

SUMMARY MINUTES
City-County Planning Commission of Warren County
January 15, 2009 @ 7:00 p.m.
City Commission Chambers
Bowling Green City Hall - 1001 College Street

Present:

Mary Belle Ballance
Cliff Nahm
Linda Dickerson

Tim Huston
Velma Runner
Chuck Coppinger

Larkin Ritter
Bill Hotaling
Albert Rich

Absent:

Bennie Jones

Bill Robertson

Faye Phelps

The City-County Planning Commission of Warren County was called to order by Chairman Velma Runner. Chairman Runner requested Sandy Clark, Administrative Executive Secretary, to conduct roll call in order to determine a quorum. A quorum was determined with eight (8) of twelve (12) Commissioners present at the time of the roll call.

Chairman Runner announced that the cases on the agenda, being: *2009-01-T-BG AT&T Wireless PCS, LLC has filed an application for approval of a wireless communications tower (cell tower) located at 131 Parker Avenue; and 2009-V-02 AT&T Wireless PCS, LLC and KWBG Properties, LLC have filed an application for a 61 foot Variance from the 126 foot required set back of the 60% overall tower height from the nearest property line and a 660 foot Variance from the required set back of 1,500 feet from a residential district in order to locate a wireless communications tower (cell tower) at 131 Parker Avenues* have been postponed and will not be heard tonight.

I. ADMINISTRATIVE REVIEW:

Chairman Runner asked if all Commissioners had received and read the Summary Minutes of the meeting held on December 4, 2008. The Motion was made by Commissioner Dickerson, seconded by Commissioner Huston, and agreed upon by all of the Commissioners present (1 abstained) to approve the Summary Minutes of the December 4, 2008 meeting as written.

Hon. Matt Cook, on behalf of Cole and Moore Law Firm, Attorneys for the Planning Commission, requested the Chairman order that the Joint Zoning Ordinance of Warren County, Kentucky; the Subdivision Regulations; and the Comprehensive Plan with all of its elements effective as of this date (January 15, 2009) be introduced as exhibits for each of tonight's hearings. He further requested the Chairman order that the Staff Report, with all attachments together, and with the Commission's entire file for these applications be likewise introduced as exhibits. Mr. Cook asked that the Oath be administered to Steve Hunter, Executive Director; Jonathan Britt, Planner, and Marshall Robinson, Planner, as witnesses before the Planning Commission and their oath and qualifications be reflected in the record for each of tonight's hearings. Chairman Runner so ordered and swore in all of the above.

C. REPORT ON SUBDIVISION APPROVALS

Chairman Runner asked if there were any questions or comments on the Subdivision approvals. Being no questions or comments, the November 24, 2008 to January 8, 2009 Subdivision plats stand as recorded.

D. LETTERS OF CREDIT AND PERFORMANCE BONDS

Chairman Runner asked if there were any questions or comments in regard to the list of letters of credit and performance bonds listed below. Mr. Hunter stated there was one addition (#16) to the list presented to the Commission. Thereafter, Chairman Runner asked for a Motion:

ACTION: A Motion was made by Commissioner Rich, seconded by Commissioner Dickerson, which passed unanimously to approve the following:

1. Release the cash surety for landscaping BlueCotton, Inc. located at 141 Vanderbilt Court in the amount of \$7,650.00;
2. Release, reduce, renew or call the letter of credit for Pine Terrace Subdivision in the amount of \$27,490.00 from Richard Rogers;
3. Release, reduce, renew or call the letter of credit for September Lakes Subdivision (Construction) in the amount of \$282,100.00 from September Lakes, LLC.;
4. Release, reduce, renew or call the letter of credit for September Lakes Subdivision (Sidewalks) in the amount of \$114,996.00 from September Lakes, LLC.;
5. Release, reduce, renew or call the letter of credit for landscaping Cottage Chapel in the amount of \$7,500.00 from 7th Day Adventist;
6. Reduce the letter of credit for Brentwood Place from \$82,500 to \$39,800 from Traugher and Cornett;
7. Release the cash surety for landscaping lot 4-5 Kelly Road Industrial Park Subdivision, located at 111 Kelly Court, in the amount of \$6,750.00; and
8. Release cash surety for the Boddeker Subdivision in the amount of \$5, 000.00.

Chuck Coppinger entered the meeting at 7:07 p.m.

II. PUBLIC HEARINGS:

Chairman Runner announced the first item under the Public Hearings section is a request for a right-of-way closing described as: 2009-01-RWC The Medical Center Corporation has filed an application to close an alley located off of Park Street. This right-of-way extends northeast from Park Street approximately 204 feet and is 15 foot in width.

Marshall Robinson presented the staff report and stated that the Medical Center Corporation has filed an application to close a 15 foot alley located off Park Street. The staff became aware of this alley closing when the applicant came to this body for a zone change request in August of 2008, when it was noted that the applicant already paved over this alley and was using this alley as part of a parking lot. This right-of-way extends northeast from Park Street approximately 204 feet and has an area of 3056.7 sq ft or 0.07 acres. Upon staff review, it was noted that the applicant, Medical Center Corporation, has requested this closing as the result of a request by the staff of the Planning Commission due to the alley being used as part of a parking lot by the applicant. The Medical Center Corporation owns both sides of the alley with the exception of one property. Mr. Robinson noted there were letters submitted from the agencies listed below stating the closing of this right-of-way is in agreement with their agency, and they foresee no problems with the designated closing with any conditions noted:

1. *City of Bowling Green, by Jeff Lashlee, Public Works*
2. *Bowling Green Fire Department, by Edward Moody, Assistant Chief of Prevention*
3. *Bowling Green Police Department, by Doug Hawkins, Chief of Police*
4. *Emergency Medical Department, by John Fathbruckner, Director*
5. *BGMU Sanitation Services, by Rodney Sullivan, Engineering Technician*
6. *BG Municipal Utilities –(Water and Sewer), by Rodney Sullivan, Engineering Technician*
7. *BG Municipal Utilities - (Electric), by Chad Spencer, Electric Engineering Supervisor*
8. *AT&T, (response not received)*
9. *Insight Communications, by Brandon Eadens, Technician Operations Supervisor*
10. *Atmos Energy, by Byron Oost, Engineering Technician*

Mr. Robinson noted that the staff finds all criteria for the public hearing has been met and recommended this evidence and testimony be made part of official record and forward this record to the Bowling Green City Commission. A revised plat must be recorded reflecting this revision if the right-of-way is closed by the City of Bowling Green.

Chairman Runner asked if there were any questions or comments from the Commissioners, being none, she asked for questions or comments from the audience. Being none, she asked for a Motion.

ACTION: The Motion was made by Commissioner Rich, seconded by Commissioner Ritter to approve the right-of-way closing, docket #2009-01-RWC - The Medical Center Corporation - for its property located off of Park Street. The right-of-way closing was approved with the following condition: 1) A revised plat must be recorded reflecting this revision if the right-of-way is closed by the City of Bowling Green. The vote was unanimous (9 yeas) - so the motion carried without opposition. The Planning Commission will recommend closing the right-of-way to the Bowling Green City Commission with one condition.

Chairman Runner announced the second item under the Public Hearings section is also a request for a right-of-way closing described as: 2009-02-RWC The City of Bowling Green has filed an application to close an unused portion of Fairview Court. This portion of right-of-way totals 2.07 acres and extends southeast approximately 415 feet from an alley that crosses Fairview Court and varies in width. It is currently part of the Bowling Green Fire Station lot.

Jonathan Britt presented the staff report and stated that the City of Bowling Green has filed an application to close an unused portion of Fairview Court. This portion of right-of-way totals 2.07 acres and extends southeast approximately 415 feet from an alley that crosses Fairview Court and varies in width. It is currently part of the Bowling Green Fire Station lot. Upon staff review, it was noted that the applicant, the City of Bowling Green, has requested this closing because it is no longer needed since the Bowling Green Fire Station occupies the right-of-way. He noted that letters have been submitted from the agencies listed below stating the closing of this right-of-way is in agreement with their agency, and they foresee no problems with the designated closing with any conditions noted:

1. City of Bowling Green - Public Works, by Emmett Wood, Public Works Director
2. Bowling Green Fire Department, by Edward Moody, Assistant Fire Chief.
3. Bowling Green Police Department, by Doug Hawkins, Chief of Police.
4. Emergency Medical Department, of Medical Center by John Fathbruckner, Director.
5. Sanitation Services, by Scott Waste Services by Lawrence White, Mktg Mgr.
6. BG Municipal Utilities –(Water/Sewer), by Rodney Sullivan, Engineering Technician.
 - a. All existing utilities will be required to be in 10 foot easement.
7. BG Municipal Utilities - Electric Division, by Jeff White, Electric Engineering Supervisor
 - a. There is an existing primary electric overhead line that extends from Chestnut Street up Fairview Court that we would request to have a 20 foot easement to cover that line.
8. AT&T, by Brenda Willoughby, OSP Engineering Manager.
9. Insight Communications, by Tom Mracek, Construction Supervisor.
 - a. Please keep the utility easement in place.
10. Atmos Energy, by Byron Oost, Engineering Technician.

Mr. Britt noted that the staff finds all criteria for the public hearing has been met and recommended this evidence and testimony be made part of official record and forward this record to the Bowling Green City Commission. A revised plat must be recorded reflecting this revision if the right-of-way is closed by the City of Bowling Green.

Chairman Runner asked if there were any questions or comments from the Commissioners, being none, she asked for questions or comments from the audience. Being none, she asked for a Motion.

ACTION: The Motion was made by Commissioner Dickerson, seconded by Commissioner Huston to approve the right-of-way closing, docket #2009-02-RWC - The City of Bowling Green - for its property located off of Fairview Court. The right-of-way closing was approved with the following condition: 1) A revised plat must be recorded reflecting this revision if the right-of-way is closed by the City of Bowling Green. The vote was unanimous (9 yeas) - so the motion carried without opposition. The Planning Commission will recommend closing the right-of-way to the City Commission.

Chairman Runner announced the third item on the agenda as being a Detailed Development Plan, described as: *CD-09-1-BG The City of Bowling Green; Richard and Tori Kelly; and Alliance Corporation have applied for approval of a Detailed Development Plan on a tract of land containing 31,431.67 square feet (0.721 acre) located at 724, 728 and 730 College Street which is 97.00 feet from 8th Avenue. The Plan proposes the construction of a three-story building of 10,720 square feet, containing space for commercial; retail and residential uses; and all required parking, drainage and landscaping. This property is zoned PUD (Planned Unit Development) with a general development plan.*

Jonathan Britt stepped to the podium and stated that he is presenting the application for he City of Bowling Green, Richard and Tori Kelly and Alliance Corporation who have applied for approval of a Detailed Development Plan on a tract of land containing 31,431.67 square feet (0.721 acre) located at 724, 728 and 730 College Street, 97.00 feet from 8th Avenue. The Plan proposes the construction of a three-story building of 10,720 square feet, containing space for commercial, retail and residential uses, and all required parking, drainage and landscaping. This property is zoned PUD (Planned Unit Development) with a general development plan. Upon staff review, it was noted that this plan was reviewed based on the **PUD** zoning and Binding Elements as follows:

	<u>Allowed / Required</u>	<u>Provided</u>
Lot Coverage:	100%	89.2%
Set backs:	Front: 0'	1.43 feet
	Side: 0'	30.85 feet (east) 14.83 feet (west)
	Rear: 0'	128.38 feet
Parking:	36 spaces	40 spaces
Building Height:	No maximum	approx. 37 feet
Landscaping:	Landscaping plan meets the requirements of the Ordinance.	
Signage:	Signage will meet the requirements of the Re-development District Guidelines.	

- Drainage: Preliminary approval contingent on the installation of the drainage network of the remaining TIF District.
- Density 0.34 units per acre.
- Traffic: A Traffic Impact Study was submitted with the zone change.
- Access: One access point from College Street; and two access points from the alley behind the development.

Mr. Britt recommended approval of the submitted Detailed Development Plan. Chairman Runner asked if there were any questions or comments. The Commissioners asked about the limited access to parking and limited access. There is not going to be a street from Center to College Streets, but there will be limited access to 7th or 8th. Also, it was noted this area is going to be used for drop off and pick up for one of the companies.

There being no other questions or comments from the Commissioners, Chairman Runner asked for questions or comments from the audience. Being none, she asked for a Motion.

ACTION: The Motion was made by Commissioner Nahm, seconded by Commissioner Hotaling to approve the Detailed Development Plan docket #CD-09-01-BG – City of Bowling Green *et al*, for its property located at 724, 278 and 730 College Street containing 31,431.67 square feet (0.721 acre) and known as a portion of Block 4 as presented by the Staff in its Staff Report and included in tonight’s report. The Motion is based on the Detailed Development Plan’s compliance with Section 3.11.6 of the Warren County Zoning Ordinance. The DDP was approved with no conditions. The vote was unanimous (9 yeas) - so the motion carried without opposition. The Planning Commission approved the Detailed Development Plan as submitted.

Chairman Runner announced the third item on the agenda as being a Detailed Development Plan, described as: *CD-09-3-BG M & W Investments, LLC has applied for approval of a Detailed Development Plan on a tract of land containing 1.2 acres located at 351 Pascoe Boulevard which is approximately 125 feet from Kenilwood Way in order to convert an existing 11,303 square foot, one-story office complex to condominiums. This property is zoned HB (Highway Business).*

Marshall Robinson stepped to the podium and stated that he is presenting the application for M & W Investments, LLC., who has applied for approval of a Detailed Development Plan on a tract of land containing 1.2 acres located at 351 Pascoe Boulevard which is approximately 125 feet from Kenilwood Way in order to convert an existing 11,303 square foot, one-story office complex to condominiums. This property is zoned HB (Highway Business). Upon staff review, it was noted this plan was reviewed based on the **HB** zone as follows:

	<u>Allowed / Required</u>	<u>Provided</u>
Lot Coverage:	90%	73.8%

	<u>Allowed / Required</u>	<u>Provided</u>
Set backs:	Front: 36 feet (recorded plat) Side: 0' Rear: 0'	approximately 45 feet 14 feet (east) approximately 83 feet (west) 21 feet
Parking:	38 spaces	56 spaces
Building Height:	no limit	1 story
Landscaping:	Landscaping plan meets the requirements of the Zoning Ordinance.	
Signage:	The site is allowed one freestanding sign: maximum 30 feet tall and a maximum 150 square feet in area.	
Drainage:	Drainage is approved.	
Traffic:	A Traffic Impact Study was not required for this development.	
Access:	One access point from Pascoe Boulevard.	

Mr. Robinson recommended approval of the submitted Detailed Development Plan with the following condition: ***Recording of Condominium Plat.***

Chairman Runner asked if there were any questions or comments. There being no questions or comments from the Commissioners, Chairman Runner asked for questions or comments from the audience. Being none, she asked for a Motion.

ACTION: The Motion was made by Commissioner Rich, seconded by Commissioner Dickerson to approve the Detailed Development Plan docket #CD-09-03-BG – M&W Investments, LLC., for its property located at 351 Pascoe Blvd., containing 1.2 acre as presented by the Staff in its Staff Report and included in tonight’s report subject to one condition: *Recording of Condominium Plat.* The Motion is based on the Detailed Development Plan’s compliance with Section 3.11.6 of the Warren County Zoning Ordinance. The DDP was approved with the following one condition: *Recording of Condominium Plat.* The vote was unanimous (9 yeas) - so the motion carried without opposition. The Planning Commission approved the Detailed Development Plan subject to one condition.

Chairman Runner announced the final item under the Public Hearing is a zone change request described as: 2009-01-Z-CO Scott & Brandy Avery and Andrew & Kari Haven have filed an application in order to re-zone two tracts of land containing a total of 2.53 acres, located at 3790 & 3770 Anna-Sandhill Road which is approximately 3,409 feet to KY Hwy 185 from AG (Agriculture) to RE (Residential Estate)

Steve Hunter presented the staff report and stated that the applicants are proposing to re-zone two (2) tracts of property from **AG** (Agriculture) to **R-E** (Residential Estate) in order to modify two (2) existing single-family residential properties. The applicants and staff held a Pre-application Conference on December 9, 2008. The property is located at 3770 and 3790 Anna-Sandhill Road, with frontage on Anna-Sandhill Road, which is a rural county roadway with 50 feet of right-of-way and 16 feet of pavement width and contains approximately 2.53 acres. The existing land use is residential. The property is located in Focal Point 117½ - Penns Chapel/Anna - with characteristics of agricultural/open space; mostly agriculture but with scattered low density single family residential.

Mr. Hunter stated that no Binding Elements were requested with this re-zoning. The applicants are proposing to re-zone 2.53 acres of property from **AG** (Agriculture) to **R-E** (Residential Estate) in order to modify two (2) existing single-family residential lots. There are existing houses on each of the proposed properties. The applicants are proposing to increase the lot size of Lot 1 from 1.20 acres to 1.41 acres. The (+/-) .20 acres of increased lot area will be gained from the adjacent property (Lot 2), decreasing its size from 1.32 acres to 1.12 acres.

Mr. Hunter stated that the staff had one item of concern, which included:

- *Adequate Fire Protection*

The Staff reviewed eight (8) Comprehensive Plan policies affecting this zone change request. Mr. Hunter stated that the first policy was **LU-1A-2** (*All applicants should contact adjacent neighbors prior to the public hearing or have a neighborhood meeting.*) The Staff recommends to all applicants that they contact adjacent neighbors prior to the public hearing or have a neighborhood meeting, if possible. No information of a public meeting was provided to the Planning Commission, but the applicants can address this when they come forward.

Then, Policies **LU-4C-2** (*water*) and **LU-4C-3** (*sewer*) - A 4" water line providing less than 250 GPM with less than 20 PSI is available along Anna-Sandhill Road. This does **not** meet the minimum fire control standards of Warren County; however, no additional lots or dwelling units are being created with the proposed zone change. The applicants have submitted a signed Fire Protection Requirement Threshold Waiver. (However, no new lots are proposed to be created). There are no sanitary sewers within 1,500 feet of the property; an on-site septic system is connected to the existing residential structures on the property.

The traffic Policy - **TR-2** (*traffic*) - The existing lots have driveway access to each site. There are no new lots or access points being created with this proposed zoning map amendment

Also, the final Policies **LU-4C-1** (*Rural density residential development may occur throughout Warren County on appropriately zoned AG, RR and RE lots*); **LU-4C-4** - (*Lot sizes, lot widths and building set backs in new rural density residential development should reflect the overall pattern of development in the surrounding area*); **LU-4C-5** (*All rural density residential developments should maintain existing natural physical features, such as woods, streams, green areas, etc., as open space*); and **LU-4A-9** - (*Residential development should not exceed density of surrounding developments by more than 50%*) The proposed R-E lots will be at least one (1) acre in size, exclusive of drainage easements. The conceptual lot layout has proposed lot sizes of 1.41 acres and 1.12 acres in order to modify existing property lines. The property is adjacent to properties of similar size. No additional lots are being created. The natural physical features will not be significantly altered by the modification of these existing property lines. No additional changes are being proposed for the properties.

Mr. Hunter completed his presentation of the Staff Report by stating the Staff finds that the proposed zoning request is in agreement with the adopted Comprehensive Plan and recommends that the Zoning Map Amendment, be approved.

Chairman Runner asked if there were any questions from the Commissioners for Mr. Hunter. Being no questions or comments, Chairman Runner asked for questions from the audience for staff. Being no questions or comments from the audience for the staff, Chairman Runner asked if there were any questions or comments from the Commissioners and/or the audience. Being none, Chairman Runner asked for a Motion.

ACTION: The Motion was made by Commissioner Hotaling, seconded by Commissioner Huston to approve the proposed Zoning Map Amendment, docket #2009-01-Z-CO. The motion was based on the findings of fact as presented in the staff report and the testimony presented in this public hearing that the zoning map amendment is in agreement with the adopted Comprehensive Plan as demonstrated by its compliance with the Comprehensive Plan's following Policies: LU-1A-2; LU-4C-1, 2, 3, 4 & 5; LU-4A-9; and TR-2. Further, it was requested that the findings of fact and recommendation include a summary of the evidence and testimony presented by the proponents and/or opponents of the proposed amendment. The vote was nine (9) yeas, so a recommendation for approval will be sent to the Warren County Fiscal Court.

IV. MISCELLANEOUS BUSINESS:

Chairman Runner stated there were a couple of items of business to come before the Commission. Mr. Hunter indicated that Commissioner Ritter asked to address the Commission about some thoughts he has had. Mr. Ritter asked if the Planning Commission could place its budgets (done quarterly) on the website for the public to view. This is taxpayers' money and placing the income and expenditures on-line could be an accessible way for the public to review the Planning Commission. After discussion of the Commissioners, it was decided that the yearly budget (June 30 Fiscal Year Report) and quarterly reports would be placed on the warrenpc.org website, along with a disclaimer. It was noted that these reports can be obtained through a written public records request if anyone does not have computer access. The Commissioners felt this was a good idea and a step in the right direction to educate the public of the inter-workings of the City-County Planning Commission.

Steve Hunter called attention to the fact that the Court Reporter will not be present at every meeting from this point forward. The Court Reporter would be used on an as-needed basis - if the staff feels there will be a controversial case, then the applicant could pay for the cost of having a Court Reporter in attendance at the meeting in order to prepare a transcript. This would save the Planning Commission money during the year and this, too, relates to the budget challengers we have to meet.

The Budget Committee will be attempting to meet on Thursday, January 29th at noon for a luncheon meeting - the Committee of Commissioners Runner, Ballance, Dickerson Nahm, Rich and Robertson will be contacted to check on availability of this date and time.

Mr. Hunter then announced the Comp Plan Task Force will probably be meeting on Tuesday, January 27, 2009 at 6:00 p.m. Staff will confirm this date and time and will be sending out packets to all Task Force Committee members.

Mr. Hunter announced that a draft agenda for the February 5th, 2009 meeting is at each Commissioners' seat.

Mr. Hunter then directed the Commissioners that the City-County Planning Commission employees conducted holiday hours wherein the staff came in to the office in work clothes and worked to clean the offices; paint; purge files; and even built a door in the reception area that can be locked between the reception area and the elevator for security for night meetings.

The Commissioners wished Bill Hotaling a Happy Birthday and thanked him for coming tonight on his special occasion. Also, the Commissioners wished Attorney Matt Cook congratulations on the birth of his daughter who was born less than 24 hours ago and thanked him for coming tonight.

Attorney Cook reported on the Fields Litigation, wherein it was noted that the complaint against the Planning Commission has been dismissed by Judge John Grise and went to appeal which was also dismissed. Subsequently, the suit against the Planning Commission is dismissed but proceeds against the two Engineering firms. This is all public record at the Justice Center.

Chairman Runner stated there was no additional business to come before the Commission, the meeting was adjourned.

CHAIRMAN, VELMA RUNNER

Administrative Executive Secretary
Sandy M. Clark