

**KENTON COUNTY PLANNING COMMISSION  
REGULAR MEETING**

**Minutes**

Ms. Weldon, Chair, called the meeting to order at 6:15 PM on Thursday, June 1, 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	X	X	X	X	X						
Barbara Carlin	Kenton Co	X	X	X	X	X	X						
Barry Coates	Covington	X	X	X	X	X	X						
James Cook	Kenton Co	X	X	X	X								
Paul Darpel	Edgewood	X	X	X	X	X	X						
Chuck Eilerman	Covington	X	X	X	X	X	X						
Tom France	Ludlow	X	X	X	X	X							
Al Hadley	Elsmere	X	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	X						
Maura Snyder	Indepndnce	X	X	X	X	X	X						
Paul Swanson, Treas	Erlanger	X		X		X	X						
Joe Tewes	Bromley	X	X	X	X	X	X						
Alex Weldon, Chair	Covington	X	X	X		X	X						
John Wells, V Chair	Ft Mitchell		X	X	X	X							
Bernie Wessels	Cres Spgs	X	X	X	X	X	X						
Gil Whitacre	L'side Park	X	X	X	X	X	X						
Rick Wolnitzek	Ft Wright	X	X	X	X	X	X						

Also present were Matt Smith, 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:**

Ms. Weldon requested a change to the agenda relating to the presentation by Mr. Keith Logsdon. She asked for a motion to have his presentation prior to the public hearings. As the agenda was short in length and with Mr. Logsdon having no preference to be heard prior to the public hearings, the agenda remained as presented. Mr. Wessels then made that motion to accept the agenda as proposed. Mr. Wolnitzek seconded the motion. All in favor. None opposed.

## **APPROVAL OF THE MINUTES:**

The minutes for May were distributed in the Commissioner's packets. Mr. Ryan requested that the language "and to comply with the February 2<sup>nd</sup> vote..." be added to the language he suggested with regard to Administrative Policy 11 as stated in the minutes. Mr. Wolnitzek noted he was not present at the meeting in January as reflected in the minutes. There being no further changes or corrections, Mr. Wessels then made the motion to approve as amended. Mr. Wolnitzek seconded the motion. A roll call vote on the motion found Mr. Wessels, Mr. Wolnitzek, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Whitacre, Mr. Swanson, and Ms. Weldon in favor. The motion carried.

## **FINANCIAL REPORT:**

Mr. Ryan questioned the \$10,000 aspect of the financial report as to what the monies specifically went for. Mr. Gordon stated in response that it went for the use of the meeting room. A motion was then made by Mr. Swanson to accept the report as submitted. Mr. Eilerman seconded the motion. A roll call vote on the matter found Mr. Swanson, Mr. Eilerman, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Hadley, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Whitacre, Mr. Wolnitzek, and Ms. Weldon in favor. Mr. Ryan voted against. The motion carried.

## **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.

## **PUBLIC HEARINGS:**

### **1818R**

**FILE NUMBER:** Z-06-05-02/1818R

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

**LOCATION:** N.A.

**REQUEST:** A proposed text amendment to the Independence Zoning Ordinance adding Day Care Facility to the list of permitted uses within the NC (Neighborhood Commercial) Zone.

Staff presentation and recommendations by Mr. Andy Videkovich.

## **NKAPC STAFF RECOMMENDATION**

To approve the proposed text amendment, but only subject to compliance with the following conditions:

1. That the use be renamed to "Child Day Care Center".
2. That Section 10.14, E., 6., be amended by adding "and (5) the outdoor play areas of child day care centers".

## **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, as conditioned, 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, as conditioned is consistent with the purpose of the NC (Neighborhood Commercial) Zone. The purpose of the NC Zone is to primarily provide for individual retail, service, and other uses which are oriented towards serving the daily needs of area residents.
3. The proposed text amendment, as conditioned, is consistent with previous recommendations made by the NKAPC Staff and the KCPC.

On October 15, 1998, the City of Fort Mitchell, per William Goetz, submitted an application for review and recommendation on a proposed text amendment to the Fort Mitchell Zoning Ordinance adding “Day Care Facilities” to the list of permitted uses within the PO (Professional Office Building) Zone (Z-98-10-01/1376R). On October 30, 1998, the NKAPC Staff recommended approval of the proposed text amendment, subject to compliance with one (1) condition. On November 5, 1998, following a public hearing, the KCPC recommended approval of the proposed text amendment adding “Day Care Facilities” to the list of permitted uses within the PO (Professional Office Building) Zone, subject to compliance that outdoor play areas associated with day care facilities be permitted.

On October 19, 1999, the City of Erlanger, per P. David Hahn, submitted an application for review and recommendation on a proposed text amendment to the Erlanger Zoning Ordinance adding “Nursery School” to the list of permitted uses within the NC (Neighborhood Commercial) Zone (Z-99-10-01/1443R). On November 24, 1999, the NKAPC Staff recommended approval of the proposed text amendment. On December 2, 1999, following a public hearing, the KCPC recommended approval of the proposed text amendment adding “Nursery School” to the list of permitted uses within the NC (Neighborhood Commercial) Zone.

4. The proposed text amendment would add “Day Care Facility” to the list of permitted uses within the NC Zone. The Independence Zoning Ordinance does not contain a definition for “Day Care Facility”. The Zoning Ordinance does contain a definition for “Child Day Care Center”. To provide consistency, it is recommended that the proposed use be renamed to “Child Day Care Center”.
5. Section 10.14, E., 6., of the Independence Zoning Ordinance provides exceptions to the requirements that all business activities within the NC Zone must be conducted within a completely enclosed building. In order for child day care centers to provide outdoor play areas, it is recommended that the following be added as an allowed exception: “the outdoor play areas of child day care centers”.

Mr. Wessels stated he knew these facilities were state regulated but asked if there was any minimum requirement for outdoor play areas. Mr. Videkovich stated there were no requirements.

Mr. Richard Warner registered to speak in favor of the issue. No one registered to speak against.

Mr. Warner addressed the Commission and stated he brought the issue to the city along with his wife as they were interested in opening such a facility in Independence. He stated they are basically just looking to bring quality daycare to the downtown area.

A motion was made to approve by Ms. Snyder. Mr. Ryan seconded the motion. A roll call vote on the motion found Ms. Snyder, Mr. Ryan, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. Hadley, Mr. Tewes, Mr. Wessels, Mr. Whitacre, Mr. Wolnitzek, Mr. Swanson, and Ms. Weldon in favor. The motion carried unanimously.

**1819R**

**APPLICANT:** City of Covington, per Jay Fossett, City Manager.

**LOCATION:** N.A.

**REQUEST:** Proposed text amendments to the Covington Zoning Ordinance: (1) adding professional use offices on the first floor to the list of conditional uses in the TSC (Tourist Service Commercial) Zone; and (2) adding churches and other buildings for the purpose of religious worship to the list of principal permitted uses in the GC (General Commercial) Zone.

Staff presentation and recommendations by Mrs. Melissa Jort-Conway. It was noted that Staff did receive an email from Mr. Jay Fossett, City Manager, stating that he would not be able to attend the public hearing on the matter.

NKAPC STAFF RECOMMENDATION

Recommendation A:

To approve the proposed text amendment adding professional use offices on the first floor to the list of conditional uses in the TSC (Tourist Service Commercial) Zone, but only subject to compliance with the following condition:

1. That professional use offices on the first floor be added to the list of permitted uses within the TSC Zone.

Recommendation B:

To approve the proposed text amendment adding churches and other buildings for the purpose of religious worship to the list of principal permitted uses in the GC (General Commercial) Zone, but only subject to compliance with the following condition:

1. That churches and other buildings for the purpose of religious worship be added to the list of conditional uses within the GC (General Commercial) Zone.

## **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 amendment, as conditioned, adding professional use offices on the first floor to the list of conditional uses in the TSC (Tourist Service Commercial) Zone (see Attachment A), is allowed to be included within the text of the zoning ordinance, as authorized by Kentucky Revised Statutes (KRS) 100.230(1).
2. The proposed text amendment, as conditioned, adding professional use offices to the list of conditional uses within the TSC Zone, is consistent with the intent and purpose of the TSC Zone, to accommodate a range of specialized retail and service commercial and public and semi-public functions which orient to visitors and the tourist trade, as well as to accommodate a mixture of uses relating to and serving the residential areas. The provision of professional office uses on the first floor, including, for example, medical offices, legal offices and tourism and economic development offices are retail and service commercial uses which orient to visitors and the tourist trade, as well as serve the surrounding residential areas within the MainStrasse Village area.
3. The addition of professional use offices to the list of conditional uses within the TSC Zone is not consistent with the Northern Kentucky Area Planning Commission's legal counsel interpretation of a conditional use (i.e. uses which are intended for public or semi-public use and enjoyment, such as, schools, churches, parks and playgrounds). The addition of professional use offices to the list of permitted uses is appropriate and reasonable by further defining the type of professional use offices which would be allowed on the first floor while allowing other office uses above the ground floor level.

### Recommendation B:

1. The proposed text amendment, as conditioned, adding churches and other buildings for the purpose of religious worship to the list of principal permitted uses in the GC Zone (see Attachment B), is allowed to be included within the text of the zoning ordinance, as authorized by Kentucky Revised Statutes (KRS) 100.230(1).
2. The Covington Board of Adjustment has the authority to hear and decide on applications for conditional use permits. The submitted request is therefore reasonable in that the specific area and location of churches and other buildings for the purpose of religious worship, within the General Commercial (GC) Zone will be addressed on a case-by-case basis by the Covington Board of Adjustment.
3. As it is reflected in the list of existing permitted uses, the intent of the GC Zone is to provide a zoning classification which permits retail, and service businesses primarily oriented towards serving the day-to-day needs of the surrounding community. By adding churches and other buildings for purpose of religious worship to the list of conditional

uses within the GC Zone, will allow for an additional neighborhood oriented service, where appropriate, to be situated in areas accessible to the surrounding community and the general public.

4. The proposed text amendment, as conditioned, is consistent with the definition of a conditional use. Churches and other buildings for the purpose of religious worship would promote the public health, safety, or welfare in the GC Zone, but could 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 (i.e. church functions, hours of operation, off-street parking requirements).
5. The characteristics of the proposed use are either similar to or less intense than existing conditional uses currently listed within the GC Zone. The addition of churches and other buildings for purpose of religious worship to the list of conditional uses in the GC Zone is consistent with most other conditional uses in the GC Zone that allow for public assembly (i.e. exhibition and convention halls, youth shelters and social halls).
6. The proposed text amendment is consistent with a previous recommendation made by staff. On April 7, 2003, the City of Independence, per Mark Wendling, submitted an application for review and recommendation on a proposed text amendment to the Independence Zoning Ordinance, adding institutions of religious worship, subject to certain restrictions, as a conditional use in the Neighborhood Commercial (NC) Zone (Z-03-04-02/1617R). On April 25, 2003, the NKAPC Staff recommended approval of the proposed text amendment. On May 1, 2003, following a public hearing, the KCPC recommended approval of the proposed text amendment.

There was no one present to speak for or against the issue.

Mr. Eilerman stated this was an 180° turn on the city's original plan for the area and questioned whether or not the matter could be tabled so it could be discussed with Mr. Fossett. Ms. Weldon stated she felt we could discuss the matter and vote appropriately since it was just a recommendation to the city. Mr. Eilerman stated it unfortunate that Mr. Fossett was not present and due to the past feelings of the city he would recommend disapproval as to Recommendation A based on the history and nature of the zone. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Hadley, Mr. Barnett, Mr. Coates, Mr. Darpel, Mr. Hadley, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Swanson, and Ms. Weldon in favor. Ms. Carlin, Mr. Ryan, Mr. Whitacre and Mr. Wolnitzek voted against. The motion carried by a vote of 10-4. With regard to Recommendation B as to religious organizations or churches, Mr. Eilerman made the motion to approve the text amendment based on Staff's recommendations. Mr. Ryan seconded the motion. A roll call vote on the motion found Mr. Eilerman, Mr. Ryan, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Hadley, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Whitacre, Mr. Wolnitzek, Mr. Swanson, and Ms. Weldon in favor. The motion carried unanimously.

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

Mr. Logsdon and Ms. Sampath addressed the Commission and stated they came to discuss the South Banklick Area Project Study. A handout was distributed outlining the update of the study. It was noted that this study has been going on for a year now. It was further noted that the study was commissioned to look at the land around the creek to see how it can be preserved. A request was then made for the Commission to be the applicant for the applications for the zone change or map amendment with regard to the study. It was noted that they are hoping to bring it before the Commission in July but it would depend on the committee getting all the information together. Mr. Wessels stated he would like to have something in advance to review prior to it being placed on the agenda. Ms. Weldon then asked for action to authorize the chair to make the necessary applications within the next six months. Mr. Eilerman then made the motion to authorize the chair to make the necessary applications within the next six months. A roll call vote on the matter found Mr. Eilerman, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wessels, Mr. Whitacre, Mr. Wolnitzek, Mr. Swanson, and Ms. Weldon in favor. The motion carried unanimously. Ms. Weldon then requested that a draft be sent to the Commission members as soon as possible for review.

Mr. Gordon then addressed the Commission with regard to the 2007 budget. He stated the proposed budget was distributed to all the Commissioners and asked for a review of same and that the matter be placed on the agenda for approval. Mr. Gordon then stated they are projecting the budget for 2007 to be mostly the same as 2006. He stated he is more than happy to answer any questions with regard to the budget. There was a brief discussion as to the amount of funds retained in reserves. Mr. Gordon then suggested that approximately 5% that is set aside for reserves is more than enough given the amount of expenses the Commission has, which is different than individual cities who have more exposure. Following a brief discussion on the matter Mr. Gordon concluded with stating anyone who had further questions or comments could get in touch with him via email or phone call to discuss it further. Mr. Gordon then addressed a second handout and stated he discussed with Mr. Schneider the terms of service for the Commissioners and how long those would be. He noted they went back through the city's history to determine the average term length. He stated the terms shown on the handout are the official terms all Commissioners are currently serving. This was distributed for informational purposes.

### **Reports from Committees:**

***Subdivision Regulations Review*** –Nothing to report. Mr. Wessels asked if everyone had received his email.

***Comprehensive Plan Update*** – Ms. Weldon sent out a report.

***By-Laws*** – Nothing to report.

***Model Zoning Ordinance*** – A report was sent out by Melissa Jort-Conway and another meeting will be held.

***Executive***- Nothing to report.

***Report from legal counsel*** – Nothing to report.

***Announcements from Staff*** – (See Mr. Logsdon's presentation.)

***Correspondence*** – None.

**New Business:** - None.

There being nothing further to come before the Commission, a motion was then made by Mr. Swanson and seconded by Mr. Wolnitzek to adjourn. All in favor. None opposed. The meeting then adjourned at 7:16 p.m.