

**KENTON COUNTY PLANNING COMMISSION
REGULAR MEETING**

Minutes

Ms. Weldon, Chair, called the meeting to order at 6:15 PM on Thursday, December 6, 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	2007											
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Mark Barnett	Taylor Mill	X	X		X		X	X	X	X	X		Xx
Barbara Carlin	Kenton Co	X	X	X	X	X	X	X	X	Xx	X	X	Xx
Barry Coates	Covington	X	X	X	X	X	X	X	Xx	Xx	X	X	Xx
James Cook	Kenton Co	X	X	X	X	X		X		Xx		X	Xx
Paul Darpel	Edgewood	X	X		X	X	X		Xx	Xx	X	X	Xx
Chuck Eilerman	Covington	X	X	X	X	X	X	X	Xx	Xx	X	X	Xx
Tom France	Ludlow	X	X	X	X	X		X	Xx	Xx	X		Xx
Al Hadley	Elsmere	X	X	X	X	X	X	X	Xx	Xx	X	X	Xx
David Hilgefurd	Villa Hills		X	X		X			X	Xx	X	X	Xx
Phil Ryan	Park Hills	X	X	X		X	X			Xx	X	X	Xx
Maura Snyder	Independence	X	X	X	X		X	X	X	X			
Paul Swanson, Treasurer	Erlanger	X		X	X	X	X		Xx	X	X	X	Xx
Joe Tewes	Bromley	X	X	X	X	X	X	X	Xx	Xx		X	Xx
John Wells, Vice Chair	Fort Mitchell	X	X	X	X			X	Xx	Xx	X	X	Xx
Bernie Wessels	Crescent Spgs	X	X	X		X	X	X	X	x	X		X
Gil Whitacre	Lakeside Park	X	X			X	X	X	X		X		Xx
Alex Weldon, Chair	Covington	X	X	X	X	X	X	X		Xx	X	X	X
Lynn Hood	Crestview Hills	X	X		X	X		X	Xx	X	X	X	Xx
Kent Marcum	Fort Wright	X	X	X	X			X	X	Xx	X		Xx

“X” denotes attendance at the regular meeting and “x” denotes attendance at the continuation meeting.

Also present were Mr. David Schneider, Legal Counsel, and the following NKAPC staff: Michael Schwartz, AICP, Deputy Director for Current Planning.

AGENDA: Ms. Weldon noted that due to events beyond the Commission’s control, no public hearings would be held and she asked for a motion to continue the meeting to Tuesday, December 11. Mr. Schneider gave the background information with regard to KRS 424 as it related to the meeting and the reason for the continuation of the meeting. He noted the Kentucky Post failed to run the notice regarding the evening’s issues so the meeting will be continued to December 11, 2007. A motion was then made by Mr. Wessels to amend the agenda to include all items except for the public hearings. Mr. Ryan seconded the motion. All in favor. None opposed.

APPROVAL OF THE MINUTES:

It was noted that page one of the minutes from November should be amended to include Mr. Tewes in the blank left open. There being no further changes or corrections, Mr. Hadley then made the motion to approve the minutes as amended. Mr. Tewes seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Tewes, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgeford, Ms. Hood, Mr. Ryan, Ms. Snyder, Mr. Wessels, Mr. Marcum, Mr. Whitacre, Mr. Swanson, Mr. Wells and Ms. Weldon in favor. The motion carried unanimously.

FINANCIAL REPORT:

There were no questions or comments with regard to the financial report. A motion was made by Mr. Swanson to accept. Mr. Eilerman seconded the motion. 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.

Old and Unfinished Business:

Nominating Committee: Mr. Barnett stated there would be incumbents only for the nominations and that open nominations would be taken in January with elections.

Reports from Committees:

Subdivision Regulations Review – Mr. Wessels noted they did meet and sated Scott is having problems with violations occurring within subdivisions. He stated it is coming from builders, home owners, etc. doing things not permitted in subdivision regulations. He stated they are exploring different ways on how to handle the situation. He further stated there is a lot to consider and Matt Smith is looking into some language to consider as wording in the matter.

By-Laws – No report.

Model Zoning Ordinance – Nothing to report.

Executive- It was noted they are waiting for final signage draft. Mike Schwartz stated that was just received and Staff was going over them.

Report from legal counsel –Mr. Schneider stated the Commission should have received an email regarding the Riverview lawsuit.

Announcements from Staff – Nothing to report.

Correspondence – None.

New Business: -Ms. Weldon asked that if anyone hasn't yet contacted Gail regarding the Christmas party that they please do so as to whether or not they will be attending. She also noted the last week of April, first week of May is the date for the upcoming conference Las Vegas. She asked that those commissioners planning on attending to also please let Gail know.

Ms. Weldon stated Mr. Hadley asked his city's mayor to not renew his term when it expires. Ms. Weldon stated he has served the Commission the past 8 years and he will be greatly missed. She then presented him with a plaque for his service to the Commission.

Public Comments: None.

There being nothing further to come before the Commission, Mr. Wessels made the motion to recess the meeting December 11 at 6:15 p.m. Ms. Hood seconded the motion. The meeting recessed at 7:05 p.m. until such date and time.

Continuation of Meeting Held December 11, 2007

Mr. Wells, Vice Chair, called the meeting to order at 6:15 PM on Tuesday, December 11, 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	2007											
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Mark Barnett	Taylor Mill	X	X		X		X	X	X	X	X		Xx
Barbara Carlin	Kenton Co	X	X	X	X	X	X	X	X	Xx	X	X	Xx
Barry Coates	Covington	X	X	X	X	X	X	X	Xx	Xx	X	X	Xx
James Cook	Kenton Co	X	X	X	X	X		X		Xx		X	Xx
Paul Darpel	Edgewood	X	X		X	X	X		Xx	Xx	X	X	Xx
Chuck Eilerman	Covington	X	X	X	X	X	X	X	Xx	Xx	X	X	Xx
Tom France	Ludlow	X	X	X	X	X		X	Xx	Xx	X		Xx
Al Hadley	Elsmere	X	X	X	X	X	X	X	Xx	Xx	X	X	Xx
David Hilgefurd	Villa Hills		X	X		X			X	Xx	X	X	Xx
Phil Ryan	Park Hills	X	X	X		X	X			Xx	X	X	Xx
Maura Snyder	Independence	X	X	X	X		X	X	X	X			
Paul Swanson, Treasurer	Erlanger	X		X	X	X	X		Xx	X	X	X	Xx
Joe Tewes	Bromley	X	X	X	X	X	X	X	Xx	Xx		X	Xx
John Wells, Vice Chair	Fort Mitchell	X	X	X	X			X	Xx	Xx	X	X	Xx
Bernie Wessels	Crescent Spgs	X	X	X		X	X	X	X	x	X		X
Gil Whitacre	Lakeside Park	X	X			X	X	X	X		X		Xx
Alex Weldon, Chair	Covington	X	X	X	X	X	X	X		Xx	X	X	X
Lynn Hood	Crestview Hills	X	X		X	X		X	Xx	X	X	X	Xx
Kent Marcum	Fort Wright	X	X	X	X			X	X	Xx	X		Xx

"X" denotes attendance at the regular meeting and "x" denotes attendance at the continuation meeting.

Public Hearings:

1898R

APPLICANT: City of Independence per Patricia H. Taney

REQUEST: proposed text amendment to the Independence Zoning Ordinance amending the off-street parking requirements for restaurants

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION

To approve the proposed text amendment amending the off-street parking requirements for restaurants.

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 amending the off-street parking requirements for restaurants is allowed to be included within the text of the zoning ordinance as authorized by Kentucky Revised Statute (KRS) 100.203(1).
2. As part of the NKAPC staff's preparation of the *2020 Sourcebook: Model Zoning Provisions for Kenton County* (The Model Zoning Ordinance), the staff reviewed the current parking regulations. Based upon the NKAPC staff's research, using sources such as the Institute of Traffic Engineers (ITE) Parking Generation Models, the Urban Land Institute (ULI), and a comparative analysis of the existing regulations in and around Kenton County, the proposed off-street parking requirements more accurately reflect the demand for off-street parking spaces for restaurants.

Mr. Tim Theissen, Mr. Jim Bertram and Mr. Dick Hauger registered to speak on the issue. No one registered to speak against or neutral on the issue.

Mr. Theissen addressed the Commission and stated he is representing Jim Bertram on the issue. He stated the parking requirements that are in the current parking codes are unchanged for years. As a result there has been a request by the city to consider the standards for parking. He gave reasons for the reduction of parking spaces based on an EPA study. He summarized the study and stated the government study supports the reduction of parking spaces for a lot of different uses, not just restaurants. He stated there are an awful lot of unused parking spaces. He further stated when you end up increasing the distance between two establishments you reduce the number of foot traffic and increase the amount of automobile traffic which then increased the amount of pollution coming from those cars. He stated more parking means that there is less land for productive uses. He further noted the more parking you have, the more paved areas you have and more storm water issues. He noted they are not creating maximums here, they are creating minimums. He stated those are some of the reasons why the request was made. He stated the other two registered to speak had nothing to add but were available to answer any questions. Mr. Hilgefurd then made the motion to approve for reasons submitted by Staff and testimony heard. Mr. Coates seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Coates, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Ms. Hood, Mr. Ryan, Mr. Tewes, Mr. Marcum, Mr. Swanson and Mr. Wells in favor.

1899R

APPLICANT: Anthony Beach

LOCATION: an approximate 13-acre area located on the east side of Taylor Mill Road, between Ridgeway Avenue and Wolf Road, approximately 600 feet south of Ridgeway Avenue in Taylor Mill

REQUEST: proposed map amendment to the Taylor Mill Zoning Ordinance changing the

described area from R-1C (a single family residential zone with a maximum density of approximately 3.5 dwelling units per net acre) and PO (a professional office zone) to R-RE (a residential rural estate zone with a maximum density of one (1) dwelling unit per net acre)

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION

To disapprove the proposed map amendment from R-1C and PO to R-RE

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 map amendment is not consistent with Recommended Land Use Map of the *Comprehensive Plan Update 2006-2026*, which identifies the site in question as being part of a larger area extending to the north, south, and east of the site in question, as Residential Development at a density ranging from 2.1 to 4.0 dwelling units per net acre. The proposed map amendment will allow residential development at a density of one (1) dwelling unit per net acre. The allowable density in the R-RE zone is approximately 100% less than the density that is recommended in the Comprehensive Plan.
2. The existing zoning of R-1C on the site in question is appropriate and the proposed zoning of R-RE is inappropriate. The R-1C Zone allows for residential development at a density of approximately 3.5 dwelling units per net acre, which is consistent with the Recommended Land Use Map of the *Comprehensive Plan Update 2006-2026*.
3. There have not been major changes of an economic, physical, or social nature within the area that were not anticipated when the *Comprehensive Plan Update 2006-2026* was adopted, and have not substantially changed the character of the area. The *Comprehensive Plan Update 2006-2026* was adopted by the Kenton County Planning Commission December 13, 2006
4. The proposed map amendment is inappropriate. The entire site in question is within the Urban Service Boundary.

The Urban Service Area is that portion of Kenton County that can be economically provided with the full range of urban services during the planning period (primarily public water and centralized sanitary sewer facilities, inclusive of storm sewer facilities, adequate police and fire protection, street lighting, street cleaning, refuse collection and disposal, etc.)

In order for such services to be provided efficiently and economically, it is essential that urban development be concentrated so as to take advantage of costly infrastructure (i.e., sewerage facilities, water system, streets, etc.). Such compact development also keeps down costs that are directly related to the distance that must be traveled by service personnel (i.e., police and fire personnel, waste collection crews, street maintenance and street cleaning crews, school buses, etc).

Land within the Urban Service Area is recommended to be used for residential development at a variety of densities, and land within the Non-Urban Service Area recommended for agricultural or very low-density rural residential use.

Since the site in question is within the Urban Service Boundary, and could potentially take advantage of more concentrated development to reduce the costs of infrastructure and services, it is appropriate that the site be zoned to accommodate a density greater than one (1) dwelling unit per net acre.

5. The proposed map amendment is not consistent with the Development Concepts within the Land Use Element of the *Comprehensive Plan Update 2006-2026*.

Density is the major determinant of residential development.

Residential densities provide the major bases for “utilities” and “community facilities systems” planning and helps define the character of an area

The density of development for undeveloped land should be based on considerations such as: (a) the density of adjacent developed areas, of which the undeveloped land would be a logical extension; (b) access to major transportation facilities; (c) the nature of adjacent activities; and (d) the unique characteristics of the development site. (e) residential development in rural areas should be designed to maintain existing rural character of open space and the appearance of low density.

Such a concept would result in development which is compatible with surrounding land uses and which would not result in generating high volumes of traffic through low density areas.

The proposed map amendment will permit residential development at a density that is less than the adjacent developments to the north, south, and west of the site in question.

Additional Information

1. While the NKAPC staff is recommending disapproval of the proposed map amendment, the staff acknowledges that the current zoning of PO along Taylor Mill Road is not consistent with the Recommended Land Use Map of the *Comprehensive Plan Update 2006-2026*. The NKAPC staff recommends that the City of Taylor Mill submit a map amendment for this area to rezone it to R-1C, which would be consistent with the Recommended Land Use Map.

Mr. Brandon Voelker registered to speak in favor of the issue. Ms. Jill Bailey registered to speak with questions. No one registered to speak against or neutral.

Mr. Voelker addressed the Commission and distributed a petition obtained by the applicant, Mr. Beach, signed by the residents on his street. He stated he has been a resident for many years. He further noted he has never seen someone request this zone so this is certainly very different. He stated the reason he wants it is he would like to have the possibility of building a house and keep a natural setting. He stated he wants to keep green space in Taylor Mill. He stated in the future there isn't anything to stop Drees or any other builder from asking for a request to change that but when someone comes along like Anthony Beach you should be for this type of request. He stated he feels it is something completely out of the ordinary and that needs to be kept in mind. He further noted he doesn't think this request is going against the comprehensive plan. He stated one of the other issues is the state is planning on taking Old Taylor Mill Road and connecting it to Wolfe Road so there is not going to be a need for a commercial area. He stated it would all be residential. He further noted his client is just asking for a chance to preserve a little bit of Taylor Mill and he doesn't think it is too much to ask. Mr. Voelker stated based on the fact this road will change, the physical element will change, and the land use will call for residential development, he doesn't feel there is any problem with going with a little less density. It was noted the property owner would not have any livestock of any kind with the exception of possibly a horse along with building a single family home on the property. Mr. Barnett stated he is struggling with reconciling this request with the comprehensive plan that is used as the guideline. Mr. Bolker stated there isn't an opportunity in

Taylor Mill to have a varied density as in other areas. Mr. Hilgeford stated he thinks this is the first change going the other way. He noted this is a request to a lower density and he just doesn't see the problem. He stated he sees what Mr. Barnett means with the comprehensive plan but doesn't see the point as it relates to this issue.

Mr. Beach addressed the Commission and stated basically when he did this plan he spoke with Staff and it needed to be 5 acres. He stated the comprehensive plan speaks of the quality of life and he feels this will improve the quality of life. He stated the will always make sure the property looks nice. Ms. Jill Bailey had nothing to add.

Mr. Wells read the petition signed by approximately 29 residents into the record. It was then marked as an exhibit and made a part of the record on the matter. Mr. Bolker stated he would not be opposed to a condition that there not be any livestock on the property. Mr. Darpel stated he would rather see a rural estate zone than a PO in front of the property and an R1-D on the back of the property. He further stated he felt it was more consistent with the comprehensive plan to have it a rural estate zone than to split it up. Mr. Hilgeford then made the motion to approve based on the fact that it provides for a more varied land use within the City of Taylor Mill, and that he finds the existing zoning is more appropriate based on the comments heard and that the proposed zone is more appropriate. He further added a recommendation to the city that the land not be used for livestock of any kind other than a horse, and the property owner agreed. Mr. Barnett seconded the motion. A roll call vote on the matter found Mr. Hilgeford, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. France, Mr. Hadley, Ms. Hood, Mr. Ryan, Mr. Tewes, Mr. Marcum, Mr. Swanson and Mr. Wells in favor. Mr. Eilerman voted against. The motion carried with a vote of 14-1.

1900R

APPLICANT: City of Park Hills, per Michael Hellmann
REQUEST: a proposed text amendment to the park Hills Zoning Ordinance adding animal hospital to the list of permitted uses within the NC (Neighborhood Commercial) Zone.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION

Approval of the proposed text amendment, but only subject to compliance with the following conditions:

1. That Section 10.8, A., 24., be amended to read as follows: "Animal hospitals, including kenneling facilities".
2. That Section 10.8, E., 1. be amended to read as follows: "Animal clinics and hospitals, including kenneling facilities, are limited to making outside runs during daytime hours."

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 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 in that it provides a use which is consistent with other uses currently permitted within the zoning district.

3. The current regulations permit hospitals within the NC Zone. The city's zoning ordinance does not provide a definition for hospital. Rather, it provides two separate definitions -- one for human hospitals and one for animal hospitals. By city action in 1997, it can be interpreted that the term hospital is meant for an animal hospital. However, the proposed text amendment would clarify this ambiguity.
4. Based on the city's action in 1997, the current regulations permit the overnight care of animals as part of a hospital. Additionally, animal clinics and hospitals are permitted to have outside runs for daytime use. Since the functions of overnight animal care and outside runs are already permitted, the proposed amendment allowing kenneling facilities as part of an animal hospital would provide a greater service to the community without adding any additional land use functions.

Ms. Alice Otto and Dr. Colett registered to speak in favor of the issue. No one registered to speak against or neutral on the issue.

Ms. Otto addressed the Commission and stated Dr. Colett has been practicing in Park Hills for 11 years. She noted the community in Park Hills is expanding and therefore the services the hospital offers needs to keep up with that. She stated the facility has been there since the 1940's and needs to be upgraded. She noted Dr. Colett has recently purchased the adjacent property and to keep up with the needs of the community will be expanding his practice. She stated he was grandfathered in but the adjoining property is not. She further noted part of the upgrade will go to kennels to offer boarding for people that bring in animals for treatment. She stated they are simply asking that it be clear so they can allow for this service to be available to the community. She additionally noted there have been kennels there for many years with no problems and the property is surrounded by sort of a natural forest to provide as a buffer.

Dr. Colett was available to answer any questions.

Mr. Ryan then made the motion to approve with the conditions of Staff based on Staff's report. Mr. Darpel seconded the motion. A roll call vote on the matter found Mr. Ryan, Mr. Darpel, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgefurd, Ms. Hood, Mr. Tewes, Mr. Marcum, Mr. Swanson and Mr. Wells in favor. The motion carried.

1901R

APPLICANT: Manor Lake, LLC, per J. J. Miller and Scott A. Sizemore
LOCATION: an approximate 105 acre area located at the southeast corner of the intersection of Taylor Mill Road with Manor Lake Drive, Unincorporated Kenton County.
REQUEST: (1) a proposed map amendment to the Kenton County Zoning Ordinance changing approximately 10 acres of the described area from R-1B (a single-family residential zone) and A-1 (an agricultural zone) to R-1B (PUD) (a single-family residential zone with a planned unit development overlay zone); and (2) review of a proposed amended Stage I Development Plan for approximately 95 acres of the described area which is currently zoned R-1B (PUD).

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

NKAPC STAFF RECOMMENDATION

To approve the proposed map amendment from A-1 and R-1B to R-1B (PUD) and the amended Stage I Development Plan.

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 map amendment from A-1 and R-1B to R-1B (PUD) and the amended Stage I Development Plan is generally 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 2.0 dwelling units per net acre and Under and Agricultural and Rural uses. The proposed R-1B (PUD) Zone will allow the development of residential dwellings at a maximum density of 2.0 dwelling units per net acre.
2. The use of the R-1B Zone as the underlying zone on the approximate 10 acres of the site in question would represent a logical extension of the existing R-1B Zone on the site in question and located to the north and northwest of this area. The R-1B Zone is currently identified on a ridge line within the site in question. It is appropriate to have the R-1B Zone identified on the other ridge line on the site in question.
3. The proposed R-1B (PUD) Zone on the approximate 10 acres of the site in question would represent a logical extension of the existing R-1B (PUD) Zone located to the south and west of this area.
4. The proposed map amendment from A-1 and R-1B to R-1B (PUD) and the amended Stage I Development Plan is consistent with the stated purpose of the PUD Overlay Zone, which are to: promote flexibility in design and permit planned diversification in the relationships between location of and types of uses and structures; promote the advantages of modern large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize such features in an harmonious fashion; provide for more usable and suitably located recreation facilities, other public and common facilities, than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.

The proposed R-1B (PUD) Zone, as evidenced by the submitted development plan, will: allow the development of the site with single-family residential dwellings at a density consistent with the comprehensive plan; allow for the protection and retention of creeks hillside areas; and place development on existing ridge lines.

5. Prior to the planning commission's public hearing, R. Scott Kimmich, Kenton County Deputy Judge/Executive, submitted a letter indicating the need for roadway improvements at the intersection of Taylor Mill Road with Manor Lake Drive. During the planning commission's public hearing, testimony was given that there was a sight distance problem at the intersection of Taylor Mill Road with Manor Lake Drive. Based on this information, the planning commission provided an additional information comment in their action letter stating that the developer should work with the Kentucky Transportation Cabinet on intersection improvements.

To address these concerns, the applicant has proposed a new intersection with Taylor Mill Road that will provide adequate sight distance for their development, along with the other properties along Manor Lake Drive. Additionally, this new curb cut will allow for a coordinated four way intersection with Taylor Mill Road and the property across the street from the site in question.

6. The submitted Stage I Development Plan meets the minimum requirements of the Kenton County Zoning Ordinance.

Additional Information:

1. The Kenton County Subdivision Regulations require that sidewalks be provided as part of any new development. The submitted development plan indicates that sidewalks will be provided along both sides of new streets. However, there is not indication of sidewalks being constructed along Taylor Mill Road. This sidewalk will have to be provided as part of a subsequent subdivision process.

Mr. Justin Verst, Mr. Charlie Meyer, Mr. J.J. Miller and Mr. Scott Sizemore registered to speak in favor of the issue. Ms. Carol Shelton and Ms. Cathy Donahue registered to speak with questions. No one registered to speak against.

Mr. Verst addressed the Commission and stated it is probably fair to include the minutes from the prior meeting on the issue. He stated the developer is the same and he feels everyone is pretty familiar with the issue. He noted this was an old platted plan that was never developed. He further noted the main concern of the residents was the site distance at Manor Drive. He noted they spoke with Duke Energy to try to relocate Manor Drive at the top of the hill as well as the highway department as far as lowering the road. He noted not a whole lot has changed but the access has changed. He additionally noted the open green space has changed from 35% to 45%. He further noted the existing driveway from Manor Drive will remain. Mr. Verst stated the density will also stay the same but access has changed and they feel it is a safer entrance way into the development.

Mr. Miller addressed the Commission and stated he did not like the original access. He stated he spent the last several months trying to acquire the additional property to reroute the access to make safer. He further noted a lot of time and effort was spent trying to make it work and hopefully it's a much better solution. He noted he was available to answer any questions.

Mr. Charlie Meyer addressed the Commission and stated basically what was already stated. He noted everyone agrees it is much safer for the school buses going in and out of the development. He stated they are very much in favor of the development.

Ms. Shelton addressed the Commission and stated she is not opposed but had some questions. She asked if the sidewalk would go down the existing Manor Lake Drive. Mr. Verst stated the sidewalk will be extended based on the portion in front of the property. She further asked about the existing house that has been standing vacant for almost a year and was wondering on the time frame for its removal. Mr. Meyer stated as soon as the approval is obtained that will be taken care of. She also asked about a hard copy of the existing plan. It was then noted that she could be provided with that.

Ms. Donahue addressed the Commission and asked what plans they had for the green space. Mr. Miller stated it will be maintained as part of a homeowner's association. He noted it will basically be maintained as woods just as it is and not be disturbed. She also asked about road frontage greenery. She asked if that would stay along Route 16. Mr. Miller stated unfortunately they would have to do quite a bit of clearing along 16 because that is basically a hole there. He stated they are going to clear that and put in the new street from Manor Lake on over and essentially short up Route 16. He stated because of that they are not going to be able to maintain the greenery along 16 there. Mr. France stated it is refreshing to see a developer working with the state and he commends them for that in making it safer. A motion was then made by Mr. Hadley to approve based on Staff's report and information submitted. 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, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Ryan, Mr. Tewes, Mr. Marcum, Mr. Swanson and Mr. Wells in favor. The motion carried.

W-686

APPLICANT: The Buckeye Guys, LLC

LOCATION: an approximate 7.3 acre area located along the south side of Hudson Avenue, approximately 250 feet west of Dixie Highway in Lakeside Park.

REQUEST FOR ACTION: to grant a waiver to Section 5.3 of the Kenton County Subdivision Regulations; granting the request would allow the applicant to construct sidewalk along one side of a newly-constructed subdivision street for Five Mile Village instead of along both sides as required.

Staff presentation and Staff recommendations by Mr. Scott Hiles.

NKAPC STAFF RECOMMENDATION

To deny the requested Waiver to Section 5.3 and require sidewalk along both sides of Cahill Court.

Bases:

1. Subdivision Regulations Section 5.3 requires sidewalk along both sides of new streets.
2. 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.
3. Requiring that sidewalks be constructed along both sides of new streets is consistent with the Goals and Objectives of the 2001 Comprehensive Plan Update. As stated in Chapter 8, "Effort should also be made to develop a balanced total transportation system which incorporates and integrates all transportation modes (including air, water, rail, transit, roadway and pedestrian access facilities)". Allowing sidewalk along one side of a new street does not develop a balanced pedestrian circulation system.

Mr. Tim Theissen and Mr. Jim Bertram registered to speak for the issue. No one registered to speak against or neutral on the issue.

Mr. Theissen addressed the Commission and stated this is a 22 foot wide street on 40 of right of way vs. 50 feet of right of way. He stated this is a street that is really going to be accessing 4 homes. He asked that the Commission keep an open mind and be practical. He noted it is a street that is not going to have any significant pedestrian traffic. He stated the street is essentially as long as walking from the front yard to a backyard. He noted if they have to build a sidewalk they will have to build a retaining wall. He additionally noted for various reasons they cannot touch the property of the existing home owner to grade the area. He stated the owner wants to be totally excluded from this development and stated if they landscape the area vs. putting in a sidewalk she will have a green buffer. He further stated that essentially no one will be using this sidewalk and noted it actually makes a lot of sense not to put it in. Mr. Theissen noted the unusual condition is that the builder cannot grade and to put in the sidewalk they will have to cut straight down and put in a 2-3 foot tall retaining wall in order to put in the sidewalk. He noted he feels this is an innovative design to have a tree lines street vs. a retaining wall and a sidewalk. He further noted it is also a safety concern with the possibility of someone falling off the wall or cars skidding into it. He then distributed a handout which was marked as an exhibit and made a part of the record. Mr. Theissen asked for consideration and that the Commissioners have an open mind in considering this request.

Mr. Bertram addressed the Commission and stated they are trying to do a unique development in Lakeside. He stated if they have to go to the property owner for a grading request there will be problems. He stated they are trying to keep the city happy and the homeowner happy. He noted they are trying to use an innovative design by keeping the development secluded. He additionally stated they are creating a

very unique design in Lakeside and they are trying to keep his community happy and the neighbor happy. He further noted the property owner has had the police called during construction and they have had numerous problems with the existing property owner. He noted he can build a sidewalk but absolutely cannot grade the property adjoining. He did note there were some council members that came and walked the property and stated they were in favor, however, the city attorney advised them not to do a letter in support of the development. Mr. Darpel stated there is no way they can say there is a hardship or topographical issues with the development. He stated this would set a precedent if they say there are topo issues with the development. Mr. Whitacre asked if it was permissible to plant trees in a public right of way. Mr. Smith stated he didn't recall there ever being a request that would allow trees to be planted in the right of way. Mr. Whitacre then asked if a special permit would need to be obtained from the city in order to plant the trees in the right of way. Mr. Bertram stated they would in fact have to obtain as permit in order to do that.

Mr. Hilgefurd then made a motion to grant the waiver given the testimony and the uniqueness of the design of the development and the uniqueness of the home and homeowner as a basis for the waiver. It was further clarified as follows: that there be a landscaped berm, a permit granted by the city, an HOA in place and the HOA to maintain the trees. Mr. France seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. France, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Hadley, Mr. Marcum and Mr. Whitacre in favor. Mr. Barnett, Mr. Darpel, Mr. Eilerman, Ms. Hood, Mr. Ryan, Mr. Tewes, Mr. Swanson and Mr. Wells voted against. The vote resulted in a tie vote. Mr. Hadley then made a motion to grant the waiver with a sidewalk on one side extended to 5 feet, with landscaping approved by the city, an HOA in place to maintain it, and the sidewalk extended at the T-intersection with the basis of hardship and aggravation. Mr. Hilgefurd seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Hilgefurd, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. France, Mr. Marcum and Mr. Whitacre in favor. Mr. Barnett, Mr. Darpel, Mr. Eilerman, Ms. Hood, Mr. Ryan, Mr. Tewes, Mr. Swanson and Mr. Wells voted against. The motion again resulted in a tie vote of 8-8.

A motion was then made by Mr. Hilgefurd to adjourn the meeting. The motion was then withdrawn. Mr. Tewes then suggested having a shorter width sidewalk to remedy the situation. Mr. Barnett stated that it is not possible to have both the landscaping and the sidewalk because there just is not room Mr. Whitacre stated it is not practical to build a sidewalk shorter than 4 feet.

There was no further discussion on the issue.

A motion was then made to adjourn the meeting by Mr. Barnett. Ms. Hood seconded the motion. All in favor. None opposed. The meeting then adjourned at 8:55 p.m.

APPROVED:

Chair

Date