



## KC&MP&ZC MINUTES

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

July 10, 2003  
6:15 P.M.

NKAPC Meeting Room  
2332 Royal Drive  
Fort Mitchell, Kentucky

### MINUTES

#### COMMISSION MEMBERS PRESENT:

Mr. James Bertram - Taylor Mill  
Ms. Barbara Carlin - Kenton County  
Mr. Barry Coates - Covington  
Mr. Tom France - Ludlow  
Mr. Al Hadley - Elsmere  
Mr. Mark Hushabeck - Lakeside Park  
Mr. Eugene Meyer - Covington  
Mr. Phil Ryan - Park Hills  
Mr. Greg Scheper - Crescent Springs  
Ms. Maura Snyder - Independence \*  
Ms. Alex Weldon, Covington  
Mr. John Wells - Ft. Mitchell  
Mr. Bernie Wessels - Ft. Wright  
Mr. Paul Swanson, Secretary/Treasurer - Erlanger  
Mr. Tim Theissen - Chairman - Edgewood

\*arrived immediately after roll call was taken

**COMMISSION MEMBERS NOT PRESENT:**

Mr. James Cook - Kenton County

Mr. Mike Denham - Bromley

Mr. David Hilgefurd - Villa Hills Ms. Maura Snyder - Independence

Mr. Joseph Price, Vice Chairman - Crestview Hills

**LEGAL COUNSEL PRESENT:**

Mr. Dave Schneider, Esq.

Mr. Theissen, Chairman, called the meeting to order at 6:15 p.m. Mr. Theissen opened the meeting with the Pledge of Allegiance and a prayer by Mr. Phil Ryan.

**APPROVAL OF THE MINUTES:**

Mr. Theissen noted the minutes from June had been distributed in the Commissioner's packets and asked for any questions or comments. There being none, Mr. Hadley made the motion to ratify and approve the minutes from both the morning meeting and evening meetings held for June. Ms. Carlin seconded the motion. A roll call vote on the matter found Mr. Hadley, Ms. Carlin, Mr. Bertram, Mr. France, Mr. Hushebeck, Mr. Meyer, Mr. Ryan, Mr. Scheper, Ms. Weldon, Mr. Wells, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. Mr. Coates abstained. The motion carried unanimously.

**FINANCIAL REPORT:**

There were no questions or comments.

**SUBDIVISION ITEMS:**

a. CONSIDERATION OF PRELIMINARY PLATS AND OTHER PLATS AND ISSUES REQUIRING COMMISSION ACTION AT A REGULAR MEETING.

b. CONSIDERATION OF ACTIONS TAKEN ON GRADING PLANS, IMPROVEMENT DRAWINGS AND SPECIFICATIONS, (STAGE II PLANS), FINAL PLATS, AND IDENTIFICATION PLATS BY THE COMMISSION'S DULY AUTHORIZED REPRESENTATIVE SINCE THE COMMISSION'S LAST REGULAR MEETING. See handout.

Mr. Theissen referred to the list of plats and plans to be approved over the course of the past month and noted his withdrawal from item I-3979 due to a conflict of interest with his employer. Mr. Hushebeck

noted his withdrawal from all final plats due to conflicts of interest with his employer. There being no further withdrawals, Mr. Wessels made the motion to ratify and approve. Mr. Bertram seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. France, Mr. Hadley, Mr. Meyer, Mr. Ryan, Mr. Scheper, Ms. Snyder, Ms. Weldon, Mr. Wells, Mr. Swanson and Mr. Theissen in favor. Mr. Hushebeck withdrew. The motion carried.

**c. CONSIDERATION OF THE REPORT OF ACTIONS TAKEN BY THE SUBDIVISION/PUBLIC FACILITY REVIEW COMMITTEE AT A MEETING PRIOR TO, BUT ON THE SAME DAY, AS THE REGULAR MEETING.**

There was no morning meeting held so no action was taken on subdivision items.

**CONSIDERATION OF CONSTRUCTION REVIEW PROGRAM - See listing of subdivision for construction inspections in progress on separate handout.**

**PUBLIC FACILITIES: None.**

Prior to beginning the public hearings on scheduled items, Mr. Theissen noted a request to table had been received with regard to issue 1632R. Mr. Dennis Gordon then addressed the Commission regarding the vision, mission and value statement of the NKAPC, of which a copy was distributed to all members. He then noted with regard to item 1632R that he conferred with Staff on the issue and stated what was before the Commission was not the level of excellence that it should be. He therefore respectfully requested that the issue be tabled until further information was obtained. A motion was then made by Ms. Weldon to table the matter. Ms. Carlin seconded the motion. A roll call vote on the issue found Ms. Weldon, Ms. Carlin, Mr. Bertram, Coates, Mr. France, Mr. Hadley, Mr. Hushebeck, Mr. Meyer, Mr. Ryan, Mr. Scheper, Ms. Snyder, Mr. Wells, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried. Mr. Gordon made a final comment with regard to the storm water provisions that were a part of that issue. He stated he put a call to the Sanitation District to let them know of the matter, and to make sure they're aware that Staff is willing to sit down and make sure everyone is clear on the issues when their new regulations go into effect on August 1st.

**PUBLIC HEARINGS ON SCHEDULED ITEMS:**

1629R

**APPLICANT:** The City of Elsmere, per Mr. Raymond Erpenbeck

**GENERAL LOCATION:** An approximate 1.7-acre area located at the terminus of Luke Lane, Elsmere.

**REQUEST TO BE REVIEWED:** A proposed map amendment to the Elsmere Zoning Ordinance, changing the area described herein, from IP-3 (an industrial park three zone) to R-1F (a detached single-family residential zone with a maximum density of approximately 7.3 dwelling units per net acre).

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

**NKAPC STAFF RECOMMENDATION:**

To approve the proposed map amendment from IP-3 to R-1F.

**SUPPORTING INFORMATION/BASES FOR NKAPC STAFF RECOMMENDATION:**

1. The proposed map amendment from IP-3 to R-1F 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 7.1 to 14.0 dwelling units per net acre.

The proposed R-1F Zone allows the development of detached single-family residential dwellings at a maximum density of approximately 7.3 dwelling units per net acre.

2. The existing IP-3 Zone is inappropriate and the proposed R-1F Zone is appropriate.

The site in question is currently developed with detached single-family residential dwellings as part of a larger subdivision. Development of the site in question under the existing IP-3 Zone would encourage incompatible land uses being developed adjacent to a residential subdivision.

The proposed R-1F Zone allows the development of detached single-family residential dwellings at a maximum density of approximately 7.3 dwelling units per net acre. The site in question has been developed with detached single-family residential dwellings as part of a larger subdivision which is currently zoned R-1F. Therefore, the proposed R-1F Zone is appropriate.

Mr. Ray Erpenbeck and Mayor Billy Bradford registered to speak on the issue.

Mr. Erpenbeck addressed the Commission and stated this was basically a housecleaning issue. He stated they need to get the proposed homes zoned to be like the others in the area. He stated this should have been done previously. He further noted that now there are houses on the property that need the zone change in order to be the same zone as the others.

Mr. Hadley made the motion to approve. Mr. France seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. France, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Hushebeck, Mr. Meyer, Mr. Ryan, Mr. Scheper, Ms. Snyder, Ms. Weldon, Mr. Wells, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried unanimously.

1631R

APPLICANT: Kenton County Planning Commission, per Mr. Timothy B. Theissen, Chairman.

GENERAL LOCATION: N.A.

REQUEST TO BE REVIEWED: A proposed text amendment to the zoning ordinances of the political jurisdictions within Kenton County providing for a moratorium on the establishment of a sexually oriented business and providing that no application shall be processed and that no permit shall be issued for the establishment or expansion of a sexually oriented business.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

#### NKAPC STAFF RECOMMENDATION:

To approve the proposed text amendment providing for a moratorium on the establishment of a sexually oriented business and providing that no application shall be processed and that no permit shall be issued for the establishment or expansion of a sexually oriented business.

#### COMPREHENSIVE PLAN DOCUMENTATION:

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

#### SUPPORTING INFORMATION/BASES FOR NKAPC STAFF RECOMMENDATION:

1. The proposed text amendment provides for a clearly articulated purpose which is to prohibit the establishment of any sexually oriented business, or to allow the expansion of an existing sexually oriented business, until such time as a study has been conducted in regards to certain aspects of the operation and regulation of such uses.

a. On March 20, 2003, the Northern Kentucky Area Planning Commission, on behalf of the Kenton and Campbell County Fiscal Courts, entered into a contract with Duncan Associates to review, study, and make recommendations in regards to certain aspects of the operation and regulation of sexually oriented businesses.

b. The scope of this study is as follows:

(1) Data Gathering and Issue Identification - Tour representative examples of the types of adult oriented businesses now operating, gather copies of local zoning ordinances and maps, local licensing ordinances, available land use plans, and any other documents related to past or ongoing adult oriented business issues.

(2) Site Visits - Visit any existing sexually oriented business, attempt to identify and located other businesses that might be relevant to a regulatory program aimed at sexually oriented businesses, take photographs of each identified business, examine surrounding land uses and the appropriateness of the existing locations.

(3) Analysis of Ordinances - Analyze existing zoning and licensing ordinances, prepare a draft report to include: a summary of all provisions directly addressing sexually oriented or similar businesses; tables or matrices showing the zoning districts in which such businesses are now allowed; tables showing the separation requirements for such businesses from each other and from other uses; and a matrix of the

major non-residential zoning districts used in the zoning ordinances.

(4) Final report - Prepare a final report containing the analysis, field studies, identification of site opportunities, and recommendations for licensing regulations.

(5) Draft Model Licensing Ordinance - Prepare a draft licensing ordinance for use in regulating sexually oriented businesses.

2. The proposed text amendment narrowly defines the scope of the moratorium and is limited to those businesses and activities intended to be addressed by the consultant.

3. The proposed text amendment provides for a realistic and reasonable time frame for accomplishing the purpose of the moratorium.

The time schedule for completing the contractual project tasks is estimated to be by the end of the calendar year. The proposed moratorium deadline of May 15, 2004 will allow the planning commission, the Kenton County Fiscal Court, and the various cities within Kenton County to develop, review, and adopt the regulatory regulations within the process stipulated within Kentucky Revised Statute (KRS) Chapter 100.

Mr. Garry Edmondson and Mr. Jay Fossett registered to speak on the issue.

Mr. Edmondson addressed the Commission and stated he supports the adoption of the moratorium. He stated Staff did an excellent job of presenting the issue. He further stated he was available to answer any legal questions with regard to the matter. He additionally noted he is aware of at least two inquiries regarding sexually oriented type operations. Mr. Edmondson then noted the reasoning for the moratorium. He further stated the issue has been discussed for years and they did not anticipate having a moratorium, only a study on the issue. Mr. Theissen asked if he was aware of any opposition to the moratorium, as there was no one registered at the meeting to speak in opposition. Mr. Edmondson stated he was not aware of any. He further noted there are probably two or three cities that should act immediately on the issue.

Mr. Jay Fossett addressed the Commission and stated many communities do not have any regulations at all and are not in a position to stop these businesses from going forward. Mr. Theissen then asked Mr. Fossett if he was aware of any opposition to the moratorium. Mr. Fossett stated he was not aware of any objections. Mr. Wessels then asked if all cities in the Kenton and Campbell counties were participating. Mr. Edmondson stated all of Kenton County was taking part. He further noted he was aware that Newport in Campbell County was wavering for some reason, but most cities were participating. Mr. Fossett then stated this is viewed as a community issue.

Mr. Schneider stated he was very impressed with the Staff and those working on the study. He stated he is for the moratorium 100% and thinks it needs to be done. Following further discussion on the matter,

Ms. Weldon then motioned to approve the text amendment based on Staff's recommendations, legal counsel and the county attorney present. Ms. Snyder seconded the motion. Mr. Schwartz asked Mr. Theissen if he wanted to include the legal disclaimer that appears on all Staff reports as part of the motion. Ms. Weldon then incorporated the disclaimer as part of her motion. A roll call vote on the matter found Ms. Weldon, Ms. Snyder, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. France, Mr. Hadley, Mr. Hushebeck, Mr. Meyer, Mr. Ryan, Mr. Scheper, Mr. Wells, Mr. Wessels, Mr. Swanson and Mr. Theissen in favor. The motion carried unanimously.

OLD BUSINESS: None.

CORRESPONDENCE: None.

#### PLANNING, STAFF AND LEGAL COUNSEL ITEMS:

Mr. Theissen stated at a recent meeting regarding an issue with Crescent Springs there was a woman who showed up for the hearing on the matter and found the door locked. Mr. Theissen further noted another tenant had locked the doors after the meeting began due to recent break-ins. It was also noted that the door was locked for a very short time, five minutes or less, and the woman was let in after being noticed at the door. Mr. Theissen also noted the issue she spoke on was not heard until three hours later and the woman was able to give testimony and speak her part on the issue, even though the door was initially locked. He additionally noted this woman had filed a complaint with the attorney general's office with regard to the incident and he is currently awaiting a ruling on the matter. He further noted if it is found that there was a violation of her rights, all decisions on all motions and public hearings would be void and the matters would have to be heard again. While he did not feel this would be the case since someone else had locked the door, it was locked only very briefly, and the woman was able to give her testimony on the issue of which she showed up to speak, he would advise the Commission of the decision by the attorney general when received.

Mr. Ryan asked about the status of the appeal regarding the interconnection with Devou Park. Mr. Schneider stated it looked as though the parties were working toward a resolution on the matter.

Mr. Theissen noted the court ruled in favor of the Krumpelman farm issue. He stated the issue involving the parcel of land in the back of the property was remanded and it will probably be back before the Commission at some point.

#### COMMISSION ITEMS:

Standing Committee Reports:

Subdivision Regulations Review Committee:

It was noted that the next subdivision review committee meeting would be held on August 5th at noon. As usual, all are welcome and lunch will be provided.

**By-Laws:**

Nothing to report.

**Model Zoning Ordinance:**

The model zoning committee met on July 1st. Mr. Wessels noted they are working on regulations for news racks for public right of ways. It was further noted that once a draft is compiled the effected parties would be invited to come in to give their testimony, etc. The next meeting will be held August 6th at noon. Mr. Wessels then invited everyone to come.

**COMMENTS/REQUESTS TO THE COMMISSION:**

Mr. Schwartz noted there is going to be a Green Umbrella presentation and the group would like the NKAPC to be a part of their organization. He noted the group is used to bring together all conservation groups to discuss their issues. He further noted they cover the eight county OKI area and the NKAPC currently woks closely with them on a number of things they do. Mr. Theissen stated the Commission was requested to become a member of the Green Umbrella organization. Mr. Wessels asked who were current members of the organization. He asked if joining meant they were endorsing the views or issues of the organization. He further stated he would like to see a list of members to review it. Mr. Theissen then asked Mike Schwartz to print out some information from their website and the issue of whether or not to join the organization would be voted on next month.

There being no further business to come before the Commission, the meeting was adjourned at 7:33 p.m. None opposed.