



## KC&MP&ZC MINUTES

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

October 7, 2004  
9:00 A.M.

NKAPC Meeting Room  
2332 Royal Drive  
Fort Mitchell, Kentucky

### MINUTES

#### COMMISSION MEMBERS PRESENT:

Mr. Paul Darpel - Edgewood  
Mr. Tom France - Ludlow  
Mr. Al Hadley - Elsmere  
Mr. Mark Hushabeck - Lakeside Park  
Mr. Phil Ryan - Park Hills  
Mr. Joe Price - Vice Chairman - Crestview Hills  
Ms. Alex Weldon, Chairperson - Covington

#### LEGAL COUNSEL PRESENT:

Mr. Matthew Smith, Esq.

Ms. Weldon called the meeting to order at 9:00 a.m. The meeting was opened with the pledge of allegiance and an invocation by Mr. Hushabeck.

## APPROVAL OF THE MINUTES:

Approval of the minutes was dispensed with until the evening meeting.

## PRELIMINARY PLATS, PLANS AND RELATED ISSUES:

### W-637 PEMBROKE VILLAGE WAIVER

APPLICANT: James W. Berling in behalf of Cox Road, L.L.C.

LOCATION: An approximate 11 acre area at the north east intersection of Cox Road and Taylor Mill Road, Independence.

REQUEST: To Waive the requirement for a left turn lane at the entrance intersection with Cox Road.

Ms. Weldon read a letter into the record received on the issue from the city of Independence. The letter was then marked as an exhibit to be made a part of the record.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

## NKAPC STAFF RECOMMENDATION

To deny the requested Waiver to Section 6.1 E and previously imposed Preliminary Plat condition for Pembroke Village requiring a left turn lane at the entrance intersection with Cox Road.

### Bases for Recommendation:

1. The modification, as requested, does not include the findings necessary to grant a waiver to the regulations as set forth within Section 8.5 A, or B, or C, or D (referenced above);
2. Section 6.1 E requires reserved turn lanes where turning vehicles from collector streets will affect roadway capacity or safety. Recent subdivision development along Oliver Road, Fowler Creek Road, Senour Road and Taylor Mill Road dictates that vehicular traffic both approaching the left turn movement as well as opposing the left turn movement at the proposed entrance intersection with Cox Road will increase. Due to this increase, the lack of a left turn lane at the proposed entrance intersection will adversely affect roadway capacity and safety; and
3. The provision of a left turn lane at the proposed entrance intersection with Cox Road minimizes the required slowing or stopping movements of through traffic, increases vehicular safety and protects the intended functionality of Cox Road.

Mr. Jim Berling registered to speak in favor of the issue. Mr. Jim Bushong, Mr. Donald Barnett and Mr. Kenneth Lancaster registered to speak against.

Mr. Berling addressed the Commission and stated this is not a commercial development as referenced by the letter read into the record from the city. He stated they decided to do a lesser development than originally planned. Mr. Berling also referenced a letter from the Transportation Cabinet noting they did not want a turn lane in the area specified. Mr. Berling submitted the letter to be marked as an exhibit and then read the letter into the record. He stated he did not think speed was an issue for the intersection. He further stated he felt the main issue was the development across the street. He noted he felt putting in the turn lane would create additional problems with access to and from the development across the street. Mr. Berling stated he does not feel it would make it more unsafe to put the turn lane in for the development across the road.

Mr. Bushong addressed the Commission and stated as a whole the city is opposed to eliminating the turn lane due to a safety issue.

Mr. Barnett addressed the Commission and stated he lived in the area for 37 years and noted the traffic is horrendous now and has increased significantly. He stated this is creating a mess by not having the turn lane.

Mr. Lancaster addressed the Commission and stated he agreed with Mr. Bushong and Mr. Barnett. He stated for this area a turn lane is definitely needed.

Mr. Berling noted in rebuttal that road widening will be done in the area. He noted the area will be made worse by installing the turn lane. He also stated if an unsafe situation is created and someone is hurt, he questioned whose fault it would be. He then stated he did not know what good the turn lane would do for this section of Cox Road because it is not in the high speed zone. He stated by widening the pavement it is reducing the area for the development across the street. He stated they will have a lesser radius to turn around in. Mr. Berling stated the Transportation Cabinet also feels this makes no sense to put in the turn lane.

Mr. Darpel then asked if it would make more sense to table the issue to have Staff look into it further to determine the safety of eliminating the turn lane. He questioned the fact of having enough information to make a determination of whether putting in the turn lane would create a less safe situation. Mr. Weldon noted the letter from the Highway Department said nothing to safety, only that the development did not warrant a turn lane. She said it made sense to have the safety issue clarified. Mr. Darpel then made the motion to table the issue to determine whether or not a safety issue would be created by installing the turn lane. Mr. Price seconded the motion. A roll call vote on the matter found Mr. Darpel, Mr. Price, Mr. France, Mr. Hadley, Mr. Hushabeck, Mr. Ryan and Ms. Weldon in favor. The motion carried unanimously.

#### PP-493 FREEDOM PARK, PHASE 7

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

LOCATION: An approximate 7 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 10 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 7 Acre Addition, 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);
2. That Sight Distance right and left for vehicles exiting the proposed intersections with existing S.R. 17 and the proposed relocated new S.R. 17 be in accord with minimum Subdivision Regulation standards. Sight Distance measurements and profiles shall be clearly indicated on subsequent Improvement Drawings and Specifications (Section 6.0 E);
3. That full intersection improvements (right turn deceleration and left turn storage lanes) be provided at the entrance intersections of existing S.R. 17 and the proposed relocated new S.R. 17 (Section 6.1);
4. That all lots be accessed from the internal street system only (Section 6.1); and
5. That all setback requirements for any existing structures comply with the minimum requirements of the applicable zoning ordinance (Section 6.6).

#### **Bases for Recommendation:**

The proposed Freedom Park 7 Acre Addition, 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.

#### **Additional Information:**

Although temporary in nature, due to the arterial roadway status of existing S.R. 17, full intersection improvements should be provided at the entrance intersection with Freedom Trail. However, the opportunity exists to delay the construction of the intersection with existing S.R. 17 pending the proposed relocation of new S.R. 17. In the event that the intersection of Freedom Trail and relocated new S.R. 17 is not constructed prior to submittal of a Final Plat, submittal of Improvement Drawings and Specifications for the intersection of existing S.R.17 and Freedom Trail will be required. A subdivision bond for any uncompleted improvements (including any intersection improvements) will be required prior to approval of a final plat containing any lots shown on the subject preliminary plat.

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

Mr. Erpenbeck addressed the Commission and stated they agree with all conditions except for the turn lanes. He stated everything they are doing is pursuant to the Transportation Cabinet. He stated they want the road to be temporary. Mr. Erpenbeck stated this is the last subdivision on KY 17. He stated for this reason full intersection improvements are not needed. He also noted the last major development towards this development does not have full intersection improvements. He stated that if they put in a temporary road it is not worth the money to do the full intersection improvements if the state is going to tear it up anyway when KY 17 is improved. Mr. Erpenbeck stated the grading will start on the temporary road and hopefully be installed in the spring. He then stated the requirement is making the developer spend a lot of money when it's not really needed. Mr. Hiles then suggested that intersection improvements be made, or at least have them bonded so that the money is there to do it. Mr. Erpenbeck stated he would have no problem with bonding the funds if as soon as KY 17 is improved the bonds are released. He then stated he still does not agree with the left turn lane but agrees with Staff's latest recommendation and suggestion to set aside the money for the improvements. Ms. Weldon then read a letter into the record from the Hillside Trust from Eric Russo regarding the issue. The letter noted they do not see any problem with the application. The letter was then marked as an exhibit to be made a part of the record on the matter. Mr. Hiles noted it is necessary to bond the funds to have the assurance that full intersection improvements will be made. Mr. Erpenbeck stated the left turn lane will be part of the new highway and done then. Mr. Hiles clarified that the Commission would be bonding whatever improvements are not done noting that full intersection improvements would be required. Mr. France then moved to approve the matter based on Staff's recommendations and conditions with the additional bonding of monies for the improvements. Mr. Price seconded the motion. A roll call vote on the matter found Mr. France, Mr. Price, Mr. Darpel, Mr. Hadley, Mr. Hushebeck, Mr. Ryan and Ms. Weldon in favor. The motion carried unanimously.

#### PP-493 FREEDOM PARK ADDITION

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

LOCATION: An approximate 60.3 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 156 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. Ryan Hutchison.

#### NKAPC STAFF RECOMMENDATION

To approve a Preliminary Plat for Freedom Park 60 Acre Addition, but only subject to compliance with the following conditions:

1. That full intersection improvements (right turn deceleration and left turn storage lane) be provided at the entrance intersection with Wilson Road (Section 6.1 E);

2. That Sight Distance right and left for vehicles exiting the proposed intersection with Wilson Road be in accord with minimum Subdivision Regulation standards. Sight Distance measurements and profiles shall be clearly indicated on subsequent Improvement Drawings and Specifications (Section 6.0 E);
3. 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);
4. That proposed street Eutaw Spring Drive be constructed a minimum width of 28 feet (Section 7.3);
5. That sidewalks be provided along the portion of Wilson Road fronting the Plat (Section 7.3 F);
6. That all existing structures comply with the minimum setback requirements of the R-1D Zone (Section 6.6);
7. That all lots be accessed from the internal street system only (Section 6.1); and
8. That the detention pond shown on a "free standing" lot immediately adjacent Lot #137 be incorporated into one or more of the abutting lots (Section 6.6).

Bases for Recommendation:

The proposed Freedom Park 60 Acre Addition, is consistent with the recommendations of the 2001 Area-Wide Comprehensive Plan Update, the Kenton County Subdivision Regulations, and the Independence Zoning Ordinance, except as noted under the above Conditions.

Ms. Weldon read a letter into the record received from the Hillside Trust. The letter was then marked as an exhibit to be made a part of the record.

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 agrees with all conditions of Staff except for the turn lanes. He noted he disagrees with the left turn lane but will do it. As to the right turn lane he noted there is a creek that varies along the right side. He noted he would be at the creek when putting in sidewalks. He stated there is just nowhere to go with the right turn lane due to the topography. He stated he could probably get the sidewalks in if he didn't have to put in the right turn lane as well. Mr. Erpenbeck stated the creek varies five feet to twenty-five feet off the road so due to this fact putting in the right turn lane would cause problems.

Mr. Hutchinson stated Staff's recommendation is for full intersection improvements but the left turn lane is the more important of the two. Mr. Hadley then made the motion to approve based on Staff's recommendations and conditions, with the exception that the right turn lane be removed from the

conditions due to the topography and the fact that it would create a hardship. Mr. France seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. France, Mr. Darpel, Mr. Hushebeck, Mr. Ryan, Mr. Price and Ms. Weldon in favor. The motion carried unanimously.

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.

A motion was made by Mr. Price and seconded by Mr. Hadley to approve the actions of Staff since the last regular meeting. All in favor. None opposed.

OTHER COMMITTEE BUSINESS: None.

There being nothing further to come before the Commission, the meeting was recessed at 10:38 a.m. until 6:15 p.m. with a motion by Mr. France, seconded by Mr. Ryan.

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION  
REGULAR MEETING

October 7, 2004  
6:15 P.M.

NKAPC Meeting Room  
2332 Royal Drive  
Fort Mitchell, Kentucky

MINUTES

COMMISSION MEMBERS PRESENT:

Mr. James Bertram - Taylor Mill  
Mr. Barry Coates - Covington  
Mr. Paul Darpel - Edgewood  
Mr. Tom France - Ludlow  
Mr. Al Hadley - Elsmere  
Mr. Phil Ryan - Park Hills  
Ms. Maura Snyder - Independence  
Mr. John Wells - Ft. Mitchell  
Mr. Joseph Price, Vice Chairman - Crestview Hills

Ms. Alex Weldon, Chairperson - Covington

COMMISSION MEMBERS NOT PRESENT:

Ms. Barbara Carlin - Kenton County  
Mr. James Cook - Kenton County  
Mr. Mike Denham - Bromley  
Mr. Chuck Eilerman - Covington  
Mr. David Hilgeford - Villa Hills  
Mr. Mark Hushabeck - Lakeside Park  
Mr. Greg Scheper - Crescent Springs  
Mr. Bernie Wessels - Ft. Wright  
Mr. Paul Swanson, Secretary/Treasurer - Erlanger

LEGAL COUNSEL PRESENT:

Mr. David Schneider, Esq.

Ms. Weldon called the meeting to order at 6:25 p.m. The meeting was opened with the Pledge of Allegiance and an invocation by Mr. Wells.

APPROVAL OF THE MINUTES:

Mr. Price noted the following changes/additions to the morning minutes from September: page one referenced Mr. Price when it should have read Ms. Weldon under calling the meeting to order; on page two under the paragraph beginning with Ms. Weldon the words "like" and "a" should have a space between them and the word "motioned" should be changed to "moved"; on page 4 line 7 there should be a comma after distance and the words "they will (potentially) lose" be inserted in the next sentence; further down in the same paragraph where it reads "conditions #9 and 10 they..." there should be a space inserted between "#" and "9" as well as "10" and "they"; on the same page, next paragraph the word "discussions" is misspelled; in the same paragraph where it reads "Mr. Wessels motioned..." it should read "Mr. Wessels moved..."; Mr. Price then noted with regard to the evening minutes on page five, second to last paragraph the word "situation" should be inserted after the word "one" and the word "area" should be inserted after the word "whole." On page six, third full paragraph the word "widen" is misspelled; page seven, first paragraph the word "against" is misspelled as well as "Commission" in the third to last paragraph and "stated" in the same paragraph. It was further noted on page 14, last paragraph the words "stated" and "disagree" are both misspelled; page 16 the word "based" is misspelled and "motioned" should be changed to "moved." Finally, on page 22, second to last paragraph, "converting" is misspelled. There being no further corrections to the minutes, Mr. Price then made the motion that they be accepted as corrected. Mr. Hadley seconded the motion. A roll call vote on the motion found Mr. Price, Mr. Hadley, Mr. Darpel, Mr. France, Ms. Snyder, Mr. Wells and Ms. Weldon in favor. Mr. Bertram, Mr. Coates and Mr. Ryan abstained. The motion carried.



## FINANCIAL REPORT:

There were no questions or comments with regard to the financial report.

## ACTIONS SINCE LAST MEETING:

Mr. Bertram noted his withdrawal from any consideration and voting on issue I-4202 due to a conflict of interest with his employer. Mr. Price then made the motion to ratify and approve all issues but I-4202 due to Mr. Bertram's withdrawal and therefore lack of a quorum. Mr. France seconded the motion. A roll call vote found Mr. Price, Mr. France, Mr. Bertram, Mr. Coates, Mr. Darpel, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Wells and Ms. Weldon in favor. The motion carried.

## PUBLIC HEARINGS:

1696R

APPLICANT: City of Fort Wright, per Larry Klein.

LOCATION: N. A.

REQUEST: Proposed text amendments to the Fort Wright Zoning Ordinance modifying the list of permitted uses within the CC (Community Commercial) Zone.

Staff recommendations and Staff presentation by Mr. Michael Schwartz.

## NKAPC STAFF RECOMMENDATION:

To approve the proposed text amendments modifying the list of permitted uses within the CC (Community Commercial) Zone, but only subject to compliance with the following condition:

1. That "banks, savings and loans, and credit unions" be allowed as permitted uses within the CC Zone.

## Comprehensive Plan Documentation:

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

## Supporting Information/Bases For Recommendations:

1. The proposed text amendments modifying the list of permitted uses within the CC (Community Commercial) Zone, except as noted under condition, are allowed to be included within the text of the zoning ordinance as authorized by Kentucky Revised Statute (KRS) 100.203 (1).
2. When the permitted use "Banks and other financial institutions, including savings, loan, and finance

companies" was incorporated into the zoning ordinances within Kenton County prior to 1985, it was the intent of this listing to identify traditional financial institutions which allowed deposits and were regulated at both the state and federal level. Since 1985, non-traditional financial institutions have become more mainstream. To clarify the city's intent to permit only traditional financial institutions which allow deposits and serve the immediate financial needs of area businesses, a work population, and the residents of adjacent neighborhoods, it is recommended that the listing be modified to read "Banks, savings and loans, and credit unions".

3. The deletion of hotels and motels from the list of permitted uses within the CC Zone is consistent with the stated purposes of the CC Zone which are to allow businesses, within a planned and architecturally unified development, which provide convenience goods and services to a work population and the residences of adjacent neighborhoods; allow development at a small scale with a town - like setting; and supplement or serve adjacent areas without having an adverse impact on adjacent areas; but always with the intention of furthering the public health, safety, and general welfare. Hotels and motels generally do not provide convenience goods and services to a work population and the residences of adjacent neighborhoods.

Mr. Larry Klein registered to speak in favor of the issue. No one registered to speak against.

Mr. Klein addressed the Commission and stated the city council tendered the application regarding the text amendment. He stated they concur with Staff's recommendation. He further noted the other language was rather ambiguous so the change was recommended. Mr. Klein stated the text change does not affect any current businesses in the area and does not render any business as non-conforming.

Mr. Price made the motion to approve based on Staff's recommendations. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Ryan, Mr. Bertram, Mr. Coates, Mr. Darpel, Mr. France, Mr. Hadley, Ms. Snyder, Mr. Wells and Ms. Weldon in favor. The motion carried unanimously.

1697R

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

LOCATION: N. A.

REQUEST: A proposed text amendment to the Independence Zoning Ordinance adding automobile laundry as either a permitted use or a conditional use within the NSC (Neighborhood Shopping Center) Zone along with the necessary cross reference to allow an automobile laundry to conduct its business outside of a completely enclosed building.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION:

To approve the proposed text amendment adding automobile laundry to the list of permitted uses within

the NSC Zone, along with the necessary cross reference allowing an automobile laundry to conduct its business outside of a completely enclosed building, and to disapprove the proposed text amendment adding automobile laundry to the list of conditional uses within the NSC Zone.

#### Comprehensive Plan Documentation:

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

#### Supporting Information/Bases For Recommendations:

1. The proposed text amendment adding automobile laundry to the list of permitted uses within the NSC Zone, along with the necessary cross reference allowing an automobile laundry to conduct its business outside of a completely enclosed building, is allowed to be included within the text of the zoning ordinance as authorized by Kentucky Revised Statute (KRS) 100.202(1).

2. The proposed text amendment adding automobile laundry to the list of permitted uses within the NSC Zone, along with the necessary cross reference allowing an automobile laundry to conduct its business outside of a completely enclosed building, is consistent with the intent of the NSC Zone and will permit the development of a service use as part of a planned and coordinated shopping complex.

3. The proposed text amendment adding automobile laundry to the list of conditional uses within the NSC Zone is not consistent with the definition of a conditional use, as interpreted by the NKAPC staff. Kentucky Revised Statute (KRS) 100.111 (6) defines 'Conditional Use' as follows:

"Conditional Use means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation."

The NKAPC staff has interpreted this definition to include public and semi-public uses, such as schools, hospitals, day care center, and recreational facilities. An automobile laundry is commercial in nature and would be generally compatible with other permitted uses in the NSC Zone. Furthermore, development controls for the NSC Zone provide controls to address situations where such uses may be incompatible with adjoining land uses within other zones (i.e. no lighting which would glare into any residential zone, no use producing objectionable noise or odors, and the requirement for screening and landscaping).

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

Mr. Lancaster addressed the Commission and stated he does not think this is the kind of thing that you would want in a shopping center. He stated it does not belong in a shopping center. Mr. Lancaster then stated it will be in operation all night long and there have been problems with car washes. He stated if it

was part of a gas station where you get a free car wash with a fill up or something that would be acceptable but not as a stand alone car wash.

Following a discussion on the matter, Mr. Price made the motion to approve based on Staff's recommendations as a permitted use and disapprove as a conditional use. Mr. Wells seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Wells, Mr. Bertram, Mr. Coates, Mr. Darpel, Mr. France, Mr. Hadley, Ms. Snyder, and Ms. Weldon in favor. Mr. Ryan abstained. The motion carried.

\*1698R was moved to the end of the agenda to allow for more time to convene a quorum for the issue.

\*\*The following two issues have been combined for purposes of the meeting.

1699R

APPLICANT: Maher Road, LLC, c/o Dixon Builders, per Gil Whitacre, on behalf of Stanley E. Parker, Sr. and Brian and Amy Parker.

LOCATION: An approximate 55-acre area located along the north side of Maher Road, between Graven Road and Glenhurst Drive, approximately 1,200 feet east of Glenhurst Drive, Unincorporated Kenton County.

REQUEST: A proposed map amendment to the Kenton County Zoning Ordinance, changing the area described herein, from A-1 (an agricultural one zones) to R-1C (RCD) (a single-family residential zone 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 A-1 to R-1C (RCD), but only subject to compliance with the following conditions:

1. That the maximum building height be as permitted in the underlying R-1C Zone.
2. That the setbacks for accessory structures and uses be as permitted in the underlying R-1C Zone.
3. That each dwelling unit be provided with a minimum of two (2) off-street parking spaces.
4. That the location, height, and type of all fences be as permitted in the underlying R-1D Zone.
5. That the height and size (area) of the typical landscaped signs not exceed the maximum height and size (area) of Class 8 signs.
6. That a minimum ten (10) foot wide open space area be provided at the terminus of Street 'A'.

## Comprehensive Plan Documentation:

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

## Supporting Information/Bases For Recommendations:

1. The proposed map amendment from A-1 to R-1C (RCD) is consistent with the Goals and Objectives Element of the 2001 Area-Wide Comprehensive Plan Update. The specific goals and objectives are as follows:

### HOUSING - RESIDENTIAL DEVELOPMENT

1. To provide safe and sanitary housing to all residents.

Effort should be made to eliminate dilapidated and unfit housing; rehabilitate declining housing; conserve the existing supply of sound housing; and add new housing; as necessary.

2. To provide a variety of housing types and residential development to accommodate different needs and desires of the population.

Effort should be made to encourage a variety of residential densities and housing types to meet the needs and desires of a range of family sizes, age groups, and income levels and to ensure that equal opportunity in choice of housing by all elements of the population is provided throughout the region.

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

Effort should be made to ensure that areas which are proposed to be developed for purely residential purposes are protected from the intrusion of incompatible land uses. Development of new urban residential areas should be promoted only where they can be reasonably and economically served with essential public services.

### RECREATION AND OPEN SPACE

1. To provide an adequate amount and variety of recreational opportunities to satisfy the full range of needs of the population.

Concerted effort should be made to provide a wide variety of types of recreational facilities programs to meet the year round desires and needs of various age and interest groups.

2. To provide basic recreation and open space facilities and programs which are conveniently located and accessible to the population.

Effort should be made to provide for recreation and open space facilities which are both region oriented, containing a variety of active and passive recreation pursuits, and neighborhood oriented, which are primarily aimed at satisfying the day-to-day desires and needs of immediately surrounding residents.

3. To achieve the goals of this element without unduly disrupting the goals of other elements. Effort should be made to ensure the incorporation of design for recreation and open spaces as an integral part of emerging urban development or redevelopment. Such effort should result in recreation and open space areas which complement and enhance surrounding development, rather than take on the appearance of appendages added out of necessity. Constant effort should be made to protect recreational areas from intrusion of other type uses so that they may continue to serve their intended function adequately.

The site in question is located in an area that is served by a collector roadway, is provided with public water and sewer service, and is designed to interconnect with a residential development currently under construction.

The proposed amendment will allow for the construction of detached single-family residential dwellings and provide for: (1) the retention of open space along Maher Road; and (2) the retention of a natural open space along a creek.

2. The proposed map amendment from A-1 to R-1C (RCD) is consistent with the Development Concepts, which are a part of the Goals and Objectives Element of the 1996 Area-Wide Comprehensive Plan Update. The specific development concepts are as follows:

## RESIDENTIAL

- o The type of development that should occur within an area should be based, in part, upon the unique characteristics of the development site and the character of adjacent development. Such a concept would insure that the proposed development would be compatibly incorporated into the area and would enable the development to best utilize the area's existing features.
- o The density of development for undeveloped land should be based on considerations such as: (a) the density of adjacent developed areas, of which the undeveloped land would be a logical extension; (b) access to major transportation facilities; (c) the nature of adjacent activities; and, (d) residential development in rural areas should be designed to maintain existing rural character of open space and the appearance of low density. Such a concept would result in development which is compatible with surrounding land uses and which would not result in generating high volumes of traffic through low density areas.

## COMMUNITY FACILITIES

- o Appropriate authorities and private developers should be encouraged to assure realization of community facilities planning by requiring and/or incorporating designs for such facilities into the early stages of development. Such early incorporation shall serve to insure that such facilities do not appear as "after-thoughts" located only where remnants of undeveloped land exist and that capital improvement planning for completion of such facilities can be reasonably programmed.

The area located to the west of the site in question, along Glenhurst Drive, is currently being developed with detached single-family residential dwellings at a density of approximately 3.5 dwelling units per net acre utilizing the RCD Overlay Zone. The area located to the north of the site in question is currently being developed with detached single-family residential dwellings at a density of ranging from 3.0 to 3.6 dwelling units per net acre utilizing the PUD Overlay Zone and the R-1D Zone. The proposed map amendment would be an extension of these developments and would provide for a consistent type of residential development on the site in question. Additionally, the proposed map amendment will allow the retention of open spaces along the creek and drainage swales.

3. The existing zoning of the site in question is inappropriate and the proposed zoning is appropriate.

As previously stated, areas located to the west and north of the site in question are currently being developed with detached single-family residential dwellings at a density ranging from 3.0 to 3.6 dwelling units per net acre. Additionally, the previously approved subdivision to the west of the site in question provided for a street extension into the adjoining property.

It would, therefore, be appropriate that the site in question be developed in a manner which is consistent with the existing and anticipated development to its west and north. The existing zoning of the site in question will not allow for a consistent development pattern while the proposed zoning will.

4. There have been changes of a social and physical nature within the area that were not anticipated in the adopted comprehensive plan that will substantially alter the basic character of the area.

On February 14, 2002, the City of Independence, per Mr. Mark Wendling, submitted an application for NKAPC and KCPC review and recommendation on proposed map amendments, as part of the annexation process, changing: (1) an approximate 59 acre area located along the south side of Hogreffé Road, approximately 1,800 feet west of the new Hogreffé connector Road, from A-1 and R-1B to R-1D; and (2) an approximate 175 acre area located along the north side of Maher Road, at the Kenton/Boone County border, from A-1, R-1B, R-1C (RCD) and I-1 to R-1F (Z-02-02-02/1551R). On March 1, 2002, the NKAPC staff recommended disapproval of the proposed map amendments. Following the public hearing held on March 7, 2002, the KCPC recommended disapproval of the proposed map amendments. On June 3, 2002, Independence City Council adopted Ordinance Number 2002-O-08, annexing the areas and changing the zoning of the first area to R-1D and keeping the zoning the same for the second area.

On April 9, 2003, the Glenhurst Development Co., LLC, per Ronald Mechlin, submitted an application for NKAPC and KCPC review and recommendation on a proposed map amendment changing an approximate 130 acre area located at the terminus of Hogreffé Road, from A-1\*, R-1B, R-1C (RCD), R-1D, and I-1\* to R-1D (PUD) (Z-03-04-03/1618R). On April 25, 2003, the NKAPC staff recommended approval of the proposed map amendment, subject to three conditions. Following the public hearing held on May 1, 2003, the KCPC recommended approval of the proposed map amendment, subject to three conditions. On July 7, 2003, Independence City Council adopted Ordinance Number 2003-O-07,

changing the zoning from A-1\*, R-1B, R-1C (RCD), R-1D, and I-1\* to R-1D (PUD), subject to the following conditions: (1) that each dwelling unit be provided with a minimum of two (2) off-street parking spaces; (2) that the location, height, and type of all fences, walls, and signs be as permitted in the underlying R-1D Zone; (3) that the intersection of Glenhurst Drive with Hogreffe Road be provided with either (1) an exclusive left turn lane from southbound Glenhurst Drive to eastbound Hogreffe Road or (2) three way stop signs; and (4) that no additional residential dwelling be allowed to be constructed within the area identified as "Community Space".

The zone changes for the areas located to the west and north of the site in question, along with the subsequent approval of preliminary plats, will allow for the development of detached single-family residential dwellings. This development, along with the proposed street extension previously identified, create a situation where the existing zoning of the site in question is no longer appropriate.

5. The submitted Stage I Development Plan meets the minimum requirements of the Kenton County Zoning Ordinance, except for the following:

a. Section 10.14, G. states that height, yard, and setback regulations shall be as approved in the plan. The submitted development plan provides for minimum front, rear, and side yard setbacks. However, insufficient information has been submitted pertaining to maximum building height. It is therefore recommended that the maximum building height be as permitted in the underlying R-1C Zone.

b. Section 10.14, G. states that height, yard, and setback regulations shall be as approved in the plan. The submitted development plan provides for minimum front, rear, and side yard setbacks for principal structures and uses. However, insufficient information has been submitted pertaining to minimum setback requirements for accessory structures and uses. It is therefore recommended that the setbacks for accessory structures and uses be as permitted in the underlying R-1C Zone.

c. Section 10.14, H. states that off-street parking facilities shall be provided in accordance with Article XI of the Kenton County Zoning Ordinance. Section 11.2, K. requires that single-family residential dwellings be provided with a minimum of two (2) off-street parking spaces. Insufficient information has been submitted to determine compliance with this requirement. It is therefore recommended that each dwelling unit be provided with a minimum of two (2) off-street parking spaces.

d. Section 10.14, I. states that the location, height, and type of all fences shall be as approved in the plan. The submitted development plan does not indicate the provision of any fences. It is therefore recommended that the location, height, and type of all fences be as permitted in the underlying R-1D Zone.

e. Section 10.14, I. states that the location, height, and type of all signs shall be as approved in the plan. The submitted development plan indicates the construction and installation of several typical landscaped signs. However, insufficient information has been submitted pertaining to the height and size (area) of these signs. Section 14.7 permits Class 8 signs to be used within residential zones for the identification



of subdivisions. It is therefore recommended that the height and size (area) of the typical landscaped signs not exceed the maximum height and size (area) of Class 8 signs.

f. Section 10.14, K. states that open space areas shall be physically situated so as to be readily accessible to the residents of the development. The submitted development plan indicates the provision of a mulch hiking trail between the terminus of Street 'A' and the adjoining open space area. Insufficient information has been submitted to determine whether this mulch hiking trail is on open space area or on a private lot with an easement. To provide continuous access to this mulch hiking trail, and the adjoining open space area, it is recommended that a minimum ten (10) foot wide open space area be provided at the terminus of Street 'A'.

PP-646

APPLICANT: Bayer Becker Engineers in behalf of Maher Road, L.L.C.

LOCATION: An approximate 55 acre area located along the north side of Maher Road, approximately 800 feet east of the entrance to Glenhurst Subdivision and approximately 1000 feet west of Graven Road, unincorporated Kenton County.

REQUEST: To approve a Preliminary Plat consisting of 120 residential building lots, including public improvements such as streets, storm drainage, sanitary sewer and water system

Staff recommendations and Staff presentation by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION:

To approve a Preliminary Plat for Parker Property, but only subject to compliance with the following conditions:

1. That map amendment Z-04-09-04/1699R be approved by the Kenton County Fiscal Court (Section 6.6);
2. That easement(s) for the off-site sanitary sewer extension be obtained prior to approval of a Final Plat (Section 7.1);
3. 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);
4. That Sight Distance right and left for vehicles exiting the proposed intersection with Maher Road be in accord with minimum Subdivision Regulation standards. Sight Distance measurements and profiles shall be clearly indicated on subsequent Grading Plans / Improvement Drawings and Specifications / Stage II Development Plan (Section 6.0 E);
5. That the entirety of the portion of the hiking trail along Maher Road be hard surfaced and the portion of the hiking trail along Maher Road within the right-of-way be concrete;

6. That a public street be provided to stub at the eastern property boundary in the vicinity of Lot #'s 36 and 104 (Section 6.0 B / Section 7.3 J);
7. That the existing residence located immediately east of Lot #'s 36 and 104 be accessed through the street stub referenced in condition #6, and the current means of ingress / egress (a curb cut along Maher Road) be eliminated (Section 6.1);
8. That a revised Preliminary Plat be submitted indicating the proposed redesign of the street curvature fronting Lot #'s 33 through 104 and street "bump out" fronting Lot #'s 34 through 36 (Section 7.3);
9. That a public street be provided to stub at the eastern property boundary opposite Street "B" (Section 6.0 B / Section 7.3 J); and
10. That the residual portion of the parent tract north east of Lot #36 be redesigned to comply with applicable subdivision regulations prior to approval of a Final Plat.

#### Bases for Recommendation:

The proposed Parker Property is consistent with the recommendations of the 2001 Area-Wide Comprehensive Plan Update, the Kenton County Subdivision Regulations, and the Kenton County Zoning Ordinance, except as noted under the above Conditions.

Mr. Gil Whitaker and Mr. Scott Willis registered to speak in favor. Mr. Scott Parker and Ms. Monica Parker registered to speak as a neutral party. No one registered to speak against the issue.

Mr. Whitaker addressed the Commission on behalf of Dixon Builders. He stated a couple important notes about the plan, including the amount of green space being preserved in the development. He noted they wanted a nice open space along Maher Road so land was preserved in that area. He stated they tried to utilize much of the open space and keep it open along Maher Road. He stated the hiking trail links all of the green space. He further noted the street stub would generally provide for access to the Glenhurst development. Mr. Whitaker stated they agree with Staff's report that the proposal is in agreement with the Comprehensive Plan. He noted they also agree with Staff's recommendations that the existing zoning is inappropriate and the requested zoning is appropriate. He also noted they are fine with all conditions with regard to the map amendment.

Mr. Whitaker stated all conditions are fine on the preliminary plat except for conditions #7 and #9. He stated they agree with putting in the street stub but do not wish to have access to the existing driveway of the existing home. He stated they feel it is reasonable to continue to allow them to use the existing driveway access. He then noted with regard to condition #9 they feel it would be sufficient to just have one stubbed access to the adjoining property. Mr. Hadley stated it concerns him that there is concrete with regard to the pedestrian path along Maher Road. Mr. Whitaker stated they would like to have some

flexibility in design to make the sidewalk more interesting. Ms. Snyder asked who would be taking care of the green space. Mr. Whitaker stated a homeowner's association would be responsible for the green space.

Mr. Willis had no comments to add.

Mr. Parker addressed the Commission and stated they are fine with the street stub. He stated they would like to keep it zoned agricultural/residential because he still farms on his property and can't see driving through a subdivision with a tractor and a wagon.

Ms. Parker addressed the Commission and stated they have just built a log home on the property and the land has been in the Parker family since the 1800's. She stated they do not want to drive through a subdivision to get to their property and they would like to keep their current country road access. She stated their property will never be sold and the subdivision going in will be bad enough. She further noted they are surrounded by woods and they agreed to the fence along the property line but do not want their access to change.

Mr. Hadley sited his concerns with the sidewalks as proposed. Mr. Bertram suggested having a public easement for the sidewalks to allow for a non-traditional sidewalk. Mr. France then made the motion to approve 1699R as recommended by Staff along with all conditions. Mr. Bertram seconded the motion. A roll call vote on the motion found Mr. France, Mr. Bertram, Mr. Coates, Mr. Darpel, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Wells, Mr. Price and Ms. Weldon in favor. The motion carried unanimously.

Mr. Bertram then made the motion to approve PP-646 as recommended by Staff and eliminating condition #7 leaving access to the existing homes and conditioning that the sidewalks on the east/west boundaries be attached to the right-of-way for future connections and also provide a walking easement or access easement on the portion that runs parallel to Maher Road that will be hard surfaced. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Bertram, Mr. Ryan, Mr. Coates, Mr. Darpel, Mr. France, Mr. Hadley, Ms. Snyder, Mr. Wells, Mr. Price and Ms. Weldon in favor. The motion carried unanimously.

1698R

APPLICANT: One Eleven Developers, LLC, per James Bertram, on behalf of Nancy and Everett Flanagan.

LOCATION: An approximate 26-acre area located along the east side of Madison Pike, between Walnut Hall Drive and Harris Pike, approximately 200 feet south of Walnut Hall Drive, Independence.

REQUEST: A proposed map amendment to the Independence Zoning Ordinance, changing the area described herein, from R-1C (a single-family residential zone) to R-2 (PUD) (a two and multi-family residential zone with a planned unit development overlay zone).

\*Mr. Bertram noted his withdrawal on the issue due to a conflict of interest with his employer. As a result of the withdrawal, a lack of quorum resulted. Mr. Schneider then explained the regulations

regarding a quorum and the matter of a commission member being involved in an issue. Due the lack of having a quorum the matter would be tabled until the next month.

## OLD AND UNFINISHED BUSINESS:

### Reports from Committees:

#### Subdivision Regulations Review Committee:

It was noted this committee was on hold. Nothing new to report.

#### By-Laws:

Mr. Price had nothing new to report.

#### Model Zoning Ordinance:

It was noted the committee would not be resuming until the first of the year. Nothing new to report.

#### Report from Legal Counsel:

Mr. Schneider had nothing to report.

#### Reports/Announcements from Staff:

Mr. Schwartz noted the APA Audio Conference Training was held on October 6 at 4:00 p.m.

Correspondence: None.

### New Business:

Ms. Weldon stated the conference is coming up in March to be held in San Francisco. She noted that Gail had not heard from anyone and needs to, in order to make arrangements regarding a preliminary head count.

There being no further business to come before the Commission, Ms. Snyder made the motion to adjourn with Mr. Price seconding the motion. All in favor. None opposed. The meeting then adjourned at 7:50 p.m.