

**KENTON COUNTY PLANNING COMMISSION  
REGULAR MEETING**

**Minutes**

Ms. Weldon, Chair, called the meeting to order at 6:15 PM on Thursday, March 6, 2008, 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	2008											
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Mark Barnett	Taylor Mill	X	X	X									
Barbara Carlin	Kenton Co	X	X	X									
Barry Coates	Covington	X	X	X									
James Cook	Kenton Co	X	X										
Paul Darpel	Edgewood	X		X									
Chuck Eilerman	Covington	X	X	X									
Tom France	Ludlow	X	X	X									
David Hilgefurd	Villa Hills	X	X	X									
Lynn Hood	Crestview Hills	X	X	X									
Kent Marcum	Fort Wright	X											
Brandon Raybourne	Elsmere	X	X	X									
Mark Rogge	Crescent Springs	-	-	X									
Phil Ryan	Park Hills		X	X									
Maura Snyder	Indepen	X	X	X									
Paul Swanson, Treasurer	Erlanger	X		X									
Joe Tewes	Bromley	X	X	X									
John Wells, Vice Chair	Fort Mitchell	X	X										
Alex Weldon, Chair	Covington		X	X									
Bernie Wessels	Crescent Springs	X	-	-	-	-	-	-	-	-	-	-	-
Gil Whitacre	Lakeside Park	X	X										

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

“\*” denotes arrival after roll call was taken.

“-“ denotes not on the planning commission.

Also present were Mr. Matt Smith, Legal Counsel, and the following NKAPC staff: Michael Schwartz, AICP, Deputy Director for Current Planning, Scott Hiles, Deputy Director for Infrastructure Planning, and Adam Kirk, Transportation Engineer.

**AGENDA:** Ms. Weldon noted a request to table was received regarding issue 1906R for a period of thirty days. Mr. Eilerman made the motion to table the issue with a second by Mr. Ryan. A roll call vote on the motion found Mr. Eilerman, Mr. Ryan, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Raybourne, Mr. Rogge, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Swanson and Ms. Weldon in favor. The motion carried. A request to table issue 1908R was also received for a request of up to six months by Mr. Jim Bertram. A motion was made by Ms. Snyder to table the issue and seconded by Mr. Hilgefurd. Mr. Hilgefurd then noted the issue of tabling issues was featured in a recent seminar on ethics that just because a request to table is received the Commission does not have to grant it. He noted it is the Commission's meeting and not the applicant's. He stated the issue has been published and people are present and he feels the issue should go forward. Mr. Smith then noted his understanding was that a purchase agreement for one of the properties was not in place so they could not go forward with the public hearing. A roll call vote on the matter found Ms. Snyder, Mr. Hilgefurd, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France, Ms. Hood, Mr. Raybourne, Mr. Rogge, Mr. Ryan, Mr. Tewes, Mr. Swanson and Ms. Weldon in favor. The motion carried. Ms. Weldon further noted with regard to the issue that item 653 should read number 652. Ms. Snyder then made a motion to accept the remainder of the agenda. Mr. Ryan seconded the motion. All in favor. None opposed.

#### **APPROVAL OF THE MINUTES:**

Mr. Tewes made a motion to approve the minutes from February. Ms. Snyder seconded the motion. A roll call vote on the matter found Mr. Tewes, Ms. Snyder, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Raybourne, Mr. Ryan and Ms. Weldon in favor. Mr. Darpel, Mr. Rogge and Mr. Swanson abstained. The motion carried.

#### **FINANCIAL REPORT:**

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

#### **PUBLIC HEARINGS:**

##### **1907R**

**APPLICANT:** City of Fort Mitchell, per Steve Hensley

**REQUEST:** a proposed text amendment to the Fort Mitchell Zoning Ordinance adding computer or internet based game facilities, with specific exclusions, to the list of permitted uses within the MLU (Mixed Land Use) Zone

Staff presentation and Staff recommendations presented by Mr. Michael Schwartz.

#### **NKAPC STAFF RECOMMENDATION**

Approval of 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 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 as it pertains to function, size, and scale of operation.

No one registered to speak for, against or neutral on the issue. A motion was made by Mr. Darpel to approve for reasons stated by Staff. Mr. Eilerman seconded the motion. A roll call vote on the matter found Mr. Darpel, Mr. Eilerman, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. France, Mr. Hilgeford, Ms. Hood, Mr. Raybourne, Mr. Rogge, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

**W-694-2**

**APPLICANT:** Restaurant Management, Inc. and United Dairy Farmers

**LOCATION:** a 2.2 acre area located at the northeast intersection of Houston Road and Donaldson Road in Erlanger

**REQUEST FOR ACTION:** to grant waivers to requirements of Section 4.1 of the Kenton County Subdivision Regulations; granting the request would waive the requirement that curb cuts along Houston Road and Donaldson Road be located at least 600 feet away from the Houston Road/Donaldson Road intersection and would waive the requirement for intersection improvements at these new curb cuts

Staff presentation and Staff recommendations presented by Mr. Adam Kirk.

**NKAPC STAFF RECOMMENDATION**

That the planning commission deny the requested waivers of Subdivision Regulations Section 4.1 E. 2 and prohibit the proposed access points along Donaldson Road and Houston Road.

**Bases:**

1. Subdivision Regulations Section 4.1 E. 2 requires 600 foot spacing of new intersections along Houston Road and Donaldson Road.
2. Subdivision Regulations Section 4.1 E. 2 require reserved turn lanes at new intersections along Houston Road and Donaldson Road.
3. 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.

4. The proposed locations of the access points, which are within the limits of the existing turn lanes along Donaldson Road and Houston Road, make it impracticable to provide the necessary intersection improvements to serve the proposed entrances. Providing left turn lanes at these access points will require significant widening of Houston Road and Donaldson Road and/or significant reduction of the existing turn lanes at these approaches. Such improvements would likely cause both safety concerns and significant impediments to the efficient operation of the Donaldson Road/Houston Road intersection.
5. Because the proposed locations are within the limits of the existing turn lanes along Donaldson Road and Houston Road entering vehicles would be required to utilize sections of existing reserved turn lanes for adjacent intersections. The combined use of existing turn lanes for a purpose in which they were not designed nor intended will compromise both the capacity and safety of the existing adjacent intersections as well as the proposed intersections.
6. The rationale and reasoning expressed by the planning commission during the motion to grant the waiver for the single access point along Houston Road on February 7, 2008 was that all other existing access points along Houston Road and Donaldson Road serving this development would be eliminated. In addition, the applicant stated that the access point along Houston Road that was approved by the planning commission February 7, 2008 was able to serve all of the proposed lots within the development.

Ms. Weldon noted the three items distributed in the Commissioner's packets would be marked as exhibits with regard to the issue. Mr. Don Stegman, Ms. Maura Muran and Mr. Jack Combs registered to speak in favor of the issue. No one registered to speak against or neutral on the issue.

Mr. Stegman addressed the Commission and stated he was retained by Arby's and UDF regarding a re-development plan. He stated at the approval of the preliminary plat it was made very clear that waivers would need to be requested for access to lots one and two. He stated he would like to have the Commission have an open mind regarding the request. He further noted UDF has been involved since February of 2006 and interested in this property since that time. He stated Arby's has been involved since September 2006. He additionally stated approximately 90% less development will be on the proposed site compared to what is there currently. He stated that is why they are requesting the waivers due to the topography of the area. He further noted you can't park a delivery truck on a 10% grade. Mr. Darpel stated although he wasn't present at the meeting last month, to grant what is being requested goes against what was requested and voted on last month. Mr. Stegman stated this area is a redevelopment plan and the land is much different than further up the road at Turf way and Houston. Mr. Ryan noted he agrees with Mr. Darpel. Mr. Hilgeford stated he has a hard time believing the organizations involved did not know of the request to be made at this meeting when the issue was discussed last month. He stated he is not afraid to say he feels he is being manipulated. Mr. France stated there is no way huge delivery trucks can safely make turns into the lots without a danger to the driving public and he noted Staff has pointed that out in their report.

Ms. Moran addressed the Commission and stated she would like to address the issue and agrees that the Commission should be upset that they are requesting a waiver this month. She noted they would have liked to have been present regarding the waivers last month. She noted she has been working on this issue for the past two years and only found out about the other changes from last

month only after it was submitted. She noted they have designed the plan because of the topography in order for the delivery trucks to exit and enter in a safe manner. She stated they cannot use the access point on Cherry Tree Lane and will not be able to go forward with the project if they cannot get the access they need.

Mr. Jones addressed the Commission and stated they've been working on this project since September of 2006. He noted they tried to make the accesses work for both projects. He stated he feels like they were thrown under a bus on the issue. Mr. Kirk then stated Staff was not provided any information from the applicant regarding retaining walls, truck access or slope/grade information. He then noted he wanted to make the Commission aware of that fact since those issues were brought up by the applicant. Mr. Darpel then made the motion to deny all waivers on the basis that the conditions to grant the waivers were not present. It was then decided to break the issues into two motions, the first being regarding the Donaldson Road issue. Mr. France then seconded the motion. A roll call vote on the matter found Mr. Darpel, Mr. France, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. Hilgefurd, Ms. Hood, Mr. Rogge, Mr. Ryan, Ms. Snyder, Mr. Swanson and Ms. Weldon in favor. Mr. Raybourne and Mr. Tewes voted against. The motion carried with a vote of 13-2. A motion to deny was made by Mr. Darpel in regard to the waivers involving Houston Road and seconded by Mr. Swanson on the basis that the conditions to grant the waivers was not present. A roll call vote on the matter found Mr. Darpel, Mr. Swanson, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Raybourne, Mr. Rogge, Mr. Ryan, Ms. Snyder, Mr. Tewes and Ms. Weldon in favor. The motion carried unanimously.

**W-652**

**APPLICANT:** MNZ, LLC

**LOCATION:** an approximate 0.4 acre lot (Lot #9) located at the northeast intersection of Beechwood Road and Prather Court in Fort Mitchell

**REQUEST FOR ACTION:** to grant a waiver to requirements of Section 5.3 of the Kenton County Subdivision Regulations; granting the request would waive the requirement for sidewalk along the portion of Lot #9 of The Enclave that fronts Beechwood Road

Staff presentations and Staff recommendations by Mr. Scott Hiles.

**NKAPC Staff Recommendation:**

To grant the requested Waiver to Section 5.3 and not require sidewalk along the portion of Lot #9 that fronts Beechwood Road subject to the following condition:

That a sidewalk be extended from the existing sidewalk along Beechwood Road fronting Lot #1 to Ana Jo Lane.

**Basis:**

The modification will provide for an innovative design layout of the subdivision. A sidewalk along the portion of Lot #1 that fronts Beechwood Road would lead to no other sidewalk along the north side of Beechwood Road where the future provision of additional sidewalk is not planned or contemplated. On the contrary, Ana Jo Lane occurs at a crest in Beechwood Road. Providing a sidewalk from the existing sidewalk along Beechwood Road fronting Lot #1 to Ana Jo Lane will allow pedestrians to cross to the south side of Beechwood Road to reach the

continuous sidewalk network at a safer location than would otherwise be provided without the sidewalk extension to Ana Jo Lane.

Ms. Weldon noted a letter had been provided by the city stating they approved of the provision for the sidewalks in the right of way of the noted property as noted in the application.

Mr. Mark Zimmerman registered to speak in favor of the application. No one registered to speak against or neutral on the issue.

Mr. Zimmerman addressed the Commission and stated they are asking for the waiver out of safety and common sense. He further stated they are not trying to get out of anything and are providing a connection. Ms. Hood then made the motion to approve based on Staff's recommendations and conditions as well as the fact that it provided for innovative design. Mr. Barnett seconded the motion. A roll call vote on the matter found Ms. Hood, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Mr. Raybourne, Mr. Rogge, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

**W-696**

**APPLICANT:** Queen City Court, LLC

**LOCATION:** a 2.0 acre area located at the north east intersection of Ireland Avenue and Harris Street in Crescent Springs

**REQUEST FOR ACTION:** to grant waivers to requirements of Article 4.0 of the Kenton County Subdivision Regulations; granting the requests would: (1) waive the requirement for curb, gutter, and sidewalk along both sides of the extension of Queen City Avenue; (2) waive the requirement for extension of Queen City Avenue along the entire frontage of the development; (3) waive the requirement for curb, gutter, and sidewalk along the entire length of the private street within the development; (4) waive the requirement that a turnaround be built at the terminus of the private street; and, (5) waive the requirement that four off-street parking spaces be provided per dwelling unit

Staff presentation and Staff recommendations by Mr. Scott Hiles.

**NKAPC Staff Recommendation:**

To grant the requested waivers to Article IV and allow: (1) curb, gutter, and sidewalk along one side of the extension of Queen City Avenue; (2) the extension of Queen City Avenue to not extend the entire frontage of the development and terminate in radius directly into the development; (3) intermittent curb and gutter and sidewalk along only the side of the street that contains residences within the development; (4) the elimination of a turnaround at the terminus of the private street; and, (5) less than four unrestricted off-street parking spaces per dwelling unit subject to the following condition:

That the developer enters into a mutually satisfactory development agreement with the City of Crescent Springs.

**Bases:**

The modifications will provide for an innovative design layout of the subdivision by allowing the use of green infrastructure techniques along the extension of Queen City Avenue, less overall

hard surface area resulting in less hard surface runoff in an area with pre-existing storm water management problems, and an ability to coordinate with the City of Crescent Springs to ensure that the proposed development will address design issues in a manner that will be satisfactory to the City.

Ms. Weldon noted she had received a letter from the mayor in favor subject to one condition imposed by the city. The letter was then marked as an exhibit and made a part of the record on the matter.

Mr. Rod Sabo, Mr. Jim Collett, Mr. Tom Vergamini and Mr. Jerry Keith registered to speak in favor. No one registered to speak against or neutral on the matter.

Mr. Sabo addressed the Commission and stated he is proud to say they do have a development agreement with the city. He stated Queen City has been there since 1892 with no development. He further noted with regard to safety they have met with members of the city and fire department and from a safety standpoint they feel they have addressed the issues. He noted if there was an ambulance or rescue squad there are options for those emergency vehicles. He noted with regard to sidewalks there is no access to putting the sidewalks in because it would be steps due to the topography. Mr. France asked why the developer is opposed to putting in a connection in the form of steps between the buildings because there is currently no connection there. Mr. Schwartz stated an ordinance approved by the city already provides for a connection. Mr. Collett addressed the Commission and stated he would like to welcome Mark Rogge as Crescent Springs' new representative. He stated this development has been a long development over a number of years. He stated the developer has done an outstanding job in putting together this development. He noted Queen City has been a paper street since 1892 and it is now being developed as a street. He further noted the idea of putting the curb and gutter on one side is really a matter of drainage and runoff.

Mr. Vergamini addressed the Commission and stated one of the things done in this development is a development team was organized. He stated the development has met with the city on at least three occasions and they have come up with a good development plan. He further stated the concept was to have a green infrastructure. He noted the idea was run by the Sanitation District as well as Staff to help minimize the water runoff. He noted he feels they have come up with a development they all can agree on. He further stated he feels this is an innovative design and asked for approval. He then noted the city has no objection to the plan.

A motion was then made by Mr. Hilgefurd to approve the issue based on Staff's recommendations and because it provides for innovative design and also to include a condition regarding a development plan. Mr. Rogge seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Rogge, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France, Ms. Hood, Mr. Raybourne, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Swanson and Ms. Weldon in favor. The motion carried unanimously.

**Old and Unfinished Business:** None.

**Reports from Committees:**

*Subdivision Regulations Review* - Staff is continuing work on the regulations.

**By-Laws** – No meeting held. Mr. Hilgeford expressed his interest in serving on the By-Laws committee.

**Model Zoning Ordinance** – Mr. Schwartz stated they had a productive short meeting. He noted there is an informational meeting next Wednesday at 6:30 p.m.

**Executive**- A short meeting was held to discuss changes in the monthly format as well as discussed dinner meetings. It was decided to have quarterly dinner meetings and procedural issues was suggested as a starting point.

**Report from legal counsel** – No report.

**Announcements from Staff** – No report.

**Correspondence** – None.

**New Business:** - None.

**Public Comments:** Mr. Pat Lance addressed the Commission. He noted he was a past Board of Adjustment member and stated one of the problems when he served was people would say they were not made aware of meetings or did not get a notice of a meeting. He asked if this would something the Commission would do as looking into getting notice to people sooner versus later. Ms. Weldon stated they are required under KRS to notify but it is a minimum and anything further beyond that would have to be done elsewhere. He stated there is a real need for this and any type of revamping or renovation regarding notice would be appreciated. Mr. Smith then noted they could not enforce it but they could recommend it.

There being nothing further to come before the Commission, Mr. Tewes made a motion to adjourn. Ms. Hood seconded the motion. All in favor. None opposed. The meeting adjourned at 9:14 p.m.

APPROVED:

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Chair

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Date