



## KC&MP&ZC MINUTES

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

November 4, 2004  
9:00 A.M.

NKAPC Meeting Room  
2332 Royal Drive  
Fort Mitchell, Kentucky

### MINUTES

#### COMMISSION MEMBERS PRESENT:

Ms. Barbara Carlin - Kenton County  
Mr. Paul Darpel - Edgewood  
Mr. Chuck Eilerman - Covington  
Mr. Tom France - Ludlow  
Mr. Al Hadley - Elsmere  
Mr. Phil Ryan - Park Hills  
Mr. Bernie Wessels - Ft. Wright  
Mr. Paul Swanson, Secretary/Treasurer - Erlanger  
Mr. Joe Price - Vice Chairman - Crestview Hills  
Ms. Alex Weldon, Chairperson - Covington

#### LEGAL COUNSEL PRESENT:

Mr. David Schneider, 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. Eilerman.

#### APPROVAL OF THE MINUTES:

A motion was made by Mr. Price to approve the minutes from October. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Ryan, Ms. Carlin, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Wessels, Mr. Swanson and Ms. Weldon in favor. The motion carried.

Ms. Weldon noted a request to table had been received with regard to issue W-637. Mr. Price made a motion to table the issue until the next meeting in December. Mr. Ryan seconded the motion. All in favor. None opposed.

#### PRELIMINARY PLATS, PLANS AND RELATED ISSUES:

##### W-590 RIVERS BREEZE 2ND ADDITION

APPLICANT: Viox and Viox, Inc., in behalf of Grand Communities, Ltd.

LOCATION: An approximate 5 acre area south east of the existing Riversbreeze Subdivision, contiguous on the south with Montague Road, Ludlow.

REQUEST: To approve a Preliminary Plat for a 63 unit addition to Rivers Breeze 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 Rivers Breeze 2nd Addition, but only subject to compliance with the following conditions:

1. That a hard surfaced street connection for emergency vehicular access (including required barrier(s)) be provided between Southwind Lane and Montague Road (Note: Issues involving the exact location, width, thickness, etc. of the street connection to be determined by staff in conjunction with the design engineer prior to approval of Improvement Drawings and Specifications);
2. That a minimum fire flow of 1000 gpm at 20 psi be provided and certified by a flow test and fire hydrant spacing be a maximum of 425 feet (Section 7.2); and
3. That an additional \$400 be submitted for the requested Waivers.

##### Bases for Recommendation:

The proposed Rivers Breeze 2nd Addition is consistent with the recommendations of the 2001 Area-

Wide Comprehensive Plan Update, the Kenton County Subdivision Regulations, and the Ludlow Zoning Ordinances, except as noted under the above Conditions and recommended Waivers to Sections 6.0D and 7.3F.

#### Subsequent Recommendation:

That Waivers be granted to Sections 6.0D and 7.3F allowing: (1) a 23 foot wide public right-of-way including an additional maintenance easement reservation of 8.5 feet along each side of Southwind Lane and Breezewood Court and (2) sidewalks along one side of Southwind Lane and Breezewood Court, on the following bases:

1. Granting the requested Waivers will allow development to continue in a manner consistent with the approval of the previous phases of Rivers Breeze Subdivision.
2. Granting the Waiver to Section 6.0D permitting Southwind Lane and Breezewood Court to exist within a 23 foot wide public right-of-way that includes an additional maintenance easement reservation of 8.5 feet will allow the effective circulation of public vehicular traffic while providing the legislative body with the area necessary to effectively maintain such street.
3. Development is proposed for one (1) side of Southwind Lane and Breezewood Court. Granting the Waivers to Section 7.3F permitting sidewalk on one side of Southwind Lane and Breezewood Court will allow for the required circulation of pedestrian traffic.
4. That the modifications would provide for innovative design layout of the subdivision further defined as follows:
  - a) Sidewalk on one side provides for pedestrian traffic without requiring unnecessary sidewalk on the opposite side containing no development; and
  - b) A 23 foot wide right-of-way with maintenance easement reservation allows for the public maintenance of the street without requiring the full width right-of-way (40 feet) causing the building locations to be further from the ridge top requiring additional hillside grading and disturbance.

#### Additional Information:

A meeting was held between planning commission staff and Covington City Officials, October 21, 2004 to discuss the potential street connection to Montague Road. Once such a connection is accomplished, the potential exists to close and vacate a portion of Montague Road from the entrance to the Covington Maintenance Garage to the western boundary of Riversbreeze Subdivision, a total distance in excess of 1,500 feet. The vacated portion of Montague Road could remain open to pedestrians and serve as a hiker / biker trail circulating pedestrian traffic from S.R. 8, through Riversbreeze Subdivision, along Montague Road and into Devou Park. It is recommended that Covington City Officials in conjunction

with Grand Communities explore this issue further.

Mr. Jim Viox, Mr. Larry Gorman and Mr. Sprague registered to speak in favor of the application. No one registered to speak against.

Mr. Viox addressed the Commission and noted the problems with the topography in putting in a connection. He stated Mr. Gorman and Mr. Hughes met with the city of Covington with regard to other alternatives to the connection. He stated they are willing to commit to an emergency connection and pedestrian way and will meet the requirements of Staff. He further stated the density is less than what is allowable due to the topography. He also noted the city is not too thrilled with disturbing the area along the property line but they are willing to work with them. Mr. Viox stated they will work out all recommendations of Staff and are agreeable with their recommendations. Mr. Hadley noted he would like a waiver as to the sidewalks on Montague even though one was not requested by the applicants. Mr. Viox then stated they would be willing to make a request for the waiver with regard to sidewalks on Montague.

Mr. Gorman addressed the Commission and stated the request of the former property owner was to stay on his property until he dies and that is what happened. He stated his property was then sold by his estate and that is why they have the addition in front of the Commission today.

Mr. Sprague had nothing to add.

Mr. Price stated he felt this was a good proposal. Mr. Hadley made the motion to approve with Staff's recommendations and granting the waiver as to sidewalks on Montague due to the topography and substandard road. Mr. Wessels then asked that the following wording be added to recommendation #1 "that a hard surface street connection for emergency vehicular access including the required barriers..." and remove the wording "between Southwind Lane and Montague Road." Mr. Price then seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Price, Ms. Carlin, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Ryan, Mr. Wessels, Mr. Swanson 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.**

There were no questions or comments regarding the actions taken since the last regularly scheduled meeting. A motion was therefore made by Mr. Price to ratify and approve. Mr. Wessels seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Wessels, Ms. Carlin, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Ryan, Mr. Swanson and Ms. Weldon in favor. The motion carried.

OTHER COMMITTEE BUSINESS: None.

There being nothing further to come before the Commission, the meeting was recessed at 10:15 a.m. until 6:15 p.m. with a motion by Mr. Price, seconded by Mr. France. All in favor. None opposed.

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION  
REGULAR MEETING

November 4, 2004  
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. James Cook - Kenton County  
Mr. Paul Darpel - Edgewood  
Mr. Chuck Eilerman - Covington  
Mr. Tom France - Ludlow  
Mr. Al Hadley - Elsmere  
Mr. David Hilgeford - Villa Hills  
Mr. Mark Hushebeck - Lakeside Park  
Mr. Phil Ryan - Park Hills  
Mr. Greg Scheper - Crescent Springs  
Mr. John Wells - Ft. Mitchell  
Mr. Bernie Wessels - Ft. Wright  
Mr. Paul Swanson, Secretary/Treasurer - Erlanger  
Ms. Alex Weldon, Chairperson - Covington

COMMISSION MEMBERS NOT PRESENT:

Mr. Mike Denham - Bromley  
Ms. Maura Snyder - Independence  
Mr. Joseph Price, Vice Chairman - Crestview Hills

## LEGAL COUNSEL PRESENT:

Mr. David Schneider, Esq.

Ms. Weldon called the meeting to order at 6:15 p.m. The meeting was opened with the Pledge of Allegiance and an invocation by Mr. Eilerman.

## APPROVAL OF THE MINUTES:

There being no questions or corrections Mr. Hadley made the motion to approve. Mr. Eilerman seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Eilerman, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. France, Mr. Hushebeck, Mr. Ryan, Mr. Wessels, Mr. Swanson and Ms. Weldon in favor. Mr. Cook, Mr. Hilgefurd, Mr. Scheper and Mr. Wells abstained. The motion carried.

## FINANCIAL REPORT:

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

## ACTIONS SINCE LAST MEETING:

There were no conflicts with regard to the actions taken since the last meeting. A motion was made by Mr. Darpel to ratify and approve. Mr. France seconded the motion. A roll call vote on the matter found Mr. Darpel, Mr. France, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. Hadley, Mr. Hilgefurd, Mr. Ryan, Mr. Scheper, Mr. Wessels, Mr. Swanson and Ms. Weldon in favor. Mr. Bertram, Mr. Hushebeck and Mr. Wells abstained. The motion carried.

## PUBLIC HEARINGS:

\*Mr. Bertram withdrew from any consideration and voting due a conflict of interest with his employer on the issue.

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).

Staff recommendations and Staff presentation by Mrs. Melissa Jort-Conway.

#### NKAPC STAFF RECOMMENDATION:

To approve the proposed map amendment from R-1C to R-2 (PUD), but only subject to compliance with the following conditions:

1. That a traffic study be prepared to adequately assess the north-south and east-west movement of traffic within the proposed development, off-street parking areas and across existing Madison Pike, including any requirements for intersection improvements, crosswalks, and traffic calming controls/devices.
2. That easement agreements be submitted for the proposed four (4) foot trails with access through and connecting private property.
3. That intersection improvements be provided at the intersection of existing Madison Pike with the proposed connector street into the proposed development.
4. That landscape screening along existing Madison Pike, new KY 17, and areas adjacent to residential zones be in conformance with the Landscape Regulations as contained within the Independence Zoning Ordinance.
5. That pole signs not be permitted as part of the proposed development.
6. That a provision be made for a future connection to the property to the south by way of a street extension between the proposed two-level commercial building and the building to the east.
7. That the existing curb cut off Madison Pike be removed and that access to the site be provided via the proposed connector street.

#### 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 R-1C to R-2 (PUD) is consistent with the Recommended Land Use Map of the 2001 Area-Wide Comprehensive Plan Update. The southwest section of the site in question, as well as the area located to the west of the site in question, is identified for Commercial Retail/Service development. The north and central section of the site, including the area to the southeast

of the site, is identified for Residential Development at a density of 7.1 to 14.0 dwelling units per net acre. The eastern section of the site and the area to the north and east of the site are identified for Residential Development at a density of 2.1 to 4.0 dwelling units per net acre.

The proposed map amendment from R-1C to R-2 (PUD) will allow for a planned diversification in the location of and types of uses and structures, including 102 attached single-family residential dwellings, and six (6) commercial buildings. The proposed map amendment will also preserve, to the greatest extent possible, the existing landscape features and amenities of the site. The submitted development plan identifies the provision of approximately five (5) acres, or 28% of the total acreage of the site for open space, including walking trails and other recreational amenities.

2. The proposed map amendment is consistent with the concept of the Community Service Area, which is identified on the Recommended Land Use Map of the 2001 Area-Wide Comprehensive Plan Update, and includes the area of the site in question. The purpose of a Community Service Area is to concentrate increased residential density within areas with existing commercial land uses that can provide, or be expanded to provide, convenience goods and services to a growing population. By providing such services within short distances of more residences, trip distances that residents travel for convenience goods are reduced and the use of alternate modes of transportation becomes more feasible. The site in question is within a Community Service Area that is anticipated to be the largest identified within the Comprehensive Plan Update. The proposed map amendment will allow for residential development at a density of approximately ten (10) dwelling units per net acre, as well as the provision of convenience goods and services.

3. The purpose of a Planned Unit Development (PUD) Overlay Zone is to provide flexibility in design and to facilitate a more economic arrangement of buildings and circulation systems, land uses and utilities, while furthering public health, safety and general welfare. The submitted development plan identifies a proposed east-west connector street between existing Madison Pike and new KY 17. To adequately determine the impact of the proposed connector street, it is recommended that a traffic study be prepared to adequately assess the north-south and east-west movement of traffic within the proposed development, off-street parking areas and across existing Madison Pike, including any requirements for intersection improvements, crosswalks, and traffic calming controls/devices.

4. The submitted development plan identifies proposed walking trails with access through, and connecting private property. No easement agreements have been submitted. It is therefore recommended that easement agreements be submitted and verified with the submittal of a Stage II Development Plan.

5. No intersection improvements are identified on the submitted development plan at the intersection of the connector street with existing Madison Pike (KY 17). It is recommended that a northbound right turn lane and a southbound left storage lane be provided in accordance with the Kenton County Subdivision Regulations.

6. The submitted Stage I Development Plan meets the minimum requirements of the Independence Zoning Ordinance, except for the following:



- a. Section 9.17 of the Independence Zoning Ordinance requires that landscape screening be provided between adjoining land uses and within vehicular use areas. It is recommended that the landscaping identified on the submitted development plan be verified to be in accordance with these regulations with the submittal of a Stage II Development Plan.
- b. Section 10.12, J. states that the location, height, and type of all signs shall be as approved in the plan. The submitted development plan indicates that there will be two (2) pole signs installed at each end of the connector street. Pole signs are currently not permitted in any zone within the City of Independence. To allow pole signs within the proposed development would be inconsistent with the requirements of the Independence Zoning Ordinance. It is therefore recommended that pole signs not be permitted.
- c. Section 11.3, C., of the Independence Zoning Ordinance requires that access drives be designed, located and constructed in a manner to provide and make possible the coordination of access with, and between, adjacent properties developed for similar uses. The area to the south of the site in question is currently zoned for residential uses. However, the Recommended Land Use Map of the Area-Wide Comprehensive Plan Update identifies the area for Commercial Retail/Service uses. It is therefore recommended that a provision be made for a future connection to the property to the south by way of a street extension between the proposed two-level commercial building and the building to the east.
- d. The submitted development plan identifies an existing curb cut off of Madison Pike, south of the connector street, to be used for right-in right-out only access into the commercial development. There is an adjacent access point approximately 150 feet to the south of the existing curb cut. Section 11.3, F., 2., of the Independence Zoning Ordinance requires a minimum spacing of one hundred (100) feet between adjacent access points on collector streets. Further, the Kenton County Subdivision Regulations, which are applicable to the proposed development, require a minimum spacing of 400 feet between access points on collector streets. The distance between the existing curb cut and the proposed connector street is 230 feet. It is therefore recommended that the existing curb cut off Madison Pike be removed and that access to the site be provided via the proposed connector street.

#### Additional Information

The Kentucky Department of Transportation will be required to provide intersection improvements at the intersection of new KY 17. The submitted development plan identifies a right turn lane and left turn storage lane from new KY 17 into the proposed development at the entrance to the connector street.

Mr. Tim Theissen, Mr. Jim Bertram and Mr. Darin Eyre registered to speak in favor of the issue. Mr. Eric Deters registered to speak against. Mr. Jarboe, Mr. Flanagan, Mr. Jim Lucas and Mr. Jerry Zimmer registered to speak with questions on the issue.

Mr. Theissen addressed the Commission and stated Staff did a fantastic job on the proposal. He stated Jim Bertram has been working on the project for the past year and he feels he has put together a very good plan. He stated he wasn't going to spend a lot of time on the Comprehensive Plan aspects of the project as Staff summarized it very well. He then noted the natural buffer between the commercial and

residential works very well. He stated it works as a great buffer for the people on Walnut Hall. He further noted this is a well thought through development. Mr. Theissen stated the city expressed an interest in having some commercial development within the development. He stated Mr. Bertram has intended tenants for the commercial aspects and also many builders interested in developing the residential aspect of the development so this is not a project that will sit around. He further noted there are sidewalks throughout the development and on both sides of the residential development. Mr. Theissen stated the road going into the development is going to be 28 feet wide which will give a nice open feel to the development. He further noted an access point is being provided for into the Toebben development when that area gets developed. Mr. Theissen noted they are encouraging the traffic study and have agreed to it. He stated with regard to condition #2 he felt that could be withdrawn as they will be clarifying the path with color and obviously can only do the pathway on their property. He stated there was some confusion with the lines being seen as paths when they really indicated a creek on the project. He then stated they have no problem with augmenting the intersection for the connector. As to landscape screening Mr. Theissen stated they do not want to hide the development because it will be a very attractive development. He then noted they will obviously screen the residential development but asked that the commercial area not be screened. With regard to pole signs Mr. Theissen stated they are asking for one pole sign because the development is in a hole where they would like to place the sign. He also noted they are requesting that they not be required to provide for a street extension. He noted if they do provide for the extension it will cause them to lose a lot so they are asking for some relief on that issue. Mr. Darpel asked if there was going to be off street parking. Mr. Bertram stated there was not going to be off street parking but that each unit would have parking for two in the driveway as well as a garage bay for each unit. Mr. Theissen further noted every unit will have a two-car garage.

Mr. Jarboe addressed the Commission and stated he came to support the development. He stated it is a beautiful development that will provide for commercial development away from the Independence Center.

Ms. Flanagan addressed the Commission and stated she thinks it is a really good development and everything has pretty much been stated.

Mr. Lucas addressed the Commission and asked about the main drains and how it will affect Walnut Hill. Mr. Bertram stated they will be running a gravity line and by doing the development Walnut Hall will be able to tie into it. Mr. Bertram further noted it was up to the Sanitation District as to when that would take place.

Mr. Deters addressed the Commission and stated he knows and respects everyone on the other side of the issue. He stated there are just a lot of concerns which the development. He then distributed a handout which was marked as an exhibit to be made a part of the record. He stated there has not been a single lot sold in the last two years in the Independence Center. He stated Independence is booming residentially but commercially it is not. He further stated they have found Independence to be a bedroom community. He further stated they have a genuine concern with the amount of properties being vacant now in the area. Mr. Deters further noted there is an abundance of commercial property and they do not need more in Independence. He additionally noted the proposed development is very congested and very

dense. He stated the traffic cutting through the development is going to be a big problem. He also stated there is not enough parking for the development. He also noted if a development is placed on the other side of the road it would be creating a traffic nightmare. He stated a traffic study should be done first to determine the impact on Kentucky 17. Mr. Deters stated Independence has a nice opportunity to have development with some order. He then noted this is a haphazard development.

Mr. Zimmer addressed the Commission and stated He is acting as a concerned citizen of Independence. He stated Madison Pike is a really busy street. He also noted there have been many accidents at Walnut Hall and Madison Pike. Mr. Zimmer then gave an overhead presentation depicting vacant commercial sites in the area, which have been empty for a long time. He then asked the Commission to deny the application, as the city does not need any more commercial development.

Mr. Theissen stated in rebuttal that this is a concept plan and things like every parking option has not been looked at yet since it is only a concept plan. He stated he understands Mr. Deters' concerns about a glutton of commercial development but stated they would not be presenting more commercial development if there in fact was a glutton of commercial properties existing and they wouldn't already have potential buyers for those sites. Mr. Wessels then questioned the matter of curb and gutter and intersection improvements as to a time frame for these issues. Mr. Bertram then stated he would improve on his property but not an existing development. Mr. Wessels then suggested bonding with regard to the improvements. Mr. Schwartz stated if approve by the city it would come back in front of the Commission as a preliminary plat and bonding conditions could be placed on that. Mr. Hilgefurd stated he felt it was a good plan. Mr. Wessels asked about the height of the pole sign. Mr. Theissen then noted they were requesting a 24-foot pole sign. Following the discussion Mr. Hilgefurd then made the motion to approve the application because it is in compliance with the Comprehensive Plan, the evidence and testimony submitted and Staff's report and recommendations and with the following modifications to the conditions: conditions 1,4,5 and 6 would remain but on condition #6 changing the words "street extension" to "access drive" and that conditions #3 and #7 be conditioned upon the traffic study. It was further noted on condition #5 that the pole sign on the new Kentucky 17 would not exceed 24 feet. Mr. Wells then seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Wells, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hushebeck, Mr. Ryan, Mr. Scheper, Mr. Wessels, Mr. Swanson and Ms. Weldon in favor. Mr. Bertram abstained. The motion carried by a vote of 15-0 with one abstention.

\*At this time a brief recess was taken until 8:30 p.m.

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

1702R

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

LOCATION: N. A.

REQUEST: A proposed text amendment to the Independence Zoning Ordinance adding "Banks and other financial institutions, including savings, loan, and finance companies, with drive through windows,

providing they are located on two sides by an arterial street" to the list of conditional uses within the R-1D Zone.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

#### NKAPC STAFF RECOMMENDATION:

To disapprove the proposed text amendment adding "Banks and other financial institutions, including savings, loan, and finance companies, with drive through windows, providing they are located on two sides by an arterial street" to the list of conditional uses within the R-1D 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 "Banks and other financial institutions, including savings, loan, and finance companies, with drive through windows, providing they are located on two sides by an arterial street" to the list of conditional uses within the R-1D 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. The addition of banks and other financial institutions to the list of conditional uses within the R-1D Zone would allow such uses to be located in areas identified for single-family residential development, and thus represents the provision of an incompatible land use. Additionally, banks and other financial institutions are not an essential use within the R-1D Zone and would not promote the public health, safety, and welfare.

2. The proposed text amendment adding "Banks and other financial institutions, including savings, loan, and finance companies, with drive through windows, providing they are located on two sides by an arterial street" to the list of conditional uses within the R-1D Zone is an unreasonable attempt to circumvent the map amendment process.

On October 1, 2004, K4 Architecture, LLC, per David Curle, for Fifth Third Bank, on behalf of

Lawrence and Thelma Stein, submitted an application for NKAPC and KCPC review and recommendation on a proposed map amendment to the Independence Zoning ordinance changing an approximate 1.5 acre area located at the southeast corner of the intersection of Independence Station Road with Turkeyfoot Road, from R-1D to PO (Z-04-10-02/1703R). This issue is currently under review and is on the same agenda as this proposed text amendment.

3. The proposed text amendment adding "Banks and other financial institutions, including savings, loan, and finance companies, with drive through windows, providing they are located on two sides by an arterial street" to the list of conditional uses within the R-1D Zone is inappropriate. An analysis of the Independence Zoning Map reveals that there are no properties within the city of Independence that are currently zoned R-1D and are located on two sides by an arterial street. There are two properties within the city of Independence that are currently zoned R-1D and are located on two sides by an arterial street and a collector street.

The proposed text amendment would institute a regulation that, at present, cannot be applied within the R-1D zoning districts. Even if the proposed text were modified to allow development on properties bounded on two sides by an arterial street and a collector street, the regulation would not be applied uniformly throughout all areas within the R-1D zoning districts.

1703R

APPLICANT: K4 Architecture, LLC, per David Curle, for Fifth Third Bank, on behalf of Lawrence and Thelma Stein.

LOCATION: An approximate 1.5 acre area located at the southeast corner of the intersection of Independence Station Road with Turkeyfoot Road, Independence.

REQUEST: A proposed map amendment to the Independence Zoning Ordinance, changing the area described herein, from R-1D (a detached single-family residential zone) to PO (a professional office building zone).

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION:

To disapprove the proposed map amendment from R-1D to PO.

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 R-1D to PO is not consistent with the Land Use Plan Map of the

2001 Area-Wide Comprehensive Plan Update which identifies the site in question as part of a larger area recommended for residential development at a density ranging from 4.1 to 7.0 dwelling units per net acre. The proposed PO Zone would allow the development of a variety of office type uses within an area recommended to be developed with residential uses.

2. The proposed map amendment from R-1D to PO is not consistent with the Land Use Plan Element of the 2001 Area-Wide Comprehensive Plan Update. While the site in question is located within a Community Service Area, it is located at its fringe. Commercial activities within this Community Service Area are most appropriate at the intersection of Richardson Road with Bristow Road, approximately 1,100 feet south of the site in question.

3. The existing R-1D Zone is appropriate for the site in question. As previously stated, the R-1D Zone permits detached single-family residential dwellings on a minimum lot area of 9,000 square feet (approximately 4.8 dwelling units per net acre). Areas located to the south, east, and west of the site in question have been developed with detached single-family residential dwellings. The proposed PO Zone is inappropriate as it would allow commercial activity to occur within an area recommended for residential uses.

4. There have not been any changes of an economic, physical, or social nature, within the vicinity of the site in question, which were not anticipated in the preparation and adoption of the 2001 Area-Wide Comprehensive Plan Update to warrant a change in zoning classification. The Transportation Plan Element of the 2001 Area-Wide Comprehensive Plan Update identifies that the Turkeyfoot Road project was included in the Kentucky Transportation Cabinet's Six Year Plan and was on schedule for right-of-way acquisition in 2004 with construction in 2005.

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

a. Section 9.17, D. requires a minimum twenty (20) foot wide planting strip between commercial zones/uses and residential zones/uses. The submitted development plan indicates a five (5) foot wide area along the eastern property line.

b. Section 9.17, D. requires a minimum ten (10) foot wide planting strip between vehicular use areas and adjacent streets. The submitted development plan indicates a minimum one (1) foot area between the proposed drive aisle and the proposed right-of-way of Turkeyfoot Road.

c. Section 11.0, C., 1., d., (1) requires off-street parking areas to be set back a minimum of five (5) feet from any street right-of-way line. The submitted development plan indicates a minimum one (1) foot setback between the proposed drive aisle and the proposed right-of-way of Turkeyfoot Road.

d. Section 13.4, A. limits fences within the front yard to a maximum of forty-eight (48) inches in height. The submitted development plan indicates the provision of a seventy-two (72) inch high privacy fence

within the front yard.

e. Insufficient information has been submitted to determine compliance with Article XIV, Sign Regulations.

f. Section 17.0, F. states that the zoning map shall not be amended, changed, or modified in such manner as to create a free standing zone of less than five (5) acres, except where specific area restrictions are stipulated in the zoning ordinance or as outlined in the comprehensive plan. The proposed map amendment from R-1D to PO would create a free standing zone of approximately 1.5 acres.

Mr. Curle, Mr. Jeff Smith, Mr. E.J. Foltz, Ms. Thelma Stein, Mr. Larry Stein, Mr. Ken Schneider registered to speak in favor of the issue. No one registered to speak against. No one from the city was present to speak.

Mr. Foltz addressed the Commission and stated he helped develop the site plan. He stated they went to the city and presented the idea. He noted they discussed the plan with the city and with Staff and they recognize the site is not recommended for residential use. He further stated the city wanted to have some control over it and felt the bank would have the lowest impact. He further noted the city asked the applicant to do a zone change. Mr. Foltz also noted they are aware they have some landscape issues to address but stated the city is willing to work with them.

Mr. Schneider addressed the Commission and stated he is representing the owners of the property. He stated they are ready to stand by their request for a text amendment, which was requested by the city to them. He noted the application does fit the criteria for the amendment. He further noted a lot of businesses could be in that area but most are at a higher impact than the bank. He then noted this would not be the only office type of use if the text amendment is granted. He stated the owners have been trying to sell the property for the past six years to use the funds for their retirement. Mr. Schneider stated this is an appropriate use for the site. Mr. Hilgefurd noted his concerns by allowing a commercial development in an R-1D zone and by allowing this even as a conditional use is opening up the Commission to problems. He further noted he has to be convinced this is not spot zoning.

Mrs. Stein addressed the Commission and stated she has lived at the same property for 50 years. She stated it was originally comprised of 12 acres but it was divided up to give lots to their children. She stated they wish they would allow the zone change so they can sell the property to 5th Third Bank. She further noted they were counting on the sale of the property to fund their retirement.

Mr. Stein addressed the Commission and stated this is a changing area and for some reason this corner just got pushed out. He stated there is commercial development in all directions around the site. He stated they have been trying to sell the property for six years and feel they would be remiss to sell it as residential with all the commercial properties around it.

Mr. Curle addressed the Commission and stated that 5th Third is a wonderful neighbor to have and they

will keep the property up. He then showed a color rendering depicting the architecture of the proposed building. He stated the site is not ideal for residential. He further stated they have taken measures to fit a commercial building in a very tight spot.

Mr. Smith addressed the Commission and stated they do a lot of market research as to where they can build a bank. He stated they try to take steps necessary to ensure it is a convenient safe location for a bank. He also stated they are spending the money to make sure this is a good and viable location.

Mr. Schneider stated it rebuttal that they are respectfully requesting that the text change be approved but turn down the map amendment to allow the city to determine what would be a good fit for this location.

Mr. Hadley stated he drives by this area frequently and there is no way anyone is going to build a home on the site because of the commercial businesses in the area. He stated a bank would be wonderful on the site. Ms. Weldon noted that legal counsel suggested the request for a map amendment could be withdrawn to save time and discussion and just have the text amendment considered. Much discussion was had as to whether allowing the text amendment was spot zoning and whether or not the Commission was not being consistent with prior voting. Mr. Hadley then made a motion to approve. Mr. Darpel seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Darpel, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hushebeck, Mr. Ryan, Mr. Scheper, and Mr. Wessels voted in favor. Mr. Hilgeford, Mr. Wells, Mr. Swanson and Ms. Weldon voted against. Mr. Bertram and Mr. Cook abstained. The motion carried by a vote of 10-4 with two abstentions. Mr. Smith, legal counsel for 5th Third Bank then withdrew the request for a zone change. That being such, no further action was required on the matter.

1705R

APPLICANT: City of Erlanger, per P. David Hahn

LOCATION: N. A.

REQUEST: Proposed text amendments to the Erlanger Zoning Ordinance: (1) modifying the definition of "advertising sign"; (2) modifying the list of permitted uses in the IP-1 (Industrial Park-One) Zone; (3) modifying the list of accessory uses in the IP-2 (Industrial Park-Two) Zone; and (4) deleting and amending various sections of Article XIV, Sign Regulations.

Staff presentations and Staff recommendations by Mrs. Melissa Jort-Conway.

NKAPC STAFF RECOMMENDATION:

To approve the proposed text amendments.

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 to the Erlanger Zoning Ordinance (1) modifying the definition of "advertising sign"; (2) modifying the list of permitted uses in the IP-1 (Industrial Park-One) Zone; (3) modifying the list of accessory uses in the IP-2 (Industrial Park-Two) Zone; and (4) deleting and amending various sections of Article XIV, Sign Regulations (see Attachments A through D) are 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 modifying the definition of "advertising sign" is reasonable for bringing the Erlanger Zoning Ordinance into conformity with a City Ordinance and provides consistency in the enforcement sign regulations in the City.
3. The proposed text amendments modifying the list of permitted uses in the IP-1 (Industrial Park-One) Zone, and modifying the list of accessory uses in the IP-2 (Industrial Park-Two) Zone is also reasonable to maintain consistent wording throughout the zoning ordinance as it pertains to various types of signs.
4. The proposed text amendments to the Erlanger Zoning Ordinance deleting and amending various sections of Article XIV, Sign Regulations, will allow for a uniform enforcement of sign regulations within the City. The proposed text amendment deleting the regulations for Class 10 signs is reasonable to remove a class of sign, which is not currently permitted in any zone within the City.

Mr. Wichmann registered to speak on the issue. No one registered to speak against.

Mr. Wichmann stated he had nothing to add and simply stated he was available to answer any questions. Mr. France then made the motion to approve based on Staff's recommendations. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. France, Mr. Hadley, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. Hilgefurd, Mr. Hushebeck, Mr. Ryan, Mr. Scheper, Mr. Wells, Mr. Wessels, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

1706R

APPLICANT: City of Covington, per Ms. Annalee Duganier.

LOCATION: Along the eastern side of Eastern Avenue to the Licking River, including 408,410 and 430-36 East 15th Street; and from the CSX railroad at East 15th Street, to the alley between East 16th and East 17th Street; the right-of-way on Oakland to East 18th Street; and including 510 and 602 to 612 Thomas Street, 514 and 516 East 18th Street, and 1726 Oakland Avenue, Covington.

REQUEST: Review of the proposed Austinburg Special Redevelopment Area Development Plan II, a Chapter 99 Plan (KRS 99.020).

Staff presentations and Staff recommendations by Ms. Larisa Keith.

## NKAPC STAFF RECOMMENDATION

To approve the proposed Austinburg Special Redevelopment Area Development Plan II.

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 submitted Austinburg Special Redevelopment Area Development Plan II responds to the specific criteria set forth by KRS 99.340 for the definition of a blighted area (see Attachment C). These findings include 1) that the infrastructure and street layout have an isolating effect on the area; 2) that the majority of the lot sizes within the area are inappropriate; 3) that portions of the area are still prone to minor flooding and poor drainage; 4) that many of the structures have code violations based on a property survey, and many are non-conforming uses; 5) that the majority of the properties within the area are under separate ownership; 6) that some properties within the area are being pursued by the City for delinquent taxes; 7) that several mobile homes are located within public rights-of way; 8) that some lots include more than one residential structure per lot, which constitutes improper subdivision; and 9) additional influences include buildings that are unsuitable for improvement or redevelopment, and buildings that contain uses that are incompatible with the area. All of these considerations given, the redevelopment of the area as proposed within the Austinburg Special Redevelopment Area Development Plan II is necessary to effectuate the public purposes declared in KRS 99.020.

2. The general objectives of the submitted Austinburg Special Redevelopment Area Development Plan II are to: a) Reduce criminal activity; b) Increase percent of homeownership; c) Create and maintain neighborhood association; d) Promote Madison Avenue as North/South route; e) Work with investment property owners on maintaining value; f) Remove blighting influences from the neighborhood; g) Work with City staff to ensure code enforcement; h) Ensure that City commits to supporting only parks and recreational uses for the east side of floodwall and develop long-term plan for land uses; and i) Recognize the value of neighborhood, schools, churches and hospitals. These objectives are consistent with the Goals and Objectives Element of the 2001 Area-Wide Comprehensive Plan Update.

The Recommended Land Use Map of the 2001 Area-Wide Comprehensive Plan Update identifies the Austinburg Special Redevelopment Area for Residential Development at a density ranging from 7.1 to 14.0 dwelling units per net acre and Recreation and Open Space. The following potential amendments to the City of Covington Zoning Ordinance within the Austinburg Special Redevelopment Plan would be generally in conformance with these land use designations: a) an extension of the existing Recreation and Open Space (ROS) zone southward to include the existing Austinburg Park, and westward to include the parcels at 410 and 408 East 15th Street, to accommodate expansion of park land; and b) amending the Conservation Zone (CO) to restrict agriculture.

Potential amendments for residential development within the Austinburg Special Redevelopment Area Development Plan include the creation of a new zone to replace the Residential One-G (R-1G) that will allow for single family residential lot sizes smaller than 5,000 square feet, but large enough to be able to provide off-street parking for each residence. Residential lot sizes ranging from approximately 3,000 to 6,500 square feet would be generally consistent with the Recommended Land Use Map of the 2001 Area-Wide Comprehensive Plan Update.

The Austinburg Special Redevelopment Area Development Plan II identifies an additional potential amendment to the Covington Zoning Ordinance for the properties on Eastern Avenue between Oliver and East 17th Streets. The potential amendment includes changing the area from the existing R-1G Zone to a zone that accommodates small-scale neighborhood retail. There are currently several nonconforming uses within this area. While this potential map amendment may not be consistent with the Recommended Land Use Map, which identifies the area for Residential Development at a density ranging from 7.1 to 14.0, it is consistent with the following Goals and Objectives of the 2001 Area-Wide Comprehensive Plan Update:

"To locate and design centers providing goods and services so as to maximize consumer safety and convenience while minimizing any adverse environmental effects.

Centers providing goods and services should be conveniently accessible to the population. Different types of centers should be provided which serve the unique needs and desires of different types of consumers - examples are as follows: centers oriented to service immediately surrounding residents with daily convenience needs... In all cases, design of new or redeveloped facilities, providing goods and services, should contain adequate off-street parking facilities, reasonable control of ingress and egress, landscaping, reasonable separation of vehicular and pedestrian traffic, etc. Such centers should be located and designed so as to minimize any adverse environmental effects."

The Austinburg Special Redevelopment Area Development Plan II further notes that Comprehensive Plan amendments coinciding with the potential zoning map amendments will be proposed during the next Update, to be adopted in 2006, and that details for the potential map amendments will be determined during the course of the City's Zoning Ordinance rewrite.

The Austinburg Special Redevelopment Area Development Plan II identifies structures of historical significance and the importance of design guidelines for infill housing to make sure new development is conducted properly to enhance the historic character of the neighborhood. This concept is consistent with the Land Use Plan Element of the 2001 Area-Wide Comprehensive Plan Update.

3. The Austinburg Special Redevelopment Area Development Plan II area is comprised of approximately fifty (50) acres. The boundary of the Special Redevelopment Area was defined as a result of an analysis conducted for the 1998 Austinburg Neighborhood Development Plan (A KRS 100 Plan), which covered the entire neighborhood. After the completion of the 1998 Plan, the Special Redevelopment Area boundaries were selected because the City determined that it contained a

concentration of blighted and vacant properties.

4. The Austinburg Special Redevelopment Area Development Plan II identifies two phases of recommendations. Phase One will occur within five (5) years of Plan approval and Phase Two will be a future phase, occurring within five (5) to ten (10) years. Phase One encompasses the majority of the recommendations. Phase Two identifies selected properties that will be approached to sell or redevelop the land for new single-family housing. These phases were identified in order to better accomplish the goals set forth by the plan based on property ownership, funding, and for a long-range analysis of the properties within Phase Two. Therefore, the various stages by which the development is proposed to be constructed or undertaken, as stated in the development plan, are practicable and appear to be in the public interest.

5. Public facilities, including, but not limited to school, fire, police, transportation, park, playground and recreation, are presently adequate, or will be adequate, at the time that the development is ready for use, to service the development area. The area included within the Austinburg Special Redevelopment Area Development Plan II is within the Urban Service Area as identified within the 2001 Area-wide Comprehensive Plan Update.

6. The map included within the Austinburg Special Redevelopment Area Development Plan II identifies several new buildings, renovated and relocated buildings, as well as buildings to remain. The plan also discusses current zoning of the area, recognizing that the City is currently going through the process of a zoning ordinance update and that appropriate zoning map and text amendments will follow when appropriate. Changes will likely occur to permit more appropriate residential zoning districts, the inclusion of neighborhood commercial areas, as well as additional recreation and open space. Additionally, the plan recognizes that the historical setting of the area is important and that design guidelines should be applied to assure compatibility with the old and the new. These potential changes will be desirable for the development of the area and for protection against blighting influences.

The Austinburg Special Redevelopment Area Development Plan II also identifies the need for a traffic analysis to be conducted in order to determine if all or any streets that are currently one-way should revert to two-way traffic. This would ensure that the traffic system in the area would be accommodating to and desirable for the development of the area.

7. Considering all of the aforementioned factors, the carrying into effect of the Austinburg Special Redevelopment Area Development Plan II will not cause undue hardship to those occupying dwelling accommodations in the development area to such a degree as to outweigh the public purpose defined in KRS 99.020.

8. The Austinburg Special Redevelopment Area Development Plan II appears to meet the requirements as set forth in Kentucky Revised Statute Chapter 99.

Mr. Schneider briefly explained the request as spelled out in accordance with KRS99 as to what exactly

the Commission was being asked to do.

Ms. Duganier, Ms. Frye, Ms. Hastings, Mr. Tom Develo, Mr. Dan Petroneo, Mr. Rick Ludlum, Mr. Marshall Slagle, Mr. Clark, Mr. Dennis Fangman, Mr. Michael Smith, Ms. Bonnie Kleet, Ms. Nancy Slagle and Ms. Donna Horan registered to speak in favor of the application. Mr. Mathew Kirkwood, Mr. Steve Fort, Mr. Gary Smith, Mr. Ralph Foley, Mr. Gailen Bridges, Ms. Jean Falk, Mr. Jarvis Kerns, Ms. Gracie Merkt, Ms. Vicky Morgan, Mr. Eugene Mayberry, Mr. Steve Hedger and Ms. Deborah Sturgeon registered to speak against.

Ms. Duganier addressed the Commission and clarified issues with the Comprehensive Plan. She then distributed a handout as well as presented an overhead presentation as to the specifics of the plan. She noted some of the properties that were and were not included as part of the redevelopment plan.

Ms. Frye addressed the Commission and stated the Austinburg redevelopment plan has key goals, which she reiterated and reviewed. She stated Staff has done an excellent job of reviewing the plan and determining its compliance with Comprehensive Plan. She stated they met with neighborhood groups, businesses, etc. with regard to the plan. She then stated the plan is to redevelop and revitalize the area.

Ms. Hastings addressed the Commission and gave a presentation as to the redevelopment plan. She stated the plan builds on the original redevelopment plan of 1998. She noted the plan was initiated by residents in the area. She additionally noted there were over 100 participants and there were ten public meetings held on the matter. She stated this was a very involved process and the main goal is to increase single-family ownership. She stated this is a partnership between the residents and the city to revitalize Covington.

Mr. Develo passed.

Mr. Hammonds addressed the Commission and relayed the goals as they relate to urban development and the redevelopment plan. He stated there are strategies to turn neighborhoods around. He then stated one of the keys is to have a comprehensive approach. He stated Austinburg did this in an attempt to turn things around for this community. He also stated they respect the people who are vested in the community and they support them.

Mr. Ludlum addressed the Commission as president of the Austinburg Neighborhood Association. He then submitted a letter, which was marked as an Exhibit to be made a part of the record. He stated the Austinburg Association has been around since 1997 but there have been meetings and discussions for the past 25 years on the issue. He stated the plan will primarily remove blight in the city of Covington and he asked for the Commission's support.

Mr. Slagle addressed the Commission and stated he is the president of the Wallace Woods Neighborhood Association. He stated they are concerned about improving the quality of life in the area. He further noted the Austinburg Association directly affects the Wallace Woods area. He additionally

noted that this is in agreement with the Comprehensive Plan.

Mr. Clark addressed the Commission and stated this is a continuation of the 12th Street Redevelopment Plan. He stated the growth will be painful but is mandatory. He also noted it is an opportunity to use the R-1G zone to restore the area.

Mr. Fangman addressed the Commission and stated he has lived in the neighborhood for 30 years. He stated this plan is needed and he hopes it will be approved.

Mr. Smith addressed the Commission and stated he grew up in the Austinburg area. He stated KRS 99 was mainly to deal with slum and blight. He stated he wants to clarify that they are not interested in tearing down two family housing; they merely want them returned to single family. He stated this is a plan to restore and rebuild a community.

Mr. Ward addressed the Commission and stated he was involved with the development plan. He stated he feels this is about keeping the plan together. He further noted he feels it's important to look at what is laid out in the plan. He stated there are a lot of things that can be done and this plan seems to fit that.

Ms. Kleet addressed the Commission and stated she has lived in the area for 43 years. She stated on her street alone there are 4 empty homes. She stated changes do have to occur. She stated if the plan is not approved the neighborhood is doomed.

Ms. Slagle addressed the Commission and stated Covington does need changes made. She stated Covington is a great old city and changes are being done, one street at a time.

Ms. Horan addressed the Commission and stated the plan gives other cities hope that things can be done.

Mr. Woodruff addressed the Commission and stated what affects Austinburg affects Wallace Woods and he is asking for approval.

Mr. Smith addressed the Commission and gave an overhead presentation against eminent domain. He also presented the Commission with a petition of over 400 signatures against eminent domain. The petition was then marked as an exhibit to be made a part of the record. He stated there is a lot the city can do to help but they're not. He stated there is a school that brings the children to an outing at the end of his street. He stated the problem is the city leaves a dumpster at the end of the street. He further stated there are railroad ties that could be cleaned up to make the area look better. He noted they have been left out of all meetings. He asked the Commission to consider their concerns.

Mr. Foley addressed the Commission and stated the area they want to take is non-conforming. He then went over all improvements he has done to his property. He stated he has put \$200,000 into his 7,000 square foot property. He then stated they city wants to take all of the businesses out of the area. He noted there is no blight in his area. He noted the city moved him there fifteen years ago and he can't afford to

move because he has too much invested.

Mr. Kirkwood addressed the Commission and stated he is a landscape architect and professor at Purdue University. He stated the reason there is so much controversy is because there is so much inconsistency. He stated the original plan wanted to remove blighting influences. He stated currently the city wants small lots but not mobile home parks. He then stated a lot of the problems could be handled by code enforcement. He additionally noted the redevelopment plan is not consistent with the Comprehensive Plan.

Ms. Falk addressed the Commission and stated she was told she had nothing to worry about because it was blighted areas that were being targeted. She stated she attended five meetings and never heard anything about eminent domain. She then noted she found out through the paper that her home and her son's home are being taken. She further noted she is only being singled out because Ms. Frye thinks they can get rid of Gailen Bridges and the mobile home park.

Mr. Kearns addressed the Commission and stated he owns a historic home. He stated he just wanted to mention that even though they have said they were not taking their homes it is in plan.

Ms. Merkt addressed the Commission and stated she is present for her father. She stated the city helped him get his property and he employs 50 people and now they want to take his property.

Ms. Kearns addressed the Commission and stated they just bought the home next door and they have made improvements. She stated they do not want to move.

Ms. Morgan addressed the Commission and stated she lived in the mobile home park for 27 years. She stated she owns the mobile home and because of the low rent she can send her child to Catholic school. She stated she is against the plan.

Mr. Mayberry addressed the Commission and stated he just finished restoring an 1800's home to its original glory. He noted they are talking about areas that are not blighted. He then noted the heart of the city is not in the houses, it's in the people.

Mr. Hedger addressed the Commission and stated he keeps hearing he is non-conforming. He stated everyone needs to work together.

Ms. Sturgeon addressed the Commission and asked that the plan be rejected. She noted a lot of the people can't afford to move.

Mr. Bridges addressed the Commission and distributed a number of handouts that were marked as exhibits to be made a part of the record. He stated he doesn't believe anyone that spoke in favor of the plan lives in the neighborhood. He then stated the application is faulty. He further stated notices should have been mailed to each property owner regarding the hearing. He stated none were mailed. He then

went through various aspects of his handouts as points or requirements necessary with the plan and cited those that were not followed. He reiterated aspects of the redevelopment plan that are not in compliance with the Comprehensive Plan. He then stated most of the city's blight problems are the city's doing. He stated the city wants to take the mobile home park where he just put in \$40,000 of electrical improvements. He asked the Commission to remain consistent and vote down the application and they did six months ago.

Ms. Frye addressed the Commission in rebuttal and stated the key thing under KRS 99 is it enables a city to review an area where blight is affecting a neighborhood. She stated the city believes issues need to be addressed. She stated if the city was holding a public meeting notices would have been sent out. She also noted that no one ever said this is a final step. She further stated it was never stated that eminent domain would be used. She stated the city does want to work with the businesses and property owners. She acknowledged that everyone does not agree with the plan but that the greater good needs to be looked at.

Mr. Bertram stated the last time he asked the same question and asked that the borders be defined. He stated that still was not done. He stated arbitrary boundaries were being defined around certain properties. Ms. Frye stated they were looking at concentrated areas. She then stated Eastern Avenue is a neighborhood corridor, not a commercial area. Ms. Weldon then read a letter from Steve Tutt which was received in favor of the plan. She marked the letter as an exhibit to be made a part of the record on the matter. Much discussion was had about KRS 99 as well as Mr. Schneider reiterating what the Commission is being called to do. Mr. Hilgefurd then made the motion to approve based on Staff's recommendations and the testimony presented that it is in compliance with the Comprehensive Plan, and that it does satisfy the requirements of KRS 99. Mr. Eilerman seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Eilerman, Mr. Coates, Mr. France, Mr. Hadley, Mr. Scheper, Mr. Wells and Ms. Weldon voted in favor. Mr. Bertram, Mr. Cook, Mr. Darpel, Mr. Hushebeck, Mr. Ryan, Mr. Wessels and Mr. Swanson voted against. Ms. Carlin abstained. The motion carried by a vote of 8-7 with one abstention.

\*Ms. Carlin had to leave the meeting prior to the following issue being heard.

1707R

APPLICANT: City of Covington, per Ms. Annalee Duganier, Planner

LOCATION: N. A.

REQUEST: A proposed text amendment to the Covington Zoning Ordinance, adding studios for artists, designers, photographers, musicians, and sculptors, including teaching of the arts, and galleries for display of art items, in properties that are contiguous to a Central Business District (CBD) Zone, to the list of permitted uses within the Industrial One (I-1) Zone.

Staff presentation and Staff recommendations by Ms. Elizabeth Wardlaw.

NKAPC STAFF RECOMMENDATION:



To disapprove the proposed text amendment to the Covington Zoning Ordinance, adding studios for artists, designers, photographers, musicians, and sculptors, including teaching of the arts, and galleries for display of art items, in properties that are contiguous to a Central Business District (CBD) Zone, to the list of permitted uses within the Industrial One (I-1) 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, to add "studios for artists, designers, photographers, musicians, and sculptors, including teaching of the arts, and galleries for display of art items, in properties that are contiguous to a Central Business District (CBD) Zone" is not consistent with the purpose of the Industrial One (I-1) Zone. This zone provides for light industrial or related uses. There are limited areas within the City of Covington and Kenton County that have potential of industrial development. The areas that are currently zoned for industrial uses should have adequately designed regulations to ensure that these areas are developed exclusively for industrial and related uses.

This recommendation is consistent with previous recommendations made by the NKAPC staff. In the three related text amendments, the NKAPC staff recommended disapproval when there was a proposal to add studios for professional work or teaching any form of fine art, photography, music, drama, dance, or gymnastics to an industrial zone.

Ms. Duganier and Ms. Frye registered to speak in favor of the issue. No one registered to speak against.

Ms. Duganier addressed the Commission and stated the city has been working on an arts district for the past year. She stated the city felt the least impact would be to change the zone in creating the arts district. Ms. Frye stated this may not be the most perfect plan but it fits the situation right now.

Ms. Frye addressed the Commission and stated the building has more than 50,000 square feet of space. She stated they are encouraging this type of use that would be compatible with the structure.

Mr. Eilerman then made the motion to approve. Mr. France seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. France, Mr. Bertram, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Hadley, Mr. Hilgefurd, Mr. Hushebeck, Mr. Ryan, Mr. Scheper, Mr. Wells, Mr. Wessels, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

#### OLD AND UNFINISHED BUSINESS:

#### Reports from Committees:

**Subdivision Regulations Review Committee:**

Nothing new to report.

**By-Laws:**

Nothing to report.

**Model Zoning Ordinance:**

Nothing to report.

**Report from Legal Counsel:**

Mr. Schneider had nothing to report.

**Reports/Announcements from Staff:**

Mr. Schwartz asked the Commission to authorize two continuing education courses. He then very briefly explained each and noted specifics. Mr. Ryan made the motion to accept. Mr. Wessels seconded the motion. All in favor. None opposed. Mr. Schwartz additionally noted there would be a celebration in honor of Melissa Jort's recent wedding to be held the following evening.

Correspondence: None.

**New Business:**

Ms. Weldon stated she assumes that anyone that is interested in attending the upcoming conference has contacted Gayle. The following commissioners were nominated to sit on the nominating committee for upcoming elections: Mr. Eilerman, Ms. Snyder and Mr. Wells.

There being no further business to come before the Commission, the meeting was adjourned at 1:10 a.m.