



Betty Jo Mahan <bettyjo.mahan@knoxmpc.org>

Fwd: Thursday, Sept. 14 MPC Meeting - WCF Ordinance

1 message

Jeff Archer <jeff.archer@knoxmpc.org>

Tue, Sep 12, 2017 at 7:07 AM

To: Betty Jo Mahan <bettyjo.mahan@knoxmpc.org>

Cc: Tom Brechko <tom.brechko@knoxmpc.org>, Dan Kelly <dan.kelly@knoxmpc.org>

Betty Jo,

Please please add this email to the packet for 8-A-17-OA and 8-A-17-OA.

Thank you,
Jeff

----- Forwarded message -----

From: **Gibson, Jacob** <jgibson@bakerdonelson.com>

Date: Mon, Sep 11, 2017 at 4:05 PM

Subject: RE: Thursday, Sept. 14 MPC Meeting - WCF Ordinance

To: Jeff Archer <jeff.archer@knoxmpc.org>

Cc: "Harris, Matt" <mharris@bakerdonelson.com>

Jeff,

Thank you for the very helpful information. I've included some notes below on a few issues that we hope you and the MPC will consider tomorrow morning and on Thursday.

Our outstanding items that we wish for ongoing consideration by the Planning Commission are:

- The exclusion of guyed towers and lattice self-support structures from permitted pole types (see Section D(3)(2)). A traditional monopole type tower could not accommodate a tower in excess of 200 feet. The ordinance allows for the granting of approval for tower heights in excess of those stated in Section E. The ordinance should provide that a lattice or guyed tower may be permitted in connection with any variance granted to the height limits set forth in Section E. Again, the monopole type tower is unsuitable structurally for taller towers.
- We wish the separation requirement to be lowered from 1,500 feet to 1,000 feet as referenced in the new tower development standards (c).
- Subsection (h)(1) addressing setbacks should provide for an exception to setback requirements when the carrier provides a letter from a structural engineer stating that the tower is designed to collapse upon itself. This is consistent with the approach of most other larger municipalities.
- (k) - Stealth Design/Technology. The language as written appears to grant too much latitude to the planners in deciding when to insist upon a stealth application. Ultimately, the State Historic Preservation Office will make

a determination as to whether a particular tower type is inappropriate or unsuitable given its surroundings. The City and County should rely upon the SHPO in this regard and avoid subjected judgments on this point.

- E. (Summary of Development Standards)(2). The City and County should remove the 125 foot height limitation for towers within 250 feet of a residentially zoned area. Often the tower will need to be higher than 125 feet to achieve the necessary capacity or coverage objective, and could have the unintended effect of resulting in additional tower structures to compensate for shorter height.
- H. (Procedures for Level to Review)(3). The reference to "character or other features" should be removed as this grants an undue amount of discretion and latitude to the subjective opinions of the commission. This would tend to the creation of ad hoc conditions based upon the subjective views of each of the commissioners.
- H. (Procedures for Level to Review)(5). What is the significance of the 16 day period after approval before such approval becomes effective?
- I. (Application Submittal Requirements)(f). The ability of the planner to request "all other information and/or materials at that the MPC may require" should be deleted as this is too subjective and grants too much latitude to the commission to request information not otherwise required by the ordinance.
- 4. Additional Requirements for New Tower. (e)(1) This section, which provides a requirement that applications for a new tower should demonstrate that existing towers and "other structures and buildings" within a half mile are not feasible for colocation. This section as written would require a carrier to account for every single building and structure of any kind that may be located within a half mile. Such due diligence should be limited to structures or buildings in excess of a particular height and should also exclude the need to account for single family dwellings.
- N. (Removal of Abandoned Towers). The 30-day requirement for notification of a change of ownership and/or change in status of a tower is too short. A period of 90 days should be considered. Lengthening such period would not seem to present any prejudice to the City or County.

Matt Harris and I will attend on Thursday, and, if the meeting tomorrow is open, I will try to drop in and listen. We are representing Verizon.

Thanks, Jeff.

Jacob

Jacob Gibson

Associate

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

265 Brookview Centre Way

Suite 600

Knoxville, TN, 37919

Phone 865.971.5182

Fax 865.329.5182

jgibson@bakerdonelson.com

From: Jeff Archer [mailto:jeff.archer@knoxmpc.org]
Sent: Monday, September 11, 2017 1:15 PM
To: Gibson, Jacob
Cc: Harris, Matt
Subject: Re: Thursday, Sept. 14 MPC Meeting - WCF Ordinance

Jacob,

Thank you for your interest in this subject. The Knoxville and Knox County WCF Ordinances are on this month's MPC agenda (<http://agenda.knoxmpc.org/Sep17.pdf>), specifically agenda item 7 and 8. Each of the agenda items are hyperlinked to material that the Commissioners have in regards to these items, just click on the MPC headings for each to access meeting material. As for participation, there are several ways to still participate:

- 1) Email commissioners your comments before the meeting: commission@knoxmpc.org.
- 2) Speak during public comment when the particular agenda item comes before MPC on Thursday afternoon.
- 3) MPC is a recommending body, so you will still have the opportunity to address City Council and County Commission, if it is approved by MPC on Thursday.

Are there any specific issues that you have regarding this ordinance. If so, I could let the Commissioners know this during their agenda review meeting Tuesday morning. In addition, are you representing a specific client in regards to this ordinance?

Thanks,

Jeff

On Mon, Sep 11, 2017 at 11:28 AM, Gibson, Jacob <jgibson@bakerdonelson.com> wrote:

Good morning, Jeff,

I was hoping to find out a bit more about the meeting with the MPC, this Thursday, Sept. 14. Do you have an idea of what the process for consideration of the WCF amendment will be like at the meeting? Will there be any opportunity for public comment, or for comment by the providers? In short, Matt Harris and I would like to know whether there may be an opportunity to participate and, if so, how we can be most helpful.

As always, thanks very much for your help.

Jacob

Jacob Gibson

Associate

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

[265 Brookview Centre Way](#)

[Suite 600](#)

[Knoxville, TN, 37919](#)

Phone [865.971.5182](#)

Fax [865.329.5182](#)

jgibson@bakerdonelson.com

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Jeff Archer, AICP
Principal Planner
Knoxville / Knox Metropolitan Planning Commission
400 Main St, Suite 403
Knoxville, TN 37902
[\(865\) 215-3821](tel:(865)215-3821)