opposition to the proposal:

Dr. Ward Mowery, 7215 Quail Ridge Road, Louisville, KY 40291

Summary of testimony of those in opposition:

00:30:58 Dr. Ward Mowery, an adjacent property owner, spoke in opposition. He said that he had a petition, signed by 110 residents, opposing the proposal and stating that there was no justification for this request. He read an opposition letter from another property owner into the record.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

00:46:59 Mr. Lentz delivered his rebuttal.

Deliberation:

00:48:02 In response to a question from Commissioner Tomes, Jonathan Baker, Legal Counsel for the Planning Commission, explained re-notification requirements and procedures.

00:49:18 Commissioners' deliberation.

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An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

00:50:10 On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the applicant's request to continue this case to a date uncertain.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Jarboe, Kirchdorfer, Turner, and Tomes

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, White, and Butler

ABSTAINING: No one.

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Public Hearing

Case No. 14AREA1003

Request: Areawide change in zoning from R-4 Single Family Residential to PEC Planned Employment Center

Project Name: Jeffersontown Commerce Park

Location: Multiple Properties

Owner: Multiple Owners

Applicant: City of Jeffersontown
10416 Watterson Trail
Jeffersontown, KY 40299

Representative: Stephen Rusie
City of Jeffersontown
10416 Watterson Trail
Jeffersontown, KY 40299

Jurisdiction: City of Jeffersontown

Council District: 20 – Stuart Benson and 11 – Kevin Kramer

Case Manager: David B. Wagner, Planner II

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:52:00 David Wagner presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He added that this case was initiated by the City of Jeffersontown.

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The following spoke in favor of the proposal:

Stephen Rusie, City of Jeffersontown, 10416 Watterson Trail, Jeffersontown, KY 40299

Summary of testimony of those in favor of the proposal:

00:56:47 Mr. Rusie presented the applicant's case and showed a Power Point presentation. In response to some of the Commissioner's questions, he gave details about the site and the surrounding areas, their zoning classifications, and some current uses.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Deliberation:

01:00:58 Commissioners' deliberation.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

02:14:06 On a motion by Commissioner Brown, seconded by Commissioner Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposed City of Jeffersontown area wide rezoning complies with the Cornerstone 2020 Comprehensive Plan and with all of the applicable Guidelines and Policies it contains. The subject properties are within or adjacent to the existing industrial park and surrounded by industrial zoned properties; and

WHEREAS, the Commission further finds that the proposed rezoning complies with Guideline 1.B.10 of the Cornerstone 2020 Comprehensive Plan. The subject

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properties are located in a Suburban Workplace Form District which are characterized by predominately industrial and offices uses; and

WHEREAS, the Commission further finds that the proposed rezoning complies with Guideline 3 and its Policies. The area wide rezoning will encourage industries to locate in workplace form districts and will allow appropriate transitions to occur at the edge of the form district rather than within the form district; and

WHEREAS, the Commission further finds that the proposed rezoning complies with Guideline 6 and its Policies. The rezoning of the subject properties will preserve workplaces and allow new industrial uses adjacent to existing industrial uses; and

WHEREAS, the Commission further finds that the proposed rezoning complies with Guideline 8 and its Policies. The area has a network of roadways and a hierarchy of streets to provide appropriate access to the lots being rezoned; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the City of Jeffersontown that the Area Wide Change in Zoning from R-4, Single Family Residential to PEC, Planned Employment Center on property described in the attached legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Jarboe, Kirchdorfer, Turner, and Tomes

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, White, and Butler

ABSTAINING: No one.

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Public Hearing

Case No. 14ZONE1039

Request: Change in zoning from C-1 to C-2 and a Revised Detailed District Development Plan

Project Name: OBC Lots C & D

Location: 9840 & 9850 Von Allmen Court

Owner/Applicant: Rory F. McMahan, representative
McMahan Group Ventures LLC
3034 Hunsinger Lane
Louisville, KY 40220

Representative: Glenn A Price, Jr.
Frost, Brown Todd
400 West Market Street, Floor 32
Louisville, KY 40202

Engineer/Designer: John Addington
BTM Engineering, Inc.
3001 Taylor Springs Drive
Louisville, KY 40220

Jurisdiction: Louisville Metro

Council District: 16 – Kelly Downard

Case Manager: Christopher Brown, Planner II

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:03:43 Christopher Brown presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He said that the Detailed District Development Plan was approved by the DRC under

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Case No. 14DEVPLAN1051; however, there are several interested parties in the area who have raised concerns about the proposed building due to existing Binding Element #10 (building materials and design). In response to a question from Commissioner Jarboe, Mr. Brown stated that the plan being presented today has not changed from what was presented at DRC.

The following spoke in favor of the proposal:

Glenn A Price, Jr., Frost, Brown Todd, 400 West Market Street, Floor 32,
Louisville, KY 40202

John Addington, BTM Engineering, Inc., 3001 Taylor Springs Drive, Louisville,
KY 40220

Summary of testimony of those in favor of the proposal:

01:09:33 Glenn Price Jr. presented the applicant's case and showed a Power Point presentation. He primarily spoke about the proposed tavern use and the proposed building design.

01:12:49 Mr. Price discussed the DRC Committee's decision and why he thinks it is an appropriate decision under the existing Binding Element #10. He added that the DRC decision was not appealed.

01:21:57 Commissioner Proffitt asked Mr. Price again about the binding elements regarding building material requirements. Mr. Price argued that the binding element does not clearly define some of the materials; also, since the DRC approved the proposal, he assumed that there was no issue with the building materials.

01:27:13 In response to a question from Commissioner Jarboe, Mr. Price clarified why the applicant felt they had some leeway in building materials (re. Binding Element #10).

The following spoke in opposition to the proposal:

Barbara Kelly, 6009 Mint Spring Branch Rd., Prospect, KY 40059

Mary Dennis Kannapel, 3200 Cherry Valley Rd., Prospect, KY 40059

Summary of testimony of those in opposition to the proposal:

01:30:03 Barbara Kelly spoke in opposition. She said that binding element #10 was not brought to the attention of the DRC Committee; since they did not

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have complete and/or accurate information, their decision could not be valid. She discussed compatibility, and how other developments in Brownsboro Crossings have abided by the binding elements and the design elements of the General Plan.

01:38:01 Mary Dennis Kannapel spoke in opposition and discussed the importance of binding elements.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

01:38:12 Mr. Price said this development is not in the Wolf Pen Neighborhood; this is part of the KY-22 commercial sector, which is a commercial and suburban area. He submitted a proposed binding element, as follows:

“The building shall have a substantial brick component, to be determined by the DRC Committee following notice to Ms. Kelly. The applicant agrees to meet with Ms. Kelly in advance of the DRC Committee meeting.”

01:48:11 Commissioner Proffitt asked Mr. Price if it was his preference to continue this case to the January 29, 2014 Planning Commission public hearing for the purpose of looking at the possibility of incorporating alternative materials to more closely relate to the binding element as it is written. Mr. Price said yes.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

01:51:23 On a motion by Commissioner Jarboe, seconded by Commissioner Tomes, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the January 29, 2015 Planning Commission public hearing for the purpose of looking at the possibility of incorporating alternative materials to more closely relate to the binding element as it is written.

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The vote was as follows:

**YES: Commissioners Proffitt, Brown, Jarboe, Kirchdorfer, Turner, and
Tomes**

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, White, and Butler

ABSTAINING: No one.

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Public Hearing

Case No. 14AMEND1003

Commissioner Turner left the meeting at 3:05 p.m. and did not hear this case.

NOTE: This case was continued from the November 20, 2014 Planning Commission public hearing.

Request: LDC Round Two Text Amendments –
Landscaping

Case Manager: Julia Williams, Planner II

Testimony and Discussion:

01:52:51 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She explained that, at the November 20, 2014 most of the recommendations were moved forward, with one exception: Land Item #3, the Tree Canopy Compliance Options. Whether or not to keep monies in the given district, or put into a general fund, were discussed.

01:57:36 Jonathan Baker, Legal Counsel for the Planning Commission, discussed land use law and its relationship to impacts created by development.

02:02:00 Commissioner Brown discussed the sidewalk fee-in-lieu funding and its relationship to this topic.

02:02:40 Ms. Williams discussed the options currently available to applicants who cannot meet their tree canopy requirements on-site.

02:09:28 Katy Schneider, Co-Chair of the Louisville Metro Tree Advisory Commission, said the Commission is in favor of developers planting trees in adjacent ROWs or someplace as near to the development site as possible. She discussed circumstances where a developer could choose an option to plant through Metro Parks.

02:12:39 Ms. Williams clarified that, if money goes to Parks, it will be spent in a park in the district.

02:13:26 Commissioner Tomes and Ms. Schneider discussed planting trees in the same council district as a given development project.

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An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

02:18:46 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby CONTINUE Item #3 for Case No. 14AMEND1003 – Landscaping to a date uncertain for further discussion about a fee-in-lieu and how it could be applied.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Jarboe, Kirchdorfer, Turner, and Tomes

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, White, and Butler

ABSTAINING: No one.

02:22:07 Ms. Williams and the Commissioners reviewed other items and proposed changes included in the Landscaping portion of 14AMEND1003.

***NOTE: Commissioner Jarboe left the meeting at approximately 3:40 p.m. Since the Commission lost its quorum, testimony was presented into the record but NO ACTION OR VOTE was taken on this case.**

02:41:35 Discussion about Item #35 (there is no definition of the word "Roadway").

02:46:26 In response to a question from Commissioner Proffitt, Ms. Williams discussed a staff recommendation related to Olmstead Parkway development guidelines within the LDC.

02:50:00 Ms. Schneider talked about Item #18 (Tree Canopy Waivers).

02:51:56 In response to a question from Commissioner Kirchdorfer, Mr. Baker discussed legal issues associated with Waivers or fee-in-lieus.

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02:57:55 On a motion by Commissioner Kirchdorfer, seconded by Commissioner Brown, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby CONTINUE Case No. 14AMEND1003 – Landscaping to the February 5, 2015 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Jarboe, Kirchdorfer, Turner, and Tomes

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, White, and Butler

ABSTAINING: No one.

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee

No report given

Site Inspection Committee

No report given.

ADJOURNMENT

The meeting adjourned at approximately 4:15 p.m.



Chairman



Division Director