



KC&MP&ZC MINUTES

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION REGULAR MEETING

February 3, 2005
9:00 A.M.

Crescent Springs City Building
739 Buttermilk Pike
Crescent Springs, Kentucky

MINUTES

COMMISSION MEMBERS PRESENT:

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

LEGAL COUNSEL PRESENT:

There was no legal present.

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. Price.

APPROVAL OF THE MINUTES:

Approval of the minutes was deferred until the evening meeting.

PRELIMINARY PLATS, PLANS AND RELATED ISSUES:

*Mr. Bertram noted his withdrawal from the following issue as he was one of the applicants on the issue.

PP-649

APPLICANT: One Eleven Engineers and Surveyors, P.L.L.C. in behalf of One Eleven Developers, L.L.C.

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: To approve a Preliminary Plat for Independence Village consisting of 102 residential units and 6 commercial building lots, including public and private streets as well as storm drainage, sanitary sewer and water system improvements.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION

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

1. That all fire suppression issues within the proposed commercial development area be approved by the Independence and Community Fire Department in writing (Section 7.2);
2. 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 300 feet within the proposed residential area (Section 7.2);
3. That Sight Distances right and left for vehicles exiting any proposed unsignalized intersection 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 (Section 6.0 E).
4. That turnarounds be provided at the terminus of Street "B" and Street "E" (Section 7.3);
5. That sidewalks along the street connecting Madison Pike and proposed S.R. 17 be extended to intersect with proposed S.R. 17 (Section 7.3 F);
6. That the sidewalk around Retention Lake "B" be hard surfaced (Section 7.3 F);

7. That the missing sections of sidewalk as outlined by staff be provided along the proposed private streets. Note: For clarity, such sections of sidewalk shall be shown and approved on all subsequent Improvement Drawings and Specifications (Section 7.3 F);

8. That a minimum of four unrestricted parking spaces be provided for each proposed residential unit (Section 7.3).

Bases for Recommendation:

The proposed Independence Village 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.

Mr. Bertram and Mr. Eyre registered to speak in favor of the issue. No one registered to speak against.

Mr. Eyre addressed the Commission and stated the number one reason for the way the parking and sidewalks are shown on the plan is due to topography. He stated the reason for making the streets private is because they would need a minimum of 12% grade for a public street. He further stated the area where the road has no sidewalks along it in the corner the slope is 16% so the area was not suitable for sidewalks.

Mr. Bertram addressed the Commission and stated they are trying to leave the integrity of the creek alone. He stated they left parking out towards the end of the development because of the steep grade. He further noted it would be more of a safety issue to install the sidewalks where they are missing. Mr. Wessels stated it may make sense to wait until the improvement drawings are complete and then come back with a waiver request regarding the sidewalks. Mr. Bertram stated they would try to work with the plan to see what could be done and then if necessary they will come back with a waiver. Mr. Bertram also stated with regard to the turnarounds that the topography makes it difficult to have them installed where they are conditioned. He noted they would address the issue at the Stage II plan and if necessary come back with a waiver on that end as well. Mr. Bertram further noted he does not feel comfortable installing a sidewalk out to the new Kentucky 17 because it will be like the AA Highway and in fact, sidewalks are prohibited. He noted they have agreed to have a traffic study done and will make any necessary changes. He further stated he is trying to keep the street at 22 feet to slow things down and have no more than 25 m.p.h. to make the street pedestrian friendly. He then noted as to condition no. 6 they would agree to make the surface hard surfaced. It was further noted that conditions 3-8 would be determined by a traffic study. Following the discussion, Mr. Wessels made the motion to approve based on the report by Staff as well as the conditions. Mr. Darpel seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Darpel, Mr. Hadley, Mr. Price and Ms. Weldon in favor. Mr. Bertram withdrew. The motion carried unanimously.

W-589

APPLICANT: Radius Construction Co., Inc.

LOCATION: An approximate 6 acre area located on the south side of the Dolwick Connector within the Tewes Industrial Park, Erlanger.

REQUEST: To Waive the previously imposed Preliminary Plat condition that the proposed lots on the south side of the Dolwick Connector be served by a single curb cut.

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 Revised Tewes Industrial Park requiring that access points along the Dolwick Connector serving Lots 8A and 8B be as indicated on the approved revised Preliminary Plat.

Bases for Recommendation:

1. The modifications, as requested, do not include the findings necessary to grant waivers 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 arterial streets will affect roadway capacity or safety. Turning vehicles to and from the proposed intersections with the Dolwick Connector, having a "regulatory" speed limit of 55 MPH, will affect roadway capacity and safety.
3. Requiring only a single access point for Lots 8A and 8B minimizes the required slowing or stopping movements of through traffic, increases vehicular safety and protects the intended functionality of the Dolwick Connector.

Mr. Ed Foltz, Mr. Mike Scheper, Mr. Matt Franks and Mr. David Neff registered to speak in favor of the issue. No one registered to speak against.

Mr. Foltz addressed the Commission and stated the preliminary plat is just that, preliminary. He stated part of the problem is the road is posted at 55 m.p.h. and it is in an industrial area. He stated he cannot think of another industrial area that has a 55 m.p.h. arterial road going through it. He stated in conversations with KDOT their contention is that the road will remain at 55 m.p.h. because nothing is going on to warrant reducing the speed limit. He further stated he disagrees with Staff as to condition no. 9. He stated the development is for multiple uses for lot A so there is in fact an innovative design aspect to the development. He further noted the City of Erlanger approves of the development. He stated for a heavy industrial use zone they do not have a heavy industrial use planned for the development. He stated it is a high visibility location. Mr. Foltz further noted the curb cuts are lined up within the development. Mr. Foltz additionally noted once activity takes place the speed will be reduced to 45 m.p.h. He also noted this will have a three lane roadway with a turn lane in the center. He then noted all they are asking is for one additional curb cut. He then stated they to propose to put in four more buildings but they are currently only interested in lot 8A.

Mr. Scheper had nothing to add.

Mr. Franks addressed the Commission and stated this proposal is for five buildings consisting of about ten thousand feet each for single users. He stated the uses are for professional office. He further added it is a step up from the development along Houston Road. He then stated they cannot do the project if they do not have the additional curb cut.

Mr. Hadley noted he would like to see something happen with the Tewes property. He then made the motion to approve based on Staff's recommendation with the exception being that the waiver is granted with a basis being a safety issue and that the hardship would be created. Mr. Bertram then asked for clarification on the condition of granting the waivers. Mr. Hadley then stated he felt it was a safety issue due to the proposed 38 parking spaces. Mr. Darpel stated if a waiver was to be granted that it only be for lot 8A and he would like to limit it to that development. He stated otherwise there would be potentially a hundred cars versus the 38 using the access point. Ms. Weldon added the access points should line up. It was additionally noted there would be no interconnection between lots 8A and 8B. Mr. Bertram then seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Bertram, Mr. Darpel and Mr. Price in favor. Mr. Swanson and Ms. Weldon voted against. Mr. Wessels had to leave the meeting prior to the vote being taken. The motion passed with a vote of 4-2.

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.) - The approval of plans and plats were deferred until the 6:15 pm meeting.

There was no action taken.

OTHER COMMITTEE BUSINESS:

There being nothing further to come before the Commission, the meeting was recessed at 10:20 a.m. until 6:15 p.m.

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
REGULAR MEETING

February 3, 2005
6:15 P.M.

Crescent Springs City Building
739 Buttermilk Pike
Crescent Springs, 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 Hilgefurd - Villa Hills
Mr. Mark Hushebeck - Lakeside Park
Mr. Phil Ryan - Park Hills
Mr. Greg Scheper - Crescent Springs
Ms. Maura Snyder - Independence
Mr. John Wells - Ft. Mitchell
Mr. Bernie Wessels - Ft. Wright
Mr. Paul Swanson, Secretary/Treasurer - Erlanger
Mr. Joseph Price, Vice Chairman - Crestview Hills
Ms. Alex Weldon, Chairperson - Covington

COMMISSION MEMBERS NOT PRESENT:

Mr. Mike Denham - Bromley

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. Ms. Weldon suggested hearing the by-laws issue prior to the subdivision regulations issue. It was then noted that item 1718R would be moved to the end of the agenda. There were no other changes noted to the meeting agenda.

APPROVAL OF THE MINUTES:

Mr. Hadley noted on page five at the top of the page the name "Ray" should be substituted for the name "Bill." It was additionally noted on page sixteen that "Mrs." should be changed to "Mr.". Mr. Price then made the motion to approve the minutes with the changes noted. Mr. Darpel seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Darpel, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgefurd, Mr. Hushebeck, Mr. Ryan, Ms. Snyder, Mr. Wells, Mr. Wessels, Mr. Swanson and Ms. Weldon in favor. Mr. Scheper abstained. The motion carried unanimously.

FINANCIAL REPORT:

Ms. Weldon noted she would be discussing the educational funding at the end of the meeting.

ACTIONS SINCE LAST MEETING:

Mr. Bertram noted a conflict of interest with item I-4282 and PP-649. Mr. Price then made the motion to ratify and approve. Mr. Wessels seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Wessels, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgefurd, Mr. Ryan, Ms. Snyder, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. Mr. Hushebeck and Mr. Scheper abstained. The motioned carried.

PUBLIC HEARINGS:

*1718R was deferred to the end of the agenda.

1719R

APPLICANT: City of Erlanger, per P. David Hahn

LOCATION: N. A.

REQUEST: Proposed text amendments to the Erlanger Zoning Ordinance: (1) deleting "Eating establishments" from the list of permitted uses within the PO (Professional Office Building) Zone; (2) adding a definition for "coffeehouse"; (3) adding coffeehouse, with certain restrictions, to the list of permitted uses within the PO Zone; (4) adding several commercial, institutional and industrial zones to the list of zones that may have an exception to the area and yard regulations, with certain stipulations; and (5) adding provisions to several commercial, institutional, and industrial zones allowing more than one principal building on a lot.

Staff recommendations and Staff presentation by Mr. Ryan Sitarikus.

NKAPC STAFF RECOMMENDATION:

To approve the proposed text amendments, but only subject to compliance with the following conditions:

1. That the proposed definition of coffeehouse be changed to read as follows: "An establishment that sells coffee and other non-alcoholic refreshments and provides seating for its patrons".
2. That "coffee shops" be removed from the list of accessory uses in the PO Zone.
3. That "drive-thru windows" be added to the list of outdoor business activities that are permitted in the PO 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 (1) deleting "Eating establishments" from the list of permitted uses within the PO (Professional Office Building) Zone; (2) adding a definition for "coffeehouse"; (3) adding coffeehouse, with certain restrictions, to the list of permitted uses within the PO Zone; (4) adding several commercial, institutional and industrial zones to the list of zones that may have an exception to the area and yard regulations, with certain stipulations; and (5) adding provisions to several commercial, institutional, and industrial zones allowing more than one principal building on a lot, 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 deleting "Eating establishments" from the list of permitted uses within the PO (Professional Office Building) Zone is reasonable to limit eating establishments as an accessory use. The proposed text amendment is consistent with previous actions taken by the NKAPC staff and the KCPC:
 - a. On September 14, 1994, the City of Erlanger, per P. David Hahn, submitted an application for NKAPC and KCPC review and recommendation on a proposed text amendment to the Erlanger Zoning Ordinance, adding "Eating Establishments, Sit - Down or Combination Restaurants only, seating at least one hundred fifty (150) people, and serving alcoholic beverages, by the drink only, as an accessory use" as a permitted use in the PO (Professional Office Building) Zone (Z-94-09-04/1166R). On September 30, 1994, the NKAPC staff recommended disapproval of the proposed text amendment. On October 6, 1994, the KCPC held the public hearing and recommended disapproval of the proposed text amendment. The basis for the recommendation was that the proposed text amendment was not consistent with the intent of the PO Zone by allowing a non-office function to locate in the PO Zone, and would not impose uniform regulations on uses within the same zoning district as per KRS 100.203. The City of Erlanger subsequently approved the proposed text amendment.

3. The proposed text amendment, adding a definition for "coffeehouse", except where noted under condition, is reasonable to provide a specialty service type use within the city. The alternative text amendment would delete the word "usually" from the proposed definition as it is a vague term and is difficult to interpret.
4. The proposed text amendment adding coffeehouse, with certain restrictions, to the list of permitted uses within the PO Zone is reasonable to allow a use which is compatible with the existing permitted uses in the PO Zone. Currently, the PO Zone permits banks and other financial institutions, including loan, savings and finance companies with drive-in windows; bed and breakfast establishments; clinics, medical or dental; off-street parking lots and/or garages; offices; police and fire stations; and post offices on a minimum lot area of 22,500 square feet.
 - a. The condition that "coffee shops" be removed from the list of accessory uses in the PO Zone would prevent possible confusion in the interpretation of "coffeehouse" and "coffee shops". Deleting "coffee shops" while retaining "refreshment stands" as an accessory use is reasonable given the addition of coffeehouses as a permitted use in the PO Zone.
 - b. The condition that "drive-thru windows" be added to the list of outdoor business activities that are permitted in the PO Zone is reasonable to enable coffeehouses, as defined, to operate drive-thru window in the PO Zone.
5. The proposed text amendment adding several commercial, institutional and industrial zones to the list of zones that may have an exception to the area and yard regulations, with certain stipulations, is reasonable to allow the planning commission the ability to waive the requirement that all lots abut a minimum frontage along a dedicated right-of-way provided that they are assured an unencumbered and maintained access way to a dedicated right-of-way. This allowance is appropriate in that it will enable greater flexibility in the design and relationships of the buildings while allowing for a better integration of land uses within the proposed zones.
6. The proposed text amendment adding provisions to several commercial, institutional, and industrial zones allowing more than one principal building on a lot, is appropriate to encourage a more coordinated design of development within the PO, PO-1, HC, INST, IP-1, IP-2, IP-3 and I-1 zones. In addition, the minimum area requirements within these zones are sufficient to allow for more one than one building on one lot.

Mr. Jim Viox registered to speak in favor of the issue. No one registered to speak against.

Mr. Viox addressed the Commission and stated the City of Erlanger was the applicant, not an individual and that the city supports the application. There was no further discussion by the Commission on the matter. Mr. Price then made the motion to approve based on Staff's report and conditions. Mr. Wessels seconded the motion. A roll call vote on the matter found Mr. Price, Mr. Wessels, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hushebeck, Mr.

Ryan, Mr. Scheper, Ms. Snyder, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. Mr. Hilgefjord voted against. The motion carried.

1720R

APPLICANT: Crescent Springs Storage, LLC.

LOCATION: An approximate .2-acre area located along the northwest side of Ritchie Avenue, approximately 200 feet southwest of Terry Avenue, Crescent Springs.

REQUEST: A proposed map amendment to the Crescent Springs Zoning Ordinance, changing the area described herein, from LHS (a limited highway service zone) to IP-1 (an industrial park one zone), along with an amended Stage I Development Plan review for the area located to the northwest and southwest of the site in question.

Staff presentation and Staff recommendations by Mr. Mike Schwartz.

NKAPC STAFF RECOMMENDATION:

To approve the proposed map amendment from LHS to IP-1, along with the amended development plan, but only subject to compliance with the following condition:

1. That the proposed structure not exceed forty (40) feet or three (3) stories in height.

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 existing LHS Zone is inappropriate and the proposed IP-1 Zone is appropriate. The site in question is bordered on two sides by industrial zoning (IP-1) which has been developed with a self storage facility. The site in question is suitable for development in a manner that is consistent with these adjacent areas.

2. The proposed map amendment from LHS to IP-1 represents a logical extension of the existing IP-1 Zone. Areas located to the north and west of the site in question are currently zoned IP-1. The proposed map amendment would have the effect of placing the entire property within a single zoning district.

3. The proposed map amendment from LHS to IP-1 is consistent with a previous recommendation made by the NKAPC staff and the KCPC.

On January 1, 1998, Tom Prather submitted an application for NKAPC and KCPC review and recommendation on a proposed map amendment to the Crescent Springs Zoning Ordinance, changing an

approximate 2.6 acre area (including the site in question) located along the northwest side of Ritchie Avenue, approximately 600 feet southwest of Terry Avenue, from R-1G (P) IP-1 and LHS to IP-1 (Z-98-01-06/1339R). On February 27, 1998, the NKAPC staff recommended approval of the proposed map amendment, subject to the condition that the development plan be revised to meet the minimum requirements of the Crescent Springs Zoning Ordinance. On March 5, 1998, the KCPC held the public hearing and recommended approval of the proposed map amendment, subject to the condition that the development plan be revised to meet the minimum requirements of the Crescent Springs Zoning Ordinance. On April 13, 1998, Crescent Springs City Council adopted Ordinance Number 1998-3, approving the proposed map amendment subject to the following conditions: (1) that the development plan be revised to meet the minimum requirements of the Crescent Springs Zoning Ordinance; and (2) that excepted from the area was a 100-foot by 100-foot tract on the corner that was to remain zoned LHS (the site in question).

4. The submitted development plan meets the minimum requirements of the Crescent Springs Zoning Ordinance, except for the following:

a. Section 10.19, C., 7. prohibits buildings from exceeding forty (40) feet or three (3) stories in height. Insufficient information has been submitted to determine compliance with this requirement.

Mr. Greg Schrand registered to speak in favor of the issue. No one registered to speak against.

Mr. Schrand addressed the Commission and stated he was available to answer any questions. Mr. Wessels asked about the history of the building. Mr. Schrand stated he just wanted to build on the site and it required a map amendment. Mr. Eilerman then made the motion to approve based on Staff's report and recommended conditions. Mr. France seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. France, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Hadley, Mr. Hilgeford, Mr. Hushebeck, Mr. Ryan, Mr. Scheper, Ms. Snyder, Mr. Wells, Mr. Wessels, Mr. Swanson, Mr. Price and Ms. Weldon in favor. The motion carried unanimously.

1721R

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

LOCATION: N. A.

REQUEST: Proposed text amendments 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, and clarifying specialty retail shop uses as special permitted uses within the R-U (Urban Residential) Zone.

Staff presentation and Staff recommendations by Melissa Jort-Conway.

NKAPC STAFF RECOMMENDATION

To approve the proposed text amendments adding studios for artists, designers, photographers,

musicians, and sculptors including teaching of the arts and galleries for display of art items, and clarifying specialty retail shop uses as special permitted uses within the R-U (Urban Residential) 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 adding studios for artists, designers, photographers, musicians, and sculptors including teaching of the arts and galleries for display of art items, and clarifying specialty retail shop uses as special permitted uses within the R-U (Urban Residential) Zone are allowed to be included within the text of the zoning ordinance as authorized by Kentucky Revised Statute (KRS) 100.202(1) (see Attachment A).
2. The proposed text amendment is consistent with the purpose of the R-U Zone. Permitting studios for artists, designers, photographers, musicians, and sculptors including teaching of the arts and galleries for display of art items as special permitted uses will allow additional selective types of neighborhood retail and service activities to locate within the R-U Zone, with restrictions that will ensure that the character of the neighborhood is preserved. Therefore, adding these uses as special permitted uses is reasonable.
3. Currently listed as permitted uses are retail sales shops for photographic supplies, stringed instruments and supplies, and arts and crafts items and supplies. Studios for artists, designers, photographers, musicians, and sculptors including teaching of the arts and galleries for display of art items will directly support and supplement these uses, without compromising the character of the R-U Zone. Therefore, adding these as a special permitted use in the R-U Zone is appropriate.
4. The proposed text amendment to clarify the special retail shop uses will not change the special permitted uses within the R-U Zone. The proposed amendment is simply a change in wording to clarify that these "specialty retail shops" are listed in Section 158.104 (B) (4) of the TSC Zone regulations. Therefore, the proposed amendment is reasonable and appropriate.

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

Ms. Frye addressed the Commission and stated the request was initiated by the city to encourage artists to the city. She stated as far as musicians, they see pianists, voice instructors, etc and noted the city does have noise ordinances in place. She stated she would encourage the Commission's support on the issue. She further noted the city is re-writing their ordinances and this would become part of the new ordinances. Mr. Eilerman then made the motion to approve based on Staff's report and recommendations. Mr. Coates seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Coates, Mr. Bertram, Ms. Carlin, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hadley, Mr. Hilgeford,

Mr. Hushebeck, Mr. Ryan, Mr. Scheper, Ms. Snyder, Mr. Wells, Mr. Wessels, Mr. Swanson, Mr. Price and Ms. Weldon in favor. The motion carried unanimously.

1722R

APPLICANT: One Eleven Engineering and Surveying, PLLC, per Mr. Darren Eyre, on behalf of Robert and Barbara Flanagan and Lee Ricky and Wallace Shelton.

LOCATION: An approximate 0.5-acre area located along the east side of Madison Pike, between Klette Street and Hartland Boulevard, consisting of Area A: an approximate 0.2 acre area located approximately 500 feet south of Klette Street; and Area B: an approximate 0.3 acre area located approximately 450 feet south of Klette Street, Independence.

REQUEST: (1) A proposed map amendment to the Independence Zoning Ordinance, to Area A as described herein, from R-1C (a detached single-family residential zone) to NC (a neighborhood commercial zone); and (2) Review of an amended Stage I Development Plan for Area B, as described herein.

Staff presentation and Staff recommendations by Melissa Jort-Conway.

NKAPC STAFF RECOMMENDATION

To approve the proposed map amendments/amended Stage I Development Plan, but only subject to compliance with the following conditions:

1. That the amended Stage I Development Plan meet the minimum requirements of the Independence Zoning Ordinance.

Comprehensive Plan Documentation:

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

Supporting Information/Bases For Recommendation:

1. The proposed map amendment from R-1C to NC, except where noted under condition, is consistent with the Land Use Plan Element of the 2001 Area-Wide Comprehensive Plan Update which identifies the area of the site in question as a Community Service Area.

The intent and 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. Increased density will enhance the potential for business development to serve the needs of residents of nearby residential development. In addition, by providing such services within short distances of more residences, trip distances that residents travel for convenience goods and services are reduced and the use of alternate modes of transportation

becomes more feasible (e.g., pedestrian and/or bicycle).

The proposed map amendment from R-1C to NC, except where noted under condition, will allow the development of two (2), two-story professional office buildings within an area comprising the historic "downtown" of the City of Independence. The proposed map amendment will serve to enhance the potential for business development while serving the needs of nearby residents.

2. The proposed map amendment from R-1C to NC, except where noted under condition, is appropriate in providing a use compatible with adjacent land uses. The area to the north of the site in question contains a recently built professional office building, as well as the Kenton County Courthouse and retail/commercial type uses within the area of the intersection of Independence Road and Klette Street. The proposed map amendment will allow for the development of additional office buildings through a coordinated pattern of development with an interconnection to the adjoining site to the north and the provision for a future connection to the south.

3. The proposed map amendment from R-1C to NC, except where noted under condition, is consistent with previous actions taken by the NKAPC staff and the Kenton County Planning Commission.

a. On October 15, 2003, Centerline Engineering and Surveying, PLLC, per Mr. James Bertram Jr., on behalf of Mr. Wallace Shelton, submitted an application for NKAPC and KCPC review and recommendation on a proposed map amendment to the Independence Zoning Ordinance, changing an approximate 0.2-acre area located along the east side of Madison Pike, between McCullum Pike and Hartland Boulevard, approximately 750 feet south of McCullum Pike, from R-1C (a detached single family residential zone) to NC (a neighborhood commercial zone). On October 31, 2003, the NKAPC staff recommended approval of the proposed map amendment, subject to two (2) conditions. On November 6, 2003, the KCPC held the public hearing and recommended approval of the proposed map amendment subject to three (3) conditions. On January 5, 2004, Independence City Council adopted Ordinance Number 2004-0-02, changing the zoning of the site in question from R-1C to NC, subject to two (2) conditions.

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

a. Section 10.14, D., 6., states that the maximum height of structures within the NC Zone is forty (40) feet. Insufficient information has been submitted to determine compliance with this requirement.

b. Section 10.14, E., 3., states that no lighting shall be permitted which would glare from any use located within the NC Zone onto any street or into any residential zone. Insufficient information has been submitted to determine compliance with this requirement.

c. Section 10.14, E., 4., requires that screening and landscaping be provided, as regulated by Section 9.17. Section 9.17 of the Independence Zoning Ordinance requires that landscape screening be provided

between adjoining land uses as well as within vehicular use areas. It is recommended that the proposed landscaping be reviewed upon Stage II Plan submission.

d. Section 13.4 outlines the types of fences which are permitted in commercial and industrial zones. Insufficient information has been submitted to determine compliance with this requirement.

e. Section 14.7 outlines the size and type of signs which are permitted in the NC Zone. Insufficient information has been submitted to determine compliance with this requirement.

Mr. Darren Eyre and Mr. Bertram registered to speak in favor of the application. Ms. Linn Bullard registered to speak with questions on the issue.

Mr. Eyre addressed the Commission and clarified the insufficient information on Staff's report. He noted they will be complying with all conditions as to lighting, landscaping and building heights as well as signage and fencing, if necessary. He stated he was available to answer any questions. Mr. France asked if the building designs would have a residential feel. Mr. Eyre stated they would in fact be designed with a residential feel to the buildings to blend in with the surrounding buildings.

Ms. Bullard addressed the Commission and stated her concern is what the city is planning to do with properties and homes further up the road. She stated she is concerned with what is happening with the city and various properties in the area. Ms. Weldon then clarified if she would desire to sell her property then she would have the choice to sell or not to sell to developers. Mr. France then made the motion to approve the application based on Staff's report and recommendations. Mr. Cook seconded the motion. A roll call vote on the matter found Mr. France, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. Hadley, Mr. Hilgeford, Mr. Hushebeck, Mr. Ryan, Mr. Scheper, Mr. Snyder, Mr. Wells, Mr. Wessels, Mr. Swanson, Mr. Price and Ms. Weldon in favor. Mr. Bertram withdrew. The motion carried.

1723R

APPLICANT: Mr. James A. Cawood.

LOCATION: An approximate .05-acre area located along the south side of West 5th Street, between Russell Street and Montgomery Street, approximately 100 feet east of Russell Street, Covington.

REQUEST: A proposed map amendment to the Covington Zoning Ordinance, changing the area described herein, from R-3 (HP) (a low density residential zone with an historic preservation overlay zone), to R-3A (HP) (a low density residential/office zone with an historic preservation overlay zone). This issue was previously heard on September 2, 2004.

Staff presentation and Staff recommendations by Melissa Jort-Conway.

NKAPC STAFF RECOMMENDATION

To disapprove the proposed map amendment from R-3 (HP) to R-3A (HP).

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. Although the proposed map amendment is consistent with the Recommended Land Use Map of the 2001 Area-Wide Comprehensive Plan Update which identifies the site in question for Residential Development at a density ranging from 14.1 to 30.0 dwelling units per net acre, the existing R-3 (HP) Zone is also consistent with the Recommended Land Use Map of the 2001 Area-Wide Comprehensive Plan Update.
2. The proposed map amendment from R-3 (HP) to R-3A (HP) does not represent a logical extension of the R-3A (HP) Zone located to the north of the site in question. The proposed map amendment would not result in a logical boundary of the R-3A Zone, by crossing West 5th Street to only include a single property.
3. The proposed map amendment from R-3 (HP) to R-3A (HP) would result in an office use being located mid-block along the south side of West 5th Street, with the surrounding properties zoned for residential uses only. The existing R-3 (HP) Zone is therefore appropriate and the proposed R-3A (HP) Zone is inappropriate.
4. There have been no major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of the area.

Additional Information:

1. The area of the proposed map amendment in the original application (Z-04-08-06/1693R) applied to the entire block face between Russell Street and Montgomery Street. It is recommended that should the Commission consider a recommendation of approval of the proposed map amendment, that consideration be given to enlarging the area of the site in question which would allow for a more logical extension of the R-3A (HP) Zone. The enlargement could include the area immediately to the west of the site in question up to Russell Street or immediately to the east of the site up to Montgomery Street.

Mr. James Cawood registered to speak in favor of the issue. Mr. Sid Kamuf, Mr. Belou and Ms. Ann Mitchell registered to speak against the issue.

Mr. Cawood addressed the Commission and stated when he originally approached the NKAPC Staff it was recommended that he include the other eight properties. He stated he obtained signatures from those owners and no objections. He stated he was then turned down and brought the issue back. He further

noted his neighbors do not object to his proposal. He further stated he disagrees that this is a residential area because Fifth Street is a commercial area. He stated the property is not conducive to residential due to the area noise and the extremely busy liquor store directly across the street. Mr. Cawood additionally noted he spent a considerable amount of money and time and he feels this is an appropriate location for a business. Mr. Hilgefurd stated offices do not have the same feel as a residence. He stated he feels it is a beautiful structure that should be maintained. Mr. Wessels stated that area sees more and more traffic every day going to Newport. He then stated he cannot imagine living there with the traffic because it is never-ending. Mr. Wessels then stated he does not feel it is infringing on the residential area with the courthouse directly down the street and other businesses in the direct area. He additionally stated that Covington needs to look real hard at that corridor. He then stated they need to find a way to get rid of the blight in the city. Mr. Wessels noted he finds it extremely hard to leave it as residential. Mr. Darpel stated he feels it is almost spot zoning but doesn't know how to approve it. He noted he feels the same way Mr. Wessels does on the issue. Mr. France then stated an arterial street is not compatible with residential. He stated the addition of the courthouse changed the integrity of the neighborhood. Mr. Scheper stated this is an arterial and also this is a transitional zone designed for this purpose - to blend office and residential. Ms. Weldon then noted she agrees with Mr. Wessels that arterial streets should be looked at. She further noted if the whole street needs to be re-zoned and changed then it should be looked at. Following the discussion Mr. Eilerman made the motion to deny based on Staff's recommendations and report. Mr. Hilgefurd seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Hilgefurd, Mr. Coates, Mr. Hushebeck, Mr. Ryan, Mr. Wells, Mr. Swanson, Mr. Price and Ms. Weldon in favor. Mr. Bertram, Ms. Carlin, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hadley, Mr. Scheper, Ms. Snyder and Mr. Wessels voted against. The motion tied with a 9-9 vote. Mr. Schwartz then explained the procedure in the event of a tie vote. He stated the Commission can reconsider the matter within 30 days and if the result is still a tie then the issue would go before the city with no recommendation. Mr. Schneider also clarified the by-laws in the event of a tie vote. Mr. Wessels then made the motion to approve based on supporting information that the application is in compliance with the Comprehensive Plan and to include the additional information comment in Staff's report. Ms. Carlin added that she can't see where having this as an office would deteriorate the standard of living in the neighborhood. Mr. Darpel then clarified the motion made by Mr. Wessels. Mr. Scheper seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Scheper, Mr. Bertram, Ms. Carlin, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hadley, Mr. Ryan and Ms. Snyder in favor. Mr. Coates, Mr. Eilerman, Mr. Hilgefurd, Mr. Hushebeck, Mr. Wells, Mr. Swanson, Mr. Price and Ms. Weldon voted against. The motion passed with a 10-8 vote.

OLD AND UNFINISHED BUSINESS:

Reports from Committees:

a. Subdivision Regulations Review Committee - nothing to report.

b. By-Laws

Mr. Price discussed in great detail the language for the by-laws. He stated since the by-laws were

amended it has caused some problems. He noted they would be using the old Article 5 which would become Article 7. Mr. Ryan noted that Article 4 and 6 should be addressed as well. Mr. Wessels asked why the Roberts Rules were being eliminated. Both Mr. Price and Ms. Weldon stated they are not following by the Commission. Mr. Ryan then stated the rules are open-ended. He further noted there are several other issues that need to be addressed and in some cases the rules are less than KRS. Mr. Wessels stated there are a lot of issues to be discussed and stated maybe it should be tabled. Much discussion was had on the by-laws and regulations as to how they will affect new procedures and regulations. Mr. Schneider clarified how the statute reads as to direct or indirect by definition. Mr. Wessels stated he feels it is advantageous for the Commission to know what the chair is doing or what the Executive Committee is doing. Ms. Weldon suggested that each committee prepare a report so everyone is aware of what is going on and so there is a more permanent record. Mr. Hadley suggested every time there is a committee meeting an invite should go out to the Commissioners. Mr. Ryan reiterated there are definitely some issues that need fine tuning. Ms. Snyder brought up the issue of compensation for meeting attendance. Mr. Ryan stated he would not recommend approval of the by-laws without some additional fine tuning of procedures. Mr. Gordon then briefly discussed policy and the background of policy and procedures. He stated the by-laws should be looked at as the constitution and as being the very basic of guidelines and regulations. Much discussion was had as to the procedural changes being requested and how much authority would be given to Staff in reviewing subdivision items as the Commission does. Ms. Weldon then called for a motion. Mr. Ryan made the motion to table the proposed re-drafting of the by-laws for up to six months. Mr. Scheper then seconded the motion. Mr. Gordon requested that any concerns with the verbiage of the by-laws be forwarded to him to expedite the process. He stated he would then compile those comments and concerns and forward them to legal counsel. A roll call vote on the matter found Mr. Ryan, Mr. Scheper, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgeford, Mr. Hushebeck, Mr. Scheper, Ms. Snyder, Mr. Wells, Mr. Wessels, Mr. Swanson, Mr. Price and Ms. Weldon in favor. The motion carried unanimously.

Mr. Price then noted the next meeting for the by-laws committee would be held February 23 at noon.

A motion was then made by Mr. Wessels to table issue 1718R regarding subdivision regulations to allow for review of the by-laws. Mr. Darpel seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Darpel, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgeford, Mr. Hushebeck, Mr. Ryan, Mr. Scheper, Ms. Snyder, Mr. Wells, Mr. Swanson, Mr. Price and Ms. Weldon in favor. The motion carried unanimously.

Mr. Gordon then asked that any comments or questions be forwarded to him by Tuesday for compilation purposes.

c. Model Zoning Ordinance - nothing to report.

Report from Legal Counsel:

Mr. Schneider had nothing to report.

Reports/Announcements from Staff:

Mr. Schwartz noted the APA audio conference would be held Wednesday February 16th at 4 p.m. at the NKAPC offices. He noted the topic would be zoning procedures and would last approximately one hour.

Correspondence: None.

New Business: See By-Laws

Mr. Wessels made a motion at 9:40 p.m. to go into Executive session to discuss personnel matters. Ms. Snyder seconded the motion. All in favor. None opposed. Mr. Wessels made a motion at 10:55 to come out of Executive session. Mr. Ryan seconded the motion. It was noted that no action was taken during Executive session.

There being no further business to come before the Commission, Mr. Wessels made the motion to adjourn. Ms. Darpel seconded the motion. The meeting was adjourned at 10:56 p.m.