

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

**December 1, 2005
6:15 P.M.**

**NKAPC Meeting Room
2332 Royal Drive
Fort Mitchell, Kentucky**

MINUTES

COMMISSION MEMBERS PRESENT:

Mr. Mark Barnett – Taylor Mill
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. Phil Ryan – Park Hills
Ms. Maura Snyder – Independence
Mr. Joe Tewes - Bromley
Mr. John Wells – Ft. Mitchell
Mr. Bernie Wessels – Ft. Wright
Mr. Paul Swanson, Secretary/Treasurer – Erlanger
Ms. Alex Weldon, Chairperson - Covington

COMMISSION MEMBERS NOT PRESENT:

Ms. Barbara Carlin – Kenton County
Mr. David Hilgeford - Villa Hills
Greg Scheper – Crescent Springs

LEGAL COUNSEL PRESENT:

Mr. David Schneider, Esq.

Ms. Weldon, Chairperson, called the meeting to order. The meeting was opened with the Pledge of Allegiance and an invocation by Mr. Eilerman.

AGENDA:

There were no changes to the agenda for the evening. All in favor. None opposed.

APPROVAL OF THE MINUTES:

The minutes for November were distributed in the Commissioner's packets. A motion was made by Mr. Wessels to approve. Mr. Eilerman seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Eilerman, Mr. Barnett, Mr. Coates, Mr. Darpel, Mr. France, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. Mr. Cook abstained. The motion carried.

FINANCIAL REPORT:

There were no questions or comments with regard to the report. A motion was made by Mr. Hadley and seconded by Mr. Swanson to accept. All in favor of accepting the report as submitted. None opposed.

ACTIONS SINCE LAST MEETING:

The memorandum regarding the actions taken by Staff over the past month was distributed for informational purposes only. There were no questions or comments.

Ms. Weldon then welcomed the new Commission members for the cities of Bromley and Taylor Mill. Mr. Joe Tewes was the new member for Bromley and Mr. Mark Barnett was the new member for Taylor Mill. The new Commission members were sworn in prior to the start of the meeting for the evening.

PUBLIC HEARINGS:

1782R

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

LOCATION: N.A.

REQUEST: Proposed text amendment to the Independence Zoning Ordinance pertaining to Class 4 fences in Residential (R) Zones.

Staff presentation and Staff recommendations by Mr. Andy Videckovich.

NKAPC STAFF RECOMMENDATION

To disapprove the proposed text amendment.

Comprehensive Plan Documentation:

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

Supporting Information/Bases For NKAPC Staff Recommendation:

1. The proposed text amendment is inappropriate in that it does not advance the health, safety and welfare of the general public. There is no sufficient evidence that a one-acre body of water needs to be treated differently than any other body of water that is less than

an acre. A half-acre body of water may pose as much of a threat to the public as a one-acre body of water.

2. The proposed text amendment is unnecessary. Under the current regulations, the City of Independence allows Class 6 walls within the front yard.
3. The proposed text amendment is inappropriate because it is not a uniform regulation. If approved, the proposed text amendment would only apply to approximately one hundred seventy-five (175) properties within the City of Independence.

Additional Information

1. The proposed text amendment does not specify a maximum height for the Class 4 fences. Although the staff is recommending disapproval, if the planning commission or the legislative body approves the proposed text amendment, the staff recommends that the maximum height permitted for Class 4 fences on property that has a water body with a minimum water surface area of one (1) acre be thirty-six (36) inches in height, to be consistent with the height of other walls and fences permitted in front yards.

Mr. Craig Hadley registered to speak on the issue. No one registered to speak against.

Mr. Hadley addressed the Commission and stated he is a resident of Independence. He stated the property in question comprises four acres. He stated the reason for the request is because of safety reasons. He stated there is a lot of development in the area and he is concerned with children going fishing or playing near the lake in question. He further stated he has concerns as he is right across from the golf course and frequently has people going on his property to retrieve golf balls. He noted he feels it is a good idea to have a fence to keep people from getting too close to the lake and possibly drowning. He further noted he intends to put the fence just around the lake on Cody Road.

A motion was made by Ms. Snyder to approve. She noted it is appropriate and does promote the health and safety of the public. Mr. Wells seconded the motion. A roll call vote on the matter found Ms. Snyder, Mr. Wells, Mr. Barnett, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France and Mr. Wessels in favor. Mr. Darpel, Mr. Ryan, Mr. Swanson, Mr. Tewes and Ms. Weldon voted against. Mr. Hadley recused himself from any consideration and voting on the matter. The motion carried by a vote of 8-5.

1783R

APPLICANT: William R. Ashmore.

LOCATION: An approximate 1-acre area located along the north side of Highway Avenue, across from Parkway Avenue in Covington.

REQUEST: A proposed map amendment to the Covington Zoning Ordinance changing the described area from R-1G (a single-family residential zone) to R-2b (a two and multi-family residential zone); this request includes review of setback variances as permitted by the Covington Zoning Ordinance.

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

NKAPC STAFF RECOMMENDATION

Recommendation A:

To approve the proposed map amendment from R-1G to R-2b, but only subject to compliance with the following conditions:

1. That the height of structures not exceed forty (40) feet.
2. That the submitted Stage I Development Plan meet the minimum requirements of the Covington Zoning Ordinance for development within the one hundred (100) year floodplain elevation of 497.1 feet.
3. That two (2) off-street parking spaces be provided for each dwelling unit within the proposed development.

Recommendation B:

To approve the requested variances.

Comprehensive Plan Documentation:

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

Supporting Information/Bases For Recommendation:

Recommendation A:

1. The proposed map amendment from R-1G to R-2b 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 of 14.1 to 30.0 dwelling units per net acre. The proposed R-2b Zone would allow the site in question to be developed with two and multi-family residential development at a density of approximately nine (9) dwelling units per net acre.
2. The proposed map amendment from R-1G to R-2b represents a logical extension of the existing R-2b Zone. The proposed R-2b Zone permits two and multi family dwelling units at a maximum density of twenty (20) dwelling units per net acre. Therefore, the existing zoning is inappropriate and the proposed zoning is appropriate.
3. The proposed map amendment from R-2 to R-1EE is consistent with the following Goals and Objectives and Development Concepts, as contained within the 2001 Area Wide Comprehensive Plan Update:

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.

The proposed map amendment from R-1G to R-2b will allow the site in question to be developed with two and multi-family residential dwellings, thus providing housing opportunities in a panoramic setting within the City of Covington.

4. The proposed map amendment is generally consistent with the *Riverfront West Development Plan*, which generally designates the area of the site to be developed as part of an area of medium density residential uses.
5. The submitted Stage I Development Plan meets the minimum requirements of the Covington Zoning Ordinance with the exception of the following:
 - a. Space and height standards, including setbacks within the R-2b Zone are set forth in Section 158.101, D., of the Covington Zoning Ordinance. The applicant has requested variances for setback requirements. The maximum building height for structures is forty (40) feet. Insufficient information has been submitted to determine compliance with this requirement.
 - b. Section 158.050 of the Covington Zoning Ordinance requires any new residential construction including any expansion or substantial improvements of existing residential structures as herein defined within the floodplain shall have the lowest floor elevated one foot above the level of the 100-year flood and meet additional criteria for development to occur. Insufficient information has been submitted to determine compliance with this requirement.
 - c. Section 158.117 (F) outlines the requirements for off-street parking areas within the R-2b Zone. Specifically, there shall be one (1) parking space provided for each one family dwelling and two (2) off-street parking spaces provided for each two-family dwelling. Insufficient information has been submitted to determine compliance with this condition.

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 on 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 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 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:

	Submitted Development Plan	R-2b Zone, per Covington Zoning Ordinance
Minimum front yard	10 feet	40 feet
Minimum side yard on each side of the lot	10 feet	15 feet
Minimum rear yard	10 feet	30 feet
Maximum building height	Insufficient information	40 feet

- 3. The site in question contains unimproved right-of-way, some of which is located within the floodplain. To require the applicant to meet the required setbacks would not be practical for development. Therefore the requested variances are not an unreasonable circumvention of the zoning ordinance.
- 4. The site in question is bordered to the north by the Ohio River and to the south by Highway Avenue. The orientation and outline of the site in question is limited in available yard area and precludes the acquisition of additional land area to meet the yard requirements. The requested variances therefore arise from special circumstances that do not generally apply to land in the general vicinity.
- 5. 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 the 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.
- 6. 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. Ashmore, Mr. Bird, Mr. Haglage, Ms. Sherry Karan and Mr. Pen registered to speak on the issue.

Mr. Ashmore addressed the Commission and stated he was available to answer any questions on the matter. He stated a geotech is being performed. He stated they feel they have good access. He then read a statement of support signed by area residents with regard to the issue. He further noted this is the initial site plan.

Mr. Bird addressed the Commission as a neutral party. He stated he is probably the landowner most impacted by the issue. He then stated as long as the regulations are adhered to he does not see a problem with it. He did note one concern is that if approved it would not be acted on. He stated he was concerned because a development was approved eight or nine years ago that never materialized. He further noted the setback request concerns him due to past slippage. He noted another concern is the non-existence of off-street parking. He then noted he is not opposed to the plan so long as he moves the house to where he says he will.

Mr. Haglage addressed the Commission as a neutral party and stated there is an 18% grade going down the hill. He noted his concern with that issue and it was then noted by the Commission that any changes to the plan would have to come back before the Commission.

Ms. Karen addressed the Commission and stated she passes the site every day. She stated she is concerned with repairs that were not done to the area. She then stated she feels the applicant should check the new 100 year floodplain because he may want to raise the buildings.

Mr. Pen addressed the Commission and asked if this would be a single family development or condos. He stated the concern is the traffic and also about how close it is to the highway. He stated he feels there is a lot of complications with the plans, slippage and how close it is to the highway.

Mr. Ashmore then stated this would be 6 single family homes so traffic would not be an issue. He also stated each home will have two parking spaces in front and one in the garage. He further noted a geotech study is being performed. He also stated the area seems to be a fairly stable area along River Road.

Mr. Eilerman stated it is a very challenging project but he has some concerns with it. Mr. France agreed with Mr. Eilerman. Mr. Eilerman then made the motion to approve with some trepidation that everything comes out o.k. He noted the basis is that it is in general compliance with the comprehensive plan and the Covington neighborhood plan. Mr. France seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. France, Mr. Barnett, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wells, Mr. Wessels, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously. Mr. Eilerman then made the motion to recommend approval of the variances as recommended by Staff. Mr. France seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. France, Mr. Barnett, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wells, Mr. Wessels, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

APPLICANT: City of Park Hills, per Mayor Michael J. Hellmann.
LOCATION: N.A.
REQUEST: Proposed text amendments to the Park Hills Zoning Ordinance modifying the list of permitted uses in the HC (Highway Commercial) Zone.

Staff presentations and Staff recommendations by Mr. Andy Videckovich.

NKAPC STAFF RECOMMENDATION

Recommendation A:

To disapprove the proposed text amendment deleting automotive, motorcycle, and truck sales, new and used and motels and hotels from the list of permitted uses within the HC (Highway Commercial) Zone.

Recommendation B:

To approve the proposed text amendment adding household and electrical appliances to the list of permitted uses within the HC (Highway Commercial) Zone.

Comprehensive Plan Documentation:

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

Supporting Information/Bases For NKAPC Staff Recommendation:

Recommendation A:

1. The proposed text amendments are inappropriate. If approved, some current uses within the HC Zone may become nonconforming uses, therefore causing a hardship on those owners.
2. The proposed text amendments are inappropriate. If approved, the proposed text amendment will delete permitted uses not elsewhere allowed in the Park Hills Zoning Ordinance.

Recommendation B:

1. The proposed text amendment adding household and electrical appliances to the list of permitted uses within the HC (Highway Commercial) Zone, is 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 is reasonable. Dixie Highway is the only commercial corridor in the City of Park Hills. Adding the proposed use is consistent with the other permitted uses within the HC Zone.

Mr. Tom Miller, Mayor Michael Hellmann and Ms. Jan Schar registered to speak in favor. No one registered to speak against.

Mr. Miller addressed the Commission and stated he represents a potential buyer of a property in the HC Zone that wishes to amend the text to allow for the sale and repair of appliances. He stated his business would provide this type of service and therefore he is requesting the text amendment.

Mayor Hellmann addressed the Commission and stated there is a lot of business area in the city. He stated the only reason there are two zones is because that's the only way it would fit back in the '70's. He stated they feel the electrical appliances is a good fit. He stated as to the other portion of the text amendment referring to hotels and motels the city wanted to clean that portion up a bit. Mr. Wessels then commended the city for wanted to clean up the area. He stated out of curiosity he looked up the registered sex offenders and two are living at the hotel in question as well as at an existing location up the hill. He stated he commends the city for wanted to clean up the area because there are schools not far from that location.

Ms. Schar addressed the Commission and stated she represents the seller. She stated she feels it is impossible to make it easier to allow for businesses in the highway commercial zone. She stated she feels the potential buyer will do justice to the area and put the property back to what it was.

A motion was then made by Mr. Wessels to approve based on the evidence submitted and that the requests are reasonable. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Ryan, Mr. Barnett, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

1785R

APPLICANT: Marisa Laughlin on behalf of Mary Kay Montgomery.
LOCATION: An approximate 0.5-acre area located along the east side of Bakewell Avenue between 7th and 8th Streets, approximately 150 feet south of 7th Street in Covington.
REQUEST: A proposed map amendment to the Covington Zoning Ordinance changing the described area from RU (HP) (a single and two-family residential zone with an historic preservation overlay zone) to TSC (HP) (a tourist service commercial zone with an historic preservation overlay zone).

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

NKAPC STAFF RECOMMENDATION

To approve the proposed map amendment from RU (HP) to TSC (HP).

Comprehensive Plan Documentation:

- 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 RU (HP) to TSC (HP) is consistent with the *Main Strasse Village Special Redevelopment Area Plan* which recommends the site in question for redevelopment in accordance with zoning requirements in place at the time of redevelopment. The structure on this property is significant due to its size, construction and history. Its preservation is a priority and the City will not support redevelopment of this property, should redevelopment involve clearance or demolition of this structure. The proposed TSC (HP) Zone would allow the redevelopment of the site with a variety of commercial and general office uses.
2. The proposed map amendment from RU (HP) to TSC (HP) is consistent with the intent of the TSC (HP) Zone. The purpose of the TSC Zone is to encourage and accommodate a limited range of specialized retail and service commercial and public and semi-public functions which orient to visitors and the tourist trade. It is also the purpose of this zone of special character to provide a transition between high intensity use areas and surrounding residential areas by accommodating a mixture of uses relating to and serving the residential areas. The existing RU zone permits one, two and multiple family residential development at a maximum density of approximately 20 dwelling units per net acre. Therefore, the existing zoning is appropriate and the proposed zoning is inappropriate in order to allow for the development of specialized retail and service commercial functions while providing services to the surrounding residential areas.
3. The proposed map amendment is consistent with the requirements of the Historic Preservation (HP) overlay zone. The Historic Preservation (HP) overlay zone requires that any exterior work, painting, signs, additions, changes, or demolitions be submitted to the City of Covington's Urban Design Review Board for review and approval. There are no exterior changes proposed to the structure within the site in question.
4. The proposed map amendment is consistent with the 2001 Area-Wide Comprehensive Plan recommendations for historic properties, which states the following:
 - Adaptive reuse is one of the most basic methods used to preserve historic properties. Allowing new uses for buildings, initially designed for other uses, oftentimes provides the only economically feasible incentive for historic restoration. This plan supports adaptive reuse, but with the stipulation that all potential negative impacts to local neighborhoods and other areas, as previously described, be considered and mitigated.
 - Some of the concepts of sustainable development may be applied in some of the historic urban areas by considering adaptive combinations of "mixed use/reuse", helping to recognize long range objectives such as reducing travel trips, preserving energy, improving air quality, and retaining our natural/cultural heritage balance.

The proposed map amendment represents a prime example of the adaptive reuse of a historic structure within the Main Strasse Village area of Covington. The proposed map amendment will allow the site in question to be redeveloped and improved with a variety of commercial and retail service uses, while ensuring the historic character of the structure remains.

Mr. Mark Jennings and Ms. Michelle Secrist registered to speak on the issue.

Mr. Jennings addressed the Commission and stated he represents the developers. He stated they are very much in love with this property. He stated their intent is to leave the outside exactly as it is but just enhance it, clean it up and do landscaping. He also noted they have made a preliminary agreement with the adjacent property owner with regard to the access to the parking lot. He further noted it is only full during special events HE then stated the proposed uses for the building are a small restaurant, art studios, other offices and other small uses. He stated the applicants are young and energetic and they want to turn the property into something to benefit the neighborhood.

Ms. Secrist addressed the Commission and stated she talked to everyone in the area and they are so excited about the prospect of the development and what it will bring to the neighborhood.

Mr. Eilerman then made the motion to approve based on the recommendations of Staff and the findings that it is in agreement with the Comprehensive Plan. Mr. Coates seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Coates, Mr. Barnett, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hadley, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wells, Mr. Wessels, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

***At this time (7:58 p.m.) a five minute break was taken.**

1786R

APPLICANT: Hub and Weber Architects, per Jim Guthrie, on behalf of Jim and Bertha Huff.

LOCATION: An approximate 1.1 acre area located along the east side of Beechwood Road, at its intersection with Royal Drive, Fort Mitchell.

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

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION

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

1. That the side yard setback along the north property line be a minimum of twenty (20) feet or that a variance is applied for and granted by the Fort Mitchell Board of Adjustment.

2. That signage on the south building facade be prohibited.
3. That free standing signage, within the front yard, be prohibited.

Comprehensive Plan Documentation:

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

Supporting Information/Bases For Recommendations:

1. The proposed map amendment from R-1C to PO is generally consistent with the text of the 2001 Area-Wide Comprehensive Plan Update as it relates to Land Use - Office Development.

Chapter V - Land Use, of the 2001 Area-Wide Comprehensive Plan Update, reads as follows as it pertains to office development: Land so classified reflects existing or recommended areas for concentrations of office and related uses. These areas are designated on the basis of locations which are easily accessible from the major corridors of transportation and which might also take advantage of proximity to other related uses (e.g., major public office buildings, hospitals, etc.). It is recognized that office-type development is little affected by noise associated with major thoroughfares, often has the potential for interesting architectural treatment, and can provide a transition between more intense and less intense land use activities.

The site in question is located immediately adjacent to Interstate 71/75 and has access to the Buttermilk Pike/I-71/75 interchange via Royal Drive and Grandview Drive -- collector roadways.

During the early 1990's, Interstate 71/75 was widened bringing the pavement of this roadway approximately twelve (12) feet closer to the north property line of the site in question. Additionally, the area located to the west of the site in question, across Beechwood Road, is currently zoned R-3a and LHS which permits multi-family residential dwellings, at a maximum density of 15.0 dwelling units per net acre, and a variety of retail and service type uses. The proposed PO Zone, and the development of an office building, will act as a buffer, particularly for noise, between the more intense uses located to the north and west of the site in question and the existing residential development located to the south and east of the site in question.

The applicant has submitted a noise study, conducted by RNK Environmental, Inc. This study indicates that the noise levels of the adjacent interstate highway system exceed Federal Highway Administration Criteria for residential areas and that the noise levels are unhealthy as they are similar to a factory setting.

2. The recommendation of approval is consistent with previous recommendations made by the NKAPC staff.

On December 17, 1986, Mr. Jim Huff submitted an application for NKAPC and KCPC

review and recommendation on a proposed map amendment to the Fort Mitchell Zoning Ordinance changing the site in question from R-1C to PO (Z-86-12-04/753R). On January 2, 1987, the NKAPC staff recommended approval of the proposed map amendment. On January 8, 1987, the KCPC held the public hearing and recommended approval of the proposed map amendment. The City of Fort Mitchell, voted to override the planning commission's recommendation and denied the proposed map amendment.

On October 4, 1991, the KCPC submitted an application for NKAPC and KCPC review and recommendation on the adoption of the 1991 Area-Wide Comprehensive Plan Update, which included changing the land use designation of the site in question from "Special Function Commercial - Office" to "Residential at 2.1 - 4.0 dwelling units per net acre" (P-91-10-01/1020R). On November 8, 1991, the NKAPC staff recommended approval of the 1991 Area-Wide Comprehensive Plan Update, subject to several conditions, including the condition that the land use designation for the site in question not be changed and that land use designation for the area located immediately to the south of the site in question be changed to "Commercial - Office". On November 14, 1991, the KCPC held the public hearing and adopted the 1991 Area-Wide Comprehensive Plan Update, including the change of the land use designation for the site in question from "Special Function Commercial - Office" to "Residential at 2.1 - 4.0 dwelling units per net acre".

On March 3, 1992, Mr. Jim Huff submitted an application for NKAPC and KCPC review and recommendation on a proposed amendment to the 1991 Area-Wide Comprehensive Plan Update changing the land use designation of the site in question from "Residential at 2.1 - 4.0 dwelling units per net acre" to "Commercial - Office" (P-92-03-01/1035R). On May 1, 1992, the NKAPC staff recommended approval of the proposed amendment. Prior to the KCPC's public hearing, the application was withdrawn by the applicant.

On October 8, 1993, Mr. Jim Huff submitted applications for NKAPC and KCPC review and recommendation on: (1) a proposed amendment to the 1991 Area-Wide Comprehensive Plan Update, changing the land use designation of the site in question, from "Residential at 2.1 - 4.0 dwelling units per net acre" to "Commercial - Office" (P-93-10-01/1109R); and (2) a proposed map amendment to the Fort Mitchell Zoning Ordinance, changing the zoning of the site in question from R-1C to PO (Z-93-10-02/1110R). On October 29, 1993, the NKAPC staff recommended approval of the proposed amendments. On November 4, 1993, the KCPC held the public hearing and: (1) took action to deny the proposed amendment to the comprehensive plan; and (2) recommended disapproval of the proposed map amendment from R-1C to PO. Fort Mitchell City Council subsequently agreed with the KCPC's recommendation and denied the proposed map amendment.

On May 11, 1999, Mr. James W. Berling, on behalf of James H. and Bertha M. Huff, submitted an application for NKAPC and KCPC review and recommendation on a proposed map amendment to the Fort Mitchell Zoning Ordinance, changing the zoning of the site in question from R-1C to PO (Z-99-05-02/1404R). On May 28, 1999, the NKAPC staff recommended approval of the proposed map amendment, subject to three conditions. On June 3, 1999, the KCPC held the public hearing and recommended disapproval of the proposed map amendment from R-1C to PO. On July 19, 1999, Fort

Mitchell City Council voted to accept the KCPC's recommendation and denied the proposed map amendment.

On November 10, 1999, James H. and Bertha M. Huff, submitted an application for NKAPC and KCPC review and recommendation on a proposed map amendment to the Fort Mitchell Zoning Ordinance, changing the zoning of the site in question from R-1C to PO (Z-99-11-02/1445R). On November 24, 1999, the NKAPC staff recommended approval of the proposed map amendment, subject to three conditions. On December 2, 1999, the KCPC held the public hearing and recommended approval of the proposed map amendment, subject to three conditions. On January 10, 2000, Fort Mitchell City Council voted to override the planning commission's recommendation and denied the proposed map amendment.

3. The submitted Stage I Development Plan meets the minimum requirements of the Fort Mitchell Zoning Ordinance, except for the following:
 - a. Section 10.15, D., 4. states that the minimum side yard setback shall be fifteen (15) feet plus five (5) feet for each additional story. Based on a two story building, a minimum twenty (20) foot side yard setback must be provided. The submitted development plan indicates a fifteen (15) foot side yard setback from the north property line. Therefore, it is recommended that the side yard setback along the north property line be a minimum of twenty (20) feet or that a variance is applied for and granted by the Fort Mitchell Board of Adjustment.
4. The Fort Mitchell Zoning Ordinance does not prohibit building signage from facing residential property. However, in an effort to not disrupt the residential character of the area located to the south of the site in question, it is recommended that signage on the south building facade be prohibited.
5. The Fort Mitchell Zoning Ordinance permits free standing signs to be placed in the front yard within PO Zones. The proposed front yard of the site in question is visible by adjacent residential properties. In an effort to protect the residential character of adjacent properties, it is recommended that free standing signage, within the proposed front yard, be prohibited.

Mr. Coates recused himself due to a conflict of interest. Mr. Gene Webber, Mr. Walt Ramie, Mr. Gary Toebben, Mr. Todd Ashcraft, Mr. Shane Armstrong and Mr. Jim Huff registered to speak in favor. Ms. Georgiana Walz, Mr. John Dorsey, Mr. John J. Powell, Ms. Rosalee Besse, Ms. Sue West, Mr. Dave Kochera, Mr. Jo Hegge, Mr. Dave Vitteo, Mr. John Kayyates, Mr. Larry Mescher, Mr. R.B. Davis, Mr. Louis Mescher, Mr. Robert Lubrecht, Mr. Robert Mitts, Ms. Maura Hehman, Mr. Marty Huelsman and Mr. John Morley registered to speak against. Mr. Ted Foldy registered to speak as a neutral party.

Mr. Webber addressed the Commission and stated he was representing the applicant. He stated the building would be a two-story building with 7,500 square feet of condo office space. He stated the building is designed to have residential character, windows, etc. He noted they have discussed the site plan issues and then distributed a revised site plan to the Commissioners. He stated the new building plan addressed the twenty foot setback so there will be no need for a

variance. He stated the applicant spoke to the adjoining property owner and a sound buffer would be gained by the property owner from the development. He stated the owner agrees to all three conditions. He then stated in terms of addressing the map amendment they concur with Staff that it is generally consistent with the text of the Comprehensive Plan. He stated this revised plan meets Stage I requirements for the City of Ft. Mitchell. He then stated they feel there is a benefit to the adjacent property owner with regard to noise. He further noted noise is a factor in terms of the property and the proximity to the interstate.

Mr. Toeppen addressed the Commission and stated he believes this plan makes sense. He stated he wouldn't want to build a house there but to find someone to build this type of development is a gift to a community.

Mr. Ashcraft addressed the Commission and stated this seems like a better plan and not only that it is a lot better looking. He stated he lives next door to this development.

Mr. Armstrong addressed the Commission and stated this is a great opportunity and even with all the other buildings he hasn't seen an increase in the traffic in the area along Pleasant Ridge where he lives.

Mr. Huff addressed the Commission and stated he has sold about a hundred of these type of units in Boone County so this is why he came up with this development for Ft. Mitchell. He stated he feels this is a workable solution and a lot of people have approached him stating they would like to own their own unit versus renting office space. He stated he hopes this goes through and they can provide this to the area.

Ms. Walz addressed the Commission and stated although it is a lovely proposal she feels the neighbors and her family feel it is an infringement on the residential aspect of the area. She stated she has spent a lot of time preserving the residential aspect and she feels it should remain residential and not commercial.

Mr. John Dorsey addressed the Commission and stated he doesn't feel that "generally" is the right term to be used when referenced the compliance to the Comprehensive Plan. He stated Mr. and Mrs. Huff appealed the denial previously and were turned down. He noted the current zoning is good zoning. He stated the requested zoning is bad zoning with only a ten foot buffer between residential. He stated this will lead to a domino effect. He asked if the noise levels were deemed unhealthy for residential then is it also for office workers. He then noted the noise levels were well below the level deemed unsafe. He stated he not asking to impose a penalty on the Huffs but stated the highway was there when they purchased the property.

Mr. Powell addressed the Commission and stated he is a 30 year resident of Ft. Mitchell. He asked if there is any guarantee to the noise levels that will supposedly be reduced. He stated they don't really need this type of development in Ft. Mitchell.

Ms. Besse addressed the Commission and stated she personally doesn't need anyone protecting them from noise but does need protection from businesses encroaching on residential areas. She then noted Beechwood is a walking school district and she is concerned with safety. She noted she hopes the Commission votes against it for the good of the people.

Ms. West addressed the Commission and stated she wants the Commission to know that when you look at the Arial picture to consider that that this is a residential area and that the development would stand out like a sore thumb. She stated they don't need another office building. She stated people live in Ft. Mitchell because the safety and beauty of the area and because of the schools. She stated the traffic has gotten worse.

Mr. Kochera addressed the Commission and stated he wanted to add if you don't think there is a traffic problem to try to drive at eight in the morning or five at night. He stated this is a residential area and if you want to build commercial you should go to a commercial area.

Ms. Hegge addressed the Commission and stated they are already concerned with residential traffic on Beechwood and Pleasant Ridge. She stated she has grandchildren on Pleasant Ridge and is concerned with their safety. She further noted she doesn't think they need any more office buildings in the area.

Mr. Vitteo addressed the Commission and stated he would like to thank the Commission for what they do. He stated obviously he is against the development due to the proximity to his house. He then distributed a handout which was marked as an exhibit and made a part of the record on the matter. He then referenced the handout and the buildings in proximity to the interstate. He stated all these homes have someone living in them. He stated the highway that was moved 12 feet closer is an entrance ramp, not a five lane highway that was moved closer. He then asked the Commission to consider the fact presented.

Mr. Karyyates addressed the Commission and stated three new homes were built in the last few months and nine more are to be built. He stated on the west side he can understand the commercial development because that's a commercial area. He stated on the east side it should remain residential.

Mr. Mescher addressed the Commission and stated he and his wife have spent 20 years fighting the zone change. He stated if this goes through there is no way to stop commercial development from creeping into the area. He noted that maybe the property could be donated and turned into green space or a park and named Huff Park.

Mr. Davis addressed the Commission and stated he has friend that live at the bottom of Ashton on both sides and they don't have a problem with the noise.

Ms. Mescher addressed the Commission and distributed handouts which were marked as exhibits and made a part of the record on the matter. She stated she has some issues with the project which she read into the record. She stated the grove of trees already provides a buffer. She stated the interstate acts as a barrier from the residential area. She stated if this is allowed it will create a domino effect. She asked how the existing zoning could be so inappropriate with all the residential development occurring in the area. She also noted the city has always been in favor of keeping the area residential. She also noted the city has spent thousands of dollars regarding this issue over the years.

Mr. Lubrecht addressed the Commission and stated he is a 72-year resident of the city. He stated it is his obligation to point out that the Staff report contains errors and omissions with regard to changes to the area. He noted Beechwood is called a collector only in the transportation code. He

stated Staff did not provide this information and without it the Commission cannot make a decision on the issue.

Mr. Mitts addressed the Commission and stated he lives about 500 feet from this proposed development. He stated he feels the parking lots are going to be a problem. He also noted he feels the land value will go down. He asked the Commission to use I-75 as a divider.

Ms. Hehman addressed the Commission and stated her children walk to and from school. She stated the main thing that she feels has changed is that people want Beechwood to stay residential and that people are building near the interstate just to be in Ft. Mitchell.

Mr. Huelsman addressed the Commission and stated he moved to Ft. Mitchell because he wanted the residential area. He stated it would be a dangerous precedent to take one part of Ft. Mitchell and turn it into commercial. He then noted that I-75 is a perfect buffer between residential and commercial.

Mr. Morlage addressed the Commission and stated he has lived in Ft. Mitchell for 39 years. He noted his builder and architect are already working on a plan for his property which abuts the property should this become commercial.

Mr. Foldy addressed the Commission and asked about the sudden increase in the zoning and wondered if it is because of the Supreme Court's ruling on eminent domain.

Mr. Webber addressed the Commission in rebuttal and stated this facility would be different from other office space because it would be owned and not rented like other commercial space. He stated with regard to the noise this property is essentially level with the interstate and the majority of the residences are lower than this property. He then noted that noise does not go down and that it generally travels up. He further noted if anything the traffic has increased on I-75, not decreased.

Mr. Huff addressed the Commission and stated the airport purchased 22 million in homes if they were about 65 lbs. He stated there is no one living in the house presently. He stated he is trying to do something to the site that would be suitable to the community. He further noted he feels this is the softest use for the site. Ms. Snyder then asked how long the house has been vacant. Mr. Huff stated it has been empty since '99 when he got the noise levels. He stated he told the residents they should be wearing protective gear when inside the house and thought they should move out and they did. Mr. Tewes asked if the property was marketed for residential. Mr. Huff stated he was not because he does not feel it is suitable for residential due to the noise levels. He noted he has a house that is virtually of little value and that is why he would like to do this development. Mr. Webber then noted one of the reasons commercial would be limited in the area is because of what's been evident by so many residents showing up. He then stated this is the first time a condo type development was presented and that's why it was brought up before the Commission.

Mr. France stated he feels it makes sense to leave it R-1C. Mr. Eilerman stated he feels it evident that the residents do not want this. He stated this is an entirely different concept than typical office space. He stated this property is a dilapidated building that is drawing little tax benefit for the city. He then noted that he is sympathetic to the residents but feels this is a win/win situation

to have a residential appearing office space in this location. Ms. Snyder stated she is very familiar with the area as she grew up there and has family there but noted the reason this is a dilapidated building is because he let it get that way. Mr. Barnett stated he visited the site and the first thing he noticed was the noise. He stated he feels the proposal makes a lot of sense. He stated he was struck with the sincerity of the citizens in their feelings on the issue. He also noted he feels the building is well designed and does not feel it is going to cause a cascading effect. Mr. Ryan thanked everyone for their professional manner in the presentation. Mr. Wells stated the reality is that there are several large homes being built near the area of this development. He stated the line has to be drawn somewhere and what better line than the expressway. He then noted the residential should remain residential.

Mr. Wells then made the motion to disapprove the zone change based on the evidence submitted and the fact that the existing zoning is consistent with the map element of the comprehensive plan. Mr. Tewes seconded the motion. A roll call vote on the matter found Mr. Wells, Mr. Tewes, Mr. Coates, Mr. France, Mr. Ryan, Ms. Snyder and Mr. Wessels in favor. Mr. Barnett, Mr. Cook, Mr. Eilerman, Mr. Swanson and Ms. Weldon voted against. Mr. Coates recused himself from any consideration and voting and Mr. Hadley abstained. The motion carried with a vote of 7-5.

OLD AND UNFINISHED BUSINESS:

With regard to the contract for professional services Mr. France asked if the contract met with the approval of the Executive Board. Ms. Weldon stated several suggestions were made and those suggestions/comments were emailed but the Executive Committee has not met on the issue. Mr. Darpel stated the only question he had was does it solve the ten thousand dollar issue. He stated in reading it, it does not solve it. Mr. Gordon stated any contract over money the Commission would not be able to do over a number of years. Mr. Schneider concurred and stated it needs to be approved from year to year and something cannot be approved now the next ten years. Following a brief discussion on the matter Mr. Wessels made a motion to authorize the Executive Committee to approve the contract. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Wessels, Mr. Ryan, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Ms. Snyder, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. Mr. Barnett and Mr. Tewes abstained. The motion carried.

With regard to the FY06 Budget, Ms. Weldon stated until administration item #11 was resolved the budget cannot be approved. She then stated the By-Laws Committee would be meeting at noon on December 5th to discuss the issue.

Reports from Committees:

By-Laws

See above

Subdivision Regulations

Mr. Wessels noted that Mr. Hiles was meeting with other cities to come to a conclusion regarding one set of regulations.

Model Zoning

Ms. Weldon noted the Model Zoning Committee did meet but delayed electing a chair until after nominations and then go from there.

Executive Committee

Nothing to report.

Report from Legal Counsel:

None.

Reports/Announcements from Staff:

Mr. Schwartz noted the holiday party would be held December 14th.

Correspondence:

None.

New Business:

With regard to the nominating committee Ms. Snyder stated the same people would hold their current positions. It was then noted a vote will be taken in January.

Mr. Ryan shared a few personal comments to those commissioners who would not be returning in the new year and thanked them for their time and contributions made to the Commission.

There being no further business to come before the Commission, a motion was made by Mr. Ryan to adjourn. Mr. Swanson seconded the motion. All in favor. None opposed. The meeting was declared adjourned at 10:18 p.m.

APPROVED:

Ms. Alex Weldon, Chairperson

Date _____