

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 informa on. 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 considera on by the Planning Commission are:

- The exclusion of guyed towers and la. ce self-support structures from permitted pole types (see Sec2on D(3) (2)). A tradizonal monopole type tower could not accommodate a tower in excess of 200 feet. The ordinance allows for the granzing of approval for tower heights in excess of those stated in Sec2on E. The ordinance should provide that a lattice or guyed tower may be permitted in connec2on with any variance granted to the height limits set forth in Sec2on E. Again, the monopole type tower is unsuitable structurally for taller towers.
- We wish the separa on requirement to be lowered from 1,500 feet to 1,000 feet as referenced in the new tower development standards (c).
- Subsec②on (h)(1) addressing setbacks should provide for an excep②on to setback requirements when the carrier provides a letter from a structural engineer sta②ng that the tower is designed to collapse upon itself. This is consistent with the approach of most other larger municipali②es.
- (k) Stealth Design/Technology. The language as written appears to grant too much laltude to the planners in deciding when to insist upon a stealth applical on. Ullmately, the State Historic Preservalon Office will make

a determinal on as to whether a par cular 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 limita2 on for towers within 250 feet of a residen2 ally zoned area. Often the tower will need to be higher than 125 feet to achieve the necessary capacity or coverage objec2 ve, and could have the unintended effect of resul2 ng in addi2 onal 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 discrezion and lazitude to the subjective opinions of the commission. This would tend to the creazion of ad hoc condizions 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 effec®ve?
- I. (Applicalon Submittal Requirements)(f). The ability of the planner to request "all other informalon and/or materials at that the MPC may require" should be deleted as this is too subjective and grants too much lad tude to the commission to request informalon not otherwise required by the ordinance.
- 4. Addi②onal Requirements for New Tower. (e)(1) This sec②on, which provides a requirement that applica②ons for a new tower should demonstrate that exis②ng towers and "other structures and buildings" within a half mile are not feasible for coloca②on. This sec②on 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 par②cular height and should also exclude the need to account for single family dwellings.
- N. (Removal of Abandoned Towers). The 30-day requirement for no@fica@ on 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 mee ng tomorrow is open, I will try to drop in and listen. We are represening Verizon.

Thanks, Jeff.

Jacob

Jacob Gibson

Associate

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

265 Brookview Centre Way

Suite 600

Knoxville, TN, 37919

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 months 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 <igibson@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

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

represents clients across the U.S. and abroad from offices

in Alabama, Florida, Georgia, Louisiana, Maryland, Mississippi, South Carolina, Tennessee, Texas, Virginia, and Washington, D.C.

Baker Donelson - Proud to be one of FORTUNE's "100 Best Companies to Work For®" Eight Years in a Row!

Under requirements imposed by the IRS, we inform you that, if any advice concerning one or more U.S. federal tax issues is contained in this communication (including in any attachments and, if this communication is by email, then in any part of the same series of emails), such advice was not intended or written by the sender or by Baker, Donelson, Bearman, Caldwell & Berkowitz, PC to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transaction or tax-related matter addressed herein.

This electronic mail transmission may constitute an attorney-client communication that is privileged at law. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this electronic mail transmission in error, please delete it from your system without copying it, and notify the sender by reply e-mail, so that our address record can be corrected.

--



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 informa on. 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 considera on by the Planning Commission are:

- The exclusion of guyed towers and la. ce self-support structures from permitted pole types (see Sec2on D(3) (2)). A tradizonal monopole type tower could not accommodate a tower in excess of 200 feet. The ordinance allows for the granzing of approval for tower heights in excess of those stated in Sec2on E. The ordinance should provide that a lattice or guyed tower may be permitted in connec2on with any variance granted to the height limits set forth in Sec2on E. Again, the monopole type tower is unsuitable structurally for taller towers.
- We wish the separallon requirement to be lowered from 1,500 feet to 1,000 feet as referenced in the new tower development standards (c).
- Subsec②on (h)(1) addressing setbacks should provide for an excep②on to setback requirements when the carrier provides a letter from a structural engineer sta②ng that the tower is designed to collapse upon itself. This is consistent with the approach of most other larger municipaliæs.
- (k) Stealth Design/Technology. The language as written appears to grant too much laltude to the planners in deciding when to insist upon a stealth applicalon. Ullmately, the State Historic Preservalon Office will make

a determinal on as to whether a parl cular 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 limita②on for towers within 250 feet of a residen②ally zoned area. Often the tower will need to be higher than 125 feet to achieve the necessary capacity or coverage objec②ve, and could have the unintended effect of resul②ng in addi②onal 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 discrezion and lazitude to the subjective opinions of the commission. This would tend to the creazion of ad hoc condizions 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 effec@ve?
- I. (Applicallon Submittal Requirements)(f). The ability of the planner to request "all other informallon and/or materials at that the MPC may require" should be deleted as this is too subjective and grants too much lall tude to the commission to request informallon not otherwise required by the ordinance.
- 4. Addi②onal Requirements for New Tower. (e)(1) This sec②on, which provides a requirement that applica②ons for a new tower should demonstrate that exis②ng towers and "other structures and buildings" within a half mile are not feasible for coloca② on. This sec②on 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 par② cular height and should also exclude the need to account for single family dwellings.
- N. (Removal of Abandoned Towers). The 30-day requirement for no@fica@on 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 mee@ng tomorrow is open, I will try to drop in and listen. We are represen@ng Verizon.

Thanks, Jeff.

Jacob

Jacob Gibson

Associate

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
265 Brookview Centre Way

Suite 600

Knoxville, TN, 37919

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 months 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 <igibson@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

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

represents clients across the U.S. and abroad from offices

in Alabama, Florida, Georgia, Louisiana, Maryland, Mississippi, South Carolina, Tennessee, Texas, Virginia, and Washington, D.C.

Baker Donelson - Proud to be one of FORTUNE's "100 Best Companies to Work For®" Eight Years in a Row!

Under requirements imposed by the IRS, we inform you that, if any advice concerning one or more U.S. federal tax issues is contained in this communication (including in any attachments and, if this communication is by email, then in any part of the same series of emails), such advice was not intended or written by the sender or by Baker, Donelson, Bearman, Caldwell & Berkowitz, PC to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transaction or tax-related matter addressed herein.

This electronic mail transmission may constitute an attorney-client communication that is privileged at law. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this electronic mail transmission in error, please delete it from your system without copying it, and notify the sender by reply e-mail, so that our address record can be corrected.

--



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 informa on. 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 considera on by the Planning Commission are:

- The exclusion of guyed towers and la. ce self-support structures from permitted pole types (see Sec2 on D(3) (2)). A tradizonal monopole type tower could not accommodate a tower in excess of 200 feet. The ordinance allows for the granzing of approval for tower heights in excess of those stated in Sec2 on E. The ordinance should provide that a lattice or guyed tower may be permitted in connec2 on with any variance granted to the height limits set forth in Sec2 on E. Again, the monopole type tower is unsuitable structurally for taller towers.
- We wish the separa on requirement to be lowered from 1,500 feet to 1,000 feet as referenced in the new tower development standards (c).
- Subsec②on (h)(1) addressing setbacks should provide for an excep②on to setback requirements when the carrier provides a letter from a structural engineer sta②ng that the tower is designed to collapse upon itself. This is consistent with the approach of most other larger municipaliæs.
- (k) Stealth Design/Technology. The language as written appears to grant too much laltude to the planners in deciding when to insist upon a stealth applicalon. Ullmately, the State Historic Preservalon Office will make

a determina2 on as to whether a par2 cular 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 limita2on for towers within 250 feet of a residen2ally zoned area. Often the tower will need to be higher than 125 feet to achieve the necessary capacity or coverage objec2ve, and could have the unintended effect of resul2ng in addi2onal 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 discrezon and laz tude to the subjective opinions of the commission. This would tend to the creaz on of ad hoc condizions 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 effec@ve?
- I. (Applicalon Submittal Requirements)(f). The ability of the planner to request "all other informalon and/or materials at that the MPC may require" should be deleted as this is too subjective and grants too much lad tude to the commission to request informalon not otherwise required by the ordinance.
- 4. Addi②onal Requirements for New Tower. (e)(1) This sec②on, which provides a requirement that applica②ons for a new tower should demonstrate that exis②ng towers and "other structures and buildings" within a half mile are not feasible for coloca② on. This sec②on as writen 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 par②cular height and should also exclude the need to account for single family dwellings.
- N. (Removal of Abandoned Towers). The 30-day requirement for no@fica@on 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 mee@ng tomorrow is open, I will try to drop in and listen. We are represen@ng Verizon.

Thanks, Jeff.

Jacob

Jacob Gibson

Associate

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
265 Brookview Centre Way

Suite 600

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 months 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 <igibson@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

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

represents clients across the U.S. and abroad from offices

in Alabama, Florida, Georgia, Louisiana, Maryland, Mississippi, South Carolina, Tennessee, Texas, Virginia, and Washington, D.C.

Baker Donelson - Proud to be one of FORTUNE's "100 Best Companies to Work For®" Eight Years in a Row!

Under requirements imposed by the IRS, we inform you that, if any advice concerning one or more U.S. federal tax issues is contained in this communication (including in any attachments and, if this communication is by email, then in any part of the same series of emails), such advice was not intended or written by the sender or by Baker, Donelson, Bearman, Caldwell & Berkowitz, PC to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transaction or tax-related matter addressed herein.

This electronic mail transmission may constitute an attorney-client communication that is privileged at law. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this electronic mail transmission in error, please delete it from your system without copying it, and notify the sender by reply e-mail, so that our address record can be corrected.

--