



KC&MP&ZC MINUTES

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION REGULAR MEETING

June 3, 2004
9:00 A.M.

NKAPC Meeting Room
2332 Royal Drive
Fort Mitchell, Kentucky

MINUTES

COMMISSION MEMBERS PRESENT:

Mr. Paul Darpel - Edgewood
Mr. Al Hadley - Elsmere
Mr. Bernie Wessels - Ft. Wright
Mr. Joe Price - Vice Chairman - Crestview Hills
Ms. Alex Weldon - Chairperson - Covington

LEGAL COUNSEL PRESENT:

Mr. Matt Smith, Esq.

Ms. Weldon called the meeting to order at 9:00 a.m. Ms. Weldon opened the meeting with the Pledge of Allegiance.

APPROVAL OF THE MINUTES:

There were no minutes to approve from May as no meeting was held.

SUBDIVISION ITEMS:

a. PRESENTATION OF PRELIMINARY PLATS, OTHER PLATS, AND OTHER ISSUES REQUIRING COMMISSION ACTION AT A REGULAR MEETING FOR REVIEW:

PP-493 FREEDOM PARK ADDITION, PHASE 7

APPLICANT: Erpenbeck Consulting Engineers, Inc., in behalf of Freedom Park, L.L.C.

LOCATION: An approximate 11 acre area located at the terminus of existing Freedom Trail within the existing Freedom Park Subdivision, Independence and unincorporated Kenton County.

REQUEST: To approve a Preliminary Plat for a 22 lot addition to Freedom Park Subdivision including public improvements such as street, storm drainage, sanitary sewer and water system

Staff presentation and Staff recommendations by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION:

To approve a Preliminary Plat for FREEDOM PARK ADDITION, PHASE 7, but only subject to compliance with the following CONDITIONS:

1. That a minimum fire flow of 500 gpm at 20 psi be provided and certified by a flow test, and fire hydrant spacing be a maximum of 450 feet (Section 7.2); and
2. That stormwater runoff controls be approved by Sanitation District No. 1 prior to approval of a Grading / Improvement Plan.

Bases for Recommendation:

The proposed FREEDOM PARK ADDITION, PHASE 7 is consistent with the recommendations of the 2001 Area-Wide Comprehensive Plan Update, the Kenton County Subdivision Regulations, and the Independence and Kenton County Zoning Ordinances, except as noted under the above Conditions.

Mr. Wayne Erpenbeck registered to speak in favor of the issue. No one registered to speak against.

Mr. Erpenbeck addressed the Commission and stated he has no problems with the conditions. He stated his only comment would be that the area discussed to the south with regard to the possible street stub is not owned by just one property owner. He noted it is six or seven property owners, which would make a street stub more difficult to work out.

Following a very brief discussion, Mr. Wessels made the motion to approve based on Staff's recommendations and report. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr.

Wessels, Mr. Hadley, Mr. Darpel, Mr. Price and Ms. Weldon in favor. The motion carried unanimously.

b. CONSIDERATION OF ACTIONS TAKEN ON PLATS BY COMMISSION'S DULY AUTHORIZED REPRESENTATIVE, SINCE THE COMMISSION'S LAST REGULAR MEETING (e. g., GRADING PLANS, IMPROVEMENT DRAWINGS, FINAL DEVELOPMENT/STAGE II PLANS, FINAL PLATS, IDENTIFICATION PLATS, etc.) - See listing of plans and plats recommended for approval on separate handout.

There were no conflicts to speak of with regard to the actions taken. Mr. Wessels made the motion to ratify and approve. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Hadley, Mr. Darpel, Mr. Price and Ms. Weldon in favor. The motion carried unanimously.

c. CONSTRUCTION REVIEW PROGRAM - See listing of subdivisions for construction inspections in progress on separate handout.

PUBLIC HEARINGS ON SCHEDULED PUBLIC FACILITIES:

None.

OTHER COMMITTEE BUSINESS:

None.

There being nothing further to come before the Commission, the meeting was recessed at 9:20 a.m. until 6:15 p.m.

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
REGULAR MEETING

June 3, 2004
6:15 P.M.

NKAPC Meeting Room
2332 Royal Drive
Fort Mitchell, Kentucky

MINUTES

COMMISSION MEMBERS PRESENT:

Ms. Barbara Carlin - Kenton County
Mr. Barry Coates - Covington
Mr. Paul Darpel - Edgewood
Mr. Chuck Eilerman - Covington
Mr. Tom France - Ludlow
Mr. Al Hadley - Elsmere
Mr. David Hilgefurd - Villa Hills
*Mr. Mark Hushebeck - Lakeside Park
Mr. Phil Ryan - Park Hills
Mr. John Wells - Ft. Mitchell
Mr. Bernie Wessels - Ft. Wright
Ms. Alex Weldon, Chairperson - Covington
Mr. Joseph Price, Vice Chairman - Crestview Hills
Mr. Paul Swanson, Secretary/Treasurer - Erlanger
*arrived 7:40 p.m.

COMMISSION MEMBERS NOT PRESENT:

Mr. James Bertram - Taylor Mill
Mr. James Cook - Kenton County
Mr. Michael Denham - Bromley
Mr. Greg Scheper - Crescent Springs
Ms. Maura Snyder - Independence

LEGAL COUNSEL PRESENT:

Mr. Matt Smith, Esq.

Ms. Weldon, Chairperson, called the meeting to order at 6:15 p.m. Ms. Weldon opened the meeting with the Pledge of Allegiance.

APPROVAL OF THE MINUTES:

Ms. Weldon noted that Mr. Denham was listed as voting throughout the minutes which was in error as he was not present. Ms. Weldon further noted on page seven the word "architectural" should be inserted preceding the word "statement", and on page twelve the word "feet" should read "feel." There being no further corrections or additions, Mr. Price made the motion to approve from May. Mr. France seconded the motion. A roll call vote on the matter found Mr. Price, Mr. France, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. Hadley, Mr. Hilgefurd, Mr. Ryan, Mr. Wells, Mr. Wessels, Ms. Weldon and Mr. Swanson in favor. The motion carried unanimously.

FINANCIAL REPORT:

Mr. Swanson stated there was nothing to add to the report. There were no questions or comments with regard to the financial report.

SUBDIVISION ITEMS:

There were no conflicts to speak of with regard to the subdivision items for the month. Mr. Wessels made the motion to ratify and approve. Mr. Darpel seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Darpel, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgefurd, Mr. Ryan, Mr. Wells, Ms. Weldon, Mr. Price and Mr. Swanson in favor. The motion carried unanimously.

PUBLIC HEARINGS:

1674R

APPLICANT: Lawson Walker, on behalf of Vincent V. Smith Family Limited Partnership.

GENERAL LOCATION: An approximate 24-acre area located along the north side of Horsebranch Road, between Orphanage Road and Rhine Valley Drive, approximately 800 feet south of Orphanage Road, Crestview Hills.

REQUEST TO BE REVIEWED:(1) a proposed map amendment to the Crestview Hills Zoning Ordinance, changing the area described herein, from R-2b (a single family, two-family and multi-family residential zone) to RP-1 (a research park one zone); and (2) a proposed amendment to the existing approved Stage I Development Plan pertaining to the area described herein and the area located to its southwest.

Staff presentation and Staff recommendations by Ms. Melissa Jort.

NKAPC STAFF RECOMMENDATION:

To disapprove the proposed map amendment and the amended Stage I Development Plan.

Comprehensive Plan Documentation:

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

Supporting Information/Bases For Recommendation:

1. The proposed map amendment from R-2b to RP-1 is not 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 4.1 to 7.0 dwelling units per net acre.

The proposed RP-1 Zone will permit the development of a variety of commercial office uses within an area recommended for residential development.

2. The proposed map amendment and amended Stage I Development Plan is not consistent with the Commercial Goals and Objectives and Development Concepts as contained within 2001 Area Wide Comprehensive Plan Update:

GOODS AND SERVICES

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

Effort should be made to ensure that centers providing goods and services are planned and developed as an integral part of the area's development. Such foresight should ensure that: their existence is enhanced, rather than disrupted, by major transportation facilities; they are reasonably located in relationship to other areas providing similar goods and services; adequate markets have been reasonably assured; and that the location and design of such centers will not result in disrupting influence on surrounding development. Effort should be also be made to ensure that areas providing goods and services are protected from the intrusion of incompatible land uses.

COMMERCIAL

Proposed commercial uses should be located on the basis of: (a) adequate service population, according to forecasted population distribution; (b) access via good transportation facilities; and (c) relationship to surrounding development.

Such a concept would discourage over-development of commercial activities and result in commercial development which is easily accessible to the population and adequately buffered from adjacent incompatible land uses.

The proposed map amendment and amended Stage I Development Plan will result in commercial development taking place adjacent to and connected to incompatible residential development. The visual connection from the existing residential area to the proposed office building is separated by a narrow earth berm. The existing zoning is therefore appropriate and the proposed zoning is inappropriate.

3. There have been no major changes of an economic, physical or social nature within the area involved which were not anticipated in the preparation and adoption of the 2001 Area-Wide Comprehensive Plan Update which have substantially altered the basic character of such area to warrant a change in the zoning classification.

4. The proposed map amendment from R-2b to RP-1 and amended Stage I Development Plan meet the minimum requirements of the Crestview Hills Zoning Ordinance, except for the following:

a. Section 9.21 of the Crestview Hills Zoning Ordinance outlines regulations concerning design and construction of improvements. Any proposed development requiring the construction of streets (including curb and gutters), sidewalks, sewers (sanitary and storm), water lines, or other improvements, which does not constitute a subdivision shall be required to be designed and constructed in accordance with the applicable articles and sections of the Kenton County Subdivision Regulations. No entrance intersection improvements are identified at the proposed curb cut off of Horsebranch Road. Horsebranch Road is classified as a collector street providing for two-way traffic within two driving lanes.

b. The amended Stage I Development Plan will result in an increase in the net density of the adjacent residential development. In March 1995, the site as well as the area to the southwest was approved for residential development in accordance with the requirements of the R-2b Zone. Specifically, Section 10.6, C., 2., of the Crestview Hills Zoning Ordinance requires that the maximum density of the R-2b Zone shall be 6.0 dwelling units per net acre (du/na). The existing approved Stage I Development Plan contains an area of 68.7 acres, inclusive of the site in question, with 396 dwelling units, resulting in a density of approximately 5.8 du/na. The existing approved Stage II Development Plans (Phase I and II) contain an area of 44.4 acres, not including the site in question, with 288 dwelling units, resulting in a density of approximately 6.5 du/na. The amended Stage I Development Plan places the area to the southwest in nonconformity with the R-2b Zone.

c. Section 10.14, F., 3., of the Crestview Hills Zoning Ordinance outlines development control regulations within the RP-1 Zone. A Conceptual Circulation Plan is required and shall include the layout of the entire area of the office park complex and shall take into consideration good design including internal and external pedestrian and vehicular access, and functional relationship of uses within the office park. No pedestrian walkways are indicated in the amended Stage I Development Plan.

The applicant has indicated that an emergency access route is to be provided via a proposed connection to Napa Valley Drive. Napa Valley Drive is a private street and is not intended to be used as a through street for commercial development. The provision of access through a private residential street, regardless of its designation as emergency access, constitutes poor design and could pose a potential traffic and safety hazard as well as encourage shortcut traffic if left uncontrolled.

d. Section 11.1, R., of the Crestview Hills Zoning Ordinance outline the regulations for off street parking. Medical offices are required to have one (1) parking space for each two hundred (200) square feet of gross floor area in the building, plus one (1) parking space for each two (2) employees, whichever is greater. Based on 150,000 square feet of gross leasable area, a minimum of 750 spaces are required. The amended Stage I Development Plan identifies that 600 spaces are planned: 467 spaces on the ground level and 133 on an elevated level.

5. The proposed access to Horsebranch Road is through private property. No easement agreement has been submitted.

Additional Information

Significantly steep slopes in excess of 20% are identified in the area along the proposed entrance driveway off Horsebranch Road. Section 9.23, B., 1., of the Crestview Hills Zoning Ordinance outlines hillside development controls requiring that development in such areas occur in a manner harmonious with adjacent lands so as to minimize problems of drainage, erosion, earth movement, and other natural hazards. Further, areas of land on which development is physically restricted due to excessive hillside slopes shall be limited and shall require approval before development may occur. Should the proposed map amendment and amended Stage I Development Plan be approved, it is recommended that a geotechnical investigation be performed on the site in question with strict adherence to any specific requirements.

Mr. Lawson Walker and Mr. Roger Baldwin registered to speak in favor of the issue. Mr. Marvin Price, Ms. Nancy Lohan, Mr. Aaron Higginbotham, Mr. Brad Mills and Ms. Larine Mills registered to speak against the issue. Mayor Paul Meier and Mr. Walter Blair registered as neutral parties on the issue.

Mr. Walker addressed the Commission and stated they have submitted a zone change to show what they intend to build. He stated if the project goes forward they plan to comply with all regulations. He further stated the curb cuts and everything would be included. He additionally noted they feel they meet both standards required for a zone change. He further noted it is very clear that the current zoning is inappropriate. Mr. Walker stated most of the contiguous property is zoned RP-1 and further noted the topography of the site supports the zone. He then noted they are not asking that something be changed that is different than what is already present in the area. Mr. Walker then distributed a handout that was marked as an exhibit to be made a part of the record on the matter. He then stated the property in question should be RP-1. He further noted there is a need for office buildings in the area, not residential. Mr. Walker additionally noted the resulting density of the existing residential development would be 6.5 dwelling units per net acre, not 9. Mr. Walker stated they understand Staff's concerns but noted they feel they will be able to obtain an easement for the property.

Mr. Baldwin addressed the Commission and stated the ingress and egress will be worked out at a later date. Mr. Baldwin further noted the appropriate zone would be RP-1 and not what it is currently zoned.

Mr. Price addressed the Commission and stated the biggest concern with the project is with traffic. He noted this is a lot more traffic and he does not want it in the area.

Ms. Lohan addressed the Commission and stated she is the property manager for the existing adjacent residential development. She then stated there is no easement for the property in question.

Mr. Mills addressed the Commission and stated he owns the property to the north. He noted there is a lot of traffic on the road currently. He noted a main concern is that their property would be taken.

Ms. Mills addressed the Commission and stated her concerns with heavy traffic currently.

Mayor Meier addressed the Commission and stated the developer came and spoke to them about the project. He noted he does not have any trouble with the turning lane at Horsebranch.

Mr. Blair addressed the Commission and stated at Turkeyfoot and Thomas More there is significant traffic currently. He stated until Turkeyfoot is improved he would advise against what is proposed.

Mr. Walker addressed the Commission in rebuttal and stated they will comply with the regulations. He stated the plan was submitted to show the concept of what they want for the site. He further noted if possible they would be willing to split their request and only go for the zone change. He then stated they would accept whatever conditions on the preliminary plans.

Mr. Wessels commented that if the proposal is approved, could it be conditioned that the preliminary plat or Stage I, Stage II come back for review. Mr. Ryan asked if a zone change was typically submitted along with a Stage I plan. Ms. Jort stated there was already an existing Stage I submitted so it had to be presented this way. Mr. Hilgefurd stated he did not buy the traffic issues because the new addition on the hospital is going to generate much more traffic than this development would. Mr. Hilgefurd further commented that he was present back in '95 when the zone change was originally requested. He stated it was originally changed from commercial based on an economic need, whether it was a good reason or not. He then stated to change it back to what it was the same reason would be applied. He further stated that because there was an existing Stage I Plan it kind of ties the Commission's hands. Following further discussion Mr. Hilgefurd then made the motion to approve based on the fact that the current zoning is inappropriate and the requested zoning is more appropriate, as well as testimony given on the issue. He then stated four conditions for approval, 1) that the appropriate intersection and access can be obtained for Horsebranch Road with all necessary improvements, 2) that secondary access to Centerview be encouraged or planned for, 3) that the easements to Napa Valley be closed, and 4) that the Stage II Development Plan be in accordance with all Crestview Hills Zoning requirements. Mr. Wells seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Wells, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Wessels, Ms. Weldon, Mr. Price and Mr. Swanson in favor. Ms. Carlin, Mr. Darpel and Mr. Ryan voted against. The motion carried with a vote of 10-3 in favor.

OLD AND UNFINISHED BUSINESS:

Reports from Committees:

Subdivision Regulations Review Committee:

Mr. Swanson stated the three county-wide regulations process is continuing but no real progress has been made. He noted they are still consulting on the issue. He further noted that at the moment there is no consolidation of the regulations.

By-Laws:

Mr. Price noted there was nothing to report. Ms. Weldon noted they would need a person to replace her spot on the committee. She asked that anyone interested should contact staff. Mr. Price then noted the by-

laws need to be rewritten. More information will follow on the issue.

Model Zoning Ordinance:

Mr. Wessels stated there was nothing new to report.

Report from Legal Counsel:

Mr. Smith had nothing to report.

Reports/Announcements from Staff:

Mr. Schwartz stated Staff is requesting approval for two sets of coursework for continuing education. He then briefly reviewed the items and asked for approval. Mr. France made the motion to approve. Mr. Hilgefurd seconded. A roll call vote on the matter found Mr. France, Mr. Hilgefurd, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. Hadley, Mr. Hushebeck, Mr. Ryan, Mr. Wells, Mr. Wessels, Ms. Weldon, Mr. Price and Mr. Swanson in favor. The motion carried unanimously. Mr. Hadley commented that the Commission should get credit for attending a Boone, Kenton or Campbell County meeting towards their continuing education credit. Mr. Schwartz stated it would have to be submitted and then approved.

Mr. Schwartz additionally commented briefly on some recent changes in procedure. He stated a court ruling changed, stating that cities have the right to regulate agricultural land except where there is zoning that permits agricultural uses. He further noted there is an APA audio conference that will be held June 23 from 4-5:30 p.m.

Correspondence:

None.

Mr. Ryan asked if prayer would be eliminated from the beginning of the meeting. Ms. Weldon stated she was uncomfortable with it and it was something that Mr. Theissen introduced years ago. Mr. Wessels stated he was uncomfortable with eliminating it. Ms. Weldon then stated it should be considered and discussed later with a vote being taken. A motion was then made by Mr. Hilgefurd to adjourn the meeting. Mr. France seconded the motion. All in favor. None opposed.

There being no further business to come before the Commission, the meeting adjourned at 8:10 p.m.