

**KENTON COUNTY PLANNING COMMISSION  
REGULAR MEETING**

**Minutes**

Mr. Wells, Vice Chair, called the meeting to order at 6:15 PM on Thursday, September 4, 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	Xx	X		X	X	X			
Barbara Carlin	Kenton Co	X	X	X	Xx	X	X	X	X	X			
Barry Coates	Covington	X	X	X	Xx	X	X	X	X	X			
James Cook	Kenton Co	X	X		Xx	X		X	X				
Paul Darpel	Edgewood	X		X	Xx		X	X	X	X			
Chuck Eilerman	Covington	X	X	X	Xx	X	X	X	X	X			
Tom France	Ludlow	X	X	X	Xx	X	X	X	X	X			
David Hilgefurd	Villa Hills	X	X	X	x	X			X	X			
Lynn Hood	Crestview Hills	X	X	X	Xx	X			X	X			
Kent Marcum	Fort Wright	X			Xx	X			X	X			
Brandon Raybourne	Elsmere	X	X	X	Xx	X	X			X			
Mark Rogge	Crescent Springs	-	-	X	x	X	X	X	X	X			
Phil Ryan	Park Hills		X	X	X	X	X	X	X	X			
Maura Snyder	Indepen	X	X	X	X	X	X		X	X			
Paul Swanson, Treasurer	Erlanger	X		X	Xx	X			X	X			
Joe Tewes	Bromley	X	X	X	Xx	X	X	X	X	X			
John Wells, Vice Chair	Fort Mitchell	X	X		Xx		X	X	X	X			
Alex Weldon, Chair	Covington		X	X	Xx	X		X					
Bernie Wessels	Crescent Springs	X	-	-	-	-	-	-	-	-	-	-	-
Gil Whitacre	Lakeside Park	X	X		X	X	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, and Andy Videkovich, AICP, Principal Planner, and Sharmili Sampath, AICP, Senior Planner.

**AGENDA:**

There were no changes noted to the agenda for the evening. Mr. Eilerman made a motion to accept the agenda. Mr. Ryan seconded. A roll call vote on the matter found Mr. Eilerman, Mr. Ryan, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Marcum, Mr. Raybourne, Mr. Rogge, Ms. Snyder, Mr. Swanson and Mr. Wells in favor. The motion carried.

**APPROVAL OF THE MINUTES:**

A motion was made by Ms. Snyder to accept the minutes from August. Mr. Rogge seconded the motion. A roll call vote on the matter found Ms. Snyder, Mr. Rogge, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Marcum, Mr. Swanson, and Mr. Wells in favor. Tewes, Mr. Rogge and Mr. Wells in favor. Mr. Raybourne and Mr. Ryan abstained. The motion carried.

**FINANCIAL REPORT:**

Mr. Swanson noted activity-wise there is nothing going on. There were no other questions or comments with regard to the financial report. Mr. Swanson made the motion to accept. Ms. Snyder seconded the motion. A roll call vote on the matter found Mr. Swanson, Ms. Snyder, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Marcum, Mr. Raybourne, Mr. Rogge, Mr. Ryan, Mr. Swanson, Mr. Tewes and Mr. Wells in favor. The motion carried unanimously.

**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:**

**1931R**

**APPLICANT:** Dian Burkhart and Guy Linneman  
**LOCATION:** an approximate 0.4-acre area located on the southwest corner of Home Street and Erlanger Road in Erlanger  
**REQUEST:** a proposed map amendment to the Erlanger Zoning Ordinance changing the described area from PO-1 (a professional office zone) to NC (RP) (a neighborhood commercial zone with a renaissance protection overlay)

Staff presentation and Staff recommendations presented by Mr. Andy Videkovich.

**NKAPC STAFF RECOMMENDATION:**

To approve the proposed map amendment from PO-1 to NC (RP).

**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 PO-1 to NC (RP) is consistent with the Recommended Land Use Map of the *Comprehensive Plan Update 2006-2026* which identifies the site in question as part of a larger area extending to the north, south, and west of the site in question, for Commercial – Retail/Service use. The proposed NC (RP) Zone will allow commercial uses in an area identified for Commercial – Retail/Service.
2. The proposed map amendment is consistent with the stated purpose of the RP Renaissance Protection Overlay Zone. The purpose of the RP Overlay Protection Zone is to improve the economic viability of the designated areas within the city of Erlanger, while enhancing the visual quality of the environment and the quality of life. In order to accomplish this purpose, the City has adopted design guidelines applicable to public or private improvements. Any new developments within the designated areas must be reviewed for compliance with these guidelines and obtain a certificate of appropriateness.

The design criteria for “The Dixie” has six (6) goals:

- a. To establish a new image for “The Dixie”
- b. To create a sense of excitement and energy for the area
- c. To have a positive effect on businesses – both profits and property values – along “The Dixie”

To encourage redevelopment and new development opportunities in the area

To promote a compatible mix of businesses along “The Dixie”

To improve the quality of life for all Erlanger community members

Insufficient information has been submitted to determine consistency with the design criteria for “The Dixie”. A certificate of appropriateness must be obtained from the City of Erlanger.

3. The submitted Stage I Development Plan meets the minimum requirements of the Erlanger Zoning Ordinance, except as follows:
  - a. Section 9.17 sets forth landscaping and screening regulations. Table 1 indicates that any development within an NC Zone is required to provide a “Type C” buffer yard adjacent to any residential zones. The area located to the north of the site in question is currently zoned R-1G. Insufficient information has been submitted to determine compliance with this regulation.
  - b. Section 10.16 sets forth area and height regulations within the NC Zone:
    - i. Section 10.16, C., 1., states that the minimum lot area within the NC Zone is 10,000 square feet. The submitted development plan indicates that the northern lot is 6,250 square feet. This does not meet the minimum requirements of the zoning ordinance.

- ii. Section 10.16, C., 2., states that the minimum lot width at the building setback line is seventy (70) feet. The submitted development plan indicates that the northern lot is fifty (50) feet wide. This does not meet the minimum requirements of the zoning ordinance.
- iii. Section 10.16, C., 4., states that there are no side yard setbacks required, except when adjacent to a right-of-way, the required width shall be the same as the minimum front yard depth (fifty (50) feet). The submitted development plan indicates a side yard setback adjacent to Home Street of approximately twenty (20) feet. This does not meet the minimum requirements of the zoning ordinance.
- iv. Section 10.16, C., 5., states that the minimum rear yard depth shall be fifteen (15) feet. The submitted development plan indicates a rear yard setback of zero (0) feet. This does not meet the minimum requirements of the zoning ordinance.
- v. Section 10.16, C., 6., states that the maximum building height in the NC Zone is forty (40) feet. Insufficient information has been submitted to determine compliance with this regulation.
- c. Section 10.16, D., 3., states that no lighting shall be permitted which would glare from this zone onto any street, or into any residential zone. Insufficient information has been submitted to determine compliance with this regulation.
- d. Articles XIII and XIV set forth regulations pertaining to fences, walls, and obstructions to view, and signs. Insufficient information has been submitted to determine compliance with these regulations

Compliance with the zoning ordinance is necessary. Compliance with some of the items listed above could substantially affect the layout of the submitted Stage I Development Plan, unless variances are granted by the Erlanger Board of Adjustment and/or the site in question, along with the adjacent funeral home, is consolidated into a single lot.

Mr. Mark Cray, Mr. Guy Linneman, Mr. Darrin Sparr and Mr. Gene Linell registered to speak on the issue. No one registered to speak against or neutral on the issue.

Mr. Cray addressed the Commission and stated they are not planning any presentation but are available to answer any questions.

Mr. Sparr addressed the Commission and stated they will be asking for some variances for the property. He stated a lot of the zoning requirements were put in place with regard to the issue.

Mr. Wells noted an email was received from Mike Hayden in support of the issue. Mr. Wells then read the letter into the record and marked it as an exhibit. The public hearing was then closed and the meeting then recessed to discuss the matter amongst the Commissioners. There

were no questions or comments by the Commissioners. The meeting was brought out of recess. Mr. Darpel then made the motion to approve based on Staff's report and to include the additional comments by Staff contained in their report. 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. Hilgefjord, Ms. Hood, Mr. Marcum, Mr. Raybourne, Mr. Rogge, Mr. Ryan, Ms. Snyder, Mr. Swanson, Mr. Tewes and Mr. Wells in favor. The motion carried unanimously.

**1932R**

**APPLICANT:** City of Erlanger per Mark Stewart, Codes Administrator  
**REQUEST:** proposed text amendments to the Erlanger Zoning Ordinance: (1) adding definitions for "child-care center" and "family child-care home"; (2) adding "child-care centers" as conditional uses adjacent to arterial or collector streets within all single-family, two-family, and multi-family zones, excluding the R-1M (P) Zone; (3) adding "child-care centers" as permitted uses within the SC, NC, INST, and BP-1 Zones; (4) adding "family child-care homes" as conditional uses within all single-family, two-family, and multi-family zones, excluding the R-1M (P) Zone; (5) deleting "child day care center" from the list of permitted uses within the SC Zone; and (6) deleting "day care centers" from the lists of permitted uses within the INST and BP-1 Zones

Staff presentation and Staff recommendations presented by Mr. Andy Videkovich.

**NKAPC STAFF RECOMMENDATION:**

**RECOMMENDATION A**

To approve the proposed text amendments to the Erlanger Zoning Ordinance adding definitions for "child-care center" and "family child-care home", but only subject to the following conditions:

1. That the definitions read as follows:

CHILD-CARE CENTER: A facility that is licensed by the state to care for seven (7) or more children

FAMILY CHILD-CARE HOME: A day-care facility within a residential dwelling unit that is certified by the state to provide care for up to six (6) children or adults, in addition to any children related to the day care provider.

2. That the existing definition for nursery home be deleted

**RECOMMENDATION B**

To approve the proposed text amendments to the Erlanger Zoning Ordinance: (1) adding "child-care centers" as conditional uses adjacent to arterial or collector streets within all single-family, two-family, and multi-family zones, excluding the R-1M (P) Zone; (2) adding "family child-care

homes” as conditional uses within all single-family, two-family, and multi-family zones, excluding the R-1M (P) Zone; (3) adding “child-care centers” as permitted uses within the SC, NC, INST, and BP-1 Zones; (4) deleting “child day care center” from the list of permitted uses within the SC Zone; and (5) deleting “day care centers” from the lists of permitted uses within the INST and BP-1 Zones, but only subject to the condition that all references to nursery schools within the list of permitted and conditional uses within these zones are deleted.

### **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 amendments adding definitions for “child-care center” and “family child-care home” are 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, as conditioned, is consistent with the definitions contained within other zoning ordinances.

The Covington Zoning Ordinance was adopted on August 15, 2006. Since this document, including the definition section, has already went through a comprehensive legal review, the proposed definitions should be modified to be consistent with the definitions contained within the Covington Zoning Ordinance.

3. The proposed text amendments, as conditioned, are reasonable. The proposed text amendments will add greater clarity and consistency to the meaning of specific uses and aide in the administration of the zoning ordinance.

In order to eliminate a similar and/or overlapping definition, the definition for nursery school should be deleted from the definition section of the zoning ordinance.

#### RECOMMENDATION B

1. The proposed text amendments: (1) adding “child-care centers” as conditional uses adjacent to arterial or collector streets within all single-family, two-family, and multi-family zones, excluding the R-1M (P) Zone; (2) adding “family child-care homes” as conditional uses within all single-family, two-family, and multi-family zones, excluding the R-1M (P) Zone; (3) adding “child-care centers” as permitted uses within the SC, NC, INST, and BP-1 Zones; (4) deleting “child day care center” from the list of permitted uses within the SC Zone; and (5) deleting “day care centers” from the lists of permitted uses within the INST and BP-1 Zones are 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 amendments, as conditioned, are consistent with intent of the zoning

districts where the proposed uses will be added as permitted or conditional uses.

3. The proposed text amendments, as conditioned, are appropriate. Since the residential and commercial zoning districts already permit or conditionally permit a similar and/or overlapping uses, it is appropriate to delete all conflicting uses within the list of permitted and conditional uses.

In order to eliminate all similar and/or overlapping uses, all references to nursery schools within the list of permitted and conditional uses within the zoning ordinance should be deleted.

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

Mr. Stewart addressed the Commission and stated he was the zoning administrator for the City of Erlanger and that he was available to answer any questions.

The public hearing was then recessed to discuss the matter amongst the Commissioners. There were no questions or comments with regard to the issue. The meeting was brought out of recess and a motion to approve Recommendation A was made by Mr. Hilgeford. Mr. Eilerman seconded the motion. A roll call vote on the matter found Mr. Hilgeford, Mr. Eilerman, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. France, Ms. Hood, Mr. Marcum, Mr. Raybourne, Mr. Rogge, Mr. Ryan, Ms. Snyder, Mr. Swanson, Mr. Tewes and Mr. Wells in favor. The motion carried unanimously. Mr. Hilgeford then made a motion to approve Recommendation B based on Staff's report. Mr. Eilerman seconded the motion. A roll call vote on the matter found Mr. Hilgeford, Mr. Eilerman, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. France, Ms. Hood, Mr. Marcum, Mr. Raybourne, Mr. Rogge, Mr. Ryan, Ms. Snyder, Mr. Swanson, Mr. Tewes and Mr. Wells in favor. The motion carried unanimously.

### **1933R**

**APPLICANT:** B & Z Development, per James Berling  
**LOCATION:** an approximate 16.2-acre area located at the on the north and south sides of Viox Drive, approximately 1,000 feet southeast of Houston Road, in Erlanger  
**REQUEST:** a proposed map amendment to the Erlanger Zoning Ordinance changing the described area from HC-2 and HC-3 (highway commercial zones) to HC (a highway commercial zone).

Staff presentation and Staff recommendation by Mr. Andy Videkovich.

### **NKAPC STAFF RECOMMENDATION:**

To disapprove the proposed map amendment from HC-2 and HC-3 to HC.

### **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 HC-2 and HC-3 to HC is not consistent with the Recommended Land Use Map of the *Comprehensive Plan Update 2006-2026* identifies the site in question, as well as areas located to the north, southwest, and northeast of the site in question, as a Special Development Area.

The Special Development Area designation specifically refers to the *Erlanger, Kentucky – A Master Plan. The Erlanger Center “At the Heart of it All”*, which the City adopted on April 29, 2003. The Master Plan recommends the site in question as part of a larger area extending to the north, east and west of the site in question as an Entertainment District. One of the implementation strategies recommended by the Master Plan is to write text for the urban-suburban development districts and apply for a zone change with the master plan. This text will include the design guidelines for buildings and landscaping.

It is premature to rezone the site in question without specific land use regulations in place to implement the Master Plan.

2. The submitted Stage I Development Plan does not meet the minimum requirements of the Erlanger Zoning Ordinance:
  - a. Section 9.17 sets forth landscaping and screening regulations. Insufficient information has been submitted to determine compliance with these regulations.
  - b. Section 10.18, sets forth the permitted, accessory, and conditional uses, the area and height regulations, and other development controls within the HC Zone. Insufficient information has been submitted to determine compliance with these regulations.
  - c. Articles XI and XII set forth regulations pertaining to off-street parking, access control, and off-street loading/unloading. Since no specific uses have been identified on the submitted Stage I Development Plan, insufficient information has been submitted to determine compliance with these regulations.
  - d. Articles XIII and XIV set forth regulations pertaining to fences, walls and obstructions to view, and signs. Insufficient information has been submitted to determine compliance with these regulations.
3. The submitted Stage I Development Plan does not meet the following requirements of the previously agreed to Development Plan Agreement:
  - a. Section 1.1.3, a. provides for a flag plaza along I-71/75 to include a serpentine wall, signage indicating the City of Erlanger, and three flag poles (one United States flag, one Commonwealth of Kentucky flag, and one City of Erlanger flag). The submitted Stage I Development Plan does not provide for a flag plaza along I-71/75.

- b. Section 2.0 restricts development of the site in question to that allowed and described in the Development Plan Agreement. It would be inappropriate to recommend approval of a Stage I Development Plan until such time as the Development Plan Agreement was modified.

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

Mr. Berling addressed the Commission and stated they came before the Commission in July after Carmax had approached them with the zone change. He noted they worked with the city on the zone change and it seemed like everything was moving along fine. They were approaching closing and the city council voted it down 10-1. He stated the city contacted him shortly after purchasing the property asking what he intended to do with it. He noted he intended to put an industrial use there since that is the way it is zoned. Mr. Berling stated the city did not want that, that they wanted commercial. Mr. Berling then reworked his plan to accommodate the city and they gave him a highway commercial 2 zone. He stated with that zone the uses are limited. He noted the city stated they created a highway commercial 3 zone which is even more limited on the uses. He stated he was disappointed when Carmax could not go in and it was voted down. He stated he had to do something so he is asking for just a highway commercial zone, which is what he thought he was getting to begin with. He noted it if doesn't do something soon with the property it is going to be a disaster so he is requesting the other zone. He stated he was frustrated and his hands are tied. It was noted they have agreed for ten years to go along with every zone the city has suggested and now they have the opportunity with Carmax and there are too many limitations due to the zone. He noted they are asking for the opportunity to sell the property and develop it. Mr. Berling stated surrounding property owners were looking for to Carmax bringing additional traffic to the area and additional business.

Following additional discussion the public hearing was recessed to discuss the matter further. No further discussion was held. The meeting was brought out of recess and Mr. Darpel made the motion to approve stating it is in compliance with the Comprehensive Plan. He further noted the existing classification is inappropriate and the requested zone is appropriate. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Darpel, Mr. Ryan, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hilgeford, Ms. Hood, Mr. Marcum, Mr. Raybourne, Mr. Rogge, Ms. Snyder, Mr. Swanson, Mr. Tewes and Mr. Wells in favor. The motion carried unanimously.

### **Old and Unfinished Business:**

#### **Reports from Committees:**

*Subdivision Regulations Review* – No meeting held.

*By-Laws* – Nothing to report.

*Model Zoning Ordinance* – No meeting held.

*Executive*- Nothing to report.

*Report from legal counsel* – Mr. Smith gave a brief update on the lawsuit involving the City of Taylor Mill. He noted the Court of Appeals dismissed the case.

***Announcements from Staff*** – Mr. Schwartz gave a reminder that the APA Audio Conferences were starting again and the first one will be held September 24<sup>th</sup>. Ms. Sharmili Sampath, Senior Planner, briefly addressed the Commission and stated the Linden Gateway Small Area Study has been completed. She then distributed copies of the study and noted it will now go through the adoption process by the city prior to coming before the Commission.

***Correspondence*** – Nothing to report.

**New Business:** - None.

**Public Comments:** None.

There being nothing further to come before the Commission, the meeting was adjourned at 7:48 p.m.

APPROVED:

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Chair

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Date