



## KC&MP&ZC MINUTES

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

March 3, 2005  
9:00 A.M.

Crescent Springs City Building  
739 Buttermilk Pike  
Crescent Springs, Kentucky

### MINUTES

#### COMMISSION MEMBERS PRESENT:

Ms. Barbara Carlin - Kenton County  
Mr. Paul Darpel - Edgewood  
Mr. Al Hadley - Elsmere  
Mr. Bernie Wessels - Ft. Wright  
Mr. Paul Swanson, Secretary/Treasurer - Erlanger  
Ms. Alex Weldon, Chairperson - Covington

#### LEGAL COUNSEL PRESENT:

Mr. David A. 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 Ms. Weldon.

## APPROVAL OF THE MINUTES:

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

Ms. Weldon noted a letter had been received regarding a request to table item PP-560 for a period of up to six (6) months. Mr. Wessels made the motion to table with Mr. Darpel giving the second to the motion. A roll call vote on the matter found Mr. Wessels, Mr. Darpel, Ms. Carlin, Mr. Hadley, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

## PRELIMINARY PLATS, PLANS AND RELATED ISSUES:

\*Mr. Darpel noted his withdrawal from the following issue due to a conflict of interest with his employer.

### PP-560

APPLICANT: Erpenbeck Consulting Engineers in behalf of Doe Run Estates II, L.L.C.

LOCATION: An approximate 23 acre area located at the terminus of Deer Trail Drive within the existing Trails of Doe Run Subdivision, Erlanger.

REQUEST: To approve a Preliminary Plat consisting of 55 residential building lots, including public improvements such as streets, storm drainage, sanitary sewer and water systems.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

## NKAPC STAFF RECOMMENDATION:

To approve a Preliminary Plat for Doe Run Estates Addition, but only subject to compliance with the following conditions:

1. That a geotechnical investigation for the proposed improvements to the site be performed and submitted prior to approval of a Grading Plan and / or Improvement Drawings and Specifications (Section 6.6);
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 450 feet (Section 7.2);
3. That the remaining property surrounding the perimeter of the proposed lots be dedicated to the Kenton Conservancy; and
4. That the sanitary sewer easement between Lots #111 and #112 be a combined sanitary sewer /

pedestrian access easement to Doe Run Lake Recreational Facility.

#### Bases for Recommendation:

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

Ms. Weldon acknowledged receipt of a letter from the Hillside Trust with regard to the issue. She then read the letter into the record and marked it as an exhibit to be made a part of the permanent record.

Mr. Brandon Raybourne registered to speak in favor of the issue. No one registered to speak against.

Mr. Raybourne addressed the Commission and stated this is a pretty straightforward proposal. He noted it is well within the limits of what is allowed. He further noted they were planning on dedicating the steep hillsides to the conservancy. Mr. Raybourne stated they agree with all conditions set forth by Staff with regard to the issue. He further noted the dedication of the land to the conservancy has been part of the plan all along.

Following a very brief discussion, Mr. Hadley made the motion to approve based on Staffs' recommendations and conditions. Mr. Wessels seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Wessels, Ms. Carlin, Mr. Swanson and Ms. Weldon in favor. Mr. Darpel withdrew. The motion carried.

**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.**

Mr. Wessels made the motion to ratify and approve the actions taken by Staff since the last meeting. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Hadley, Ms. Carlin, Mr. Darpel, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

#### OTHER COMMITTEE BUSINESS:

There being nothing further to come before the Commission, Mr. Wessels made the motion to adjourn with Mr. Darpel giving the second. The meeting was then recessed at 9:20 a.m. until 6:15 p.m.

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION  
REGULAR MEETING

March 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. Mark Hushebeck - Lakeside Park  
Mr. Phil Ryan - Park Hills  
Ms. Maura Snyder - Independence  
Mr. Bernie Wessels - Ft. Wright  
Ms. Alex Weldon, Chairperson - Covington

COMMISSION MEMBERS NOT PRESENT:

Mr. Mike Denham - Bromley  
Mr. David Hilgefurd - Villa Hills  
Mr. Greg Scheper - Crescent Springs  
Mr. John Wells - Ft. Mitchell\*  
Mr. Paul Swanson, Secretary/Treasurer - Erlanger  
Mr. Joseph Price, Vice Chairman - Crestview Hills

\*arrived at 7:10 p.m.

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.

Staff suggested moving item 1718R to the end of the agenda to coincide with related issues. Mr. Wessels made the motion to amend the meeting agenda. Mr. Ryan seconded the motion. All in favor. None opposed.

#### APPROVAL OF THE MINUTES:

A motion was made by Mr. Hadley to approve the minutes from February. Mr. Bertram seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hushebeck, Mr. Ryan, Ms. Snyder, Wessels and Ms. Weldon in favor. The motion carried unanimously.

#### ACTIONS SINCE LAST MEETING:

Mr. Bertram noted a conflict of interest with his employer as to items I-4298 and I-4283. Mr. Darpel and Mr. Hushebeck noted their withdrawal from item PP-560 due to a conflict of interest with their employers. Mr. Darpel then made the motion to ratify and approve. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Darpel, Mr. Hadley, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France, Mr. Ryan, Ms. Snyder, Mr. Wells, Mr. Wessels and Ms. Weldon in favor. The motioned carried.

#### PUBLIC HEARINGS:

1712R

APPLICANT: Corporex, per Steven J. Massicot, Director, on behalf of Transpark, Inc. and William P. Butler.

LOCATION: An approximate 1-acre area located at the southeast corner of the intersection of E RiverCenter Boulevard with Scott Street, Covington.

REQUEST: Review of two (2) alternative Stage I Development Plans, for the area described herein, which is currently zoned CBD (Central Business District Zone), including the review and action/ reaffirmation on variances, as permitted by the Covington Zoning Ordinance (this issue was tabled at the commission's December 2, 2004 meeting).

Staff recommendations and Staff presentation by Mr. Michael Schwartz.

#### NKAPC STAFF RECOMMENDATION:

Recommendation A:

To approve the two (2) alternative Stage I Development Plans, but only subject to compliance with the following condition:

1. That the development plans be revised to meet the minimum requirements of the Covington Zoning Ordinance.

Recommendation B:

To approve/reaffirm the requested variances.

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:

Recommendation A:

1. The two (2) alternative Stage I Development Plans meets the minimum requirements of the Covington Zoning Ordinance and the approved Chapter 99 Central Covington Development plan with the exception of the following:

a. Space and height standards, including setbacks, are set forth in the Covington Zoning Ordinance within the CBD Zone and the Central Covington Development Plan. The applicant has requested a variance for setback requirements.

b. Section 158.118 (K) and (W) of the Covington Zoning Ordinance set forth regulations for off-street parking requirements. Multi-family dwellings are required to have one and one half (1-1/2) off-street parking spaces per dwelling unit and retail and personal service stores are required to have 5.5 off-street parking spaces per 1,000 square feet of gross leasable area. Based on the maximum of 12,000 square feet of retail area and a maximum of 85 residential dwelling units proposed on the submitted development plans, 194 off-street parking spaces are required. However, Section 158.115 (B) states that exceptions may be made for projects occurring within the Central Covington Development Plan, where the city has acquired the property and has contractual agreement for redevelopment with a preferred developer. In these cases the number of spaces required shall be equal to the number of spaces provided in the approved redevelopment plan. The submitted Stage I Development Plans identify that 130 to 170 off-street parking spaces are planned. The applicant has also submitted information indicating that a minimum of one and one half (1-1/2) off-street parking spaces per dwelling unit will be provided on site. It is the opinion of staff that this is sufficient parking for the proposed residential units and the majority of the retail space. Any overflow has opportunity for parking at the parking garage or parking lot immediately adjacent to the site in question.

c. Section 158.139 of the Covington Zoning Ordinance sets forth regulations for fences and walls. While the applicant has provided a statement indicating that any fences and walls will meet the minimum

requirements of the Covington Zoning Ordinance, insufficient information has been submitted to determine compliance with these regulations.

d. Section 158.151 of the Covington Zoning Ordinance sets forth regulations pertaining to signs. While the applicant has provided a statement indicating that any signs will meet the minimum requirements of the Covington Zoning Ordinance, insufficient information has been submitted to determine compliance with these regulations.

2. The proposed development plans identify a mixed use building, providing for retail/service and residential uses within a signature building located in the downtown core of the city of Covington. Given the architectural design process and the marketing/financing necessary for a project of this scale, it is reasonable to allow for two (2) alternative development plans. If approved, the developer would then have the flexibility to move forward with either development plan or a plan using a combination of elements contained in each plan.

Recommendation B:

1. KRS Chapter 100.203 (5) and Section 158.190 (G) of the Covington Zoning Ordinance empowers the planning commission, when requested by the applicant, to hear and finally decide applications for variances when a proposed development plan requires a map amendment and one (1) or more variances.

Before any variance(s) is granted, the planning commission, per Section 158.206 (4) of the Covington Zoning Ordinance, must find that the granting of the variance(s) will not adversely affect the public health, safety, or welfare, will not alter the essential character of the area, will not cause a hazard or nuisance, and will not allow an unreasonable circumvention of the zoning regulations. In making these findings the planning commission shall consider the following:

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone.
- b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.
- c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

2. The applicant has requested the following variances:

Existing Approved Stage I Development Plan Alternative A Proposed Alternate Stage I Development Plan Alternative B CBD Zone, Per Covington Zoning Ordinance Central Covington Development Plan

Maximum Building Height 17 stories 21 stories None None

Minimum Front Yard Setback (along Scott Boulevard) 0 feet 0 feet 0 feet 0 feet

Minimum Rear Yard setback (along Roebling Suspension Bridge Yoke 0 feet 0 feet 0 feet 25 feet

Minimum Side Yard Setback (along E RiverCenter Boulevard) 0 feet 0 feet 1-1/2 feet per floor for

residential structures 15 feet

Minimum Side Yard Setback (along Roebling Suspension Bridge Yoke) 10 feet 10 feet 1-1/2 feet per floor for residential structures 15 feet

3. The proposed development plans incorporate innovative building design that does not include one continuous wall face along the western portion of the site in question. The proposed plaza, the subject of the requested variances, is only approximately two stories above grade. The portion of the development that will be closest to the property line includes the proposed retail uses along Scott Street and RiverCenter Boulevard. It is important, in this area, to maintain pedestrian elements of design that include window front shopping, which would not be practical with a large setback. Therefore the proposed zero front and side yard setbacks along Scott Street and RiverCenter Boulevard are not an unreasonable circumvention of the zoning ordinance or Central Covington Development Plan development controls.

4. The area adjacent to the south of the site in question consists of landscaped right of way and street system that places the nearest adjacent property line approximately 150 feet away. The area adjacent to the east of the site in question consists of landscaped right of way and street system that places the nearest adjacent property line approximately 80 feet away. The submitted development plans identify a proposed side yard setback of ten (10) feet to the south and a zero rear yard setback to the west. The proposed side yard setback includes a ten (10) foot landscape buffer. The proposed pool deck is proposed to be approximately two stories above grade. These circumstances are unique to the site and therefore the requested variance is not an unreasonable circumvention of the zoning ordinance or Central Covington Development Plan development controls.

5. The site in question is surrounded by streets on all sides. The majority of the surrounding properties are bounded at least on one side by buildings and not right of way or open space. Therefore, the requested variance arises from special circumstances that do not generally apply to land in the general vicinity.

6. The strict application of setbacks for the site in question would deprive the applicant of reasonable use of the land and likely not lead to improvements as proposed. If the site in question is allowed to be improved, it could lead to other improvements to existing conditions within the area.

7. Granting the requested variances will not adversely affect the public health, safety, or welfare, will not alter the essential character of the area, will not cause a hazard or nuisance, and will not have a significant negative impact on adjacent properties.

Mr. William Butler and Mr. Steven Massico registered to speak in favor of the issue. No one registered to speak against.

Mr. Butler addressed the Commission and stated that Staff had done a tremendous job so he would defer his lengthy narrative due to the length of the evening's agenda. He noted he would like the packet he

distributed to be marked as an exhibit to be made a part of the record on the matter. He noted they would prefer to build alternative plan B. He additionally noted the architect they have working on the project was involved in the new World Trade Center building as well as another building development they have in Denver. Mr. Butler acknowledged it is unusual to ask for approval of two development plans but they did that because of the city's urban design review board. He stated they are really before the Commission because they went before the city and there was a question of whether these were minor or major changes being requested. He then noted that the only real difference is the height of the building and that is why the issue was brought back. He stated they believe the retail is going to be pedestrian in nature as well as the residents of the building. He additionally noted the numerous parking garages in the direct vicinity of the development. He stated they have no problem with the conditions. Mr. Butler then noted they are asking for a reaffirmation of alternative A and approval of alternative B. He then stated it will be one design or the other and not a combination of the two.

Mr. Massicot addressed the Commission and stated he had nothing to add but was available to answer any questions.

Following a brief discussion by the Commissioners, Mr. Eilerman made the motion to approve 1712R, the two alternative Stage I Development Plans, based on the recommendations contained in Staff's report. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Ryan, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hadley, Mr. Hushebeck, Ms. Snyder, Mr. Wessels and Ms. Weldon in favor. The motion carried unanimously. Mr. Eilerman then made the motion to approve and reaffirm the recommended variances based on the recommendations of Staff. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Ryan, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hadley, Mr. Hushebeck, Ms. Snyder, Mr. Wessels and Ms. Weldon in favor. The motion carried unanimously.

1724R

APPLICANT: City of Taylor Mill, per Jill C. Bailey

LOCATION: N. A.

REQUEST: Proposed text amendments to the Taylor Mill Zoning Ordinance adding funeral homes, with certain restrictions, to the list of conditional uses within the residential zones.

Staff presentation and Staff recommendations by Mr. Mike Schwartz.

**NKAPC STAFF RECOMMENDATION:**

To approve the proposed text amendments, but only subject to the condition that the proposed text read as follows: "Funeral homes, provided that they are located adjacent to an arterial or collector 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 text amendments, except as noted under condition, are allowed to be included within the text of the zoning ordinance as authorized by Kentucky Revised Statute (KRS) 100.202(1) (see Attachments A through J).
2. The proposed text amendments, except as noted under conditions, are consistent with the definition of a conditional use. Funeral homes are semi-public uses that have traditionally been located in, or near, residential activities.
3. The proposed text amendments, except as noted under condition, are reasonable and appropriate. Adding funeral home as a conditional use in the residential zones will allow for their proper integration through a public hearing process.
4. The proposed text amendment would require funeral homes to be located on a separate lot or parcel of real estate. Section 9.10, E. of the Taylor Mill Zoning Ordinance reads as follows: "Except as herein provided, every structure hereafter erected shall be located on a lot as herein defined and in no case shall there be more than one (1) principal building and permitted accessory structures on one (1) lot, nor shall any building be erected on any lot which does not abut a public right-of-way..." The requirement that funeral homes be located on a separate lot or parcel of real estate is, therefore, unnecessary and should be deleted.
5. The proposed text amendment would require funeral homes to abut and have access to an arterial or collector street. There may be cases where the proposed lot abuts an arterial or collector street, and because of spacing requirements or other physical factors, may not have access to the street. These are the situations where the board of adjustment, through the public hearing process, should have the ability to evaluate such circumstances and make decisions accordingly. Therefore, it is recommended that the requirement for accessing the site via an arterial or collector street should be deleted.

No one registered to speak for or against the issue.

A motion was made by Mr. Bertram to approve based on Staff's recommendations. Mr. France seconded the motion. A roll call vote on the matter found Mr. Bertram, Mr. France, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. Hadley, Mr. Hushebeck, Mr. Ryan, Ms. Snyder, Mr. Wessels and Ms. Weldon in favor. Mr. Darpel voted against. The motion carried with a vote of 12-1.

1725R

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

LOCATION: N. A.

REQUEST: A proposed text amendment to the Independence Zoning Ordinance, adding indoor shooting

range to the list of permitted uses within the RC-2 (a rural commercial two) Zone.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

#### NKAPC STAFF RECOMMENDATION:

To approve the proposed text amendment, but only subject to the condition that the proposed use be added as a conditional use within the RC-2 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, except as noted under condition, is allowed to be included within the text of the zoning ordinance as authorized by Kentucky Revised Statute (KRS) 100.202(1) (see Attachments A).
2. The proposed text amendment is consistent with many uses currently listed within the RC-2 Zone (i. e., automobile repair and detailing facilities, lumber companies, contractor's offices, crating services, and machine tool shops). However, the proposed use also is inconsistent with many of the other uses currently listed within the RC-2 Zone (i.e., bakeries, drug stores, food stores, offices, and restaurants). To protect existing uses at a given location, the Board of Adjustment can better determine the appropriateness of allowing a shooting range. As a conditional use, the Board of Adjustment would have to hold a public hearing prior to granting a conditional use permit. Therefore, it is recommended that the proposed use be added as a conditional use within the RC-2 Zone.
3. The only area within the city of Independence that is currently zoned RC-2 is located at the southwest corner of the intersection of Richardson Road with Old Richardson Road.

In May 2002, the Dehlinger Company, Inc., per Bill Dehlinger, on behalf of Robert Schroeder, submitted an application for NKAPC and KCPC review and recommendation on a proposed map amendment to the Independence Zoning Ordinance for an approximate 5.4 acre area located at the southwest corner of the intersection of Richardson Road with Old Richardson Road, from R-1A to RC-2 (Z-02-05-05/1567R). Both the NKAPC staff and the KCPC recommended approval of the proposed map amendment. The bases for such recommendations were: (1) that the site was physically and visibly isolated from adjoining properties and that due to that isolation, development within the RC-2 Zone would not have a significant negative impact on adjoining properties; and (2) development within the RC-2 Zone would not have the effect of introducing non-residential uses within the area since an automobile shop and an industrial facility were located within 400 feet of the site.

While this area is currently the only area zoned RC-2 within the city and may be appropriate for an indoor shooting range, it cannot be guaranteed that this will remain the only RC-2 Zone within the city. If the proposed use is added as a permitted use, it would be allowed within all RC-2 Zones, regardless of location. If the use is added as a conditional use, the Board of Adjustment would have the opportunity to evaluate its location no matter where the RC-2 Zone may be applied within the city. Therefore, it is recommended that the proposed use be added as a conditional use within the RC-2 Zone.

4. While an indoor shooting range may not be directly consistent with the definition of a conditional use, an indoor shooting range, along with the associated issues, lends itself to greater scrutiny. The conditional use process, via a public hearing before the local board of adjustment, is the only process available to assure that such a use will be properly integrated into the community.

Mr. Bill Dehlinger, Mr. Homer Cole and Mr. Alex Logsdon registered to speak in favor of the issue. No one registered to speak against.

Mr. Dehlinger addressed the Commission and stated they went to the city and they were in favor of the shooting range. He stated they noted the Kenton County Police as well as the local police would use the range. He further noted he feels there is a need for this type of use in the area. He stated the design is encased in concrete with the lower level being the shooting range. He additionally stated there would not be an issue with the noise.

Mr. Cole addressed the Commission and stated they have given a lot of thought to the noise and safety issue. He stated because it is sub level there will be no noise and it is safe. He noted he has no problems with the conditions.

Mr. Logsdon addressed the Commission and stated he had nothing to add.

Following a brief discussion among the Commissioners, Mr. France made the motion to approve per Staff's recommendation as a conditional use. Mr. Darpel seconded the motion. A roll call vote on the matter found Mr. France, Mr. Darpel, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. Hadley, Mr. Hushebeck, Mr. Ryan, Ms. Snyder and Ms. Weldon in favor. Mr. Wessels voted against. Mr. Wells abstained. The motion carried with a vote of 12-1.

1726R

APPLICANT: City of Crescent Springs, per Mayor Claire Moriconi

LOCATION: N. A.

REQUEST: A proposed text amendment to the Crescent Springs Zoning Ordinance, adding offices to the list of permitted uses in the LHS (Limited Highway Service) Zone.

Staff presentation and Staff recommendations by Melissa Jort-Conway.

## NKAPC STAFF RECOMMENDATION:

To disapprove the proposed text amendment adding offices to the list of permitted uses in the LHS (Limited Highway Service) 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 offices to the list of permitted uses in the LHS (Limited Highway Service) Zone is not consistent with the intent of the LHS Zone. The intent of the LHS Zone is to provide a zone which permits a limited variety of service uses oriented to the traveling public. Offices are not considered a use which is oriented to the traveling public.

2. The proposed text amendment adding offices to the list of permitted uses in the LHS (Limited Highway Service) Zone is not consistent with other permitted uses in the LHS Zone. The LHS Zone currently permits automobile laundry, banks and other financial institutions, hotels and motels, office and product display area, package liquor and wine store, restaurants and service stations. There is no clear definition of office and product display area within the Crescent Springs Zoning Ordinance.

Mr. Vergamini, Mr. Mike Cline and Marty Haubman registered to speak on the issue.

Mr. Vergamini addressed the Commission and stated he is asking the Commission to adopt the text amendment as proposed. He stated they are asking that it be permanent to allow the city more flexibility and to allow for more development. He additionally noted it is in compliance with the Comprehensive Plan.

Mr. Cline addressed the Commission and stated they are proposing putting in professional office space in the city but did not meet the requirements so therefore they came before the Commission requesting a map amendment. He stated they are proposing a 9,000 square foot office building on the site. He stated their use will have less traffic than retail and additionally noted they will be doing improvements to the site.

Following a brief discussion by the Commissioners, Mr. Eilerman made the motion to approve based on the fact that it is consistent with other LHS zones and that it is in compliance with the Comprehensive Plan. Mr. Hadley seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Hadley, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. France, Mr. Hushebeck, Mr. Ryan, Ms. Snyder, Mr. Wells, Mr. Wessels and Ms. Weldon in favor. Mr. Darpel voted against. The motion passed with a vote of 12-1.

1727R

APPLICANT: Melissa Gaines, on behalf of Mary Haskamp, Executrix.

LOCATION: An approximate 0.4-acre area located along the northeast side of Buttermilk Pike, between Harris Street and Anderson Road, approximately 100 feet southeast of Harris Street, Crescent Springs.

REQUEST: A proposed map amendment to the Crescent Springs Zoning Ordinance, changing the area described herein from R-1F (P) PO (a single-family residential zone with a phased professional office building zone) to PO (a professional office building zone).

Staff presentation and Staff recommendations by Melissa Jort-Conway.

#### NKAPC STAFF RECOMMENDATION:

To approve the proposed map amendment from R-1F (P) PO to PO, but only subject to compliance with the following conditions:

1. That the development plan be amended to provide an easement or other means of unencumbered access to the adjoining off-street parking areas to the northwest and southeast of the site in question.
2. That the curb cut at 630 Buttermilk Pike be eliminated.
3. That the existing curb cut on Buttermilk Pike be classified as a temporary right-of-way.

#### 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-1F (P) PO to PO is consistent with the Recommended Land Use Plan Element of the 2001 Area Wide Comprehensive Plan Update which identifies the site for Commercial-Office development. The proposed map amendment will allow the existing structures on the site to be redeveloped to office uses.
2. The proposed map amendment from R-1F (P) PO to PO is consistent with the phased PO zoning classification. Phased zoning is an overlay regulation which is used in cases where the timing and/or phasing of the zoning of an area is especially critical to the implementation of the Area Wide Comprehensive Plan. The intent of phased zoning is to encourage redevelopment of a specified area for the land use designated within the comprehensive plan when the necessary conditions for development are realized.
3. Section 11.3, C., of the Crescent Springs 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. There is an adjacent off-street parking area on the adjoining property to the southeast of the site in question. It is recommended therefore, that the development plan be amended to provide an easement or other means of unencumbered access to the adjoining off-street parking areas to the northwest and southeast of the site in question.

4. Section 11.3, F., 1., of the Crescent Springs Zoning Ordinance requires a minimum spacing of six hundred (600) feet between adjacent access points on arterial streets. The submitted development plan identifies access to the site in question to be provided via an existing curb cut off of Buttermilk Pike. There is a second curb cut and driveway at 630 Buttermilk Pike immediately southeast of the proposed access. It is therefore recommended that the curb cut at 630 Buttermilk Pike be eliminated.

5. Section 11.3., F., 1., d., Crescent Springs Zoning Ordinance states that curb cuts which do not meet the spacing requirements on arterial streets may be classified as temporary right-of-way and may be terminated, reduced, limited to certain turning movements, or caused to be relocated by the zoning administrator at such time as the particular use served by the access point changes and/or the property is otherwise provided an alternate means of access via a frontage road, or an intersecting local street, or sharing of a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where said access points are classified as temporary, such designation shall be duly noted on the plot plan or site plan submitted for a zoning permit and also upon the deed of the property in question. It is recommended that the existing curb cut off Buttermilk Pike be classified as a temporary right-of-way.

Ms. Melissa Gaines, Mr. Richard Shelley, Mr. Jim Storer and Mr. Gary Haskamp registered to speak on the issue.

Ms. Gaines addressed the Commission and stated she is the operator of the Edward Jones office. She stated she is moving her business to one of the buildings next door. She stated she has no questions about the easements but that she would like a stipulation as to the sharing of the easement and expenses. She also noted she is opposed to the elimination of the curb cut because it adversely affects her property. She additionally noted she does not want to limit the access to her property down the road.

Mr. Shelley addressed the Commission and stated he just wanted clarification on the easement issue. He stated he owns the property located at 634 Buttermilk Pike and just wanted to be certain that the easement would be between the three property owners at a later time.

A short discussion was had amongst the Commissioners regarding the easement and what was required of the applicant. Mr. Schneider clarified the use of an easement as it related to the issue. Mr. Hushebeck suggested adding alternate verbiage to clarify the easement issue. Following the discussion Mr. Hushebeck made the motion to approve based on Staff's report and to amend item (condition) one at the end to include "similar shared mutually agreed upon access agreements among the joint property

owners" and amending items (conditions) two and three, eliminating item two and amending item three to read "that the two existing curb cuts on Buttermilk Pike be classified as a temporary right-of-way and that the curb cut to 630 Buttermilk Pike be used only for garage access." The motion was seconded by Mr. Darpel. A roll call vote on the matter found Mr. Hushebeck, Mr. Darpel, Mr. Bertram, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Wells, Mr. Wessels and Ms. Weldon in favor. The motion carried unanimously.

At this time (8:10 p.m.) a ten minute break was taken.

\*Mr. Bertram and Mr. Hushebeck withdrew from the following issue due to a conflict of interest with their employers.

1728R

APPLICANT: One Eleven Engineering and Surveying, PLLC, per Mr. Darren Eyre, on behalf of Howell H. and Brenda C. Mahaney.

LOCATION: An approximate 50-acre area located along the south side of Cody Road, between the CSX Railroad and Upton Drive, approximately 500 feet west of Upton 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-1C (PUD) (a single-family residential zone with a Planned Unit Development overlay zone).

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

NKAPC STAFF RECOMMENDATION:

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

1. That in conjunction with the approval of the proposed map amendment and Stage I Development Plan, the City of Independence determines whether or not to close Cody Road at the Banklick Creek/ CSX Railroad crossing.
2. That a responsible authority be assigned for the maintenance and management of the open space areas identified in the submitted development plan, such as a Homeowners' Association (HOA) or the Kenton Conservancy.
3. That each single-family dwelling unit be provided with a minimum of two (2) off-street parking spaces, and each two-family dwelling unit be provided with a minimum of four (4) off-street parking spaces.
4. That additional pedestrian access to the proposed open space area be provided in the vicinity of lots 88 and 89.

## 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 R-1C (PUD), as conditioned, 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 2.1 to 4.0 dwelling units per net acre, Physically Restrictive Development Area (PRDA) and Recreation and Open Space uses.

The proposed R-1C (PUD) Zone will allow the development of 117 single and two-family residential dwellings at a maximum density of approximately 2.4 dwelling units per net acre. The Planned Unit Development (PUD) Overlay Zone provides flexibility in the design and, to the greatest extent possible, allows for the preservation of the open space adjacent to the Banklick Creek as well as existing hillside areas while providing suitably located recreational walking trails.

2. The proposed map amendment from R-1C to R-1C (PUD) is consistent with the Goals and Objectives section of the 2001 Area-Wide Comprehensive Plan Update which pertains to the provision of housing and recreational opportunities. Sections of the Plan read as follows:

### HOUSING - RESIDENTIAL DEVELOPMENT

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

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

The proposed map amendment from R-1C to R-1C (PUD) will provide for the development of 82 single-family and 35 two-family dwellings, thus expanding the choice of housing to the surrounding population.

### RECREATION AND OPEN SPACE

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

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

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

The west side of the site in question is identified as Physically Restrictive Development Area (PRDA) along Banklick Creek and Recreation and Open Space uses. The proposed map amendment from R-1C to R-1C (PUD) provides for the conservation of steep hillsides and greenspace on the site while allowing the dwelling units along the existing ridgeline. Recreational opportunities are provided through walking/hiking trails which provide an accessible and useable connection to open space areas and the Banklick Creek.

3. The Area-Wide Comprehensive Plan Update identifies the area of the proposed map amendment as part of the "park-link system", one part of which stretches from the Boone/Kenton County line and extends along the Ohio and Licking riverfronts and south along Banklick Creek. The purpose of the park-link system is to connect existing and proposed parks, historic sites and districts, and scenic areas, with hiking trails, bike paths, and pedestrian walkways along streams and rivers. Retaining this area as part of the park-link system and allowing for public access would be consistent with the Comprehensive Plan while providing an extension of the proposed trails to the immediate north of the site in question.

4. Section 10.12, L., of the Independence Zoning Ordinance states that at least twenty percent (20%) of the total acreage of the proposed PUD be retained as common open space/recreation area, and dedicated to a public and/or private entity for operation and maintenance. The submitted development plan identifies thirty-four (34%) of the total acreage to be retained as open space with public access provided via five (5) foot wide recreational walking trails. Insufficient information has been submitted to determine the authority responsible for maintaining and managing the open space/recreational area of the development. It is therefore recommended that a responsible authority be assigned for the maintenance and management of the open space/recreational area identified in the submitted development plan, such as a Homeowners' Association (HOA) or the Kenton Conservancy.

5. In discussions with the Kenton County Public Works Department, staff was told that due to water table problems and the instability of the road in the area of the proposed development, Cody Road is slated to close at the creek/CSX railroad crossing. The County is currently in the process of acquiring the necessary right-of-way to install two (2) turnaround areas to the east and west of the crossing. The County has indicated it is the option of the City of Independence to keep Cody Road open and take over the required maintenance of the road. It is therefore recommended that prior to approval of the proposed map amendment and Stage I Development Plan, the City of Independence determines whether to keep Cody Road open and assume the responsibility to perform the required maintenance.

6. Section 10.12, I, states that off-street parking shall be in accord with Article XI of the Independence Zoning Ordinance. Section 11.2, K, requires that single family dwelling units be provided with a minimum of two (2) off-street parking spaces and two-family dwelling units be provided with a minimum of four (4) off-street parking spaces. Insufficient information has been submitted to determine compliance with this requirement. It is therefore recommended that single-family dwelling unit be provided with a minimum of two (2) off-street parking spaces and each two-family dwelling unit be provided with a minimum of four (4) off-street parking spaces.

7. Section 10.12, L., of the Independence Zoning Ordinance states that open space/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all residents of the PUD. The submitted development plan does not provide for sufficient pedestrian connection between the proposed open space area and the internal street system. It is recommended that additional pedestrian access be provided in the vicinity of lots 88 and 89.

#### Additional Information:

1. The final design of the proposed development is dependent upon whether or not to close Cody Road at the Banklick Creek/CSX Railroad crossing. In the event that the road remains open, staff and the Kenton County Public Works Department have expressed concerns with the proposed realignment of Cody Road into the proposed development. It is important to note that the final alignment of Cody Road into the proposed development will be determined at the Preliminary Plat approval stage.

2. To allow for additional conservation of vegetation in the open space areas and to minimize grading in areas of the site which contain steep slopes, consideration should be given to reducing the rear yard setbacks in the area of lots 41 to 47 and lots 15 to 20.

Ms. Weldon read a letter into the record received from the Kenton County Public Works Department with regard to the issue. The letter was then marked as an exhibit to be made a part of the record.

Mr. Bertram and Mr. Eyre registered to speak in favor of the issue. Ms. Peggy Bradley registered to speak against. Mr. Karan, Mr. Zerhusen and Ms. Brenda Mahaney registered to speak with questions.

Mr. Eyre addressed the Commission and stated they have no issues with the four conditions set by Staff. He stated they had discussions with Kenton County Public Works with regard to the alignment. Mr. Eyre additionally stated they do not know where the alignment is going to be at this point if the road remains open.

Mr. Bertram addressed the Commission and stated with regard to the alignment that the roadway is going to be widened to 28 feet to provide for a through street if it is closed. He stated they are trying to do the development where it doesn't have site distance issues. He additionally stated the big issue was a through connection through Cody. He noted they are reducing the costs of the city because the road would be brought up through their development. Mr. Bertram also stated he would like to donate the

green space to the conservancy to protect Banklick Creek. He further noted a sizeable area will be left open around the Creek and smaller lots to minimize the grading.

Ms. Bradley addressed the Commission and stated her big concern is there will be all these houses around them and they don't have city water or sewer like the development will have. She stated they pay taxes too and feel they should have city water and sewer. Mr. Bertram then noted he will be bringing the water up because he would have to. She stated her concerns with property values if the properties around them have city water and they have cisterns.

Mr. Zerhusen addressed the Commission and stated concerns at closing Cody Road. He asked if the traffic could be re-routed through the other property on Wolzing Farm. He additionally asked about the proposed two-family homes and what might happen to the rentals down the road. Mr. Bertram then stated the city will probably require them to do some sort of upscale duplex in the development. Mr. Bertram also noted they don't want some lesser quality development being in the city. Mr. Bertram further noted the property is near the railroad tracks and you can't build \$300,000 homes near railroad tracks.

All others registered had nothing to add.

Following a brief discussion Mr. Wessels made the motion to approve with the conditions as recommended by Staff. Mr. Cook seconded the motion. A roll call vote on the motion found Mr. Wessels, Mr. Cook, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Wells and Ms. Weldon in favor. Mr. Bertram and Mr. Hushebeck withdrew. The motion carried with a vote of 12-0.

1718R

APPLICANT: Kenton County Planning Commission (per Ms. Alex Weldon, Chair)

LOCATION: Incorporated and Unincorporated Kenton County

REQUEST: Amendments to the Kenton County Subdivision Regulations as follows: (1) Article I, Purpose and Authority; (2) Article III, Procedure for Subdivision Approval; (3) Article VI, Design Standards for the Layout of Subdivisions; (4) Article VII, Infrastructure Improvements; (5) Article VIII, Administration and Enforcement; and (6) Article IX, Adoption, Amendment and Effective Date.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION:

Adopt Attachments "A through G" regarding: (1) Article I, Purpose and Authority; (2) Article III, Procedure for Subdivision Approval; (3) Article VI, Design Standards for the Layout of Subdivisions; (4) Article VII, Infrastructure Improvements; (5) Article VIII, Administration and Enforcement; and (6) Article IX, Adoption, Amendment and Effective Date.

## Comprehensive Plan Documentation:

Date of adoption by the Kenton County Planning Commission: December 18, 2001.

### Bases For Recommendation:

1. The proposed amendments are consistent with the goals and objectives contained within the 2001 Area-Wide Comprehensive Plan;
2. The proposed amendments are consistent with the Kentucky Revised Statutes 100.281 which states: "Subdivision regulations shall be based on the comprehensive plan, in those counties which have adopted a comprehensive plan, and all subdivision regulations shall contain:
  - (1) The procedure for the submission and approval of preliminary and final plat and the recordation of final plats. The commission may delegate to its secretary or any other officer or employee the power to approve plats in accordance with the commission's adopted requirements. . .";
3. The proposed amendments create a more cohesive set of regulations that detail the entire process for developing and dividing land within one single Article.
4. The proposed amendments create regulations that contain a clearer vision of the intent and purpose of the process for developing and dividing land by providing for the administrative review of preliminary plats by the planning commission's duly authorized representative.
5. The proposed amendments provide for early coordination between an applicant and regulatory authorities to identify problematic components of a preliminary plat proposal, suggest improvements that will speed the review and approval process, and avoid future costly plan revisions.
6. The proposed amendments clearly identify that the authority to review and take action on preliminary plats has been delegated to the planning commission's duly authorized representative and eliminates obsolete references to regulation Articles and Sections that are no longer applicable.

Mr. Wessels thanked Mr. Hiles for his work and efforts with regard to amending the Subdivision Regulations. Mr. Hiles noted this was the only time he received support from the Home Builders Association on an issue in his nine years with the NKAPC. Mr. Wessels then made the motion to approve based on the recommendations of Staff. Mr. Darpel seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Darpel, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hushebeck, Mr. Ryan, Ms. Snyder, Mr. Wells and Ms. Weldon in favor. Mr. Bertram left the meeting at 9:30 p.m. prior to the vote being taken. The motion carried with a vote of 13-0. Ms. Weldon also thanked Mr. Hiles and the Commission for all their hard work on the amendments to the subdivision regulations.

## OLD AND UNFINISHED BUSINESS:

### By-Laws

Mr. Schwartz spoke on the By-Laws issue in Mr. Gordon's absence. He highlighted and discussed specific changes within the By-Laws. Mr. Wessels noted his thoughts with regard to the wording of tabling issues. Further discussion was had with regard to item no. 5. Following the discussion item no. 5 was taken out of the regulations. Further discussion as to item no. 6 led to the same result and no. 6 was removed as well. Item 12A was disregarded since the tabling issue was being kept from page two. IT was noted that 12G and 12H would be removed. The words "or discuss" and "or do these things" was deleted from item no. 15.

Mr. Schneider then noted he received an email from Mr. Gordon as to the definition of direct and indirect. He noted from their research that it was better to define what it is not versus what it is. Mr. Schneider stated he was distributing the Attorney General's definition to use as a guide but that he felt it should remain as it is. It was noted the words "under article 8" should be removed from page 12 of the By-Laws re-draft.

There being no further discussion, changes or amendments to the By-Laws re-drafting, Mr. Wessels then made the motion to approve. Mr. Cook seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Cook, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hushebeck, Mr. Ryan, Ms. Snyder, Mr. Wells and Ms. Weldon in favor. The motion carried unanimously.

### Reports from Committees:

Nothing reported.

### Report from Legal Counsel:

Mr. Schneider had nothing to report.

### Reports/Announcements from Staff:

Mr. Hiles noted the NKAPC is sponsoring a pavement management systems seminar on March 29th at 5:00 p.m. He asked the Commissioners if they would spread the word about the seminar. Mr. Schwartz noted three upcoming continuing education events to attend to meet continuing education requirements. Mr. Schwartz asked for permission to approve the items. Mr. Wessels then made the motion to approve the items for continuing education purposes. Mr. Ryan seconded the motion. All in favor. None opposed.

Mr. Schwartz additionally noted two house bills that recently took effect for information purposes.

Correspondence: None.

New Business: See By-Laws

There being no further business to come before the Commission, Mr. Wessels made the motion to adjourn. Mr. Hadley seconded the motion. All in favor. None opposed. The meeting was adjourned at 9:45 p.m.