



KC&MP&ZC MINUTES

KENTON COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION REGULAR MEETING

April 14, 2005
6:15 P.M.

Crescent Springs City Building
739 Buttermilk Pike
Crescent Springs, Kentucky

MINUTES

COMMISSION MEMBERS PRESENT:

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. Greg Scheper - Crescent Springs
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
Mr. David Hilgeford - Villa Hills
Mr. Mark Hushebeck - Lakeside Park
Mr. Phil Ryan - Park Hills Mr.
Ms. Maura Snyder - Independence

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.

There were no changes noted to the agenda.

APPROVAL OF THE MINUTES:

A motion was made by Mr. Wessels to approve the minutes from March. Mr. Price seconded the motion. Mr. Wessels clarified that the motion was for both the morning and evening session minutes from March. A roll call vote on the matter found Mr. Wessels, Mr. Price, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. Mr. Scheper abstained. The motion carried unanimously.

ACTIONS SINCE LAST MEETING:

It was noted by Ms. Weldon that the subdivision item actions since last month were distributed for information purposes only as those issues are handled by Staff now pursuant to the change in by-laws at last month's meeting.

FINANCE REPORT:

Mr. Wessels noted the budget was reflecting \$18,000 over budget. Mr. Gordon addressed the Commission as to the differences in the budget and noted the Commission is clearly in the black. There were no other comments with regard to the finance report.

Ms. Weldon then read the Memo of Understanding with the NKAPC for the renovations of the space on Royal Drive. Following a discussion on the matter it was agreed that it would be best to table any action pending further review. Mr. Darpel made the motion to table to allow for additional review on the matter. Mr. Price seconded the motion. All in favor. None opposed.

PUBLIC HEARINGS:

1730R

APPLICANT: Law/Kingdon, Inc., per Forrest Lynn Walker, on behalf of Wal-Mart Real estate Business Trust.

LOCATION: An approximate 25-acre area located at the west side of Valleyplaza Parkway, between Highland Pike and Orphanage Road, approximately 500 feet south of Highland Pike, Fort Wright.

REQUEST: Review of an amended Stage I Development Plan, for the site in question, which is currently zoned NSC (C-PUD) (a neighborhood shopping center zone with a commercial planned unit development overlay zone).

Staff recommendations and Staff presentation by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION:

To approve the amended Stage I Development Plan, but only subject to compliance with the condition that all provisions of Fort Wright Ordinance Number 9-02 continue to be in effect.

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 amended Stage I Development Plan, except as noted under condition, meets the minimum requirements of Fort Wright Ordinance Number 9-02 and the Fort Wright Zoning Ordinance.
2. The proposed addition represents a relatively small building addition and will not alter the spatial character of the building. The proposed addition represents an approximate 2.6% increase in building area. Additionally, the proposed building addition will not extend beyond the existing building envelope.
3. Fort Wright Ordinance 9-02 contains several conditions related to operational issues of the existing Wal - Mart facility. The proposed condition is intended to clarify that approval of the proposed amended Stage I Development Plan does not negate or eliminate the need to comply with these operational conditions.

No one registered to speak for or against the issue.

Mr. Wessels made the motion to approve based on Staff's report and recommendations. Mr. Price seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Price, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Scheper, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

1732R

APPLICANT: Don C. and Betty Saylor

LOCATION: An approximate 60-acre area located along the north side of Klette Road, between Taylor Mill Road and Saylor's Road, approximately one (1) mile east of Taylor Mill Road, Latonia Lakes.

REQUEST: A proposed map amendment to the Latonia Lakes Zoning Ordinance, changing the area described herein from R-RE (a residential rural estate zone) to R-1C (a single-family residential zone).

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

NKAPC STAFF RECOMMENDATION:

To approve the proposed map amendment from R-RE to R-1C.

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-RE to R-1C 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 and Physically Restrictive Development Area (PRDA).

The proposed R-1C Zone will allow the site in question to be developed with detached single-family residential dwellings at maximum density of 3.5 dwelling units per net acre.

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

HOUSING - RESIDENTIAL DEVELOPMENT

To provide safe and sanitary housing to all residents.

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

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.

To achieve the goals of this element without unduly disrupting the goals of other elements. Effort should be made to ensure that areas which are proposed to be developed for purely residential purposes are protected from the intrusion of incompatible land uses. Development of new urban residential areas should be promoted only where they can be reasonably and economically served with essential public services.

The proposed map amendment from R-RE to R-1C will provide for the development of single-family residential dwellings, thus providing new housing opportunities in the city of Latonia Lakes.

3. The proposed map amendment from R-RE to R-1C is consistent with the zoning of the area to the east and northwest of the site, which is currently zoned R-1C.

Additional Information:

It is recommended that the design of future development of the site take into consideration the protection and conservation of steep slopes and stream corridors by concentrating the development footprint within the central area of the site which has less severe slopes.

Mr. Jamie Lusk, Mr. Adam Cheney, Mr. Phil Drees, Mr. Justin Verst, Mr. Bill Viox, Mayor Bill Dorgan and Mr. Dern registered to speak in favor of the issue.

Mr. Lusk addressed the Commission and distributed a concept development plan to all Commissioners. He stated he is representing the developer on the issue and gave some information on the development group. Mr. Lusk sited some recent development properties their firm has developed. He stated he was available to answer any questions and turned the issue over to Mr. Justin Verst.

Mr. Verst addressed the Commission and stated they are asking for an R-1C Zone. He stated they will have a mix of 80-100 foot wide lots. He stated they will honor the conditions set forth by Staff as to the steep slopes. He additionally stated the zone request falls within the requirements of the Comprehensive Plan. He further noted a geotechnical engineer will be involved with the development to ensure the hillside remains stable. Mr. Wessels asked about the lot lines as indicated on the handout. Mr. Verst clarified that the lot in question is not part of the legal description. He stated they preferred that the traffic be funneled down Klette which is a larger road.

Mr. Viox addressed the Commission and added additional comments about the connectivity of the development with the adjoining community. He stated they did not plan on making a connection to that community because they did not want to disturb the area.

Mr. Cheney and Mr. Drees had nothing to add.

Mayor Dorgan addressed the Commission and thanked the Commission for the opportunity. He stated they are trying diligently to improve the city and stated the city does need the revenue the development would provide. He stated this is something the city desperately needs. He noted he would be working diligently with the developers to make certain things were done according to Staff's requirements.

Mrs. Jort-Conway reaffirmed that Staff did not have the development plan submitted to make any comments regarding the connection. She noted that generally they do not support a connection as noted but stated they would have to look at that in more detail.

Following the comments, Mr. Eilerman made the motion to approve based on Staff's report and recommendations, its compliance with the Comprehensive Plan and including all additional comments as to environmental issues. Mr. Darpel seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Darpel, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. France, Mr. Hadley, Mr. Scheper, Mr. Wells, Mr. Wessels, Mr. Swanson, Mr. Price and Ms. Weldon in favor. The motion carried unanimously. The distributed handout was marked as an exhibit to be made a part of the record on the matter.

W-579R
APPLICANT: Mr. Thomas Knochelmann
LOCATION: An approximate 0.5 acre area along the east side of a private driveway that intersects Mason Road, Taylor Mill.
REQUEST: To Waive Subdivision Regulation Section 6.6 allowing a maximum of four residences served via a private driveway. Granting the requested waiver would allow a fifth residence to be served via an existing private driveway.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION

To deny the requested Waiver to Section 6.6.

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. Kenton County Subdivision Regulations Section 6.6 states: "Private driveways serving more than four (4) lots shall be redesigned as a Private Street or Public Street in accord with these regulations."

Mr. Carl Knochelmann registered to speak in favor. No one registered to speak against.

Mr. Knochelmann addressed the Commission and stated he was representing his brother who is the applicant. He cited other regulations to counter the four criteria required to allow for a waiver. He stated

he personally contacted all other property owners and has worked out agreements with them. Mr. Knochelmann additionally stated those property owners are in favor because that will allow for an additional property owner to share in the expense of the road upkeep. He stated under 6.5C the waiver could be granted due to the unique aspect of the proposal. He noted it is unique in that the lot would be the first lot on the road and the existing property owners would not have additional traffic. He stated the waiver would be appropriate and feels the natural layout of the land should be taken. Mr. Knochelmann further stated the existing property owners expressed an interest in keeping the road a gravel road. He further noted the road dead-ends into Softball City. He stated there really is no way into this lot without providing for a private road. Ms. Carlin asked how long the road had been the way it was. Mr. Knochelmann stated it has been the same way for 20-25 years. Mr. Swanson stated his idea of a waiver is when there is no alternative to a situation but in this case he feels there is an alternative. Mr. Cook then noted it is cost prohibitive to create an alternate access if a waiver is not granted. Mr. Wessels stated at some point a line has to be drawn and if an emergency vehicle needs to get in, he would feel more comfortable if it was a paved road. Mr. France noted there are some portions of each of the criteria required to be met to allow for the waiver. Mr. France then made the motion to approve based on the unusual topographic conditions that exist, by forcing a driveway between the two existing houses would create a safety issue, and strict compliance with the regulation would cause an economic hardship. Mr. Hadley seconded the motion. A roll call found Mr. France, Mr. Hadley, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. Wells and Ms. Weldon in favor. Ms. Carlin, Mr. Darpel, Mr. Scheper, Mr. Wessels, Mr. Swanson and Mr. Price voted against. The motion passed by a vote of 7-6.

W-PP-651

APPLICANT: Richardson Business Center, L.L.C.

LOCATION: An approximate four acre area at the south west corner of Richardson Road and Old Richardson Road.

REQUEST: To Waive Subdivision Regulations Section 5.3 to allow approximately sixteen lots to be served via a private street constructed to less than the minimum required width, without the required curb and gutter and without the required sidewalk along either side.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION

To deny the requested Waiver to Section 5.3 and require that the private street be a minimum of 22 feet in width, contain curb and gutter and sidewalk along the north side.

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 6.5 A, or B, or C, or D (referenced above).
2. Administrative Policy No. 2 states: "Minimum design standards and improvements for private streets

shall be same as required for public streets and other applicable regulations including primarily minimum pavement widths including curbing, pavement thickness and storm drainage systems".

3. Table 3, Article 5 requires streets serving between 7 to 25 lots to be a minimum of 22 feet wide, contain curb and gutter and sidewalk along both sides. Note: Accepting staff's recommendation that a sidewalk be along the north side of the private street only would constitute a formal waiver by the planning commission of the requirement that sidewalks be along both sides.

4. The rural commercial uses permitted within this zone (i.e. construction equipment repair shops, boat repair shops, contractor's offices, farm equipment sales and service, etc.) create the possibility that larger size vehicles will use the proposed private street. Such larger size vehicular traffic coupled with the lack of curb and gutter and a narrow street decreases vehicular safety and increases the potential that the edges of the private street will ravel and deteriorate prematurely.

5. The permitted rural commercial uses within this zone would encourage pedestrian traffic and circulation. As such, sidewalks should be provided along the north side of the private street.

Mr. Theissen and Mr. Bill Dehlinger registered to speak on the issue. No one registered to speak against.

Mr. Theissen addressed the Commission and distributed a handout that was marked as an exhibit and made a part of the record on the matter. He then gave a brief background of information on the issue. He noted this is the 8th public hearing regarding the issue and there has never been any opposition. He stated the city is very much behind the application and further noted this is a very difficult site to develop. Mr. Theissen stated the city has seen the development plan. He noted that lots 11-14 are really unbuildable lots due to the topography. He noted from a marketability standpoint this site will never work for a commercial type of business due to the location and lack of visibility. He stated there is going to be minimal consumer traffic generated. Mr. Theissen further noted none of the uses they found interested in sites would have any type of tractor trailer type traffic going to and from the businesses. He stated they would mainly be delivery type trucks versus semi tractor trailers. He noted the city is thrilled that a private street will be created versus using Richardson so city maintenance will not be an issue. He additionally stated the park link system will be provided for. Mr. Theissen stated the site is being designed so the entire site drains into the detention pond, so collecting the water and piping it to a detention pond will not be necessary. He noted with regard to the sidewalk issue that there would be no buses coming down the street, that children would not be riding bikes down the street, etc. He noted that building the sidewalks would actually prevent the flow of water to the detention pond. He stated in a development such as this, curb and gutter really is not necessary. He then stated the street is going to be constructed so the water drains directly into the detention area and not into pipes and sewers to be drained away. He noted they have already contacted the Sanitation District as to the development. He stated the two feet is critical to the development as to whether or not there is going to be curb and gutter. Mr. Theissen then reviewed the criteria necessary for granting waivers and how the development met those criteria. He then noted the development would not work without the waivers. He stated he felt there were more than enough grounds for the granting of the waivers and then submitted a letter in

support from the city.

Mr. Dehlinger addressed the Commission with regard to the suggestion of having parking directly in front of the businesses and using the street for parking. He noted the property owners had expressed an interest in having individual lots and possibly putting up their own fencing. He stated if this was the case the parking in front would not work for this development.

Mr. Hiles then clarified the issue of curb and gutter as the city being the entity to require that, not the Commission. He then urged the Commission to consider the criteria required to allow for the waivers. He stated they are in place for a reason.

Mr. Dehlinger stated in rebuttal that the city is glad something is being done with the site. He noted it was a site where people frequently dumped things and the city is glad something is being proposed.

Mr. Wessels stated with regard to the sidewalk issue he felt the sidewalk should be left in on one side and let the city decide. Mr. Wessels then made a motion to grant a waiver as to sidewalks on one side of the street (specifically the north side) due to the topographical issues. Mr. Eilerman seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Eilerman, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hadley, Mr. Scheper, Mr. Wells, Mr. Swanson, Mr. Price and Ms. Weldon in favor. The motion carried unanimously. As to the curb and gutter and street width portion of the issue, Mr. Wessels made a motion to deny the waiver request for less than 22 feet and for curb and gutter. 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. Scheper, Mr. Wells, Mr. Swanson, Mr. Price and Ms. Weldon in favor. The motion carried unanimously.

OLD AND UNFINISHED BUSINESS:

Reports from Committees:

By-Laws

Mr. Price had nothing to report.

Subdivision Regulations

Mr. Wessels had nothing to report but noted they would be meeting in May.

Model Zoning

Ms. Weldon had nothing to report.

Report from Legal Counsel:

Ms. Weldon asked about the Henry Fischer development action. Mr. Schneider stated he understood there was a decision but he had not seen it.

Reports/Announcements from Staff:

Mr. Schwartz noted continuing education forms for the conference were distributed. He stated he was asking for the Commission's approval of the continuing education. He additionally noted several members of Staff attended a management training seminar that would not normally be considered as continuing education but he was asking for a motion to approve. Mr. Price made the motion. Mr. France seconded the motion. All in favor. None opposed.

Correspondence:

Mr. Schwartz additionally noted a request was received from Michael's Construction requesting an additional six (6) months on their tabled issue. Mr. Price made the motion to grant the request. Mr. Wessels seconded the motion. All in favor. None opposed.

New Business: None.

There being no further business to come before the Commission, Mr. Wessels made the motion to adjourn. Mr. Eilerman seconded the motion. All in favor. None opposed. The meeting was adjourned at 8:48 p.m.