



## KC&MP&ZC MINUTES

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### KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION REGULAR MEETING

May 5, 2005  
6:15 P.M.

NKAPC Meeting Room  
2332 Royal Drive  
Fort Mitchell, Kentucky

### MINUTES

#### COMMISSION MEMBERS PRESENT:

Mr. Barry Coates - Covington  
Mr. James Cook - Kenton County  
Mr. Paul Darpel - Edgewood  
Mr. Chuck Eilerman - Covington  
Mr. Tom France - Ludlow  
Mr. Al Hadley - Elsmere  
Mr. David Hilgefurd - Villa Hills  
Mr. Mark Hushebeck - Lakeside Park  
Mr. Phil Ryan - Park Hills Mr.  
Greg Scheper - Crescent Springs  
Ms. Maura Snyder - Independence  
Mr. John Wells - Ft. Mitchell  
Mr. Bernie Wessels - Ft. Wright  
Mr. Paul Swanson, Secretary/Treasurer - Erlanger  
Mr. Joseph Price, Vice Chairman - Crestview Hills

## COMMISSION MEMBERS NOT PRESENT:

Ms. Barbara Carlin - Kenton County  
Mr. Mike Denham - Bromley  
Ms. Alex Weldon, Chairperson - Covington

## LEGAL COUNSEL PRESENT:

Mr. David Schneider, Esq.

Mr. Price, Vice Chairman, called the meeting to order at 6:15 p.m. The meeting was opened with the Pledge of Allegiance and an invocation by Mr. Eilerman. Mr. Price thanked all those who contributed to the development and planning regarding the new facilities. Mr. Hadley personally thanked Mr. Gordon for his work in planning and development of the new meeting facilities. Mr. Gordon then spoke briefly regarding the new members of Staff. Mr. Keith Logsdon then introduced each new member of the long range planning staff.

## AGENDA:

There were no changes noted to the agenda.

## APPROVAL OF THE MINUTES:

A motion was made by Mr. Wessels to approve the minutes from April. Mr. Darpel seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Darpel, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Scheper, Mr. Wells, Mr. Swanson and Mr. Price in favor. Mr. Hilgeford, Mr. Hushebeck, Mr. Ryan and Ms. Snyder abstained. The motion carried unanimously.

## FINANCIAL REPORT:

Mr. Gordon spoke on the financial report with regard to the difference from last month's report. He noted a portion of the figure from last month should have been internalized versus being a part of the planning commission. Mr. Wessels then asked about the report as to insurance premiums. Mr. Gordon explained the reason for the increase was simply because the agent writing the policy didn't know the difference between the Commissions. Mr. Gordon then noted the amount to be reflected on the financial report would be half of what it has been in the past.

## ACTIONS SINCE LAST MEETING:

Mr. Hushebeck noted a conflict with items FP-422 and FP-590. Mr. Wessels then noted there actually were no conflicts as the Commission no longer takes any actions on subdivision items as they are now handled by Staff. Mr. Hushebeck's conflicts were noted but no action was taken thereon.

Mr. Schneider spoke on the proposed Memorandum of Understanding and the legalities involved, specifically the agreement between the Commission and Staff as to the Commission's monetary contribution to the new facilities. Mr. Gordon then stated it could be something as simple as a letter from the Commission outlining the details of the Commission's commitment over ten (10) years to the new meeting room.

On another matter, Mr. Gordon noted there is a vacancy on the Commission as to the City of Taylor Mill. He stated the city is aware the sixty (60) days have expired and they asked for the Commission's indulgence, as they would be filling the spot soon.

## PUBLIC HEARINGS:

1733R

LOCATION: Area A: An approximate 4.9 acre area located along the east side of Dixie Highway, at the Kenton/Grant County border; Area B: An approximate .3 acre area located approximately 450 feet east of Dixie Highway, approximately 350 feet north of the Kenton/Grant County border; Area C: An approximate .2 acre area located approximately 400 feet east of Dixie Highway, approximately 100 feet north of the Kenton/Grant County border; and Area D: An approximate 6.3 acre area located approximately 500 feet east of Dixie Highway, at the Kenton/Grant County border, Unincorporated Kenton County.

REQUEST: (1) A proposed map amendment to the Kenton County Zoning Ordinance, changing Areas B and C, as described herein, from A-1 (an agricultural one zone) to NC (a neighborhood commercial zone); (2) A proposed map amendment to the Kenton County Zoning Ordinance, changing Area D, as described herein, from A-1 to R-1D (a detached single-family residential zone with a maximum density of approximately 4.8 dwelling units per net acre); and (3) Review of a proposed amended Stage I Development Plan for Area A, as described herein, which is currently zoned NC.

Staff recommendations and Staff presentation by Mrs. Melissa Jort-Conway.

## NKAPC STAFF RECOMMENDATION:

To approve the proposed map amendments and the amended Stage I Development Plan, but only subject to compliance with the following conditions:

1. That Area D remain zoned A-1.
2. That the amended Stage I Development Plan be revised to meet the minimum requirements of the Kenton County Zoning Ordinance.
3. That access to the site in question be provided with a right turn deceleration lane and a left turn storage lane.

## Comprehensive Plan Documentation:

o Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 18, 2001.

## Supporting Information/Bases For Recommendations:

1. The proposed map amendments for Areas B and C, from A-1 to NC, are appropriate while the existing A-1 Zone is inappropriate. The proposed NC Zone would provide for a logical extension of the existing NC Zone located to the west of Areas B and C. The proposed NC Zone will allow for a more orderly development of the larger area adjacent to Dixie Highway.
2. The proposed map amendment for Area D, from A-1 to R-1D, is not consistent with the Recommended Land Use Map of the 2001 Area-Wide Comprehensive Plan Update, which identifies this area for Agricultural and Rural uses. Land so classified is intended to be used for agricultural and related rural uses and is not anticipated or recommended to be developed for any urban-type purpose within the planning period. The proposed R-1D Zone would allow residential development to occur at a maximum density of approximately 4.8 dwelling units per net acre. The R-1D Zone, and its associated density, is typically found within the suburban communities of the county and not within the southern rural part of the county. Therefore, this area should remain zoned A-1.
3. The amended Stage I Development Plan meets the minimum requirements of the Kenton County Zoning Ordinance, except for the following:
  - a. Section 9.17, E. requires that a minimum ten (10) foot planting strip be provided between off-street parking areas and the right-of-way of any street. The submitted development plan indicates a minimum seven (7) foot planting strip between the off-street parking area and the right-of-way of Dixie Highway.
  - b. Section 9.17, E. requires that a minimum of five (5) percent of the vehicular use area be landscaped. Insufficient information has been submitted to determine compliance with this requirement.
  - c. Section 10.17, C., 6. prohibits structures from exceeding forty (40) feet in height. Insufficient information has been submitted to determine compliance with this requirement.
  - d. Section 11.3, F., 1., b., (1) states that access points onto local streets intersecting an arterial street shall be spaced a minimum distance of one hundred (100) feet, measured from point of curb return to point of curb return, from the arterial street. The submitted development plan indicates a proposed curb cut onto the proposed local street, serving the existing liquor store, approximately eighty-five (85) feet from Dixie Highway.
4. Section 11.3, A. of the Kenton County Zoning Ordinance states that reserved turn lanes shall be constructed by the developer at those access points where vehicles turning to and from an arterial street will affect the roadway capacity. The existing approved Stage I Development Plan indicates the provision of 8,800 square feet of commercial space. The proposed amended Stage I Development Plan indicates the provision of 27,000 square feet of commercial space. This increase will have an affect on the capacity of Dixie Highway. Therefore, it is recommended that access to the site in question be provided with a right turn deceleration lane and a left turn storage lane.

Mr. Jim Wolterman, Mr. Jerry Keith and Mr. Jason Deitz registered to speak in favor of the issue. Ms.

Danna Taylor and Ms. Betty Bratlich registered to speak against.

Mr. Wolterman addressed the Commission and stated he is in general agreement with Staff on the issue. He noted he disagrees with area D remaining zone A-1. He stated he believes there are changes of a physical nature with the site that do in fact bring the plan into conformance. He additionally stated there are sewer lines now available in the area and they are proposing bringing sanitary sewer lines into the existing residential lots. He stated they believe substantial changes have been made to allow for the map amendment. He noted the R-1D Zone may seem excessive but they are not asking for the density of the R-1D.

Mr. Keith addressed the Commission and stated the sanitary sewers are in Grant County 300-400 feet off the county line. He stated they would be happy to make an easement to get into the double sewer to the north.

Ms. Taylor addressed the Commission and stated she is a resident of the area. She stated she has been there for eight (8) years and now they want to bring in another development. She stated she wants to know how the development will affect her. In addition, Ms. Taylor stated she wanted to know where the road would be coming into the development and how much traffic will be generated by the development.

Ms. Bratlich addressed the Commission and stated she has several concerns with the proposed development. She asked what Mr. Deitz is going to do with the pole building near her property line. She stated he uses the area to burn about anything including PVC pipe. She noted they cannot even have their windows open due to the burning. Ms. Bratlich stated she wanted to know how close to the property line he can build and asked what he intends to do to keep the privacy between his property and hers. She additionally asked why the posted speed (of the road) is not carried down into Kenton County if more traffic is going to be coming into the area.

Mr. Deitz addressed the Commission in rebuttal and stated they are currently talking to the state about the posted speed and having the 35 mph speed extended past Derby. He stated they will be updating the sewage system in the area. He noted with regard to his barn that it is right up on his property line. He additionally stated he was not aware of the burning issue. As to the screening issues or concerns by Ms. Bratlich he stated they will be complying with the regulations.

Mr. Wolterman stated in rebuttal that they would be willing to extend the sewers all the way up to the northern property line instead of providing for an easement.

Mr. Darpel stated he felt by not granting the zone change and allowing for 6 lots with 6 septic tanks versus ten (10) lots with sanitary sewer, it allows for a safer environment to have the ten (10) lots and the sewers.

Ms. Jort-Conway noted this area is not part of the urban service area. Mr. Darpel then made the motion to approve the map amendment noting the conditions that area D be re-zoned to R-1D with the

qualifications and conditions that it is subject to no more than ten lots being constructed on such an area and that sewer be brought somewhere within the development of this zone or the contiguous zone and be extended to the north part of the property line and 2) that based upon the fact that the physical condition of bringing sewer, finding that sewer being a physical condition of the property and/or that a more safe development can be created using sewer than service by septic system and 3) that the amended Stage I Development Plan be revised to meet the minimum requirements of the county zoning ordinance and that the access to the site in question be provided with a right turn deceleration lane with left turn storage and the current curb cut to the existing structure be eliminated. Mr. France seconded the motion. A roll call vote on the motion found Mr. Darpel, Mr. France, Mr. Coates, Mr. Cook, Mr. Hadley, Mr. Hilgeford, Mr. Hushebeck, Mr. Ryan, Mr. Scheper, Ms. Snyder, Mr. Wells, Mr. Wessels, Mr. Swanson and Mr. Price in favor. Mr. Eilerman voted against. The motion carried.

1734R

APPLICANT: City of Covington, per Ella Frye.

LOCATION: N. A.

REQUEST: Proposed text amendments to the Covington Zoning Ordinance: (1) deleting regulations pertaining to the control of obstacles in the public right-of-way; (2) adding restaurants that serve alcoholic beverages to the list of principal permitted uses within the TSC (Tourist Service Commercial) Zone, subject to certain restrictions; and (3) deleting uses that serve alcoholic beverages after 1:00 am from the list of conditional uses within the TSC Zone.

Staff presentation and Staff recommendations by Mrs. Melissa Jort-Conway

NKAPC STAFF RECOMMENDATION:

Recommendation A: To approve the proposed text amendment deleting regulations pertaining to the control of obstacles in the public right-of-way.

Recommendation B: To approve the proposed text amendment adding restaurants that serve alcoholic beverages to the list of principal permitted uses within the TSC (Tourist Service Commercial) Zone, subject to certain restrictions.

Recommendation C: To approve the proposed text amendment deleting principal permitted uses that serve alcoholic beverages after 1:00 am from the list of conditional uses within the TSC Zone.

Comprehensive Plan Documentation:

o Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 18, 2001.

Supporting Information/Bases For Recommendations:

## Recommendation A:

1. The proposed text amendment deleting regulations pertaining to the control of obstacles in the public right-of-way (see Attachment A) is appropriate and reasonable. When a violation occurs, the zoning administrator must notify the property owner. In the case of obstacles within the right-of-way, the property owner is a public entity. Placing these regulations within the city's codified ordinances will provide for a more efficient resolution of violations.

## Recommendation B:

1. The proposed text amendment adding restaurants that serve alcoholic beverages to the list of principal permitted uses within the TSC (Tourist Service Commercial) Zone, subject to certain restrictions (see Attachment B), is allowed to be included within the text of the zoning ordinance as authorized by Kentucky Revised Statute (KRS) 100.203(1).

2. The proposed text amendment adding restaurants that serve alcoholic beverages to the list of principal permitted uses within the TSC (Tourist Service Commercial) Zone, subject to certain restrictions (see Attachment B), is reasonable. The proposed text amendment will make a distinction between restaurants that serve alcoholic beverages and those that do not.

3. The proposed text amendment adding restaurants that serve alcoholic beverages to the list of principal permitted uses within the TSC (Tourist Service Commercial) Zone, subject to certain restrictions (see Attachment B), is consistent with other principal permitted uses currently allowed within the TSC Zone.

4. The proposed text amendment adding restaurants that serve alcoholic beverages to the list of principal permitted uses within the TSC (Tourist Service Commercial) Zone, subject to certain restrictions (see Attachment B), will help to better define a restaurant from a drinking place, such as a tavern, that serves some food items.

The city has expressed concern that the MainStrasse area has too many taverns and not enough restaurants. By requiring kitchens to be provided with range hoods and exhaust and fire suppression systems, along with a minimum seating capacity of 45 persons, such establishments will more likely serve food as the principal function.

5. The Kentucky Building Code requires kitchens that produce grease laden vapors to be equipped with a range hood and an exhaust and fire suppression system.

## Recommendation C:

1. The proposed text amendment deleting principal permitted uses that serve alcoholic beverages after 1:00 am from the list of conditional uses within the TSC Zone (see Attachment B) is consistent with the definition of a conditional use. A conditional use is a use that is public or semi-public in nature and is

essential to or would promote the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed within this ordinance.

2. The proposed text amendment deleting principal permitted uses that serve alcoholic beverages after 1:00 am from the list of conditional uses within the TSC Zone (see Attachment B), along with the proposed text amendment identified in Recommendation B, will help provide a mixture of uses within the MainStrasse area.

The city has expressed concern that the MainStrasse area has too many taverns and not enough restaurants. By requiring kitchens to be provided with range hoods and exhaust and fire suppression systems, along with a minimum seating capacity of 45 persons, such establishments will more likely serve food as the principal function. As such, these "traditional" restaurants will not have to go before the Covington Board of Adjustment for a conditional use permit. Under the proposed text amendment, only those restaurants that serve alcoholic beverages after 1:00 am that do not have a kitchen equipped with a range hood and an exhaust and fire suppression system and a minimum seating capacity of 45 persons will have to get a conditional use permit from the Covington Board of Adjustment.

Mr. Price read a letter received from Ms. Ella Frye requesting a withdrawal of the item. Mrs. Jort-Conway stated the original request consisted of three separate requests and the two requested to be withdrawn would be then leaving the one request remaining as to obstacles in the public right of way.

Ms. Ella Frye then registered to speak on the issue. No one registered to speak against.

Ms. Frye noted the city is in the process of developing a streetscape master plan and the item before the Commission is part of that plan. She stated they plan to have a uniform streetscape. She additionally stated they support Staff's recommendations.

Mr. Wessels asked that a condition be made that prior to the amendment being adopted the new city ordinance be adopted. A motion was then made by Mr. Wessels to approve. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Ryan, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgefurd, Mr. Hushebeck, Mr. Scheper, Ms. Snyder, Mr. Wells, Mr. Swanson and Mr. Price in favor. The motion carried.

1735R

APPLICANT: City of Independence, per Patricia H. Taney.

LOCATION: N. A.

REQUEST: A proposed text amendment to the Independence Zoning Ordinance, adding medical offices to the list of permitted uses within the NC (a neighborhood commercial) Zone.

Staff presentation and Staff recommendations by Mrs. Melissa Jort-Conway.

## NKAPC STAFF RECOMMENDATION

To approve the proposed text amendment, but only subject to the condition that the proposed text amendment be modified to read as follows: Offices, including medical and dental.

Comprehensive Plan Documentation:

o Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 18, 2001.

Supporting Information/Bases For Recommendations:

1. The proposed text amendment, except as noted under condition, is allowed to be included within the text of the zoning ordinance as authorized by Kentucky Revised Statute (KRS) 100.202(1) (see Attachments A).
2. The proposed text amendment, except as noted under condition, is appropriate to specify that offices are inclusive of those of a medical and dental nature. The condition that the proposed text amendment be modified to read: Offices, including medical and dental will provide additional clarification on the types of offices which are permitted in the NC (Neighborhood Commercial) Zone .
3. The proposed text amendment, except as noted under condition, is consistent with other zoning ordinances in Kenton County. The Fort Mitchell Zoning Ordinance permits "offices, including medical and dental offices" within the LSC (Limited Service Commercial) Zone. No cities in Kenton County specifically permit medical offices in any commercial zone.

Mr. Bertram and Mr. Darin Eyre registered to speak in favor of the issue. No one registered to speak against.

Mr. Bertram addressed the Commission and stated he is present representing the applicants. He noted he is also present as the developer and engineer on the project. He stated they are in agreement with the conditions. He asked that if the land to the south be developed that they not be required to provide the buffer. He noted it is a pretty simple process and that they are just cleaning up the uses for the zone. He additionally noted this should be a very good use for the city. He then stated the project will probably take two years before it sees any buildings. He also noted the connector road will not be built until the new KY 17 is built. Mr. Bertram then noted they are going to do  $\frac{3}{4}$  of the connector in Phase I. Mr. Wessels sited his concerns with right in, right out. He then asked if the right in could be limited until the new 17 is completed. Mr. Bertram noted if the traffic study came back stating the right in and out was sufficient they would leave it. He then stated they will be putting in a barrier curb island so it will probably be difficult to turn left.

Mr. Eyre had nothing to add but added he was available to answer any questions.

Mr. France then made the motion to approve based on Staff's recommendations and to modify condition

one that the buffer be eliminated if the property to the south is developed. The motion was amended to allow for a connection the property to the south if it is developed. Ms. Snyder seconded the motion. A roll call vote on the matter found Mr. France, Ms. Snyder, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. Hadley, Mr. Hilgefjord, Mr. Hushebeck, Mr. Ryan, Mr. Scheper, Mr. Wells, Mr. Wessels, Mr. Swanson and Mr. Price in favor. The motion carried unanimously.

## OLD AND UNFINISHED BUSINESS:

Reports from Committees:

By-Laws

Mr. Price had nothing to report.

Subdivision Regulations

Mr. Wessels noted the next meeting would be Tuesday May 24th at noon. He stated they would be going over a list of items to address with Scott. He stated they will be addressing those items to bring the regulations up to code. He also noted the more input received from Commission members at the meeting on the 24th, the less time spent on the issue at the monthly Commission meeting.

Model Zoning

Nothing to report.

Report from Legal Counsel:

Nothing to report.

Reports/Announcements from Staff:

Nothing to report.

Correspondence: None.

New Business: None.

There being no further business to come before the Commission, the meeting was adjourned at 8:15 p.m.