

Subj: **Re: Case No. 14ZONE1039**
Date: 1/29/2015 1:34:28 A.M. Eastern Standard Time
From: Stpinlou@aol.com
To: christopher.brown@louisvilleky.gov
BCC: tuckerhouse1840@aol.com, markdanfos@aol.com, AGunnison@aol.com, mdkart@mac.com,
elzair@att.net, Bonnebetz@aol.com, pianotam@insightbb.com

Dear Mr. Brown:

Since there is a public hearing scheduled for this case on January 29, 2015, I wish to put the following into the record of the case:

The current composition of the Planning Commission:

1. Violates KRS 100.137(2) because more than four of the citizen appointees have a direct financial interest in the land development and construction industry.
2. Violates KRS 67C.117(2) because the percentage of minority citizens (African-American) on the commission is less than the percentage of minority (African-American) representatives on the Metro Council.
3. Violates KRS 67C.139(1) because there is only one female member out of ten members which does not reflect the diversity of the population of Louisville Metro. and
4. Violates KRS 100.137(2) because one of the members of the Planning Commission is not a resident of Louisville Metro.

Therefore, this illegally constituted public body is not able to perform its statutory duties as required by law, and any decision of the Commission is arbitrary and capricious and violative of due process..

Stephen T. Porter, Attorney
2406 Tucker Station Road
Louisville, KY 40299
502-297-9991
stpinlou@aol.com

Brown, Christopher

From: Mark Foster <markfosterdb@gmail.com>
Sent: Friday, January 09, 2015 3:41 PM
To: Brown, Christopher
Subject: # 14ZONE1039 Rezoning for OBC lots C and D

Christopher Brown,

I wish to state that the developer should be made to hold to the binding elements of Old Brownsboro Crossing and to the Cornerstone 2020 guidelines.

These should not be ignored because of inconvenience or ignorance on the part of the developer.

Thank you for your consideration,

Mark Foster
5200 Cherry Valley Rd
Prospect, KY

Brown, Christopher

From: s.skaggs@louisville.edu
Sent: Friday, January 09, 2015 11:43 AM
To: Brown, Christopher
Subject: Case # 14 ZONE 1039 - Rezoning OBC Lots C & D

Chris,

I am amazed that the developer continues, even after a meeting with us, to completely disregard the binding elements (especially #10) and to ignore the Cornerstone Guidelines (esp #17) with respect to architectural harmony and OBC compatibility. We have repeatedly expressed our opinion about the materials and apparently because he wishes a symbolic compatibility with future adapted reuse as a doctor's office complex, he is trying to have materials that are not in concert with the OBC environment. He is going to the very limit in terms of signage and building height, also in terms of parking acreage (which he could have downsized with some narrower "compact car" slots) and now he is ignoring printed and lawful binding elements. If developers need not be bound by binding elements, then why even have a Planning Commission?

Steven Skaggs
8116 Wolf Pen Branch Rd
Prospect, KY 40059

Brown, Christopher

From: Brown, Chris M
Sent: Friday, January 09, 2015 7:09 AM
To: agunnison@aol.com
Cc: Brown, Christopher
Subject: RE: Rezoning OBC lots C&D Case # 14Zone1039

I have forwarded this email to the Christopher Brown in Zoning. Good luck!

CB

Christopher M. Brown
Assistant Jefferson County Attorney
Juvenile Division Chief
600 West Jefferson St., 3rd Floor
Louisville, Kentucky 40202
(502) 574-0148
(502) 574-0876 (direct)
(502) 303-0710 (cell)

From: agunnison@aol.com [agunnison@aol.com]
Sent: Thursday, January 08, 2015 3:49 PM
To: Brown, Chris M
Subject: Rezoning OBC lots C&D Case # 14Zone1039

Chris--please bring my comments before the Planning Commission at the hearing on January 9 re: the above case. I am very dismayed that the developers have made no attempt to comply with the requirements of Binding Elements and Cornerstone 2020 guidelines regarding building materials and compatibility. This has been brought to their attention repeatedly and they have ignored every attempt to discuss it. In addition, Staff reports to the LD&T and DRC committees as well reflect the requirements and that they are not being met.

Much time, effort and money (some of it tax dollars) goes into designing these committees and zoning suggestions such as Cornerstone 2020. I do not understand how developers--and committees--can ignore these written agreements time and time again. The public needs to know that rules and procedures are followed and all sides are heard. This certainly doesn't seem to be the case here. PLEASE, Planning Commission, address these issues at your meeting. The details are in staff reports and can be reviewed with you.

I am unable to get off work to attend such meeting or I would be there to bring this up in person.

May I count on you to review?

Alice Gunnison

TO: Members of the Planning Commission
DATE: January 8, 2015
CASE: 14ZONE1039

I respectfully request that the Planning Commission enforce Binding Element #10 of the General Plan for Old Brownsboro Crossing, specifically the highlighted and underlined portions below:

Binding Element #10

“The materials and design of proposed structures shall be substantially the same as depicted in renderings presented at the time of detail district development plan approval for each parcel. **The building materials for the retail component and hotel shall be drivit, tile, brick, masonry and stone** except nationally or regionally recognized chain operations may utilize wood exteriors where such exterior appearance is part of an established and generally used trade dress. **The building materials for the office component shall be brick or stone or a combination of brick and stone.** All structures adjacent to KY 22 shall have a consistent architectural style and exterior color scheme. An Architectural Review Committee shall be established by the Developer and reflected within the deed Restrictions recorded prior to the submittal of the first detail district development plan.” (Bold type added.)

When the site plan was approved at DRC there was a request to amend Binding Element #2 of the General Plan, in order to update the square footage totals of Old Brownsboro Crossing. However, the applicant did not request an amendment to General Plan Binding Element #10, and no amendment to that Binding Element was granted by the committee. To date no amendment to General Plan Binding Element #10 has been requested, nor is one warranted. All other development in Old Brownsboro Crossing has been subject to this binding element.

I also respectfully request that the Planning Commission see that Cornerstone 2020 Guideline #17A.2 is followed, which says: **“A.2: The proposed building materials increase the new development’s compatibility.”**

Neighbors raised the issue of building materials in two Neighborhood Meetings and DRC, specifically the extent to which Alucobond exterior material was being used rather than the required materials. When the issue was raised at LD&T, Commissioner Blake commented that the issue would have to be looked into, presumably by the full Planning Commission.

After LD&T, one of the developer’s representatives advised me that he would contact the developer to see about setting up another meeting with neighbors to discuss the materials issue. The developer did not schedule a meeting, and he cannot now claim that it is too late to change the materials. He has known of the requirements since the approval years ago of the general development plan, rezoning and form district change.

Included also is a copy of my November 13, 2014, comments to LD&T, which covers the issue in more detail.

Barbara Kelly
6009 Mint Spring Branch Road
Prospect, KY 40059

Brown, Christopher

From: agunnison@aol.com
Sent: Thursday, November 13, 2014 10:23 AM
To: Brown, Christopher
Subject: re: 14zone1039 case today

As a nearby resident, I remain concerned that, once again, certain binding elements and aspects of Cornerstone 2020 are being relegated to the junk pile. Our tax dollars go towards a plan for optimal outcomes for our community so it seems logical that all that time and effort (not to mention money) should not be for naught. Please ask the LD&T committee to look carefully at the plan for this OBC building which will be submitted to them today and consider my concerns.

Alice Gunnison, neighbor

Land Development and Transportation Committee
9840 and 9850 Von Allmen Court
14ZONE1039
November 13, 2014

TO: Members of the LD&T Committee:

I submit that the proposal, 14ZONE1039, does not comply with the building materials requirements of Binding Element #10 nor with Cornerstone 2020 Guideline #17 regarding the use of materials to increase compatibility.

BINDING ELEMENT #10:

“The materials and design of proposed structures shall be substantially the same as depicted in renderings presented at the time of detailed district development plan approval for each parcel. **The building materials for the retail component and hotel shall be drivit, tile, brick, masonry and stone** except nationally or regionally recognized chain operations may utilize wood exteriors where such exterior appearance is part of an established and generally used trade dress. **The building materials for the office component shall be brick or stone or a combination of brick and stone.** All structures adjacent to KY 22 shall have a consistent architectural style and exterior color scheme. An Architectural Review Committee shall be established by the Developer and reflected within the Deed Restrictions recorded prior to the submittal of the first detail district development plan.” (Bold type added.)

CORNERSTONE 2020 GUIDELINE #17:

“A.2: The proposed building materials increase the new development’s compatibility.”

At the Neighborhood Meeting, the developer, Rory McMahan, mentioned that in addition to World of Beer, which needs the rezoning, offices for a physician would be located on the top floor. With both retail sales and offices, the materials cited above in Binding Element #10 are required. The relatively small amount of brick shown in the renderings does not meet the requirement.

Prior to the July 2014 DRC meeting, neighbors advised the applicant’s attorney that we had an issue with the extensive use of Alucobond material and asked that more brick be used on the exterior instead. We also made this known at the DRC meeting.

At the required Neighborhood Meeting for the rezoning, construction had not begun on the building, and neighbors brought up this same issue again. The developer or his attorney knew the materials required by the binding element and Cornerstone 2020, and there was ample time to substitute brick in place of Alucobond.

The use of the proposed building materials does not follow the Cornerstone 2020 Guideline to increase the new development's compatibility. Nor does it adhere to the requirement of Binding Element #10 that "All structures adjacent to Ky 22 shall have a consistent architectural style and exterior color scheme." The other structures adjacent to KY 22 are Fifth-Third Bank and Red Robin restaurant. Clearly, this building is made less compatible by its choice of materials.

We made this issue clear at the Neighborhood Meeting with Rory McMahan and his associate Rob Hutcherson. Mr. McMahan advised us to schedule a meeting to discuss the issue with Mr. Hutcherson, which we did. However, the developers cancelled several meetings with us and never met with us to try and resolve the issue (please see email).

Our goal was to see a building which would enhance the KY 22 Parkway, which is a point of pride to the area. Adherence to the materials required in the Binding Element would have accomplished that. The use of Alucobond to such a high degree does not increase the new development's compatibility. Further, it is not an attractive material when it is wet. It bears noting that the metro area receives more average annual precipitation than Seattle, often thought of as one of the wettest cities in the country.

The building is under construction, but it is not too late to come into compliance with the use of required materials. It is important that this project not make an end run around the letter and especially the spirit of adhering to Binding Elements and Cornerstone 2020.

Barbara Kelly
6009 Mint Spring Branch Road
Prospect, KY 40059