

**KENTON COUNTY PLANNING COMMISSION  
REGULAR MEETING**

**Minutes**

Ms. Weldon, Chair, called the meeting to order at 6:15 PM on Thursday, May 4, 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.

		2006											
Member	Jurisdiction	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Mark Barnett	Taylor Mill	X	X	X	X	X							
Barbara Carlin	Kenton Co	X	X	X	X	X							
Barry Coates	Covington	X	X	X	X	X							
James Cook	Kenton Co	X	X	X	X								
Paul Darpel	Edgewood	X	X	X	X	X							
Chuck Eilerman	Covington	X	X	X	X	X							
Tom France	Ludlow	X	X	X	X	X							
Al Hadley	Elsmere	X	X	X	X	X							
David Hilgeford	Villa Hills	X	X	X		X							
Lynn Hood	C'view Hills		X	X	X	X							
Phil Ryan	Park Hills	X	X	X	X	X							
Maura Snyder	Indepndnce	X	X	X	X	X							
Paul Swanson, Treas	Erlanger	X		X		X							
Joe Tewes	Bromley	X	X	X	X	X							
Alex Weldon, Chair	Covington	X	X	X		X							
John Wells, V Chair	Ft Mitchell		X	X	X	X							
Bernie Wessels	Cres Spgs	X	X	X	X	X							
Gil Whitacre	L'side Park	X	X	X	X	X							
Rick Wolnitzek	Ft Wright	X	X	X	X	X							

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

**AGENDA:**

There were no changes made to the agenda for the evening. A motion was made by Mr. Wessels to approve the agenda. Mr. Eilerman seconded the motion. All in favor; none opposed.

**APPROVAL OF THE MINUTES:**

The minutes for April were distributed in the Commissioner’s packets. Mr. Wolnitzek noted his name had somehow been deleted from the attendance list. There were no changes or corrections noted. A motion was made by Mr. Hadley to approve the minutes from April. Mr. Tewes seconded the motion. A roll call vote on the motion found Mr. Hadley, Mr. Tewes, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France. Ms. Hood, Ms. Snyder, Mr. Wessels, Mr. Whitacre, Mr. Wolnitzek, Mr. Swanson, and Mr. Wells in favor. Mr. Ryan and Ms. Weldon abstained. 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 the report as submitted. All in favor; 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.

\*Mr. Hilgeford arrived after the roll was taken.

**PUBLIC HEARINGS:**

**1812R**

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

**LOCATION:** N.A.

**REQUEST:** a proposed text amendment to the Independence Zoning Ordinance modifying the regulations pertaining to the screening of dumpsters.

Staff presentation and recommendations by Mr. Andy Videkovich.

**NKAPC STAFF RECOMMENDATION**

To disapprove the proposed text amendment.

**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 is unreasonable. Section 9.12, C., 1., of the Independence Zoning Ordinance states that any lawful nonconforming structure, existing at the time of

adoption or amendment of this ordinance, may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless the enlargement or extension can be, and is, made in compliance with all of the provisions of this ordinance.

Most dumpsters that the proposed text amendment would affect are nonconforming. As such, they are allowed to continue in their current status as long as the property is occupied, operated, and maintained in a state of good repair. If the dumpster or dumpster area is enlarged or extended, it will need to be done so in compliance with the landscaping regulations.

2. The proposed text amendment is inappropriate. There are regulations in place that set forth the requirements for the termination of a nonconforming use. Section 9.12, C., 2., of the Independence Zoning Ordinance states that in all cases, the board of adjustment shall hold a public hearing in accordance with the applicable requirements of Section 18.2 of this ordinance. Following that hearing, the board may terminate the right to operate a nonconforming structure based on any of the following conditions, and if the decision is to do so, the board shall state its bases, in writing, for such determination.
  - a. Whenever the nonconforming structure is damaged in any manner whatsoever and the cost of repairing such damage exceeds fifty (50) percent of the market value of such structure and a determination is made by the board of adjustment that the structure should not be reconstructed.
  - b. Whenever the nonconforming structure becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing such nonconforming structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the market value of such nonconforming structure as of the date of the official order under the applicable ordinance and a determination is made by the board of adjustment that the structure should not be reconstructed.
  - c. Whenever said nonconforming structure is determined to be detrimental or injurious to the public health, safety, or general welfare.

Determining whether a nonconforming use should be terminated is a Board of Adjustment process that requires a public hearing. The proposed text amendment will make this process an administrative process that will eliminate the public hearing requirement.

3. The proposed text amendment is not a uniform regulation. The proposed text amendment singles out dumpsters as a nonconforming use that will be treated differently than other nonconforming uses within the City of Independence.

Mr. Ken Lancaster registered to speak in favor of the issue. No one registered to speak against.

Mr. Lancaster addressed the Commission and distributed pictures with regard to the application.

The pictures were then marked as an exhibit and made a part of the record on the matter. Mr. Lancaster stated wherever open dumpsters are you have people leaving trash around them and waste collection will not pick that up. He stated this has been going on for three years and they have not been able to get the property owners to comply. He stated the amendment should be passed to clean up the city and keep the trash from being all over. He further noted this issue was brought up at a city council meeting and that is why the city is presenting the text amendment. He stated the mayor is in favor of the amendment as well. Mr. Lancaster further noted he would like some way for this to be resolved. Mr. Schneider then noted he wondered if the city considered a general ordinance versus going through zoning as a better way to remedy the situation. It was suggested an ordinance be recommended versus amending the zoning ordinance. A motion was then made by Mr. Darpel to disapprove based on Staff's recommendation. Mr. Darpel also included a recommendation to pursue an ordinance instead of the text amendment. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Darpel, Mr. Ryan, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgefjord, Ms. Hood, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Whitacre, Mr. Wolnitzek, Mr. Swanson, Mr. Wells and Ms. Weldon in favor. The motion carried unanimously.

#### **1814R**

**APPLICANT:** Shoppes of Edgewood LLC per Doug Armbruster

**LOCATION:** An approximate 7-acre area located within the corporate boundaries of the cities of Edgewood and Fort Wright as follows: An approximate 5-acre area located along the west side of Madison Pike and on the east side of Sperti Drive, approximately 150 feet south of Dudley Pike in Edgewood; and, an approximate 2-acre area located along the west side of Madison Pike, approximately 500 feet south of Dudley Pike in Fort Wright.

**REQUEST:** A proposed map amendments to the Edgewood Zoning Ordinance changing the described area in that city from IP (an industrial park zone) to HC (a highway commercial zone) and to the Fort Wright Zoning Ordinance changing the described area in that city from IP (an industrial park zone) to HC (a highway commercial zone). A request for reconsideration of this issue was granted by the Commission on January 5, 2006.

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

#### **NKAPC STAFF RECOMMENDATION**

To approve the proposed map amendments from IP to HC, but only subject to compliance with the following conditions:

1. That the proposed map amendment in Edgewood be conditioned on the approval of the proposed map amendment in Fort Wright and that the proposed map amendment in Fort Wright be conditioned on the approval of the proposed map amendment in Edgewood.
2. That the submitted Stage I Development Plan be revised, or that approval of the proposed map amendment in the city of Edgewood be conditional upon the granting of setback variances by the Edgewood Board of Adjustment.

3. That the proposed sidewalks within the rights-of-way of Madison Pike (KY 17) and Dudley Pike be a minimum of five (5) feet in width.
4. That the requirements for landscaping, signage, lighting and off-street parking within the proposed HC Zone meet the minimum requirements of the Edgewood and Fort Wright Zoning Ordinances.

**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 map amendments from IP to HC are consistent with the Land Use recommendations within in the 2001 Area-Wide Comprehensive Plan Update, which describe the site in question as Area 16. The recommendations are to design and develop the site in conjunction with Areas 17 and 18 for retail and service uses. The proposed map amendment will allow the site in question to be developed with retail and service uses while providing for coordinated access to Areas 17 and 18.
2. The proposed map amendments are consistent with the Transportation recommendations within the 2001 Area-Wide Comprehensive Plan Update, which states the following in regards to the site in question and the area to the south of the site:

Access should be provided by cross access/frontage roads, which should be connected to existing Sperti Drive. Using Sperti Drive will provide access to the signalized intersection at Dudley Pike and Madison Pike. Full access, via right and left turns, will be provided by a shared intersection/roundabout. It is also desirable for this intersection/roundabout to be located for use by Area 19. In conjunction with a single full intersection/roundabout serving these areas, it should be feasible to allow a  $\frac{3}{4}$  intersection, restricting outbound traffic to right-in and right-out only.

**Cross Access Drives/Frontage Roads**

Interconnectivity of land uses that minimize the need to traverse between land uses using the arterial street system is a key component of these access control recommendations. Map 5J identifies general locations where these facilities are to be located. It is important to note that this plan does not stipulate whether interconnectivity is accomplished via cross-access drives or frontage roads. That decision should be based upon site design parameters during the land development process. The important element of this recommendation is that all property developed within the corridor be connected to adjoining properties within the corridor. Cross access/frontage interconnectivity must also accommodate pedestrian transportation, either along the roadway or via separate pedestrian/multi-use paths.

The Transportation recommendations are proposed in the corridor in order to enhance mobility and maximize the capacity of the existing roadway for the benefit of all users. These recommendations include the access management, cross access/frontage roads, a non-traversable median and roundabouts. Maximizing the capacity of Madison Pike (KY 17) entails maintenance of traffic flow even while traffic volumes increase, a situation that is anticipated to occur in the corridor. The proposed map amendments will provide modified access to KY 17 to prohibit left turns onto KY 17 while providing for north and southbound access through an access easement to the area to the south of the site through the proposed development to Sperti Drive. Sidewalks are also proposed within the rights-of-way of Madison Pike (KY 17) and Dudley Pike. The proposed map amendment is therefore consistent with the Transportation recommendations for maximizing traffic flow along Madison Pike while providing for pedestrian connectivity along Madison Pike (KY 17) and Dudley Pike.

3. The total development site is located within the cities of Edgewood and Fort Wright. The submitted development plan indicates that the proposed development will be located within these two cities. Development within the city of Edgewood cannot be efficiently accomplished without development taking place within the city of Fort Wright and development within the city of Fort Wright cannot be efficiently accomplished without development taking place within the city of Edgewood. Therefore, it is recommended: (1) that the proposed map amendment in Edgewood be conditioned on the approval of the proposed map amendment in Fort Wright and; (2) That the proposed map amendment in Fort Wright be conditioned on the approval of the proposed map amendment in Edgewood.
4. The submitted Stage I Development Plan does not meet the required front yard setback requirement along Sperti Drive, nor the requirement that off-street parking be set back a minimum of fifteen (15) feet from the street right-of-way along Dudley Pike within the city of Edgewood. It is therefore recommended that the approval of the proposed map amendment within the city of Edgewood be conditional upon the granting of setback variances by the Edgewood Board of Adjustment.
5. The Kenton County Subdivision Regulations require that all pedestrian walkways determined to be part of the integral pedestrian circulation system shall be constructed with a minimum width of five (5) feet in multi-family and commercial areas. It is therefore recommended that the proposed sidewalks within the rights-of-way of Madison Pike (KY 17) and Dudley Pike be a minimum of five (5) feet in width.
6. The proposed map amendments from IP to HC meet the minimum requirements of the Edgewood and Fort Wright Zoning Ordinances, except for the following:
  - a. Section 14.6, F., of the Fort Wright Zoning Ordinance and Section 14.7 of the Edgewood Zoning Ordinance identifies the types of signs permitted within the HC Zone. The submitted development plan identifies a ground mounted sign along Madison Pike (KY 17) within the city of Fort Wright; as well as two (2)

ground mounted signs along Madison Pike (KY 17) and two (2) 16-foot pylon center identification signs within the city of Edgewood. Insufficient information has been submitted to determine compliance with these requirements.

- b. Section 9.17 of the Edgewood and Fort Wright Zoning Ordinances require landscape screening to be provided in areas adjoining the public right-of-way, public or private streets and within vehicular use areas. Insufficient information has been submitted to determine compliance with these requirements.
- c. Section 10.9, E., 3., of the Edgewood Zoning Ordinance and Section 10.9, D., 3., of the Fort Wright Zoning Ordinance state that no lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property. Insufficient information has been submitted to determine compliance with this requirement.
- d. Section 11.2, M., of the Edgewood Zoning Ordinance and Section 11.2, C., of the Fort Wright Zoning Ordinance identify the required number off-street parking spaces for the uses proposed on the Stage I Development Plan. Insufficient information has been submitted regarding the number of employees of largest employment for the proposed restaurants and gas station. It is therefore recommended that the off-street parking provisions within the proposed HC Zone meet the minimum off-street parking requirements of the Edgewood and Fort Wright Zoning Ordinances.
- e. Section 11.1, A, of the Edgewood Zoning Ordinance requires one (1) parking space to be a minimum of two hundred (200) square feet in area, exclusive of access drives or aisles, and shall be a minimum of ten (10) feet in width and twenty (20) feet in length. The submitted development plan identifies all parking spaces at nine (9) feet in width and eighteen (18) feet in length. The submitted Stage I Development Plan indicates that a request for a variance will be submitted to the Edgewood Board of Adjustment to reduce the minimum size of off-street parking spaces for the area of the development within the city of Edgewood. It is the opinion of staff that a variance on the size of off-street parking spaces cannot be requested as it does not meet the definition of a variance per Kentucky Revised Statutes 100.111, which reads “a departure from the dimensional terms of the zoning regulation pertaining to height, length, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247”.

Mr. Tim Theissen, Mr. Doug Armbruster, Mr. Don Stegman, Mr. Rick Soper, Ms. Betty Bernard, Mr. Joe Messmer and Mr. Ed Schadler registered to speak in favor of the issue. No one registered to speak against.

Mr. Theissen addressed the Commission and distributed a handout of the site plan which was then marked as an exhibit and made a part of the record. Mr. Theissen stated Staff did a great job. He stated there was no reason for him to go through and articulate why the application is in

compliance. He stated he has never seen a Staff report as long or an issue as complete. He further noted that all four conditions of Staff were satisfactory with the applicant and there were no objections. Mr. Theissen stated the demand is incredible in the area and they have every reason to believe it will be successful. He additionally noted the previous concerns with the application have all been worked out. Mr. Theissen stated the site is split between two cities and they have worked really hard to make it work and to make sure everything has been adequately addressed.

Mr. Stegman addressed the Commission and stated the parking shown on the plan should meet the parking requirements in response to Mr. France's statement that it appeared to be a lot of parking. Mr. Theissen then noted the signage complies with the city's ordinances on which it will be placed. He stated the developer has to comply with both cities' ordinances as to signage.

All others registered on behalf of the developer had nothing to add.

Mr. Messmer addressed the commission and stated they like the development and welcome them to the neighborhood. He stated they opposed any extension of Sperti Drive due to the condition of the road and that has been worked out.

Mr. Schadler addressed the Commission and stated he occupies the building on the north corner. He stated he is concerned with the entryway due to the high accident area of the intersection and just asked that that be considered.

Mr. Darpel then made the motion to approve based on Staff's recommendations and with special attention to the potential of the cities extending the right of way of Sperti should it ever be improved and be able to be used as a thru street safely, as well as the site distance and access between Sperti and Dudley. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Darpel, Mr. Hadley, Mr. Barnett Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Whitacre, Mr. Wolnitzek, Mr. Swanson, Mr. Wells and Ms. Weldon in favor. The motion carried unanimously.

### **1815R**

**APPLICANT:** WWB Development per Adam Chaney.

**LOCATION:** An approximate 12.5 acre area located approximately 700 feet northwest of the intersection of Stablewatch Drive with Stonemill Drive, City of Independence.

**REQUEST:** A proposed map amendment to the Independence Zoning Ordinance changing the area described herein from R-1C (a single-family residential zone) to R-1D (a single-family residential zone).

Staff presentation and Staff recommendations by Mr. Andy Videkovich.

### **NKAPC STAFF RECOMMENDATION**

To approve the proposed map amendment, for the area described herein, from R-1C to R-1D, but only subject to the following condition:

1. The maximum density of the development not exceed 2.7 dwelling units per net acre.

**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 map amendment, as conditioned, is consistent with the Recommended Land Use Map of the 2001 Area-Wide Comprehensive Plan update which identifies the site in question for Residential Development at a density ranging from 2.1 to 4.0 dwelling units per net acre and PRDA. The recommended condition will require the site in question to be developed at a lower density than is currently permitted while still being within the limits established by the Comprehensive Plan.
2. The proposed map amendment, as conditioned, is consistent with the Residential Goals and Objectives and Development Concepts as contained within the 2001 Area-Wide Comprehensive Plan Update. The specific Goals and Objectives and Development Concepts read as follows:

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.

A variety of residential densities is desirable.  
Various densities would accommodate a variety of housing types to serve a variety of economic and social desires and capabilities.

The type of development that should occur within an area should be based, in part, upon the unique characteristics of the development site and the character of adjacent development.

Such a concept would insure that the proposed development would be compatibly incorporated into the area and would enable the development to best utilize the area's existing features.

The density of development for undeveloped land should be based on considerations such as: (a) the density of adjacent developed areas, of which the undeveloped land would be a logical extension; (b) access to major transportation facilities; (c) the nature of adjacent activities; and (d) residential development in rural areas should be designed to maintain existing rural character of open space and the appearance of low density.

Such a concept would result in development which is compatible with surrounding land uses and which would not result in generating high volumes of traffic through low density areas.

3. The proposed map amendment, as conditioned, is a logical extension of the R-1D Zone located adjacent to the site in question. The proposed map amendment will allow for the extension of the previously approved subdivision to the north of the site in question, and will provide for a consistent development with the adjacent uses and densities.
4. The proposed map amendment is consistent with previous recommendations made by the staff and by the KCPC:

On December 13, 2004, Fowler-Reese, LLC, per Timothy Reese, submitted an application for review and recommendation on a proposed map amendment to the Independence Zoning Ordinance, changing an approximate 88-acre area located immediately north of the site in question from R-1A and R-1C to R-1D (Z-04-12-04/1717R). On December 30, 2004, the NKAPC staff recommended approval of the proposed map amendment, subject to one (1) condition. On January 6, 2005, following a public hearing, the KCPC recommended approval of the proposed map amendment, subject to one (1) condition.

Mr. Adam Chaney and Mr. Phil Drees registered to speak in favor of the issue. No one registered to speak against.

Mr. Chaney addressed the Commission and distributed a street layout to the Commissioners with regard to the development. The document was then marked as an exhibit and made a part of the record. Mr. Chaney stated it made more sense to develop the street jointly in the development. He stated they decided to market the development to a builder that can take the whole street on down versus separately. He noted they basically want to continue Hickory Valley and are asking for the zone to be the same. He further noted they agree with the one condition of Staff.

Mr. Drees had nothing to add.

Ms. Snyder then made a motion to approve based on Staff's recommendation and condition. Mr. Wessels seconded the motion. A roll call vote on the matter found Ms. Snyder, Mr. Wessels, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgefjord, Ms. Hood, Mr. Ryan, Mr. Tewes, Mr. Whitacre, Mr. Wolnitzek, Mr. Swanson, Mr. Wells and Ms. Weldon in favor. The motion carried unanimously.

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

### **Reports from Committees:**

*Subdivision Regulations Review* –Nothing to report.

*By-Laws* – Ms. Weldon stated a draft regarding policy #10 was distributed to the Commissioners as to the length of the monthly meetings. She then asked for any comments with regard to the matter. Mr. France then stated he felt the 11:00 time frame was sufficient as recommended. Mr. France then made the motion to approve the draft as submitted. Mr. Wells seconded the motion.

A roll call vote on the motion found Mr. France, Mr. Wells, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. Hadley, Mr. Hilgeford, Ms. Hood, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Whitacre, Mr. Wolnitzek, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

*Model Zoning Ordinance* – Nothing to report.

*Executive*- Nothing to report.

*Report from legal counsel* – Nothing to report.

*Announcements from Staff* – None.

*Correspondence* – None.

**New Business:** - Ms. Weldon stated for those who attended the conference it was successful. Mr. Ryan noted as to Administration Policy #11 concerning continuing education and compensation that the word “may” should read “shall.” He noted on the web site it states “may” and he suggested that it be changed to read “shall.” He just made a suggestion that it be changed to remain consistent.

There being nothing further to come before the Commission, a motion was then made by Mr. Darpel and seconded by Ms. Snyder to adjourn. All in favor. None opposed. The meeting then adjourned at 7:40 p.m.