

**KENTON COUNTY PLANNING COMMISSION
REGULAR MEETING**

Minutes

Ms. Weldon, Chairperson, called the meeting to order at 6:15 PM on Thursday, April 5, 2007, and opened the proceedings with the Pledge of Allegiance and an invocation by Mr. Eilerman. The meeting was held in the Commission Chambers of the NKAPC Building in Fort Mitchell. Attendance of members (for this meeting as well as those during the year to date) was as follows.

Member	Jurisdiction	2006											
		Jan	Feb	Mar	Apr	Ma y	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Mark Barnett	Taylor Mill	x	x	x	X								
Barbara Carlin	Kenton Co	x	x	x	X								
Barry Coates	Covington	x	x	x	X								
James Cook	Kenton Co	x	x	x	X								
Paul Darpel	Edgewood	x	x	x	X								
Chuck Eilerman	Covington	x	x	x	X								
Tom France	Ludlow	x	x	x	X								
Al Hadley	Elsmere	x	x	x	X								
David Hilgeford	Villa Hills	x	x	x									
Phil Ryan	Park Hills	x	x	x									
Maura Snyder	Independe nce	x	x	x	X								
Paul Swanson, Treasurer	Erlanger	x		x	X								
Joe Tewes	Bromley	x	x	x	X								
John Wells, Vice Chair	Fort Mitchell		x	x	X								
Bernie Wessels	Crescent Spgs	x	x	x									
Gil Whitacre	Lakeside Park	x	x	x									
Alex Weldon, Chair	Covington	x	x	x	X								
Lynn Hood	Crestview Hills		x	x	X								
Kent Marcum	Fort Wright			x	X*								

*arrived after roll was taken.

Also present were Matt Smith, Legal Counsel, and the following NKAPC staff: Michael Schwartz, AICP, Deputy Director for Current Planning; and Andy Videckovich, Associate Planner.

AGENDA:

Ms. Weldon noted a request to table issue 1865R had been received from the applicant. And the letter regarding same was read into the record. A motion was made by Mr. France and seconded by Mr. Eilerman to table the matter for up to six months All in favor. None opposed.

APPROVAL OF THE MINUTES:

The minutes for March were distributed in the Commissioner’s packets. Mr. Hadley made the motion to approve the minutes with Mr. Swanson giving the second. A roll call vote on the matter found Mr. Hadley, Mr. Swanson, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Marcum, Ms. Snyder, Mr. Tewes, Mr. Wells Mr. Swanson and Ms. Weldon in favor. Mr. Barnett, Mr. Darpel and Ms. Hood abstained. The motion carried.

FINANCIAL REPORT:

Mr. Hadley asked about the membership dues as noted on the financial report. Mr. Schwartz then noted these were APA annual dues. There were no further questions or comments with regard to the report. A motion was made by Mr. Hadley and seconded by Mr. Tewes to accept the report as submitted. All in favor; 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.

PUBLIC HEARINGS:

1862R

APPLICANT: City of Covington per Jay Fossett, City Manager
LOCATION: Area A is an approximate 3.1 acre area located along the south side of West 5th Street between Philadelphia Street and Main Street; Area B is an approximate 2.8 acre area located along both sides of Eastern Avenue between a point approximately 100 feet north of Patton Street and a point approximately 100 feet south of East 17th Street; both in Covington.
REQUEST: Proposed map amendments to the Covington Zoning Ordinance

changing: Area A from CT-2P (HP-O) (a commercial - tourist zone with a pedestrian character standard and an historic preservation overlay zone) to CBD-7M (a central business district zone with a mixed character standard); and, Area B from RU-2 (an urban residential zone) to CN-1P (a commercial - neighborhood zone with a pedestrian character standard).

Staff presentation and recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION

RECOMMENDATION A:

To disapprove the proposed map amendment from CT-2P (HP-O) to CBD-7M.

RECOMMENDATION B:

To approve the proposed map amendment from RU-2 to CN-1P.

Comprehensive Plan Documentation:

- Date of Adoption by the Kenton County Planning Commission: December 13, 2006

Supporting Information/Bases For NKAPC Staff Recommendation:

RECOMMENDATION A:

1. The existing CT-2P (HP-O) Zone is appropriate and the proposed CBD-7M zone is inappropriate. The location of the proposed map amendment is within the Mainstrasse neighborhood and not within the Central Business District of the city. The intent of the CBD-7M Zone is to accommodate a wide variety of high-intensity commercial and vertical mixed-use projects, to preserve and enhance pedestrian-oriented development patterns and to preserve and enhance the central business district's function as a center of employment, shopping, cultural and entertainment activities. The proposed map amendment is not located within the city's Central Business District located along both sides of Madison Avenue, from Fourth Street to Tenth Street, and from Madison Avenue to the C&O Railroad, between Pike Street and Ninth Street.

2. The proposed map amendment is not consistent with the recommendations of the *Main Street Development Plan* prepared by the city in 1976. Although dated, the specific recommendations for the area of the site in question are still relevant and applicable today. The plan recommended the area of the site in question for tourist service commercial uses. The following specific goals are relevant to the submitted request:

- Require that new investment be consistent with the scale and architecture of the current structures and neighborhood scale and the theme for the tourist service commercial district;
- Limit the use of structures and spaces be limited to specific uses such as theme restaurant, arts and crafts, small gift and boutique shops with office use and business services generally confined to second floor use, except in business-residential transitional areas; and
- Prohibit and discourage central business district and/or highway commercial retail uses in the tourist service commercial area.

The proposed map amendment would allow development to occur on a much larger scale than that of the existing structures within the Mainstrasse area and would allow a broader range of commercial, office and residential uses incompatible with the adjacent neighborhood. The proposed CBD-7M Zone would also allow for the highest intensity of development (i.e. no maximum number of stories, floor area ratio of 7.0 and mixed use character standard) to be located within the Mainstrasse neighborhood which contains a much lower intensity of development and pedestrian oriented character. The proposed map amendment would also result in the removal of the Historic Preservation Overlay (HP-O) Zone, therefore eliminating the requirement that special attention be given to the architectural and historic significance of the existing structures on the site.

3. Area A is identified within the City Plan Element of the *Comprehensive Plan Update 2006-2026* as part of a larger redevelopment area called the 5th Street Gateway Redevelopment Area. This area extends along the south side of 5th Street between Philadelphia and Main Streets at the gateway from the east ramp of the I-71/75 interchange. A coordinated redevelopment plan is anticipated for this corridor, however, at this time, specific recommendations for this area have not been prepared. The existing CT-2P (HP-O) is therefore appropriate and the proposed CBD-7M Zone is inappropriate until such time as a plan for redevelopment of this gateway area has been prepared and adopted by the Covington City Commission.

4. The site in question is currently occupied by a large city-owned parking lot which provides public parking opportunities serving a good proportion of the

Mainstrasse area. The proposed map amendment would likely result in the elimination of a parking area used daily by both residents and visitors.

5. There have not been any major changes of an economic, physical, or social nature within the vicinity of the area that were not anticipated in the adopted comprehensive plan to warrant the proposed map amendment.

RECOMMENDATION B:

1. The proposed map amendment is consistent with the recommendations of the *Austinburg Special Redevelopment Area Development Plan II*, which was adopted by the Covington City Commission in December 2004 and incorporated as part of the *Comprehensive Plan Update 2006-2026*. The plan states that there are several non-conforming uses within this area, and, as a result, recommended that map amendments to the Covington Zoning Ordinance be carried out within Area B to a zone that accommodates small-scale neighborhood retail. The existing RU-2 Zone is inappropriate and the proposed CN-1P Zone is appropriate by allowing for mixed-use, neighborhood-serving commercial uses that have a relatively small-scale, pedestrian oriented character.
2. While the proposed map amendment is not consistent with the Recommended Land Use Map, which identifies Area B for Residential Development at a density ranging from 7.1 to 14.0 dwelling units per net acre, it is consistent with the following Goals and Objectives and Development Concepts of the *Comprehensive Plan Update 2006-2026*:

GOALS AND OBJECTIVES

GOODS AND SERVICES

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

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

traffic, etc. Such centers should be located and designed so as to minimize any adverse environmental effects.”

DEVELOPMENT CONCEPTS

COMMERCIAL (Contemporary Places)

Mixing of residential and commercial use is desirable (e.g. in certain areas, 2nd floor residential use above 1st floor commercial type uses and in mixed-use type of development may be desirable). It is imperative that such mixing be well planned.

In such instances, critical attention needs to be paid to off-street parking needs/requirements and continuous assurance of compliance with all regulations of commercial use type changes within such structures. Shared parking provisions should be encouraged to ensure efficient use of our land resources.

3. At the time the *Austinburg Special Redevelopment Area Development Plan II* was undertaken, the City of Covington was going through the process of a zoning ordinance update. The plan specified that appropriate zoning map and text amendments would follow when appropriate. A new zoning ordinance was adopted by the City Commission on August 15, 2006. It is therefore appropriate that the City initiate the proposed map amendment at this time in order to effectuate the recommendations of the *Austinburg Special Redevelopment Area Development Plan II*.
4. The CN (Commercial - Neighborhood) Zone is intended to be applied in compact nodes at the intersection of two or more streets or in a cohesive linear fashion along streets characterized by slow traffic speeds and low to moderate traffic volumes (compared to arterial streets). In addition, the CN zone is primarily intended to promote storefront-style buildings with residential dwelling units above the ground floor and relatively small-scale neighborhood shopping centers. The proposed map amendment adding the CN-1P Zone along Eastern Avenue in a linear fashion will allow for small-scale neighborhood shopping centers, consistent with the intended character and purpose of the CN-1P Zone.

Mr. Ludlam and Ms. Beth Robinson registered to speak in favor of the issue. Mr. Brian Ramer registered to speak against. Mr. Craig Johnson, Mr. Barry Johnson and Ms. Susan Wood registered to speak as neutral parties on the issue.

Mr. Ludlam addressed the Commission and stated he is the current president of the Austinburg Neighborhood Association. He stated one of the objectives of the association

was to permit neighborhood commercial buildings to located in the residential neighborhood. He stated their intention is to create a commercial corridor along Eastern Avenue. He then asked that the Commission take Staff's recommendations into consideration and approve the request.

Ms. Robinson addressed the Commission and gave some background on the site with regard to the issue. She stated the city has owned the empty lot for the last 20+ years and the office building for 2 ½ years. She stated they are pursuing the development because of the significant job opportunities to Covington. She additionally stated the site is a unique gateway to into the area and offers an opportunity to showcase the city. She stated the developer has agreed to go through the urban design review process. She further noted parking is a large driving force with this development. Mr. France asked why the city was so interested in pursuing the development. Ms. Robinson noted that one of the reasons is the city owns the land. She stated if this development goes through it will be a significant contribution to the city.

Mr. Ramer addressed the Commission and stated he is against the issue. He noted he was first excited about it because he is an architect in the area. He stated with no zoning limitations the development could be as tall as twenty stories. He additionally stated parking is a huge issue and feels that 6th Street should be residential only. He noted there are 200+ parking spots in the area for the commercial businesses. He stated he feels this is putting the cart before the horse. He stated under the zoning something like sexually oriented businesses could be placed there and with its close proximity to the interstate this would be desirable. He asked why attack the parking lot when it is getting well used. He further questioned why focus on the parking lot when there are other semi vacant land available.

Mr. Johnson had nothing to add.

Mr. Barry Johnson addressed the Commission and stated he is kind of neutral on the issue. He stated there is a definite need for parking and development in Mainstrasse. He stated some of his main concerns are the fact that there are other areas available for development. He stated the city shouldn't readily change zoning to bring development into the area but it would be easier to say we can accommodate you, give us a development and we'll see if we can make a zone to fit it. He stated the look of the development needs to stay historic. He asked that change not be made haphazardly.

Ms. Wood addressed the Commission and stated she understands the economics of development but asked where this fit in the plan for the 5th Street Corridor and the plan of the Brent Spence area. She asked if this is office space that would complementary to the city. She stated she is curious in terms of sale and asked is it not possible to limit the development and ask for a design to make sure it will conform to Mainstrasse. She additionally asked how she could get information on the development.

Mr. France stated he tended to agree with the residents because there is just too much to go along with cart blanche not knowing what is going in there. Mr. Barnett stated he is concerned they are offering up a major change to the city without getting any information as to the criteria of the development. Mr. Wells then stated someone needs to give a recommendation as to what it could be. He further stated who it is is insignificant but there needs to be some description. Mr. Eilerman stated he felt they needed to learn some fundamental development plan. He stated he felt this was an awfully hard thing to get approved by a planning commission. Mr. Hadley then made the motion to disapprove Recommendation A based on the information and testimony heard. Ms. Hood seconded the motion. A roll call vote on the matter found Mr. Hadley, Ms. Hood, Mr. Barnett, Ms. Carlin, Mr. Cook, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Marcum, Ms. Snyder, Mr. Tewes, Mr. Wells Mr. Swanson and Ms. Weldon in favor. Mr. Darpel voted against. The motion carried with a vote of 14-1. **Mr. Eilerman then made the motion as to Recommendation B to approve based on the fact that it is in compliance with the neighborhood plan, the city plan, and also based on Staff's recommendation. Mr. Barnett seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Barnett, Ms. Carlin, Mr. Cook, Mr. Coates, Mr. Darpel, Mr. France, Mr. Hadley, Ms. Hood, Mr. Marcum, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously with a vote of 15-0.**

1867R

APPLICANT: City of Independence per Patricia H. Taney
REQUEST: a proposed text amendment to the Independence Zoning Ordinance amending the regulations pertaining to the parking or storing of trailers, mobile homes, campers, inoperable vehicles, and other such type equipment.

Staff presentation and recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION

To disapprove the proposed text amendment.

Comprehensive Plan Documentation:

- Date of Adoption by the Kenton County Planning Commission: December 13, 2006

Supporting Information/Bases For NKAPC Staff Recommendation:

1. The proposed text amendment is not appropriate. The proposed text amendment states that, in rare cases, the zoning administrator may issue a waiver from the regulations. The term 'rare case' is vague and ambiguous.
2. The proposed text amendment is not reasonable. The regulation states that trailers, recreational vehicles, campers, boats, or similar type equipment must be located within the rear yard. The proposed text amendment allows the zoning administrator to approve an alternate location, such as the required side yard. However, the proposed text amendment does not allow recreational vehicles to be located within any required side yard. As such, if a property owner satisfies the conditions, the zoning administrator could allow a trailer to be located within the required side yard but not a recreational vehicle.
3. Administration of the proposed text amendment will be cumbersome. Again, the proposed text amendment allows the zoning administrator to approve an alternate location, such as the required side yard, except for recreational vehicles. However, the zoning ordinance does not contain a definition for recreational vehicle. It will be the responsibility of the zoning administrator to determine what is, and is not, a recreational vehicle. As an example, the zoning administrator could take a conservative approach and determine that a recreational vehicle is something that you drive (i.e., a Winnebago). Or, the zoning administrator could take a liberal approach and determine that boats and other water vehicles/equipment are recreational vehicles. Either way, the administration of the proposed text amendment is problematic.

No one registered to speak for the issues. Ms. JoAnn Cobble, Mr. Don Nienaber and Mr. Bill Cobble registered to speak against.

Ms. Cobble addressed the Commission and stated she was a former council member. She stated she concurs with Staff and concurs with the supporting information. She stated she believes the whole proposed text amendment is vague and ambiguous. She asked why would the city allow 39 foot campers, boats, etc. in the side yard but not allow RV's. She stated this proposed amendment fails to state the front yard is prohibited. She stated she felt the ordinance would be unenforceable. She asked about screening and stated it is unclear under the amendment if a property owner has to fence and screen their property. She further asked if a city ordinance can conflict with Federal law. She additionally asked how would city know who is grandfathered in or not. She asked the Commission not inflict this amendment on the 17,000 residents of Independence.

Mr. Nienaber addressed the Commission and stated his problem with the text is the waiver clause. He stated he is totally against the waiver clause. He then stated in his opinion he feels the zoning administrator has been unfair in the past and that this is not

a good idea.

Mr. Cobble addressed the Commission and stated he is totally against it because it makes absolutely no sense. He stated it is one of the most poorly written text amendments. He noted this is an embarrassment to the city and the citizens should expect more for their money.

Mr. France then made the motion to deny based on Staff's recommendations and testimony heard. Mr. Cook seconded the motion. A roll call vote on the matter found Mr. France, Mr. Cook, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Ms. Hood, Mr. Marcum, Ms. Snyder, Mr. Tewes, Mr. Wells, Mr. Swanson and Ms. Weldon in favor. Mr. Hadley had left the room prior to the roll being taken.

1869R

APPLICANT: City of Lakeside Park per Mayor Katherine Terwort
REQUEST: proposed text amendments to the Lakeside Park Zoning Ordinance: (1) adding a definition for "trailer"; (2) amending the regulations pertaining to the repair and maintenance of nonconforming free standing garages; and (3) amending the regulations pertaining to front yard setbacks within all residential zones except the R-2 (Residential Two) Zone

Staff presentation and Staff recommendations by Mr. Andy Videckovich.

NKAPC STAFF RECOMMENDATION
RECOMMENDATION A

To approve the proposed text amendment adding a definition for "trailer", but only subject to the condition that the existing cross-reference be deleted.

RECOMMENDATION B

To disapprove the proposed text amendment amending the regulations pertaining to the repair and maintenance of nonconforming free standing garages.

RECOMMENDATION C

To disapprove the proposed text amendment amending the regulations pertaining to front yard setbacks within all residential zones except the R-2 (Residential Two) Zone.

Comprehensive Plan Documentation:

- Date of Adoption by the Kenton County Planning Commission: December 13, 2006

Supporting Information/Bases For NKAPC Staff Recommendation:

RECOMMENDATION A

1. The proposed text amendment is allowed to be included within the text of the zoning ordinance as authorized by Kentucky Revised Statute (KRS) 100.203(1).
2. Adding a definition for trailer will add clarification to the definitions contained within the Lakeside Park Zoning Ordinance by separating trailers from the definition of camping/vacation mobile unit. Therefore, the proposed text amendment adding a definition for “trailer” is reasonable.
3. There should only be one definition for each term being defined. The proposed text amendment would add a new definition, along side the existing cross-reference. To provide for one definition, it is recommended that the existing cross-reference be deleted.

RECOMMENDATION B

1. The proposed text amendment amending the regulations pertaining to the repair and maintenance of nonconforming free standing garages is not a uniform regulations. The proposed text amendment would treat a specific type of nonconforming structure differently than other types of nonconforming structures.
2. The proposed text amendment amending the regulations pertaining to the repair and maintenance of nonconforming free standing garages is inappropriate. The intent of regulating nonconforming structures is to ensure that over time, nonconforming structures within a neighborhood will gradually come into compliance with the regulations of the zoning ordinance and more in character with the rest of the city. The proposed text amendment is in direct conflict with this intent.

RECOMMENDATION C

1. The proposed text amendment amending the regulations pertaining to front yard setbacks within all residential zones except the R-2 (Residential Two) Zone, is unnecessary. The Lakeside Park Zoning Ordinance already sets forth standards for varying front yard depths based on the surround character of the neighborhood:

Section 9.11, C., 1., states that where the average depth of existing front yards within three hundred (300) feet of the lot in question and within the same block front, is greater than the minimum front yard depth required by this ordinance, the minimum required front yard depth on such lot shall be modified to be the average depth of said existing front yards.

Section 9.11, C., 2., states that in any residential zone, no front yard shall be required to exceed the average depth of existing front yards on the same side of the street within the same block, when fifty-one (51) percent or more of the lots within that block are improved with residential buildings, provided that in no case shall a front yard depth be less than twelve (12) feet.

2. The proposed text amendment amending the regulations pertaining to front yard setbacks within all residential zones except the R-2 (Residential Two) Zone, is inappropriate. The front yard depths of two (2) or more contiguous structures along a street may not be indicative of the overall neighborhood character.
3. The proposed text amendment amending the regulations pertaining to front yard setbacks within all residential zones except the R-2 (Residential Two) Zone, is inappropriate in the Other Development Control sections of each residential zone. Regulations that generally apply to every zone within the City are more appropriate in Article IX, General Regulations.

No registered to speak for or against the issue.

A motion was made by Mr. France to approve Recommendation A based on Staff's report and recommendations and adding clarifications as to lawn trailers. Mr. Marcum seconded the motion. A roll call vote on the matter found Mr. France, Mr. Marcum, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. Hadley, Ms. Hood, Mr. Swanson, Mr. Tewes, Mr. Wells and Ms. Weldon in favor. The motion carried unanimously. Ms. Hood then made the motion to disapprove Recommendation B based on Staff's report. Mr. Wells seconded the motion. A roll call vote on the matter found Ms. Hood, Mr. Wells, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Marcum, Ms. Snyder, Mr. Swanson, Mr. Tewes, and Ms. Weldon in favor. The motion carried unanimously. A motion was made by Mr. Hadley to disapprove Recommendation C based on Staff's report and recommendations. Mr. Darpel seconded the motion. A roll call vote on the matter found

Mr. Hadley, Mr. Darpel, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Ms. Hood, Mr. Marcum, Ms. Snyder, Mr. Wells, Mr. Tewes, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

Old and Unfinished Business:

Ms. Weldon stated there was to be an upcoming seminar on May 22 for those who have not had a chance to attend. She also urged the Commissioners to attend the upcoming ethics and planning seminar on June 26th.

Reports from Committees:

Subdivision Regulations Review –Nothing to report.

By-Laws – Nothing to report.

Model Zoning Ordinance – Nothing to report. Meets April 12 at 11:30 p.m.

Executive- Nothing to report.

Report from legal counsel – Nothing to report.

Announcements from Staff – Mike asked that those with manila folders at their seats to please not leave those behind.

Correspondence –None.

New Business: *None.*

There being nothing further to come before the Commission, a motion was then made by Mr. Hadley to adjourn. The motion was seconded by Mr. Tewes. All in favor. None opposed. The meeting then adjourned at 8:05 p.m.