

**KENTON COUNTY PLANNING COMMISSION
REGULAR MEETING**

Minutes

Mr. Wells, Chair, called the meeting to order at 6:15 PM on Thursday, March 5, 2009, 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	2009											
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Mark Barnett	Taylor Mill	X	X	X									
Diane Brown	Erlanger	-	X	X									
Barbara Carlin	Kenton Co	X	X	X									
Barry Coates	Covington	X	X	X									
James Cook	Kenton Co	X	X										
Paul Darpel	Edgewood	X		X									
Chuck Eilerman	Covington	X	X	X									
Tom France, Vice-Chair	Ludlow	X	X	X									
David Hilgefurd	Villa Hills		X	X									
Lynn Hood	Crestview Hills	X	X	X									
Marc Hult	Covington	X	X	X									
Kent Marcum	Fort Wright	X	X	X									
Brandon Raybourne	Elsmere	X	X										
Mark Rogge	Crescent Springs	X	X	X									
Phil Ryan, Treasurer	Park Hills	X	X										
Maura Snyder	Indepen		X	X									
Paul Swanson	Erlanger	X	-	-	-	-	-	-	-	-	-	-	-
Joe Tewes	Bromley	X	X	X									
John Wells, Chair	Fort Mitchell	X	X	X									
Gil Whitacre	Lakeside Park	X	X										

“X” denotes attendance at the regular meeting and “x” denotes attendance at the continuation meeting.

“*” denotes arrival after roll call was taken.

“-“ denotes not on the planning commission.

Also present were Mr. Matt Smith, Legal Counsel, and the following NKAPC staff: Michael Schwartz, AICP, Deputy Director for Current Planning, Andy Videkovich, Principal Planner, and Mr. Mike Ionna, Associate Planner.

AGENDA:

Mike stated a request to table had been received with regard to issue 1956R. Mr. Hilgeford made the motion to table the matter for a period of up to six months. Ms. Snyder seconded the motion. A roll call vote on the motion found Mr. Hilgeford, Ms. Snyder, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France, Ms. Hood, Mr. Marcum, Mr. Rogge, Ms. Brown, Mr. Wells and Mr. Hult in favor. The motion carried unanimously. Mr. France then made the motion to accept the revised agenda. Ms. Snyder seconded the motion. A roll call vote on the motion found Mr. France, Ms. Snyder, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. Hilgeford, Ms. Hood, Mr. Marcum, Mr. Rogge, Ms. Brown, Mr. Wells and Mr. Hult in favor. The motion carried unanimously.

APPROVAL OF THE MINUTES:

A motion to accept the minutes from February was made by Mr. Rogge. Ms. Snyder seconded the motion. A roll call vote on the motion found Mr. Rogge, Ms. Snyder, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. Hilgeford, Ms. Hood, Mr. Marcum, Ms. Brown, Mr. Wells and Mr. Hult in favor. Mr. Darpel abstained. The motion carried.

FINANCIAL REPORT:

Ms. Snyder made the motion to accept the report as submitted. Mr. Eilerman seconded the motion. A roll call vote on the matter found Ms. Snyder, Mr. Eilerman, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. France, Mr. Hilgeford, Ms. Hood, Mr. Marcum, Mr. Rogge, Mr. Wells and Mr. Hult in favor. The motion carried unanimously.

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.

RECENT ACTIONS BY LEGISLATIVE BODIES:

No action required.

PUBLIC HEARINGS:

1953R

APPLICANT: City of Covington, per Jay Fossett
REQUEST: proposed text amendments to the Covington Zoning Ordinance: (1) changing office uses in the CT (Commercial Tourist) Zone from a conditional use to a permitted use and making the appropriate cross reference in the use regulations; (2) prohibiting the board of adjustment from waiving the building placement standards for commercial and industrial zones; (3) requiring new vintage clothing stores to be located at least 1,500 feet from a lot containing an existing vintage clothing store; (4) allowing buildings to be located within sight triangles; and (5)

allowing front yard areas to be used for parking and driveways

Staff presentation and Staff recommendations presented by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION

Recommendation A: To approve the proposed text amendment changing office uses in the CT (Commercial Tourist) Zone from a conditional use to a permitted use and make the appropriate cross reference in the use regulations.

Recommendation B: To approve the proposed text amendment prohibiting the board of adjustment from waiving the building placement standards for commercial and industrial zones.

Recommendation C: To approve the proposed text amendment requiring new vintage clothing stores to be located at least 1,500 feet from a lot containing an existing vintage clothing store.

Recommendation D: To approve the proposed text amendment allowing buildings to be located within sight triangles.

Recommendation E: To approve the proposed text amendment allowing front yard areas to be used for parking and driveways.

Comprehensive Plan Documentation:

Date of Adoption by the Kenton County Planning Commission: December 13, 2006

Supporting Information/Bases For NKAPC Staff Recommendation:

Recommendation A:

1. The proposed text amendment changing office uses in the CT (Commercial Tourist) Zone from a conditional use to a permitted use and make the appropriate cross reference in the use regulations (see Attachment A) 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 changing office uses in the CT (Commercial Tourist) Zone from a conditional use to a permitted use and make the appropriate cross reference in the use regulations (see Attachment A) is reasonable. The inclusion of professional office uses on the first floor of buildings helps to implement the stated purposes of the CT Zone.

Recommendation B:

1. The proposed text amendment prohibiting the board of adjustment from waiving the building placement standards for commercial and industrial zones (see Attachment B) is

allowed to be included within the text of the zoning ordinance as authorized by Kentucky Revised Statute (KRS) 100.203(1).

2. The removal of the term ‘waivers’ is appropriate. Pursuant to Kentucky Revised Statute (KRS) 100.217 through 100.271, the Board of Adjustment does not have the authority to waive zoning ordinance requirements. The Board does have the authority to modify placement standards through variance requests.
3. The removal of the phrase ‘only’ is appropriate. When dealing with the placement of buildings in areas that are zoned with the Historical Preservation Overlay (HP-O) Zone, both the Board of Adjustment and the Urban Design Review Board have jurisdiction.

Recommendation C:

1. The proposed text amendment requiring new vintage clothing stores to be located at least 1,500 feet from a lot containing an existing vintage clothing store (see Attachment C) 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 requiring new vintage clothing stores to be located at least 1,500 feet from a lot containing an existing vintage clothing store (see Attachment C) is reasonable and appropriate. When this use was added as a conditional use within the CBD at CT Zones, a reference was made to use-specific standards. At the time of this adoption, the use-specific standard was incorrectly omitted. The proposed text amendment appropriately corrects the situation.

Recommendation D:

1. The proposed text amendment allowing buildings to be located within sight triangles (see Attachment D) 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 allowing buildings to be located within sight triangles (see Attachment D) is reasonable. To provide for a consistent design pattern, as well as to retain the visual form of an area, many zoning districts require buildings to be placed along the front and side property lines or within five feet of the front and side property lines. The proposed text amendment will allow buildings to locate within sight triangles, thus promoting the visual character and form of an established area.

Recommendation E:

1. The proposed text amendment allowing front yard areas to be used for parking and driveways (see Attachment E) 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 allowing front yard areas to be used for parking and

driveways (see Attachment E) is appropriate. Currently, the off-street parking regulations state that unenclosed off-street parking spaces within the residential zones are permitted in required front, side, or rear setbacks. However, the general regulations for front setbacks states that front setbacks and front yard areas may not be used for parking and driveways. The proposed text amendment will eliminate the contradictory regulations.

3. The proposed text amendment allowing front yard areas to be used for parking and driveways (see Attachment E) is reasonable. Prior to the adoption of the current zoning ordinance in 2006, off-street parking and driveways were allowed in front yard areas. The proposed text amendment will allow the continuation of this well established policy.

Mr. Wells read a letter into the record received from the city with regard to the issue. The letter was then marked as an exhibit and made a part of the record on the matter.

Mr. Larry Klein registered to speak on the issue. He addressed the Commission and stated this is an attempt to go back and clarify the text for the records. He stated he feels these text amendments are minor in nature. He further noted the 1,500 foot reference is not for limiting this type of business for a do not compete reason but rather an attempt by the city to avoid concentration of one particular type of use. He noted this is a housekeeping procedure and to his knowledge there are no violations. Mr. France then noted the 1,500 foot number seemed like a large distance. He then estimated that one block would be 500 feet so that would mean a similar store could not be located less than 3 blocks from another.

Ms. Julie registered to speak on the issue. She addressed the Commission and stated she is the owner of a vintage shop at 610 Main Street. She noted her opposition to the 1,500 foot rule. She stated she can attest to the fact that tourists come into her shop on a daily basis. She then stated her shop offers clothes that are like antiques. She further stated she doesn't see a problem with having 2 or 3 in a block because it is a draw. She stated she encourages the rethinking of the vintage store clothing designation as to the text amendment. She noted she recently had a customer from Australia request 2 vintage ties to be sent. She noted she feels this speaks volumes about the city and about their little shop. She further stated she would welcome and encourage competition. She then noted that is why there are no more antique shops in the area. She stated they have all gone to Milford because there is a clustering of antique shops there. All others registered to speak had nothing to add.

The public hearing was recessed to allow for discussion amongst the Commissioners. Mr. Eilerman noted he would not suggest adding the restriction for vintage clothing stores. The public hearing was then closed. Mr. Eilerman made the motion to deny Item I of the text amendment with regard to vintage clothing stores. Mr. Hilgefurd seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Hilgefurd, Mr. Coates, Mr. France, Mr. Marcum, Mr. Rogge, Ms. Brown, Mr. Tewes and Mr. Hult in favor. Mr. Barnett, Ms. Carlin, Mr. Darpel, Ms. Hood, Ms. Snyder and Mr. Wells voted against. The motion carried with a vote of 9-6.

Mr. Eilerman then made a motion as to Item III to deny based on the testimony heard, analysis of

the area and purpose. Mr. Hilgefurd seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Hilgefurd, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. France, Ms. Hood, Mr. Marcum, Mr. Rogge, Ms. Snyder, Ms. Brown, Mr. Tewes, Mr. Wells and Mr. Hult in favor. The motion carried unanimously.

Mr. Hilgefurd made the motion to approve Items II, IV and V per the recommendations of Staff. Mr. Eilerman seconded the motion. A roll call vote on the motion found Mr. Hilgefurd, Mr. Eilerman, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. France, Ms. Hood, Mr. Marcum, Mr. Rogge, Ms. Snyder, Ms. Brown, Mr. Tewes, Mr. Wells and Mr. Hult in favor. The motion carried unanimously.

*Mr. Coates recused himself due to a conflict of interest.

1954R

APPLICANT: City of Ludlow per Joseph Schutzman, Codes Administrator
LOCATION: three parcels located in the vicinity of the intersection of Locust Street and Wilcow Alley in Ludlow and described more precisely as follows: Area A (approximately 2.6 acres) is located on both sides of Elm Street between the railroad and Locust Street; Area B (approximately 0.8 acre) is located at the northeast corner of the intersection of Elm and Locust Streets; and, Area C (approximately 0.8 acre) is located on the south side of Ash Street midway between Carneal and Locust Streets
REQUEST: proposed map amendments to the Ludlow Zoning Ordinance changing Area A from I-1 (an industrial zone) to I-1 (P) NC (an industrial zone with a phased overlay zone to neighborhood commercial); Area B from R-1J (a detached single-family residential zone) to R-1J (P) NC (a detached single-family residential zone with a phased overlay zone to neighborhood commercial); and, Area C from R-1J to NC (a neighborhood commercial zone)

Staff presentation and Staff recommendation by Mr. Mike Ionna.

NKAPC STAFF RECOMMENDATION

RECOMMENDATION A: To approve the proposed map amendment for Area A from I-1 to I-1 (P) NC.

RECOMMENDATION B: To approve the proposed map amendment for Area B from R-1J to R-1J (P) NC.

RECOMMENDATION C: To disapprove the proposed map amendment for Area C from R-1J to NC.

Comprehensive Plan Documentation:

Date of Adoption by the Kenton County Planning Commission: December 13, 2006

Supporting Information/Bases For NKAPC Staff Recommendation:

RECOMMENDATION A:

1. The existing zoning for Area A, of I-1, is inappropriate and the proposed zoning for Area A, of I-1 (P) NC, is appropriate.

Elm Street is the main arterial within the city of Ludlow, providing for east/west traffic movement. The character of the development along Elm Street is consistent with the purpose, intent, and permitted uses found within the NC Zone. Areas to the west of Area A, along Elm Street have been developed as a traditional linear main street. The existing I-1 Zone would allow uses that would be incompatible with this traditional development pattern.

The use of phased zoning is reasonable in that it provides for the appropriate timing as adjacent properties are rezoned to the NC Zone.

RECOMMENDATION B:

1. The existing zoning for Area B, of R-1J, is inappropriate and the proposed zoning for Area B, of R-1J (P) NC is appropriate.

Elm Street is the main arterial within the city of Ludlow, providing for east/west traffic movement. The character of the development along Elm Street is consistent with the purpose, intent, and permitted uses found within the NC Zone. Areas to the west of Area A, along Elm Street have been developed as a traditional linear main street. The existing R-1J Zone would not allow uses that would be compatible with this traditional development pattern.

The use of phased zoning is reasonable in that it allows current property owners to maintain their properties under the regulations of the existing R-1J Zone. Additionally, the use of phased zoning does not create any additional nonconformities.

RECOMMENDATION C:

1. The proposed map amendment for Area C, from R-1J to NC is not consistent with the Land Use Map of the *Comprehensive Plan Update 2006-2026*, which identifies Area C, along with areas located to the north, east, and west of Area C, for Residential Development at a density ranging from 7.1 to 14.0 dwelling units per net acre. The proposed NC Zone would allow a variety of retail and service uses to be developed in an area recommended for residential development.
2. The existing R-1J Zone is appropriate and the proposed NC Zone is inappropriate. The existing R-1J Zone permits detached single-family residential dwellings on a minimum lot area of 3,000 square feet (approximately 14.5 dwelling units per net acre). This type

of development is consistent with the established development pattern within the vicinity of Area C. The types of uses permitted within the NC Zone would not be consistent with the established development pattern. Additionally, Area C fronts onto Ash Street, which is identified as a local street. The proposed NC Zone would encourage commercial traffic within a residential area, rather than along Elm Street, which is identified as an arterial street.

3. There have been no major changes of an economic, physical, or social nature within the vicinity of this area since the adoption of the comprehensive plan to warrant the proposed map amendment.

Mr. Schutzman, zoning administrator for the City of Ludlow, registered to speak in favor of the issue. He addressed the Commission and stated the area near the railroad overpass was an industrial zone previously and no longer fit the area. He stated Area C is going to be a development consisting of a grocery store. He stated to get this facility in the area they needed the property where the convenience store and gas station is located. He further stated the area would not support the traffic trying to get in at that location since it is so small. He then noted even though it is a residential zone there is more than just residential in that area.

Mr. Patrick Snider, vice chair of historic preservation for Ludlow, registered to speak on the issue. He addressed the Commission and stated he is against the rezoning, especially as to Area C as it lies in the historic preservation zone. He stated it will destroy the historic nature of Ash Street. He further stated he feels this zoning will be a fatal blow to the historic preservation of the area. He then stated there is no doubt there needs to be a grocery store in Ludlow but not at the expense of taking a historic area to do so. Mr. Snider stated the buildings are structurally sound but many are in a deteriorating state. He noted his home was vacant for ten years but was sound so these buildings can be restored.

Mr. Chris Bowen registered to speak on the issue. He addressed the Commission and stated this would cause more harm than good. He noted he feels traffic would cause a lot of issues. He then stated buildings could be redone that are in bad condition. He noted Ash Street is a residential area and this would disrupt a lot of people's lives in that area. He further noted he does agree that a grocery store is needed in Ludlow.

Mr. Schutzman stated in rebuttal that Ludlow is very limited as to where this type of use can go. He stated as far as traffic this would eliminate some of the problem because most people exit through the alley and that would change with this new development. He stated he's worked with the city for 17 years and a grocery store has always been a primary focus.

The public hearing was recessed to allow for discussion amongst the Commissioners. The public hearing was then closed. Mr. Darpel then stated as to Areas A & B he would make the motion to approve based on Staff's report and the testimony heard. Ms. Hood seconded the motion. A roll call vote on the matter found Mr. Darpel, Ms. Hood, Mr. Barnett, Ms. Carlin, Mr. Eilerman, Mr. France, Mr. Hilgeford, Mr. Marcum, Mr. Rogge, Ms. Snyder, Ms. Brown, Mr. Tewes, Mr. Wells and Mr. Hult in favor. The motion carried. Mr. France stated with regard to Area C that as a resident for 27 years the city has worked for years to try to find the right solution for a grocery

store. He stated more space is required in order to get a quality development. He then stated he agrees with Mr. Darpel that it probably should have been the whole block as to the zone change. He then made the motion to approve Area C and stated the proposed zoning is appropriate and the existing zoning is inappropriate. Mr. Tewes seconded the motion. A roll call vote in the matter found Mr. France, Mr. Tewes, Mr. Eilerman, Mr. Hilgefurd and Mr. Marcum in favor. Mr. Barnett, Ms. Carlin, Mr. Darpel, Ms. Hood, Mr. Rogge, Ms. Snyder, Ms. Brown, Mr. Wells and Mr. Hult voted against. The motion failed with a vote of 9-5. Mr. Hilgefurd then made the motion to disapprove Area C based on Staff's report. Ms. Brown seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Ms. Brown, Mr. Barnett, Ms. Carlin, Mr. Darpel, Ms. Hood, Mr. Rogge, Ms. Snyder, Mr. Wells and Mr. Hult in favor. Mr. Eilerman, Mr. France, Mr. Marcum and Mr. Tewes voted against. The motion carried with a vote of 11-4.

*At this time (8:00 p.m.) a five minute break was taken.

The following two issues were combined for purposes of the meeting.

W-705

APPLICANT: Grand Communities, Ltd.

LOCATION: an approximate 67-acre area located along the south side of Bristow Road, between Independence Road and Calvary Road, approximately 1,200 feet west of Independence Road in unincorporated Kenton County

REQUEST FOR ACTION: to grant waivers to requirements of Section 5.3 of the Kenton County Subdivision Regulations; granting the requests would waive the typical street design and allow for streets to contain "knuckles" mid block and would waive the requirement for sidewalks along the portion of Bristow Road that fronts the subdivision.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION

Recommendation #1:

That the planning commission approve the requested waiver of Subdivision Regulations Section 5.3 permitting the use of "knuckles" mid block.

Basis:

The modification for the knuckle design would provide for innovative design layout of the subdivision, further defined as follows:

- a. The recommended configuration meets the minimum design objectives of the Kenton County Subdivision Regulations.
- b. The knuckle design will provide additional street frontage and allows through traffic to progress along the street without passing directly in front of the houses having frontage in the knuckle.

Recommendation #2:

That the planning commission deny the requested waiver of Kenton County Subdivision Regulations Section 5.3 requiring sidewalk to be constructed along the portion of Bristow Road that fronts the subdivision.

Bases:

1. The modification does not include the findings necessary to grant a waiver to the regulations as set forth within Section 6.5 A, or B, or C, or D.
2. Subdivision Regulations Section 5.3 requires sidewalk along all streets.
3. While there is currently no existing sidewalk along this portion of Bristow Road, not providing a sidewalk along the entire frontage of this proposed development will eliminate the possibility of a sidewalk extension and interconnection with future development.
4. Requiring that sidewalks be constructed along the portion of Bristow Road that fronts the proposed development is consistent with the Goals and Objectives of the 2006 Comprehensive Plan Update 2006-2026. As stated in the development concepts in Chapter 3: Section 5 *“Development plans and subdivision plats should be evaluated to ensure that all modes of transportation can be accommodated. (e.d. bus pullouts and/or stops within or connected by pedestrian access; bicycle parking provided; pedestrian access from all roads to buildings with safe routes across parking areas).”*

1955R

APPLICANT: Grand Communities, Ltd., per Gregory S. Thurman, on behalf of Andrew and Jennifer Zalla and Ronald and Lori Tolley

LOCATION: an approximate 67-acre area located along the south side of Bristow Road, between Independence Road and Calvary Road, approximately 1,200 feet west of Independence Road in unincorporated Kenton County

REQUEST: a proposed map amendment to the Kenton County Zoning Ordinance changing the described area from R-RE (a residential rural estate zone with a maximum density of 1 dwelling unit per net acre) and R-1B (a detached single-family residential zone with a maximum density of 2 dwelling units per net acre) to R-1D (RCD) (a detached single-family residential zone with a maximum density of 4.8 dwelling units per net acre with a residential cluster development overlay zone)

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION

To approve the proposed map amendment from R-RE and R-1B to R-1D (RCD).

Comprehensive Plan Documentation:

Date of Adoption by the Kenton County Planning Commission: December 13, 2006

Supporting Information/Bases For Recommendations:

1. The proposed map amendment from R-RE and R-1B to R-1D (RCD), along with the submitted Stage I Development Plan, is consistent with the Land Use Plan Element of the *Comprehensive Plan Update 2006-2026* which identifies the site in question for Residential Development at a density ranging from 2.1 to 4.0 dwelling units per net acre. The proposed map amendment, as supported by the submitted Stage I Development Plan, provides for the development of detached single-family residential dwellings at a density of 3.97 dwelling units per net acre.
2. The proposed map amendment from R-RE and R-1B to R-1D (RCD) is consistent with the stated purposes of the RCD Overlay Zone, which are to: provide a means whereby clusters of attached and detached single-family residential units may be constructed in the Residential (R-1) Zones, and therein, through a development plan, permit a wide flexibility in the design, location, siting of the building, and yard and setback requirements in order to provide for, to the greatest extent possible, the preservation of hillside areas and other natural geographic and topographic features, and to provide for more usable and suitably located recreation facilities and open space than would otherwise be provided under conventional R-1 residential land development procedures.

The use of the RCD Overlay Zone provides for the retention of the tree canopy located along Bristow Road as well as protecting the blue line stream located approximately 400 feet north, and approximately paralleling, Independence Road. Both of these areas are identified as open space on the submitted Stage I Development Plan.

Additional Information

1. To provide for a more direct and convenient pedestrian access between Open Area C and the lots along Autumn Maple Drive and Redbud Lane, walking paths and/or sidewalks is needed. One method to accomplish this would be to provide access between lots while another method would be to extend Redbud Lane to intersect with Cherry Blossom Drive.
2. The Kenton County Subdivision Regulations states that streets in new subdivisions shall make provision for the proper projection of streets to adjoining properties. A ridge top extends from the site in question to the adjoining property to the east. The submitted development plan does not make provision for a street connection along this ridge top. This issue will need to be addressed during the preliminary plat process.

Mr. Henry Fischer registered to speak on the issue. He then gave a brief listing of communities they have developed and built over the past 25 years in Kenton County. He noted most of these communities required zone changes in order to be built.

Mr. Greg Thurman registered to speak on the issue. He addressed the Commission and stated the basis of the proposal is in compliance with the land use plan. It was further noted there are no commercial components to the proposed development. He further stated there will be a wooded entry on Bristow road to create less disturbance of the green space. Mr. Thurmond stated the central park will contain a playground and activity center. He then gave a brief summary of the design elements as to the wooded streetscape, park-like common space, creative layout, etc. He then stated they are asking for support and approval of this project.

All others registered to speak in favor had nothing to add.

Mr. Bill Remke addressed the Commission against the issue and stated he doesn't have a problem with the development but when you put that many houses in an area you are inviting lower income residents and crime into the area. He then asked what would happen to their property values if this large of a development goes in.

Mr. John Knochelman addressed the Commission against the issue and stated noted the Fischer group has not discussed the plan with any neighbors. It was further stated there are streams in the area that feed the Banklick Creek. He stated they can't imagine any wildlife in the area if the development goes forward. Mr. Knochelman further stated they are not opposed to anyone making money but feels this is a huge mistake because the impact would be tremendous to the area. It was further stated there is a lake in the area and there is a question of safety due to that. He then stated they do not want to stand in their yards and look at 200 hundred homes.

Mr. Tom Breidenstein addressed the Commission against the issue on behalf of Mr. Josh Hollis. He stated a decrease in density could make this plan more in line with the comprehensive plan. It was further stated the comprehensive plan states that density should be considered in developments. Mr. Breidenstein then noted the vast amount of property surrounding this property is R-1C.

Mr. Toby Carpenter addressed the Commission against the issue and stated the green space they developer plans on setting aside is land that can't be developed anyway. It was noted there are already water runoff issues and this will make it worse. Mr. Carpenter noted he is against the cluster and amount of homes that would be built with the development.

Mr. Sester addressed the Commission against the issue and stated Kenton County has a pledge to keep Kenton County rural and this much density is not rural. It was noted the rural community will be gone. It was further noted that traffic is an issue now as well and asked what would happen if the development goes forward.

Mr. Jeff Denser addressed the Commission against the issue and stated they weren't notified about the development because this is wrong. He noted the rural community will be gone and that's why they moved there. He noted he feels the traffic is an issue now and asked what would happen if all the proposed houses go in.

Mr. Tim Carter addressed the Commission and asked about the sewage coming in. He stated that

wasn't addressed. Mr. Wells then stated that issue would be part of the plan later. Mr. Carter then noted he is opposed to the amount of homes proposed.

Mr. Hollinsworth addressed the Commission and stated he's worked his whole life and paid his home off and his children's college and he's made a great investment in his home. He stated he just built a \$50,000 detached garage. He noted he will not get the value of his home with his garage if this development goes forward. He stated you can't build anything on the land where they say they are putting play grounds.

Mr. Fischer addressed the Commission in rebuttal and stated they are not against a buffer of some sort. He noted as far as the other property owners, it is a nice view but they don't own that view. He further stated they don't create households but they do create new homes. He additionally noted they try to provide different houses to apply to a broad range. Mr. Fischer stated you will have less run off if you build at a higher density vs. a lower density. He then stated they feel they have met the requirements of the zone change and are asking for approval.

Mr. Rogge asked about the home values. Mr. Fischer stated the prices would be anywhere from \$140,000 to 250,000.

Mr. Knochelman addressed the Commission in rebuttal and stated the property next to the lake is a big concern. He noted that whole area slopes right toward the lake and there is no doubt there will be an ecological change. He noted his concerns for the environmental as well as the view being eliminated.

The public hearing was then recessed for discussion amongst the commissioners. Mr. Hilgefurd stated the Commission is constantly asked to protect other people's property and that's the majority of what he's heard from the testimony. He stated they are being asked to protect the use of Mr. Zalla's property. He then noted Mr. Zalla has the right to sell his property at the best price he can get. Mr. France stated the plan falls within the comprehensive plan but also indicated a lesser density would also fall within the comprehensive plan. Mr. Barnett stated the plan has ranges and if you are going to argue the top of the range has issues then you can also argue the bottom of the ranges has problems. He noted this could really be a nice development with a much lesser density. Mr. Brown noted her concern with the west side of the development and stated she feels there should be a walkway to provide access to the wooded areas. Mr. France then made the motion to deny the application based on the fact that it does not meet the comprehensive plan. Mr. Tewes seconded the motion. A roll call vote on the matter found Mr. France, Mr. Tewes and Ms. Carlin in favor. Mr. Barnett, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. Hilgefurd, Ms. Hood, Mr. Marcum, Mr. Rogge, Ms. Snyder, Ms. Brown, Mr. Wells and Mr. Hult voted against. The motion failed. Mr. Barnett then made the motion to approve based on the fact that it is in compliance with the comprehensive plan, to keep Staff's recommendation for a street stub and to include an additional information comment that additional pedestrian walkways be provided from Red Bud Lane to Cherry Blossom Avenue and to the central open space and also to have buffers for the Simons and Hollis properties. Mr. Rogge seconded the motion. A roll call vote on the matter found Mr. Barnett, Mr. Rogge, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. Hilgefurd, Ms. Hood, Mr. Marcum, Ms. Snyder, Ms. Brown, Mr. Wells and Mr. Hult in favor. Ms. Carlin, Mr. France and Mr. Tewes voted against. The motion carried with

a vote of 12-3.

Mr. Barnett then made the motion as to the waiver to approve based on the fact that it provides for an innovative design. Ms. Hood seconded the motion. A roll call vote on the matter found Mr. Barnett, Ms. Hood, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgeford, Mr. Marcum, Mr. Rogge, Ms. Snyder, Ms. Brown, Mr. Tewes, Mr. Wells and Mr. Hult in favor. The motion passed unanimously.

*At this time (10:25 p.m.) a ten minute recess was taken

**Mr. France recused himself from the following issue due to a conflict of interest.

1957R

APPLICANT: Robert Ehmet Hayes and Associates per Joseph A. Hayes on behalf of Eastgate Village Ltd.
LOCATION: an approximate 11-acre area located at the northeast and southeast corners of the intersection of Turkeyfoot Road with Richardson Road in Independence.
REQUEST: a proposed map amendment to the Independence Zoning Ordinance changing the described area from R-1C (a single-family residential zone with a maximum density of 3.5 dwelling units per net acre) and R-3 (a two-family and multi-family residential zone with a maximum density of 20 dwelling units per net acre) to NC (a neighborhood commercial zone).

Staff recommendations and Staff presentations by Mr. Andy Videkovich.

NKAPC STAFF RECOMMENDATION:

To disapprove the proposed map amendment from R-1C and R-3 to NC.

Comprehensive Plan Documentation:

Date of Adoption by the Kenton County Planning Commission: December 13, 2006

Supporting Information/Bases For NKAPC Staff Recommendation:

1. The proposed map amendment is not consistent with Recommended Land Use Map of the *Comprehensive Plan Update 2006-2026*, which identifies the site in question as being part of a larger area extending to the north, south, and east of the site in question, for Residential Development at a density ranging from 4.1 to 7.0 dwelling units per net acre. The eastern area of the site in question is also identified for Residential Development at a density ranging from 14.1 to 30.0 dwelling units per net acre. The proposed map amendment would allow commercial uses in an area recommended for residential development.
2. The existing zoning classification of R-1C and R-3 is appropriate and the proposed

zoning of NC is inappropriate. The R-1C and R-3 Zones will permit residential development in an area identified for residential development in the Recommended Land Use Map of the *Comprehensive Plan Update 2006-2026*.

3. The recommendation of disapproval is consistent with a previous recommendation of disapproval made by the NKAPC staff:

On May 5, 2007, Viox and Viox per Jonathan Brown on behalf of Eagle Development, Gary E. Barlow, William and Pearl Burger, Lanny R. Holbrook, Sean McCammon, Southernwood Village, and Jasces Management, Inc., submitted an application for NKAPC and KCPC review and recommendation on a proposed map amendment to the Independence Zoning Ordinance changing the zoning of an approximate 30-acre area directly north of the site in question from R-1B (a single-family residential zone at a maximum density of 2.0 dwelling units per net acre), R-1C (a single-family residential zone at a maximum density of approximately 3.5 dwelling units per net acre), and R-3 (a two-family and multi-family residential zone at a maximum density of 20.0 dwelling units per net acre) to NC (a neighborhood commercial zone) (Z-07-05-02/1874R). On June 1, 2007, the NKAPC staff recommended disapproval of the proposed map amendment.

4. In 2007, the City of Independence approved a map amendment for an approximate 30-acre area directly to the north of the site in question. This could be construed as a major change of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

However, it is important to view this development in context with the entire area and with more recent actions taken by the City of Independence. The originally approved development plan for this site indicated a future road connection between the 30-acre site to the north and the site in question. However, early in 2008 the City of Independence approved, as a minor change to the Stage I Development Plan, the removal of this potential connection and the construction of a loop street instead.

The goal of this road connection was to anticipate the future development of the site in question, to reduce the need for customers to travel on major arterial roads to access adjacent commercial developments, and to provide for a four-leg intersection at Old Richardson Road. The removal of this road connection and the potential approval of this proposed project could result in a customer driving over a quarter mile to a destination that is only 200 feet away.

The NKAPC staff's interpretation of this action by the City is that by limiting access to the site in question from the commercial development to the north, the City decided that commercial development should be limited to the 30-acre area to the north of the site in question.

Until there can be some means of vehicular and pedestrian access between the site in

question and the 30-acre commercial development to the north, rezoning this site to a commercial zone is inappropriate.

5. The proposed map amendment and submitted development plan is not consistent with the stated intent and purpose of the Community Service Areas contained within the *Comprehensive Plan Update 2006-2026*.

While the areas identified on the Recommended Land Use Map do not represent the exact boundaries of the Community Service Area, the following factors should be considered when evaluating development proposals that are in close proximity or within Community Service Areas:

These areas should be adjacent to existing commercial areas.

Proposed uses within or near existing Community Service Areas should enhance and strengthen the function and viability of the area and not detract from existing nonresidential uses or other Community Service Areas.

These areas should embrace the concept of “Contemporary Places”, explained in detail in the Introduction by using design concepts such as mixed-use, Transit Oriented Development and Traditional Neighborhood Design. All of these concepts encourage connectivity, walkability, diversity in housing types and integration of community facilities such as parks and public or private open space, such as plazas and other outdoor amenities.

These areas should be located within the Urban Service Area and served by public facilities.

Connectivity between the Community Service Areas and adjoining existing or future residential uses by means of sidewalks or trails is essential.

Provision for transit service within the Community Service Areas is essential. Bus pullouts and bus stops are essential transit elements that should be planned for within these areas.

While the proposed map amendment and Stage I Development Plan meet some of these criteria, the overall development does not use design concepts such as mixed-use, Transit Oriented Development and Traditional Neighborhood Design. All of these concepts encourage connectivity, walkability, diversity in housing types and integration of community facilities such as parks and public or private open space, such as plazas and other outdoor amenities.

Furthermore, when the City of Independence approved eliminating the connection from the adjacent commercial development to the north of the site in question, they effectively determined the limits and boundaries of commercial development in the area. It is impossible for the site in question to develop in a harmonious fashion with the development to the north and realize the “Contemporary Place” that is called for in the Community Service Area.

Finally, Community Service Areas depend upon a critical mass of residential development to support existing and future commercial uses. Most of the site in question

is zoned R-3, which allows multi-family development at a maximum density of 20 dwelling units per net acre. Rezoning the area to NC will reduce the total amount of area available for future residential development.

6. The proposed map amendment and submitted development plan is not consistent with the Development Concepts within the Environmental Element of the *Comprehensive Plan Update 2006-2026*.

Innovative Stormwater management techniques should be encouraged in new developments

Such techniques should reduce the long term cost of stormwater management by reducing the cost of maintaining traditional drainage systems. Suggested techniques include but are not limited to the following: use of wetlands, bioretention, and retention ponds at the end of stormwater drainage pipes.

Pervious surfaces should be used where possible

A variety of pervious surfaces such as gravel, turf, porous concrete and asphalt, and lattice block pavers, can be used in appropriate situations for parking lots and driveways. This should reduce the amount of runoff entering the waterways reducing flooding and contamination.

The submitted development plan does not indicate that Stormwater Best Management Practices will be used to handle stormwater runoff on the site in question.

Furthermore, based on the square footage and uses indicated on the submitted development plan, 165 off-street parking spaces are required. The submitted development plan indicates provisions for a total of 195 off-street parking. This represents an approximate 18% increase in minimum number of off-street parking spaces and increases the total amount of impervious surface on the site in question. By eliminating the extra thirty (30) off-street parking spaces, approximately 3,800 square feet in impervious surface could be saved.

7. The proposed map amendment and submitted development plan is not consistent with the Development Concepts within the Land Use Element of the *Comprehensive Plan Update 2006-2026*.

Commercial concentrations should be developed as planned areas containing the general characteristics of a “unified shopping area”.

Such a concept would minimize traffic control problems and safety hazards thus maximizing consumer shopping experience. Some criteria would include: (a) Shared parking; (b) Coordinated signage; (c) Access points with adjoining developments

Nodes of commercial development are encouraged rather than spot and strip commercial developments

Spot and strip developments are usually characterized by: (a) inadequate room for expansion as the need for additional commercial services increases; (b) little or no

coordination of vehicular or pedestrian access; (c) inadequate parking; (d) multiplicity of curb cuts; and (e) additional trip generation between facilities, resulting in inconvenience for shoppers and unnecessary additional traffic volumes and hazards on the adjacent street network

The lack of a connection to the commercial development to the north of the site in question prevents this area from developing as a “unified shopping area”. Rather, this development will function as a stand-alone commercial area, increasing traffic on the adjacent street network.

The proposed map amendment will also leave an approximate 1.8 acre area at the end of Lily Drive zoned R-1C. If commercial development were to responsibly occur in this area, it would include these properties.

8. The submitted development plan meets the minimum requirements of the Independence Zoning Ordinance, except for the following:
 - a. Section 10.14, D., 3., states that the minimum front yard setback within the NC Zone shall be fifty (50) feet. The submitted development plan indicates the proposed gas canopy encroaching into the fifty (50) foot building setback along Richardson Road. This does not meet the minimum requirements of the zoning ordinance.
 - b. Section 10.14, D., 4., states that when a side yard is adjacent to a street, road, highway, or other right-of-way, the required side yard width shall be the same as required for a minimum front yard depth in this zone. The submitted development plan indicates the proposed commercial structure located in Area “B” set back approximately thirty (30) feet from the right-of-way of Lily Drive. This does not meet the minimum requirements of the zoning ordinance.
 - c. Section 10.14, E., 3., states that no lighting shall be permitted which would glare from this zone onto any street, or into any residential zone. Insufficient information has been submitted to determine compliance with this regulation.
 - d. Section 11.1, E., states any lighting used to illuminate off-street parking areas shall not glare onto any right-of-way or adjacent property. Insufficient information has been submitted to determine compliance with this regulation.
 - e. Section 11.1, F., states that all new off-street parking areas shall be paved with asphalt concrete or Portland Cement Concrete. Insufficient information has been submitted to determine compliance with this regulation.
 - f. Section 11.2, sets forth regulations pertaining to specific off-street parking requirements:
 - i. Financial Institutions – One (1) parking space per two hundred (200)

square feet of gross floor area.

- ii. Retail and Personal Service - Five and one-half (5-1/2) spaces per one thousand (1,000) square feet of gross leasable area.

The submitted development plan is indicating provisions for a total of 195 off-street parking spaces. Based on the square footage and uses shown, a minimum of 165 off-street parking spaces are required.

While the submitted development plan is indicating thirty (30) more off-street parking spaces than what is required, the distribution of the off-street parking spaces between Areas “A”, “B”, and “C” result in the minimum required off-street parking spaces for the uses shown in Area “C” being insufficient:

Area “A”	31 required
	67 provided
Area “B”	21 required
	37 provided
Area “C”	113 required
	91 provided
Total	165 required
	195 provided

- g. Section 11.3, F., 1., a., states that unsignalized access points onto arterial streets must be spaced a minimum of six hundred (600) feet apart.

Section 11.3, F., 1., b., states that one (1) access point per existing tract will be permitted. However, if the spacing requirements for a direct access point onto an arterial street (as provided in F., 1., a., above) cannot be met, then an access point may be located on a frontage road, or on an intersecting local street, or share a common driveway that meets the spacing requirements.

The submitted development plan indicates a full access point onto Richardson Road, approximately 190 feet from the intersection of Richardson Road with Turkeyfoot Road and approximately 280 feet from the intersection of Richardson Road with Old Richardson Road. This access point is also offset from Lily Drive approximately 200 feet.

A second right-in only access point to Site “C” from Turkeyfoot Road is provided approximately 100 feet from the intersection of Turkeyfoot Road and Richardson Road.

Since Area “C” has no means of access onto an arterial that meets the requirements of Section 11.3, F., 1., a., access must be provided from Old Richardson Road. The right-in only access point from Turkeyfoot Road does not meet the minimum requirements of the zoning ordinance.

- h. Article XII sets forth regulations pertaining to off-street loading and/or unloading. Insufficient information has been submitted to determine compliance with these regulations.
 - i. Article XIII sets forth regulations pertaining to fences, walls, and obstructions to view. Insufficient information has been submitted to determine compliance with these regulations.
 - j. Article XIV sets forth regulations pertaining to signs. Insufficient information has been submitted to determine compliance with these regulations.
9. The proposed development plan presents mobility and safety issues concerning the traveling public.
- a. The proposed right-in access on Turkeyfoot Road is located approximately 100 feet from the intersection of Richardson Road and within the storage length of the northbound right turn lane for the Richardson Road intersection. The placement of this right turn causes a significant risk of rear end crashes involving northbound right turn vehicles entering the either the proposed right-in access or Richardson Road. This risk is due to the overlapping of the deceleration and maneuvering paths of these two movements, exacerbated by the close spacing of the intersections.
 - b. The full access point to Area ‘C’ does not meet applicable spacing standards and appears to be within the functional area of the intersection of Richardson Road and Turkeyfoot Road. This close spacing presents a risk of rear-end and angle crashes due to left turn movements across queued traffic extending from the major intersection.

Additional Information:

- 1. Given the amount of development underway within this area, it is recommended that the City of Independence examine the area in detail to coordinate connectivity between land uses and assure a good mix of commercial and residential land uses. The comprehensive plan identifies the area in the vicinity of the site in question as part of a Community Service Area. According to the plan: “The intent and purpose of these areas is to

concentrate increased commercial and residential uses within areas with existing commercial/office, public or semi-public land uses that can provide, or be expanded to provide, convenience goods and services to a growing population.” One important aspect of these areas is to provide adequate residential land uses at a sufficient density at locations where density can be readily managed and to create an area designed to accommodate additional modes of travel.

2. Service stations are conditional uses within the NC Zone. If the planning commission or legislative body take action to approve the proposed map amendment, an additional hearing and approval is required by the Independence Board of Adjustment for the fuel station.

Mr. Jay Bayer addressed the Commission and stated with the Commission’s approval of the previous zone change there was a major change to the area. He noted that made it very difficult to do residential with this site. He stated there are two-family homes all around this site. He further noted they feel the existing zoning is inappropriate and the proposed zoning is appropriate. He then stated for a larger development to work in this site they need to have larger pieces of property to ensure the safety and feasibility of a site. It was additionally stated they met with Staff at the Kentucky Transportation Cabinet to see what would be required. It was further stated Turkeyfoot and Richardson have levels of service of B’s and C’s which is really good. It was then stated they will need the right turn in on Richardson Road.

Mr. Joseph Hayes addressed the Commission and stated he is the architect for the project. He noted his firm mainly specializes in public projects. He then gave a brief presentation showing completed projects his firm has done.

Mr. Dusing addressed the Commission and stated the justification for the zone change is the current zoning is totally inappropriate. He noted numerous roads bisect the site so it cannot work for residential. He further noted the city was against that and the Department of Transportation was against that so the developer came up with a looped road. He stated this design was preferred by the city and the DOT. He then reiterated that the current zoning is inappropriate and the proposed zoning is appropriate. He then stated residential is totally unrealistic and to not grant the zone change condemns the property to residential.

Mr. Robert Morehead addressed the Commission and stated they do not want this commercial and the city stated they do not want it on Richardson Road. He noted traffic really backs up, especially during golf season. He further noted just last year there was a proposed zone change for the gas station and it was turned down. He noted the lake pretty much encompasses the one piece of property and to put in this commercial you would be putting it in a lake. He further noted anyone who says this is not an ideal spot to build residential is crazy.

Ms. Linda Morehead addressed the Commission and asked about the single apartments that now sit on the lake. She stated it is very quiet and a lot of residents are elderly and they sit on their patios. She stated those residents would be looking at a gas station. She stated this just doesn’t fit.

Mr. Michael Fisher passed.

Mr. David Wren addressed the Commission and stated he would be in the middle of all commercial if this is changed to commercial. He asked what would happen to his property being stuck between commercial properties.

Ms. Betty McGhee addressed the Commission and stated she doesn't want people crossing over to get to the commercial. She stated at the city meeting it was suggested there be privacy fences to protect surrounding property owners. She further noted Lilly Street cannot handle commercial traffic. She also noted that the school bus comes down Lilly to pick up her children and asked how they will do that if there is all that commercial in there. She then stated it needs to stay residential.

Mr. Dusing addressed the Commission in rebuttal and stated to clarify Mr. Holbrook still owns the property. He noted it is under contingency as to whether or not they can develop it as they want to.

Mr. Morehead addressed the Commission in rebuttal and noted the city stated they didn't want anything beyond 30 acres. He noted if you go back to the minutes you will see that. He further stated the apartments would be looking at lights from a gas station if this development goes through.

The public hearing was then recessed for discussion amongst the commissioners. Mr. Eilerman stated he has a great deal of respect for the development team but felt Mr. Dusing's comments about Staff were inappropriate in stating their opinion because they were against the issue. Mr. Hilgefjord then stated this will create a non-conforming island by changing the zone. Mr. Eilerman then stated this could in fact be used as a very nice multi-family development and not at all unfit for residential. Ms. Snyder agreed and stated she didn't feel this would be condemning the property to leave it residential. The public hearing was then closed.

Ms. Snyder made the motion to deny based on Staff's recommendations. Mr. Rogge seconded the motion. A roll call vote on the matter found Ms. Snyder, Mr. Rogge, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. Hilgefjord, Ms. Hood, Mr. Marcum, Ms. Brown, Mr. Tewes, Mr. Wells and Mr. Hult in favor. The motion carried unanimously.

Old and Unfinished Business:

Reports from Committees:

By-Laws – Nothing to report.

Executive- No meeting held.

Model Zoning Ordinance – Nothing to report.

Subdivision Regulations Review – Nothing to report.

Report from legal counsel – Nothing to report.

Announcements from Staff – Nothing to report.

Correspondence – Nothing to report.

New Business: None.

Public Comments: None.

There being nothing further to come before the Commission, Ms. Hood then made the motion to adjourn with Ms. Eilerman seconding the motion. The meeting then adjourned at 12:05 a.m.

APPROVED:

Chair

Date