

Independence

INDEPENDENCE ZONING UPDATE COMMITTEE MEETING #2 SUMMARY

Date: Thursday, May 20, 2010
Time: 6:00 pm – 7:30 pm
Location: The Independence Senior Citizen and Community Center

PRESENT

Committee

Dan Groth
Bob Schroder
Rodney Crice
Alex Mattingly
Brian Davis
Scott Wells
Mike Dominach

NKAPC Team Members

Andy Videkovich, AICP – Project Manager
Mike Ionna
Martin Scribner, AICP
Keith Logsdon, AICP

DISCUSSION POINTS

Downtown Independence Cell Tower

NKAPC staff understand that the cell tower decision (or lack thereof) has caused some issues with residents and with participants on this committee, so we decided that we wanted to take the time to discuss the issue and the ramifications and to listen to you and your concerns. This is important because we do not want this issue to overshadow the important work we are embarking on with this committee. Therefore, the agenda for the Steering Committee's May meeting was postponed until June.

There was a lot of discussion and a lot of topics covered. The following is a summary of the main issues that were discussed:

1. Dan Groth has indicated that the City of Independence will pursue whatever means available or feasible to make sure the cell tower does not go here. Regardless of that outcome, it is important to move forward with this process and he feels the City will still be successful.
2. There was frustration because of all the effort put into the Small Area Study, just to have it disregarded by this decision. There is concern that effort put into the zoning update process will be disregarded too.

The Small Area Study was not disregarded. The NKAPC staff report may have included little discussion, but in reality, much discussion happened in-house. The reality of cell tower applications is that state statute really restricts what can and cannot be done. In

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order to recommend denial, NKAPC staff would have had to recommend alternative sites that would better meet the goals of the Small Area Study.

Also, if the decision was to deny the cell tower, the applicant has the same right to appeal the KCPC's decision. NKAPC staff does not know if the applicant would have appealed, but a "no" from the Planning Commission does not necessarily prohibit a cell tower from being constructed on this site.

3. There was discussion about the design of the tower.
At the KCPC public hearing, this discussion was also brought up. Stealth technology could be used, or a flag pole design. According to testimony at the public hearing, in both cases the height of the tower would be limited. This could impact the ability for future providers to collocate on the antenna, which could result in additional towers. Also, a very tall flag pole in this location may not look any better.
4. The Independence Strategic Action Committee (ISAC) feels that this location is too close to the downtown area. Also, comprehensive plans, including the Small Area Study, seem subjective and open to interpretation. This can lead to multiple interpretations and invites conflict.
Cell towers are the only utilities that state statutes allow to be reviewed, except for office buildings for utility companies. Comprehensive Plans and Small Area Studies, as a result, do not typically include specific discussion of utility locations, but are limited to the status of the provision of these services (e.g. availability of water, sewer, electric, etc.).
5. The Small Area Study recommends in several places that "context sensitive" design should be used in the downtown area. The Small Area Study uses terms such as "historic" and "modest scale", but does not contain any real defining elements of the context. What is "context sensitive" design?
The Small Area Study is general with the intent that the specific elements that contribute to the context of the downtown area will be defined through the zoning update process.
5. Several Committee members expressed frustration with the KCPC legal counsel. They felt that every time the Commission was leaning towards disapproval, the legal counsel seemed to steer the Commission back in the other direction.
KCPC's legal counsel is supposed to give the Planning Commission an unbiased interpretation of the law, and to keep the Planning Commission on track as to what can and cannot be done. With that being said, NKAPC staff assumes that the legal counsel was impartial at the public hearing and acting in the best interest of the Planning Commission, even though it is easy to understand why some feel differently.

In the end, the reason the City appointed this Steering Committee is to implement the small area study. The plan is still valid and will still lead the way for the community.

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NEXT STEPS

The next Steering Committee meeting will be on June 17, 2010 from 6:00 pm to 7:30 pm at The Independence Senior Citizen and Community Center. The following will be discussion points:

- We will talk some more about the cell tower issue for those who did not make the May meeting
- Elect a chair for the Steering Committee
- Presentation from Dave Geohegan (Boone County Planning Commission)
- Presentation from Bob Schoder
- More discussion on potential zoning tools, including form-based codes
- Outline of this process

I will also send out an email outlining sections of the *Independence Community Small Area Study* that relate to the areas we are considering as a part of this process. The study is long, and not all the information it contains pertains specifically to this area.