

**KENTON COUNTY PLANNING COMMISSION  
REGULAR MEETING**

**Minutes**

Ms. Weldon, Chairperson, called the meeting to order at 6:15 PM on Thursday, January 5, 2006, and opened the proceedings with the Pledge of Allegiance and an invocation by Mr. Eilerman. The meeting was held in the Commission Chambers of the NKAPC Building in Fort Mitchell. Attendance of members (for this meeting as well as those during the year to date) was as follows.

Member	Jurisdiction	2006											
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Mark Barnett	Taylor Mill	x											
Barbara Carlin	Kenton Co	x											
Barry Coates	Covington	x											
James Cook	Kenton Co	x											
Paul Darpel	Edgewood	x											
Chuck Eilerman	Covington	x											
Tom France	Ludlow	x											
Al Hadley	Elsmere	x											
David Hilgeford	Villa Hills	x											
Phil Ryan	Park Hills	x											
Maura Snyder	Independence	x											
Paul Swanson, Treas	Erlanger	x											
Joe Tewes	Bromley	x											
John Wells, V Chair	Fort Mitchell												
Bernie Wessels	Crescent Spgs	x											
Gil Whitacre	Lakeside Park	x											
Alex Weldon, Chair	Covington	x											
	Crestview Hills												
	Fort Wright												

Also present were Matthew Smith, Legal Counsel, and the following NKAPC staff: Michael Schwartz, AICP, Deputy Director for Current Planning; Melissa Jort-Conway, AICP, Senior Planner; and Andy Videckovich, Associate Planner.

**AGENDA:**

There were no changes to the agenda for the evening. A motion was made by Mr. France to accept the agenda as submitted. Mr. Barnett seconded. All in favor. None opposed.

**APPROVAL OF THE MINUTES:**

The minutes for December were distributed in the Commissioner's packets. A motion was made by Mr. Hadley to approve. Mr. Eilerman seconded the motion. A roll call vote on the matter

found Mr. Hadley, Mr. Eilerman, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hilgefurd, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Whitacre, Mr. Swanson and Ms. Weldon in favor. The motion carried.

**FINANCIAL REPORT:**

There were no questions or comments with regard to the report. A motion was made by Mr. Swanson and seconded by Ms. Snyder to accept. All in favor of accepting the report as submitted. None opposed.

**ACTIONS SINCE LAST MEETING:**

The memorandum regarding the actions taken by Staff over the past month was distributed for informational purposes only. There were no questions or comments.

Ms. Weldon then introduced new Commission members Mr. Gil Whitacre for Lakeside Park and Mr. Bernie Wessels, who will be representing the city of Crescent Springs. It was noted the Commission is still short one member for the City of Ft. Wright.

A listing of the ordinances that were adopted for sexually oriented businesses was distributed to the Commissioners. It was noted this has been an ongoing process for the past two years and they are now in Phase II of the process. It was further noted additional areas are now being looked at for the sexually oriented businesses and a request was made to the Commission to review the proposed resolution to make recommendations, and to hold a public hearing. Ms. Weldon asked for a volunteer to form a committee to review the resolution. She asked that anyone interested to get in touch with her directly.

**PUBLIC HEARINGS:**

1787R

APPLICANT: City of Fort Wright, per Larry Klein.

LOCATION: N.A.

REQUEST: Proposed text amendment to the Fort Wright Zoning Ordinance amending the list of permitted uses within the NSC (Neighborhood Shopping Center) Zone, limiting eating places and taverns to sit-down only.

Staff presentation and recommendations by Mr. Andy Videckovich.

**NKAPC STAFF RECOMMENDATION**

To disapprove the proposed text amendment modifying the list of permitted uses within the NSC Zone, as it applies to eating places and taverns.

**Comprehensive Plan Documentation:**

- Date of Adoption by the Kenton County & Municipal Planning & Zoning Commission:

December 18, 2001

**Supporting Information/Bases For NKAPC Staff Recommendation:**

1. The proposed text amendment modifying the list of permitted uses within the NSC Zone, as it applies to eating places and taverns, is inappropriate. There are other uses within the NSC Zone that permit drive-thru facilities (i.e. banks, savings and loans, and credit unions, drug stores, etc.). Therefore, the proposed text amendment is not a uniform regulation. Adoption of the proposed text amendment would prohibit drive-thru facilities for certain uses within the NSC Zone but not for other uses.

Mr. Klein registered to speak for the issue.

Mr. Klein addressed the Commission and stated the city council has authorized him to submit the application. He stated it does not affect any businesses currently. Mr. Klein stated the zone currently effects the area along Madison Pike and Route 127. He noted their concern has always been the Highland Pike area because it is the residential core of the city. He stated this is the only NSC zone in the city. Mr. Klein then noted he feels the application is in keeping within the lines of the wishes of the city. Mr. Wessels then questioned why something similar could not be done as in the Frisch's on top of the hill. He further noted restaurants such as Applebee's and TGI Fridays are nice sit down restaurants but many of them are now starting to offer curbside pickup. Mr. Klein stated they would not be contractually limiting a restaurant such as those mentioned from locating in this area. Mr. Wessels stated the city should look real hard at what was done with Frisch's because a precedent has already been set. Mr. Schwartz then stated the Frisch's is in a PO zone and not in the NSC zone. He stated there are guidelines for that use as well and six criteria for what would be allowed. Mr. Wessels then stated the city is going to eliminate many nice restaurants and stated the city should look into it further. Mr. Wessels then made the motion to approve based on the evidence presented. Ms. Snyder seconded the motion. A roll call vote on the matter found Mr. Wessels, Ms. Snyder, Mr. Barnett, Ms. Carlin, Mr. Coats, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgeford, Mr. Tewes, Mr. Whitacre, Mr. Swanson and Ms. Weldon in favor. Mr. Ryan voted against. The motion carried.

1788R

APPLICANT: The Drees Company per Michael Schoettelkotte on behalf of Walton Park, Inc.

LOCATION: An approximate 50-acre area located along the east side of Dixie Highway and the west side of Jones Road at the Kenton/Boone County Line in Walton.

REQUEST: A proposed map amendment to the Walton Zoning Ordinance changing the described area from I-1\* (an industrial zone) to SR-2 (a single family residential zone) and a proposed amendment to the 2001 Area Wide Comprehensive Plan changing the described area on the Recommended Land Use Map from Industrial to Residential at a density ranging from 4.1 to 7.0 dwelling units per net acre.

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

## **NKAPC STAFF RECOMMENDATION**

### **Recommendation A:**

To disapprove the proposed amendment to the 2001 Area Wide Comprehensive Plan changing the described area on the Recommended Land Use Map from Industrial to Residential at a density ranging from 4.1 to 7.0 dwelling units per net acre.

### **Recommendation B:**

To disapprove the proposed map amendment from I-1\* to SR-2.

### **Comprehensive Plan Documentation:**

- 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 Comprehensive Plan designation of Residential Development at a density ranging from 4.1 to 7.0 dwelling units per net acre, is not consistent with the Goals and Objectives Element of the 2001 Area-Wide Comprehensive Plan Update pertaining to employment and industrial land. Sections of the plan read as follows:

#### GOALS AND OBJECTIVES

#### EMPLOYMENT

1. To provide for a stable and diversified employment capability.

Effort should be made to provide a variety of employment opportunities oriented to various segments of the labor force and the skills they exhibit, so as to minimize unemployment levels. Effort should be made to determine and attract those types of industrial and commercial activities which, according to the most recent economic studies, appear to have the greatest potential for success in this region and are least susceptible to fluctuations in the economy.

2. To provide for an adequate amount of well located industrial development to meet anticipated industrial employment needs.

Effort should be made to locate areas planned for industrial development so as to shorten the work trip from the living areas of the resident labor force and reduce energy consumption. Anticipated industrial employment

should be used as a guide in measuring the amount of land which should be allocated for future industrial development. Areas which exhibit particularly desirable characteristics for industrial development should be identified, planned, and regulated for such use without the constriction of arbitrary jurisdictional limitations.

3. To achieve the goals of this element without unduly disrupting the goals of other elements.

Effort should be made to ensure that industrial areas are afforded the same measure of protection against the intrusion of incompatible land uses provided to other land use types. Conversely, significant effort should be made to ensure protection to areas surrounding employment centers. Elimination of undesirable emissions or intrusions, which may result from the existence of industry, will be necessary in order to minimize any adverse environmental effects caused by such uses.

## DEVELOPMENT CONCEPTS

### INDUSTRIAL

- *Locations of industrial type development should be based on area – wide considerations -- specifically, not an attempt to locate a certain amount of industrial development in each political subdivision. Location should be determined on the basis of the advantageous characteristics any given area exhibits for such development and without consideration to arbitrary jurisdictional limitations.*

Such a concept would result in utilization of the most suitable and

desirable land for industrial development and the location of employment

centers which would be accessible to the greatest number of persons.

- *Land which is most advantageous for industrial development should contain the following characteristics: (a) good access to major transportation facilities; (b) good proximity to urban development (employment sources); (c) relatively flat land; and (d) a full range of urban services.*

Industrial development generates significant traffic volumes (automobile, trucks, and sometimes rail services), necessitating good access to major highways and to employment sources (urbanized areas) in order for the street network to be able to accommodate the traffic volumes and prevent the generation of traffic through low-density areas. Most industrial development, by its very nature, requires central sanitary sewer services and water supply, gas and electric service, higher levels of police and fire

protection, etc. Such development also often depends upon water and rail for delivery and/or distribution of products and supplies.

- *Land that can be most advantageously used for industrial purposes should be identified and reserved for industrial use and encouraged to be exclusively used for such purposes.*

Land which is most advantageous for industrial development in the Northern Kentucky Area is at a premium. Thus, identification and reservation of such land is necessary. Increased industrial development in these well-located areas would increase employment opportunities. It would also result in an increased tax base for the provision of public services, and ensure better use of transportation systems, thus utilizing less energy and causing less pollution to the environment.

The 2001 Area Wide Comprehensive Plan provides a vision for growth and development within Kenton County over the next twenty years. Such long range planning efforts are specifically intended to reserve areas that can serve as future employment and research centers for the County. The proposed Comprehensive Plan designation is inappropriate and inconsistent with these goals and objectives.

2. The proposed Comprehensive Plan designation of Residential Development at a density ranging from 4.1 to 7.0 dwelling units per net acre is not consistent with the recommended land use designation for areas in the immediate vicinity of the site in question, including:
  - The areas located immediately to the north and west of the site in question are identified for Industrial Development and are currently being developed with industrial-type uses.
  - The area located immediately south of the site in question is identified for Industrial Development and is currently vacant.

**Recommendation B:**

1. The proposed map amendment from I-1\* to SR-2 is not consistent with the Land Use Plan Map of the 2001 Area-Wide Comprehensive Plan Update, which identifies the site in question for Industrial uses. The proposed SR-2 Zone would allow residential development to occur in an area recommended for industrial uses.
2. The existing I-1\* Zone is appropriate and the proposed SR-2 Zone is inappropriate. The

Goals and Objectives Element of the 2001 Area-Wide Comprehensive Plan Update reads as follows:

*Land that can be most advantageously used for industrial purposes should be identified and reserved for industrial use and encouraged to be exclusively used for such purposes.*

Land which is most advantageous for industrial development in the Northern Kentucky area is at a premium. Thus, identification and reservation of such land is necessary. Increased industrial development in these well-located areas would increase employment opportunities. It would also result in an increased tax base for the provision of public services, and ensure better use of transportation systems, thus utilizing less energy and causing less pollution to the environment.

The site in question was identified for industrial activity as part of the 2001 Area-Wide Comprehensive Plan Update process. The site in question should be reserved and preserved for industrial uses.

The proposed SR-2 Zone is not consistent with the 2005 Boone County Comprehensive Plan which identifies the area to the west of the site in question for Industrial uses. The uses permitted in the proposed SR-2 Zone would be inconsistent with the recommended development of this adjacent area.

3. The proposed map amendment from I-1\* to SR-2 is not consistent with the zoning of the area in the immediate vicinity of the site in question.
  - The area located immediately north of the site in question is currently zoned I-1\* and has been developed with industrial-type uses.
  - The area located immediately south of the site in question is currently zoned I-6. The I-6 Zone within the Kenton County Zoning Ordinance permits a variety of light industrial uses such as auto salvage yards, bulk storage, lumber yards and warehouses on a minimum tract for development of twenty-five (25) acres.
4. There have not been any major changes of an economic, physical, or social nature, within the vicinity of the site in question, since the adoption of the 2001 Area-Wide Comprehensive Plan Update to warrant the proposed map amendment.

Mr. Schoettelkotte, Mr. Viox and Mr. John Goerning registered to speak for the issue. Ms. Roberta Albers registered to speak against.

Mr. Schoettelkotte addressed the Commission and stated he is representing the application. He stated they recognize the property is shown as industrial and stated their suggestion is that they question whether the land use plan is appropriate for the area. Mr. Schoettelkotte then gave a brief background on the property. He stated the site was intended to service large companies such as the railroad where lumber could be brought in. He stated since the 1980's the opening of I-275 changed the development patterns for the area and then when Dixie Highway was relocated, the area was essentially cut off. He stated from a historical standpoint the zoning

concept from back in the 70's never materialized. He then stated the Walton area has changed to become more residential. He then cited various developments over the past year as evidence of Walton changing from industrial and becoming more residential. He stated with the development of more residential areas they are encouraging more trucks to the area. He then referenced the site plan and stated this concept plan is more in tune with what is occurring in the area of Walton. He then noted this area is somewhat isolated being on the ridge top and having steep grades on either side. Mr. France then noted that from the appearance of the businesses located near the entrance of the proposed development it would appear that this site is not where you would want to place nice homes. Mr. Schottelkotte then stated that once you get up into the development you are surrounded by trees and are on a ridge top. He stated you are somewhat cut off from the area below. He additionally stated he does not feel the current businesses would have a negative impact on the marketability of the proposed development. Mr. Darpel noted his concerns with spot zoning. Mr. Hilgefurd stated the amount of density seems high for the area.

Mr. Viox addressed the Commission and stated he just wanted to reiterate a couple points made by Mr. Schottelkotte. He stated the zoning was based on the railroad and since Dixie Highway was relocated this area was cut off. He also stated part of the reason for the slow industrial growth is due to the lack of residents in the area.

Mr. Goering addressed the Commission and stated he has been involved with this property since 1961 and has waited for something to do with it. He stated the property was essentially cut off when Dixie Highway was relocated. He further noted it is a large single-user site and he has never had an offer for it. He also stated the idea of going to a residential use seemed very logical and he was glad the Drees Company wanted to look into it.

Ms. Abers addressed the Commission and stated the red dots on the overhead are homes and the area is considered a subdivision. She stated she stood before the Commission several years ago to fight the development of the treatment plant and further noted at that time Mr. Goering was in favor of the treatment plant then and wanted it to stay industrial. She stated now he is flip-flopping and he wants residential. She stated she does not want the density with this development. She then noted that every home has a three-acre minimum lot with very nice homes on them. She stated the hillside cannot withstand the development. She additionally noted her concerns with the steep hillsides along James. She then stated the reason there is no one else present to speak is because no one else on Jones Road was contacted. She stated the sign for the meeting was located on Dixie Highway even though this is listed as a Jones Road development. She then stated in speaking with her neighbors she feels they feel the same way but she was the only one contacted as an adjacent property owner. She then noted she would prefer to see residential over industrial but not at this density. She stated they do not deserve to have their property devalued by smaller homes. She then stated they are relying on the Commission to help the citizens because they have no say in the matter because they are not part of Walton. \

There was no rebuttal by Mr. Schottelkotte.

Mr. France stated when you look at the Comprehensive Plan this has got to be one of the best areas for industrial in Kenton County due to its proximity to the highway. Mr. Barnett stated he would have to agree. He stated he looked at it from both sides and stated it bothers him that this

would be breaking up a larger site that is currently industrial. Mr. Darpel then made the motion to disapprove Recommendation A to the Comprehensive Plan based on Staff's report and the reasons stated. Ms. Carlin seconded the motion. A roll call vote on the matter found Mr. Darpel, Ms. Carlin, Mr. Barnett, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hilgefard, Mr. Ryan, Ms. Snyder, Mr. Tewes, and Ms. Weldon in favor. Mr. Cook, Mr. Hadley, Mr. Wessels, Mr. Whitacre and Mr. Swanson voted against. The motion carried. A motion was then made by Mr. France to deny the zone change based on Staff's report. Ms. Carlin seconded the motion. A roll call vote on the matter found Mr. France, Ms. Carlin, Mr. Barnett, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. Hilgefard, Mr. Ryan, Ms. Snyder, Mr. Tewes and Ms. Weldon in favor. Mr. Cook, Mr. Hadley, Mr. Wessels, Mr. Whitacre and Mr. Swanson voted against. The motion carried.

1789R

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

LOCATION: N.A.

REQUEST: Proposed text amendments to the Independence Zoning Ordinance amending the regulations pertaining to the parking or storing of trailers, mobile homes, campers, inoperable vehicles, portable storage facilities, and other such type equipment.

Staff presentation and Staff recommendations by Mr. Andy Videckovich.

### **NKAPC STAFF RECOMMENDATION**

RECOMMENDATION A: To approve the proposed text amendments amending the regulations pertaining to the parking or storing of trailers, mobile homes, campers, inoperable vehicles, and other such type equipment.

RECOMMENDATION B: To disapprove the proposed text amendment adding regulations pertaining to the storing of portable storage facilities.

### **Comprehensive Plan Documentation:**

- Date of Adoption by the Kenton County & Municipal Planning & Zoning Commission: December 18, 2001

### **Supporting Information/Bases For NKAPC Staff Recommendation:**

#### RECOMMENDATION A

1. The proposed text amendments amending the regulations pertaining to the parking or storing of trailers, mobile homes, campers, inoperable vehicles, and other such type equipment, 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 regulating who may store vehicles, or other such type equipment on property is appropriate. Under the current regulations, vehicles may be stored on property that is not owned by the occupants of the residence of said property.
3. The recommendation of approval of the proposed text amendment requiring that stored vehicles be kept on a paved surface is consistent with previous recommendations made by the NKAPC staff and KCPC.

In May 2001, the city of Edgewood, per Roger Rolfes, submitted a proposed text amendment to the Edgewood Zoning Ordinance requiring such vehicles to be parked on a paved surface (Z-01-05-03/1507R). On June 1, 2001, the NKAPC staff recommended approval of the proposed text amendment, subject to one condition. On June 7, 2001, following the public hearing, the KCPC recommended approval of the proposed text amendment, subject to one condition.

In December 2001, the city of Fort Mitchell, per William Goetz, submitted proposed text amendments to the Fort Mitchell Zoning Ordinance: (1) requiring such vehicles to be parked on a paved surface; and (2) limiting the time period that such vehicles may be parked in a driveway to twenty-four (24) hours (Z-01-12-01/1539R). On December 28, 2001, the NKAPC staff recommended approval of the proposed text amendments, subject to one condition. On January 7, 2002, following the public hearing, the KCPC recommended approval of the proposed text amendments, subject to one condition.

4. The proposed text amendment increasing the weight limit of vehicles that must be stored in a completely enclosed building is reasonable. Vehicles are larger and heavier than what may have been considered when the zoning ordinance was adopted.
5. The proposed text amendment decreasing the time that a property needs to be in conformance with Sections 9.23, C., and 9.23, D., is reasonable. Three (3) months is adequate for properties to come into compliance with the proposed text amendments contained herein to 9.23, C., and 9.23, D.

#### RECOMMENDATION B

1. The proposed text amendment pertaining to the storing of portable storage facilities is inappropriate. The use of portable storage facilities will typically be of a non-recurring, temporary nature. As such, the administration of such regulations will be difficult due to appeal procedures required by KRS 100. Therefore, it is more appropriate that these regulations be placed in the City's code of ordinances rather than the zoning ordinance.

## Additional Information

1. Typically, portable storage facilities are used for home construction or home remodeling projects. Such projects typically exceed thirty (30) days in length. Therefore the proposed time limit for portable storage facilities is too restrictive. Although the staff is recommending disapproval of the proposed text amendment pertaining to portable storage facilities, if the Planning Commission or legislative body approves the proposed text amendment, the staff recommends the time limit restrictions be revised to accommodate longer projects.
2. The application from the City specifically refers to “PODS” (Portable On-Demand Storage). While PODS are the most common portable storage service currently available, the wording in the staff report reflects the generalized term of “portable storage facilities” to refer to any other current or future services of this nature. Although the staff is recommending disapproval of the proposed text amendment pertaining to portable storage facilities, if the Planning Commission or legislative body approves the proposed text amendment, the staff recommends that the general terminology be used.

No one registered to speak in favor of the issue. Ms. JoAnn Cabell and Mr. William Miller registered to speak against. Mr. Jeff Lancaster registered to speak as a neutral party.

Ms. Cabell addressed the Commission and stated she is asking the Commission to not assume the city is for a particular issue just because an issue is sent over for recommendation. She stated she feels that they have to send over any text amendment so as not to deny anyone their due process. She further stated she concurs with the Staff on PODS. She stated she feels this is something that needs to come to grips with referring to a generic term for portable storage facilities and not limit it to PODS. She stated she contacted the State Police and discovered that tractor trailers have a combine weight of 30,000 lbs. She then stated basically if they are disconnected someone could have a tractor trailer that is disconnected and leave it sitting in their driveway. She stated she questioned how the city is going to measure the weight of something in a driveway because the zoning enforcement officer can't come onto the property. She also questioned the weight of boats with regard to the 18,000 lb. limit. She stated she found out it would take six pontoon boats to equal 18,000 lbs. She then stated if this passes someone could conceivably have a boat in their driveway because one pontoon weighs 4,800 lbs. and is 30 feet long.

Mr. Miller addressed the Commission and stated he has been a resident of Independence for 40 years. He stated he was asked to be a member of the committee that recommends issue to the Commission. He stated he is not in agreement with everything that is recommended to the Commission. He then stated he has a problem with the weight of 18,000 lbs. He asked the Commission if they would want something like that next to them. He also noted he doesn't feel it is right to leave out the length entirely. He also noted he feels the weight limit is tool broad and leaves too many vehicles included. He then stated he knows of two PODS in the city that are being used as storage sheds and have been used as such for two years.

Mr. Lancaster addressed the Commission and questioned the weight requirement but no length specification. He stated that was the only question he had.

Mr. France then noted he felt the 6,000 lbs was too light but 18,000 lbs was too much. Mr. France then asked if conditions could be placed on the recommendation. Mr. Smith stated you could add a condition to change it with reference to the weight. Ms. Snyder asked if the word “enclosed” could be added with reference to the PODS and portable storage facilities. Mr. Hilgefurd then made the motion to disapprove for the reasons stated by Staff and the evidence presented. He stated the wording should be looked at in section D and also in section E. Mr. Hilgefurd then withdrew his motion. Ms. Snyder then made the motion to approve recommendation A and B but to include the following changes only as the including the word “enclosed” for portable storage facilities and to take out PODS, and also to reduce the weight to 10,000 lbs with the length not to exceed 25 feet. Mr. Wessels seconded the motion. A roll call vote on the matter found Ms. Snyder, Mr. Wessels, Mr. Barnett, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France and Mr. Swanson in favor. Ms. Carlin, Mr. Darpel, Mr. Hadley, Mr. Hilgefurd, Mr. Ryan, Mr. Tewes, Mr. Whitacre and Ms. Weldon voted against. The vote resulted in a tie vote. Mr. Hadley then asked if the matter could be tabled. Mr. Darpel asked what that would accomplish by tabling the issue. Mr. Smith then stated a motion could be made to disapprove and list the reasons why. Mr. Hilgefurd then made the motion to disapprove for the following reasons; that the ordinance is difficult to enforce and portable on demand storage facilities do not belong in the ordinance. Ms. Carlin seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Ms. Carlin, Mr. Barnett, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Ryan, Mr. Tewes, Mr. Whitacre, Mr. Swanson and Ms. Weldon in favor. Mr. Darpel, Ms. Snyder and Mr. Wessels voted against. The motion carried.

1790R

APPLICANT: PAR Investments, LLC, per Phil Drees.  
LOCATION: an approximate 35-acre area located along the north side of Percival Road, at the Kenton/Boone County border, Walton.  
REQUEST: (1) A proposed map amendment to the Walton Zoning Ordinance, changing the described area from A-1\* (an agricultural zone) to SR-1 (a single family residential zone); and (2) A proposed amendment to the 2001 Area Wide Comprehensive Plan Update, amending the Recommended Land Use Map for the described area from Industrial to Residential Development at a density ranging from 2.1 to 4.0 dwelling units per net acre.

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

### **NKAPC STAFF RECOMMENDATION**

#### **Recommendation A:**

To disapprove the proposed amendment to the 2001 Area Wide Comprehensive Plan changing the described area on the Recommended Land Use Map from Industrial to Residential at a density ranging from 2.1 to 4.0 dwelling units per net acre.

#### **Recommendation B:**

To disapprove the proposed map amendment from A-1\* to SR-1.

## Comprehensive Plan Documentation:

- 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 Comprehensive Plan designation of Residential development at a density ranging from 2.1 to 4.0 dwelling units per net acre, is not consistent with the Goals and Objectives Element of the 2001 Area-Wide Comprehensive Plan Update pertaining to employment and industrial land. Sections of the plan read as follows:

#### GOALS AND OBJECTIVES

#### EMPLOYMENT

1. To provide for a stable and diversified employment capability.

Effort should be made to provide a variety of employment opportunities oriented to various segments of the labor force and the skills they exhibit, so as to minimize unemployment levels. Effort should be made to determine and attract those types of industrial and commercial activities which, according to the most recent economic studies, appear to have the greatest potential for success in this region and are least susceptible to fluctuations in the economy.

2. To provide for an adequate amount of well located industrial development to meet anticipated industrial employment needs.

Effort should be made to locate areas planned for industrial development so as to shorten the work trip from the living areas of the resident labor force and reduce energy consumption. Anticipated industrial employment should be used as a guide in measuring the amount of land which should be allocated for future industrial development. Areas which exhibit particularly desirable characteristics for industrial development should be identified, planned, and regulated for such use without the constriction of arbitrary jurisdictional limitations.

3. To achieve the goals of this element without unduly disrupting the goals of other elements.

Effort should be made to ensure that industrial areas are afforded the same measure of protection against the intrusion of incompatible land uses provided to other land use types. Conversely, significant effort should be

made to ensure protection to areas surrounding employment centers. Elimination of undesirable emissions or intrusions, which may result from the existence of industry, will be necessary in order to minimize any adverse environmental effects caused by such uses.

## DEVELOPMENT CONCEPTS

### INDUSTRIAL

- *Locations of industrial type development should be based on area – wide considerations -- specifically, not an attempt to locate a certain amount of industrial development in each political subdivision. Location should be determined on the basis of the advantageous characteristics any given area exhibits for such development and without consideration to arbitrary jurisdictional limitations.*

Such a concept would result in utilization of the most suitable and desirable land for industrial development and the location of employment centers which would be accessible to the greatest number of persons.
- *Land which is most advantageous for industrial development should contain the following characteristics: (a) good access to major transportation facilities; (b) good proximity to urban development (employment sources); (c) relatively flat land; and (d) a full range of urban services.*

Industrial development generates significant traffic volumes (automobile, trucks, and sometimes rail services), necessitating good access to major highways and to employment sources (urbanized areas) in order for the street network to be able to accommodate the traffic volumes and prevent the generation of traffic through low-density areas. Most industrial development, by its very nature, requires central sanitary sewer services and water supply, gas and electric service, higher levels of police and fire protection, etc. Such development also often depends upon water and rail for delivery and/or distribution of products and supplies.
- *Land that can be most advantageously used for industrial purposes should be identified and reserved for industrial use and encouraged to be exclusively used for such purposes.*

Land which is most advantageous for industrial development in the Northern Kentucky Area is at a premium. Thus, identification and reservation of such land is necessary. Increased industrial development in these well-located areas would increase employment opportunities. It

would also result in an increased tax base for the provision of public services, and ensure better use of transportation systems, thus utilizing less energy and causing less pollution to the environment.

The 2001 Area Wide Comprehensive Plan provides a vision for growth and development within Kenton County over the next twenty years. Such long range planning efforts are specifically intended to reserve areas that can serve as future employment and research centers for the County. The proposed Comprehensive Plan designation is inappropriate and inconsistent with these goals and objectives.

3. The proposed Comprehensive Plan designation of Residential Development at a density ranging from 2.1 to 4.0 dwelling units per net acre is not consistent with the recommended land use designations for areas in the immediate vicinity of the site in question, including: (1) the area located immediately to the north and east of the site in question, which is identified for Industrial Development; and (2) the area located immediately west of the site in question, within Boone County, which is also identified for Industrial Development.

**Recommendation B:**

1. The proposed map amendment from A-1\* to SR-1 is not consistent with the Recommended Land Use Plan Map of the 2001 Area-Wide Comprehensive Plan Update, which identifies the site in question for Industrial uses. The proposed SR-1 Zone would allow residential development to occur in an area recommended for industrial uses.
2. The proposed SR-1 Zone is not appropriate. The Goals and Objectives Element of the 2001 Area-Wide Comprehensive Plan Update reads as follows:

*Land that can be most advantageously used for industrial purposes should be identified and reserved for industrial use and encouraged to be exclusively used for such purposes.*

Land which is most advantageous for industrial development in the Northern Kentucky area is at a premium. Thus, identification and reservation of such land is necessary. Increased industrial development in these well-located areas would increase employment opportunities. It would also result in an increased tax base for the provision of public services, and ensure better use of transportation systems, thus utilizing less energy and causing less pollution to the environment.

The site in question was identified for industrial activity as part of the 2001 Area-Wide Comprehensive Plan Update process. The site in question should be reserved and preserved for industrial uses.

The 2005 Boone County Comprehensive Plan identifies the area to the west of the site in question for Industrial uses. The proposed SR-1 Zone is therefore inappropriate given the recommended industrial uses within this adjacent area to the west.

3. There have not been any major changes of an economic, physical, or social nature, within the vicinity of the site in question, since the adoption of the 2001 Area-Wide Comprehensive Plan Update to warrant the proposed map amendment. Staff acknowledges the recent map amendment in the area immediately north and east of the site in question from A-1\* to R-1F (Z-05-06-10/1749R), and it is our opinion that this does not constitute a major change per KRS 100.213.

Mr. Justin Verst, Mr. Phil Drees and Mr. Adam Cheney registered to speak on the issue. No one registered to speak against.

Mr. Verst addressed the Commission and stated they believe there have been significant changes to the area. He stated it is fairly significant that this project was annexed by the City of Walton. He noted the property does have access from Percival Road. He additionally noted that Percival Road is obviously a residential type road and would not be suitable for industrial due to the steep hills and turns. He stated Percival goes through residential to get back to Dixie Highway. He stated they feel there will be residential development there even though it is not there yet. He stated the city obviously wants this area residential by the zone change approved last year.

Mr. Drees addressed the Commission and stated they are basically landlocked for industrial use so there is an economic change. He stated there is no way it could be used for industrial due to the valleys and lakes. Mr. France asked if there were any discussions with the adjoining property owner to provide for a connection. Mr. Drees stated there was not but he also noted it is very logical there should be connection to the adjoining property because of the ridge.

Mr. Cheney addressed the Commission and stated access will be off of Percival. He stated they would like to see the area all residential.

Mr. Hadley then made the motion to change the Comprehensive Plan based on the fact that the current zoning is inappropriate and the recommended zoning is appropriate and also based on the fact that the adjacent property was changed to residential. Mr. Wessels seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Wessels, Mr. Barnett, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Whitacre, Mr. Swanson and Ms. Weldon in favor. Ms. Carlin voted against. The motion carried. Mr. Coates then made the motion to approve the map amendment because it is in compliance with the Comprehensive Plan. Mr. Wessels seconded the motion. A roll call vote on the matter found Mr. Coates, Mr. Wessels, Mr. Barnett, Mr. Cook, Mr. Hadley, Mr. Tewes, Mr. Whitacre, Mr. Swanson and Ms. Weldon in favor. Ms. Carlin, Mr. Darpel, Mr. France, Mr. Hilgefurd, Mr. Ryan and Ms. Snyder voted against. The motion carried.

At this time (9:07 p.m.) a five minute break was taken.

\*Mr. Whitacre recused himself from the following issue due to a conflict of interest with his employer.

1791R

APPLICANT: LHD, LLC, per J. Richard Kremer on behalf of R and H Development and the City of Covington.

LOCATION: An approximate 2.4-acre area located at the southwest corner of the intersection of West 8<sup>th</sup> and Russell Streets in Covington.

**REQUEST:** A proposed map amendment to the Covington Zoning Ordinance changing the described area from R-3 (HP) (a low density residential zone with an historic preservation overlay zone), ART (HP) (an arts and technology zone with an historic preservation overlay zone), and GC (a general commercial zone) to R-5 (HP) (a medium density residential zone with an historic preservation overlay zone).

Staff presentations and Staff recommendations by Mr. Michael Schwartz.

**NKAPC STAFF RECOMMENDATION**

**Recommendation A:**

To approve the proposed map amendment from R-3 (HP), ART (HP), and GC to R-5 (HP), but only subject to compliance with the following conditions:

1. That each off-street parking space have a minimum width of nine (9) feet.
2. That a minimum ratio of one and one-half (1-1/2) off-street parking spaces be provided per dwelling unit.

**Recommendation B:**

To approve the requested front and side yard variances.

**Recommendation C:**

To disapprove the requested variance to the off-street parking ratio.

**Comprehensive Plan Documentation:**

- 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 map amendment from R-3 (HP), ART (HP), and GC to R-5 (HP) is consistent with the Recommended Land Use Map of the 2001 Area Wide Comprehensive Plan Update which identifies the site in question as a Special Development Area. One of the stated purposes of the Special Development Area designation is to identify areas with potential for mixed land uses. The zoning for the areas located to the north, southwest, and east of the site in question was recently amended to the ART Zone. The ART Zone permits a variety of arts and technology uses. The provision for residential development in proximity to this new zoning district will provide a local base population for these intended uses.

2. The proposed map amendment from R-3 (HP), ART (HP), and GC to R-5 (HP) is consistent with the following Goals and Objectives and Development Concepts, as contained within the 2001 Area Wide Comprehensive Plan Update:

To provide safe and sanitary housing to all residents.

*Effort should be made to eliminate dilapidated and unfit housing, rehabilitate declining housing, conserve the existing supply of sound housing, and add new housing, as necessary.*

To provide a variety of housing types and residential development to accommodate different needs and desires of the population.

*Effort should be made to encourage a variety of residential densities and housing types to meet the needs and desires of a range of family sizes, age groups, and income levels and to ensure that equal opportunity in choice of housing by all elements of the population is provided throughout the region.*

The proposed map amendment from R-3 (HP), ART (HP), and GC to R-5 (HP) will allow the site in question to be developed with residential dwellings, thus providing housing opportunities in an older area of the city.

3. The submitted Stage I Development Plan meets the minimum requirements of the Covington Zoning Ordinance with the exception of the following:
  - a. Section 158.117, A. requires off-street parking spaces to be a minimum of nine (9) feet in width. The submitted development plan indicates that the off-street parking spaces will be approximately eight and one-half (8-1/2) feet in width.
  - b. Section 158.118, L. requires a minimum of one and one-half (1-1/2) off-street parking spaces to be provided per dwelling unit. Based on sixty-four (64) dwelling units, ninety-six (96) off-street parking spaces must be provided. The submitted development plan indicates the provision of sixty-three (63) off-street parking spaces.

### **Recommendation B:**

1. KRS Chapter 100.203 (5) and Section 158.190 (G) of the Covington Zoning Ordinance empowers the planning commission, when requested by the applicant, to hear and finally decide on applications for variances when a proposed development plan requires a map amendment and one (1) or more variances.

Before any variance(s) is granted, the planning commission, per Section 158.206 (4) of the Covington Zoning Ordinance, must find that the granting of the variances will not adversely affect the public health, safety, or welfare, will not alter the essential character of the area, will not cause a hazard or nuisance, and will not allow an unreasonable

circumvention of the zoning regulations. In making these findings the planning commission shall consider the following:

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone.
  - b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.
  - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
2. The applicant has requested a variance reducing the minimum required front and side yard setbacks from fifteen (15) feet and twelve (12) feet, respectively, to three (3) feet.
  3. Areas located to the north of the site in question have existing front yard setbacks ranging from 0 feet to 12 feet. Areas located to the south of the site in question have existing front yard setbacks ranging from 0 feet to 11 feet. The area located to the east of the site in question has existing front yard setbacks ranging from 0 feet to 100 feet. The area located to the west of the site in question has existing front yard setbacks ranging from 9 feet to 24 feet.
  4. The proposed minimum front and side yard setbacks of three (3) feet would provide for a consistent development pattern that currently exists within the vicinity of the site in question.
  5. Granting the requested variances will not adversely affect the public health, safety, or welfare, will not alter the essential character of the area, will not cause a hazard or nuisance, and will not have a significant negative impact on adjacent properties.

**Recommendation C:**

1. KRS Chapter 100.203 (5) and Section 158.190 (G) of the Covington Zoning Ordinance empowers the planning commission, when requested by the applicant, to hear and finally decide on applications for variances when a proposed development plan requires a map amendment and one (1) or more variances.

Before any variance(s) is granted, the planning commission, per Section 158.206 (4) of the Covington Zoning Ordinance, must find that the granting of the variances will not adversely affect the public health, safety, or welfare, will not alter the essential character of the area, will not cause a hazard or nuisance, and will not allow an unreasonable circumvention of the zoning regulations. In making these findings the planning commission shall consider the following:

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone.
  - b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.
  - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
2. The applicant has requested a variance reducing the ratio of off-street parking spaces from a minimum of one and one-half (1-1/2) spaces per dwelling unit to one (1) space per dwelling unit.
  3. Kentucky revised Statute (KRS) 100. 111 (24) defines a variance as a departure from dimensional terms of the zoning regulation pertaining to the height, width, length, or location of structures, and the size of yards and open spaces where such departure meets the minimum requirements of KRS 100.241 to 100.247.

KRS 100.111 (21) defines a structure as anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having permanent location in or on the ground, including buildings and signs.

Section 158.006 of the Covington Zoning Ordinance defines off-street parking area as an open, surfaced area other than the rights-of-way of a street, alley, or place, used for temporary parking of motor vehicles.

4. Pursuant to these definitions, an off-street parking area is a structure. As such, the location of off-street parking areas meets the definition of a variance and may be varied by the Board of Adjustment. However, the size and required number of off-street parking spaces within such area does not meet the definition of a variance and may not be varied by the Board of Adjustment. Therefore, the planning commission, acting as the Board of Adjustment, does not have the authority to grant the request.

Mr. Rick Kremer and Mr. Jay Fossett registered to speak on the issue. No one registered to speak against.

Mr. Kremer addressed the Commission and stated they are very excited about the project because they think it will be good for the city. He stated they feel it is beneficial to the community as well. Mr. Kremer stated the design of the project is reflective of the community. He noted the 13 million dollar project is entirely privately funded and the financing is in place and ready to go. He stated 80% of person who want to live in an urban environment want to spend less than \$250,000 on a home. He stated these homes will range from \$140,000-235,000. He stated they feel the parking issue can be resolved. He noted they spoke to city council, including the mayor and they all have voiced their support of the project. He stated there is a lot of support from the project. He noted the setback patter is reflective of the area and the heights and setbacks are relatively consistent. He further noted the school parking lot is not used at night

so there is the potential to use that for additional parking. He further noted the city is in the process of redoing their zoning regulations which will then require only 1 parking space per unit. He additionally noted if they have to comply with the 1.5 parking spaces per unit the deal would be done. He stated they cannot go forward with the project if they are to meet that requirement so the parking issue is a very important factor. He stated they are asking for consideration on the parking issue due to this fact. He further requested the Commission to consider the broader aspect of the project as they feel it is very important to the city.

Mr. Fossett addressed the Commission and stated the school does allow for parking during the evening so there is in fact additionally parking available. He stated they are very excited about the development. He also noted it is a great neighborhood and they have always known the parking issues there. He further noted if too many spaces are required it will deter development. Mr. Smith then stated the parking is really a moot issue because the city is going to be changing their requirements. Mr. Kremer stated he felt uncomfortable basing the parking on the fact that the city would be changing their requirements. He stated he would respectfully request the Commission decide on the parking at this meeting versus waiting on the city to change their requirements. He further noted the neighborhood has already spoken and approves of the project.

Mr. Eilerman then made the motion to approve the application including the front and side variances and the parking lot as presented based on Staff's report, the evidence and the context within which this is located. The motion was seconded by Mr. Coats. A roll call vote on the matter found Mr. Eilerman, Mr. Coates, Mr. Barnett, Ms. Carlin, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hadley, Mr. Hilgefurd, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Swanson and Ms. Weldon in favor. Mr. Whitacre abstained. The motion carried.

### **Old and Unfinished Business:**

Ms. Weldon stated with regard to the Proposed Administrative Policy #11 the KCPC Bylaws that a committee was formed to discuss the matter. She stated the chair was unable to be present. She further noted since the report was not distributed to the Commissions it would be tabled. As such, the FY06 Budget would need to be tabled as well.

### **Reports from Committees:**

*Subdivision Regulations Review* –Nothing to report.

*By-Laws* – The meetings are currently on hold.

*Model Zoning Ordinance* – There is currently no chair. Ms. Weldon stated they did meet with Staff regarding the mapping of the model zoning ordinance.

*Executive*- Nothing to report.

*Report from legal counsel* – Nothing to report.

*Announcements from Staff* – Nothing to report.

*Correspondence* – None.

### **New Business:**

**Election of Officers:**

The following commissioners were nominated as follows: Ms. Weldon, Chair, Mr. Wells, Vice Chair, Mr. Swanson, Treasurer. No new nominations were submitted. The nominations were then closed with the present nominations standing. Mr. Ryan then made the motion to elect those stated in their respective positions. Mr. Tewes seconded the motion. The roll call vote on the matter found Mr. Ryan, Mr. Tewes, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgefurd, Ms. Snyder, Mr. Wessels, Mr. Whitacre, Mr. Swanson and Ms. Weldon in favor. The motion carried.

Ms. Weldon then stated she would be contacting Mr. Schwartz to discuss committees. She further stated that anyone interested in serving on a committee or not remaining on a committee to contact her within a couple days.

Mr. Schwartz addressed the Commission with regard to the request to reconsider in relation to the map amendment and the Shoppes of Edgewood in Edgewood and Ft. Wright. He then gave a brief background regarding the rules by which an application could be re-presented after being denied. Mr. Richard Soper, the landscape architect for the Shoppes of Edgewood, addressed the Commission. He stated they have taken two or three steps of actions since first coming before the Commission. He stated this is the reason they are coming back to be reconsidered prior to the 12 month period. He stated they have purchased the Frito Lay Company property and further stated they have met with the two cities and have agreed to limit the curb cuts on Spurney Drive to one or possibly two because of access to parking. He stated they will also provide a frontage road which is parallel to KY 17 and add the additional 1.1 acres of New Perceptions Property, and they also have more interest from a variety of users. He also stated the Shoppes of Edgewood has also agreed to modify the curb cut that is existing on Kentucky 17. He stated for these reasons they are requesting that they be allowed to come back before the Commission. A motion was then made by Mr. Hilgefurd to allow them to resubmit their application prior to the twelve month period. Mr. Darpel seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Darpel, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Swanson and Ms. Weldon in favor. Mr. Whitacre abstained. The motion carried.

Mr. Schwartz addressed the Commission with regard to the Cincinnati Bell Wireless Telecommunications Facility extension. He stated the statute requires that the Commission hold a hearing within 60 days of the Staff receiving the application. He then stated Staff contacted Cincinnati Bell to agree to an extension because it would have been difficult to get the issue on this evening's agenda. He then stated he is requesting a motion to place it on February's agenda. A motion was made by Mr. Wessels to place the item on February's agenda. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Hadley, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Whitacre, Mr. Swanson and Ms. Weldon in favor. The motion carried.

Ms. Weldon then noted that anyone planning on attending the upcoming seminar to please let Gail know as soon as possible.

There being nothing further to come before the Commission, a motion was then made by Mr. Ryan to adjourn. The motion was seconded by Mr. France. All in favor. None opposed. The meeting then adjourned at 10:25 p.m.