

**KENTON COUNTY PLANNING COMMISSION  
REGULAR MEETING**

**Minutes**

Mr. Wells, Chair, called the meeting to order at 6:15 PM on Thursday, May 7, 2009, 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	2009											
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Mark Barnett	Taylor Mill	X	X	X	X	X							
Diane Brown	Erlanger	-	X	X	X								
Barbara Carlin	Kenton Co	X	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	X							
Tom France, Vice-Chair	Ludlow	X	X	X	X	X							
David Hilgefurd	Villa Hills		X	X	X	X							
Lynn Hood	Crestview Hills	X	X	X	X	X							
Marc Hult	Covington	X	X	X	X	X							
Kent Marcum	Fort Wright	X	X	X		X							
Brandon Raybourne	Elsmere	X	X		X								
Mark Rogge	Crescent Springs	X	X	X		X							
Phil Ryan, Treasurer	Park Hills	X	X		X	X							
Maura Snyder	Indepen		X	X	X	X							
Paul Swanson	Erlanger	X	-	-	-	-	-	-	-	-	-	-	-
Joe Tewes	Bromley	X	X	X	X	X							
John Wells, Chair	Fort Mitchell	X	X	X	X	X							
Gil Whitacre	Lakeside Park	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 Mr. Andy Videkovich, Principal Planner.

**AGENDA:**

A motion was made by Mr. Eilerman to accept the agenda as submitted. Mr. Cook seconded the motion. A roll call vote on the matter found Mr. Eilerman, Mr. Cook, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Darpel, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Hult, Mr. Marcum, Mr. Rogge, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wells and Mr. Whitacre in favor. None opposed. The motion carried.

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

Mr. Hult noted that Ms. Sauer's name was misspelled on page 9 of the minutes and should be changed from "Sower". Mr. France stated on page 11 of the minutes that he felt Mr. Drees' title of County Judge Executive should be noted. He also stated the word "not" should be stricken as well as the notation of a new county extension office and not a new jail. Mr. Eilerman noted he was listed as voting against the resolution when he did not vote on the issue. Mr. Darpel noted he left at the end of issue W-701 and not prior to the issue being heard. (Mr. Darpel left prior to issue 1959R as stated in the minutes). A motion to accept the minutes as modified was made by Mr. Hilgefurd. Ms. Snyder seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Ms. Snyder, Mr. Barnett, Ms. Carlin, Mr. Cook, Mr. Eilerman, Mr. France, Ms. Hood, Mr. Hult, Mr. Ryan, Mr. Tewes and Mr. Wells in favor. Mr. Coates, Mr. Darpel, Mr. Marcum, Mr. Rogge and Mr. Whitacre. The motion carried.

#### **FINANCIAL REPORT:**

Mr. France made the motion to accept the report as submitted. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. France, Mr. Ryan, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. Hilgefurd, Ms. Hood, Mr. Hult, Mr. Marcum, Mr. Rogge, Mr. Ryan, Ms. Snyder, 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.

#### **RECENT ACTIONS BY LEGISLATIVE BODIES:**

No action required.

At this time Mr. Wells congratulated Ms. Brown on the arrival of their new baby boy born April 23, 2009 and wished them all the best.

#### **PUBLIC HEARINGS:**

##### **1956R**

**APPLICANT:** Steve Wright on behalf of Ronald and Martha Stinson and Gregory Rooks  
**LOCATION:** an approximate 3.3-acre area located at the northwest corner of the intersection of Senour Road with Taylor Mill Road in Covington

**REQUEST:** a proposed map amendment to the Covington Zoning Ordinance changing the described area from RS-12.5 (a suburban residential zone with a maximum density of 3.5 dwelling unit per net acre) to IL-1A (a limited industrial zone with a lot and building intensity of 1 and an auto character standard) (this issue was tabled at the commission’s March 5, 2009 meeting)

Staff presentation and Staff recommendation by Mr. Mike Schwartz.

**NKAPC STAFF RECOMMENDATION**

To disapprove the proposed map amendment from RS-12.5 to IL-1A.

**Comprehensive Plan Documentation:**

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

**Supporting Information/Bases For Recommendations:**

1. The proposed map amendment from RS-12.5 to IL-1A is not consistent with the *Comprehensive Plan Update 2006-2026* which identifies the site in question for Residential Development at a density ranging from 2.1 to 4.0 dwelling units per net acre. The proposed IL-1A Zone will allow veterinary hospitals, kennels, building maintenance services, construction sales and service, gasoline stations, car wash, new vehicle sales, heavy vehicle and equipment sales, vehicle repair, manufacturing, production, and industrial services, recycling facilities, and warehouses in an area recommended for residential uses.
2. While the site in question is identified as being within a Community Service Area, the proposed IL-1A Zone is not consistent with the intent of the Community Service Area. As it pertains to this specific Community Service Area, the comprehensive plan recommends that commercial activity be concentrated at the intersection of Taylor Mill Road with Hands Pike. The site in question is located more than a third of a mile south of this intersection.
3. The submitted development plan does not meet the criteria identified in the comprehensive plan when evaluating development proposals within a Community Service Area. The comprehensive plan identifies the following factors when evaluating development proposals that are in close proximity or within Community Service Areas:
  - These areas should be adjacent to existing commercial areas.
  - Proposed uses within or near existing Community Service Areas should enhance and strengthen the function and viability of the area and not detract from existing nonresidential uses or other Community Service Areas.
  - These areas should embrace the concept of “Contemporary Places”, explained in detail in the Introduction by using design concepts such as mixed-use, Transit Oriented Development and Traditional Neighborhood Design. All of these

concepts encourage connectivity, walkability, diversity in housing types and integration of community facilities such as parks and public or private open space, such as plazas and other outdoor amenities.

- These areas should be located within the Urban Service Area and served by public facilities.
- Connectivity between the Community Service Areas and adjoining existing or future residential uses by means of sidewalks or trails is essential.
- Provision for transit service within the Community Service Areas is essential. Bus pullouts and bus stops are essential transit elements that should be planned for within these areas.

The site in question is not adjacent to any similar commercial uses and does not provide for connectivity or walkability with the adjacent residential areas.

4. The existing RS-12.5 Zone is appropriate and the proposed IL-1A Zone is not appropriate. The existing RS-12.5 Zone, which permits detached single-family residential dwellings and qualified manufactured homes at a maximum density of 3.5 dwelling units per net acre, is consistent with the *Comprehensive Plan Update 2006-2026* which identifies the site in question for Residential Development at a density ranging from 2.1 to 4.0 dwelling units per net acre. The proposed IL-1A Zone is not appropriate for the reasons stated above.
5. There have not been any major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of the area. The widening and realignment of Taylor Mill Road, and its intersecting streets, was known at the time of preparation and adoption of the comprehensive plan.
6. While Senour Road is identified as a collector street, it appears that most of the traffic using this roadway is residential traffic – i.e., traffic that uses this roadway as their primary access to their residence. The proposed map amendment could have the effect of bringing commercial traffic onto a roadway predominantly used for residential access.
7. The submitted Stage I Development Plan meets the minimum requirements of the Covington Zoning Ordinance, except for the following:
  - a. Section 8.02.02, B., 1., states that the perimeter of all vehicular use areas larger than 1,200 square feet must be set back at least seven (7) feet from front property lines and be effectively screened from view of the street. The submitted development plan indicates that the proposed vehicular use area will be set back two (2) feet from the right-of-way of Senour Road.
  - b. Insufficient information has been submitted to determine compliance with Article 10, Sign Regulations.

Mr. Paul Wright addressed the Commission representing Steve's Automotive. He stated Steve's Automotive is a family business. He noted he has been in business for twelve years and has not

had one complaint. He stated he is not in an industrial zone now but is in a residential zone. Mr. Wright stated he repairs cars and trucks and nothing larger. He then noted they will not be repairing any heavy equipment. He then stated he runs a good quality shop and gives back to the community. He noted the issue is the State of Kentucky is telling him he has to go after being there for twelve years. He stated to relocate a business is difficult. He stated he is trying to rezone so he can stay in the area and in doing so it will provide jobs for the area. He then stated if it doesn't get zoned commercial he will have nowhere to go. He further noted an extensive search has been done for another location but it has come up empty and this is the only suitable location for his business.

Mr. Matt Stegman addressed the Commission in favor and stated he is the site engineer for the project. He noted the reason for the 3.3 acres is because of the need for parking and the grade of the land. It was noted the actual needed space is only a little over an acre so they are asking for a rezoning of the whole property. He then noted this puts a tremendous strain by having him relocated his business.

Mr. William Kirby addressed the Commission in favor and stated he has been going to Steve's Automotive since he opened. He stated he has always been very reasonable and he would like to see him stay.

Mr. David Pack addressed the Commission in favor and stated he has been a customer of Steve's since his opening as well. He then stated it is very hard to find a mechanic you can trust as well as one in your area and he'd like to see him stay.

Mr. Klein addressed the Commission and stated the city concurs with Staff in that it is not in compliance with the comprehensive plan. He noted since it is surrounded by residential it should remain residential. He stated a more suitable place for commercial activity is up on Hands Pike. He then stated the city has worked with them before and maybe they need to work harder to find them some other place for their business but for now they concur with Staff.

Mr. Hilgefurd stated he doesn't feel this is industrial and asked what the city's reasoning is on this issue. Mr. Klein then stated he doesn't know. Mr. Hilgefurd then stated this type of business was erroneously put into an industrial zone. Mr. Hult stated there is an auto repair place in the overlay zone where he lives and he can walk from his home. He further stated it is part of a walkable community to be able to drop your car off and walk home. Mr. Eilerman stated there has to be some appreciation for his type of business in being what the neighborhood wants and needs. He further stated it appears that he has made a viable effort to relocate and he feels it is unfortunate the way this has all developed.

Mr. Dan Groth, city administrator for the City of Independence, addressed the Commission and stated he doesn't want to see a good businessman go out of business but as it stands the city is against it because it is industrial and the area is residential on both sides. He further noted it is residential and whether it is zoned commercial or industrial there is still residential on both sides. Mr. Phil King Jr. addressed the Commission and stated he grew up in this area and he is present on behalf of his parents who still live in on Senour Road. He stated his parents do not want additional commercial activity. He further noted there is still plenty of residential in the area. He stated he feels this should remain residential. He then noted since the state's plans are never

really set in stone it might be a good idea to wait and see what will happen with the land before doing anything.

Mr. Wells then read two letters into the record from Mr. and Mrs. James Brinker and Judy Brinker against the issue. The letters were then marked as exhibits and made a part of the record on the matter.

Mr. Stegman addressed the Commission in rebuttal that he was surprised that an auto repair business should be in an industrial zone. He further noted the suggested idea of taking a “wait and see” attitude that Mr. Stinson does not have that luxury. He then noted even being closed a couple days will impact his business. He also noted he would have to have a new place to move to in order to close his shop and relocate to another.

Mr. Wright addressed the Commission in rebuttal and stated in twelve years he has had no problems. He stated he has a truck come in and there is no water runoff that would harm the surrounding area. He noted the new facility would be one the area can be proud of.

At this time the public hearing was recessed for discussion. Mr. Darpel stated while he feels it is a good business and would like to see it stay, in order to grant the zone change they would have to find that the existing zone is inappropriate and he doesn't feel it is. He further noted this is a planning commission and they don't change a zone for one small area. Mr. Eilerman then stated he feels it is consistent with the plan because it is in the community service area. He stated he is sympathetic to the area residents but also stated this man has worked hard and has served the community well. Mr. Hilgefurd noted as long as Covington has the use as industrial he's going to have a hard time voting for it. He stated if it was going from residential to commercial it would be fine but not to go from residential to industrial. Mr. Barnett then stated it is troublesome because you have a businessman who is doing everything he is supposed to and yet the city doesn't have a zone to accommodate him. Mr. Barnett further stated he has a hard time envisioning a five lane road going through this area and in doing so it will wipe out all the businesses in the area, precisely where the comprehensive plan envisioned them to be.

The public hearing was then reopened. Mr. Klein stated if he has come to the city prior to filing maybe something might have been able to be done. He further stated he is willing to discuss the matter further with Mr. Stinson should it be denied to see if there is some other alternative. The public hearing was then closed.

Mr. Hilgefurd then made the motion to deny the application based on the fact that it does not comply with the comprehensive plan and also on based on Staff's report. Mr. Darpel seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Darpel, Mr. Barnett, Mr. Coates, Mr. Hult, Mr. Marcum, Mr. Rogge, Mr. Ryan, Ms. Snyder and Mr. Tewes in favor. Ms. Carlin, Mr. Cook, Mr. Eilerman, Mr. France, Ms. Hood, Mr. Wells and Mr. Whitacre voted against. The motion carried.

\*Mr. Marcum recused himself from any voting or consideration on issue 1962R due to a potential conflict of interest.

**1962R**

**APPLICANT:** City of Fort Wright per Joe Nienaber, Jr., Mayor  
**LOCATION:** an approximate 200-acre area located along the east side of Madison Pike between I-275 and Highland Pike, and on both sides of Madison Pike between Highland Pike and Kyles Lane in Fort Wright  
**REQUEST:** proposed map amendments to the Fort Wright Zoning Ordinance changing the described area from TCFD (Town Center Form District) Zone to R-RE (a residential rural estate zone) and R-1D (a detached single-family residential zone), R-1C (P) OP, R-1C (P) NC, R-1D (P) OP, and R-1D (P) IP (single-family residential zones with phased commercial, office, and industrial zones), OP (an office park zone), HOC, CC, and NC (commercial zones), and IP and I-1 (industrial zones)

Staff recommendations and Staff presentations by Mr. Andy Videkovich.

**NKAPC STAFF RECOMMENDATION:**

To disapprove the proposed map amendment changing the described area from TCFD (Town Center Form District) Zone to R-RE (a residential rural estate zone) and R-1D (a detached single-family residential zone), R-1C (P) OP, R-1C (P) NC, R-1D (P) OP, and R-1D (P) IP (single-family residential zones with phased commercial, office, and industrial zones), OP (an office park zone), HOC, CC, and NC (commercial zones), and IP and I-1 (industrial zones)

**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 The 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, east, and west, as a Small Area Study (SAS). The Small Area Study designation refers to the *Madison Pike Corridor Land Use and Economic Development Study*.

The *Madison Pike Corridor Land Use and Economic Development Study* is the result of a year-long public planning process that involved two committees consisting of residents, property owners within the corridor, and representatives of the city, who provided input and guidance, as well as disseminated information, regarding the preparation of the Study. The Study calls for and creates a vision for the Madison Pike Corridor. This vision included Form and Function recommendations for each area within the study, such as:

- Streets and sidewalks
- Greenways and Trails
- Transit
- Pedestrian and Vehicular Connection

- Traffic Impacts
- Streetscape
- Dimensional Standards
- Accessory Structures
- Retail and Office Design Standards
- Signs
- Parking
- Outdoor Amenities
- Mixed Uses

While the implementation section of the *Madison Pike Corridor Land Use and Economic Development Study* recommends potential zoning designations for each area to implement the land use recommendations of the plan, one of the primary recommendations of the study is the creation and use of Form District Zoning as an overlay to those recommended zones. It was through the public process of drafting those regulations where a free-standing form district zone was prepared.

2. The existing zoning classification of TCFD is consistent with the Goals and Objectives of the *Madison Pike Corridor Land Use and Economic Development Study* and the proposed zoning classifications of R-RE, R-1D, R-1C (P) OP, R-1C (P) NC, R-1D (P) OP, R-1D (P) IP, OP, HOC, CC, NC, and IP and I-1 are inconsistent.

*To develop design guidelines for future development within the corridor that will create aesthetic similarity, and that are sensitive to a diverse range of land uses.*

Encourage creative design in the built environment, through guidelines relating to scale, mass, and basic architectural features within the corridor. It is not the intent to prohibit national building identity or trademarked signage established by the business, but to integrate the design and maintain a general theme within the corridor.

Incorporate landscaping and green space in the redevelopment of the corridor, especially the development of walking trails and pedestrian corridors and use of the natural environment surrounding Banklick Creek.

The primary recommendation of the *Madison Pike Corridor Land Use and Economic Development Study* is the creation and use of Form District Zoning to achieve a specific Form and Function within the study area. The TCFD is the result of a separate year-long public planning process that took place after the adoption of the Study, and involved members from the same committees that participated in the Study process.

The TCFD specifically implements the *Madison Pike Corridor Land Use and Economic Development Study* vision through the use of:

- Streetscape Standards
- Hillside Protection, Riparian Buffer, Open Space, and Outdoor Amenity Standards



- Transit Standards
  - Vehicular, Pedestrian, and Bicycle Standards
  - Access Management Standards
  - Streetscape and Building Envelope Standards
  - Building Envelope Standards
  - Accessory Structure Standards
  - Architectural, Color, and Lighting Standards
  - Signage Standards
  - Off-street Parking and Loading/Unloading Standards
  - Open Space, and Outdoor Amenity Standards
  - Permitted, Special Permitted Uses
3. There have not been major changes of an economic, physical, or social nature within the area which were not anticipated in the adopted comprehensive plan, and which have substantially altered the basic character of the area.

While the economic instability is ongoing, it is staff's opinion that a worldwide economic slowdown is an inappropriate basis for approving a map amendment. Economic conditions have changed, not just in the area involved, but county wide as well. If the current recession is used as a basis to approve this rezoning, then it could be used as a basis for any rezoning throughout the county that is argued to be inconsistent with the comprehensive plan.

The comprehensive plan is a 20-year vision for the county. It is certainly anticipated that within those 20 years, the national economy will have good years and bad years. The vision it lays out for the county does not become irrelevant during the down times in the national economy. An economic slowdown does not change the long-term vision and goals of the plan.

4. The current zoning of TCFD is appropriate and the proposed zonings of R-RE, R-1D, R-1C (P) OP, R-1C (P) NC, R-1D (P) OP, R-1D (P) IP, OP, HOC, CC, NC, and IP and I-1 are inappropriate.

One of the primary recommendations of the *Madison Pike Corridor Land Use and Economic Development Study* was the use of form-based regulations to implement the vision of the study. The TCFD was implemented specifically to achieve this vision.

While the TCFD was implemented to achieve the plan's vision, it is still the City's responsibility to form the policies around how that vision will be realized. At the time the study was completed, the City thought that the best policy for achieving that vision was through the drafting and adoption of the TCFD Zone.

Removing the TCFD and going back to the previous zoning classifications is a policy decision inconsistent with the implementation of the vision outlined in the Study. In fact, it will "reset" the corridor back to when there was no vision for the area. A more appropriate action, if the City Administration wants to change its policy towards the

corridor, would be to modify the text of the TCFD Zone. This will still be in line with the vision of the study, as well as permit a change in policy within the corridor.

Mr. Gary Huff addressed the Commission for the City of Ft. Wright. He then distributed a handout to try to explain further the difference in the two plans. He stated basically they are talking about twenty acres because the Sanitation District and TANK are not going anywhere. He further stated that it is the city's opinion that the Town Center Form District is difficult to implement, cumbersome to understand and something that will not ultimately achieve the vision of the Madison Pike Study. He further stated they don't see the need to have the properties behind the existing commercial business in the Town Center Form District.

Mr. Joe Nienaber addressed the Commission as the mayor of Ft. Wright. He stated it is no secret he voted against the Town Center Form District but he put his name on the application. He stated in the absence of having another final document they have to go along with what the minutes say and go along with what the minutes reflect is the final document. He stated he is being requested to revisit this and he feels it is appropriate to do so. He then stated within the twenty available acres there are about eleven different property owners. He further stated they are a responsible community but they don't feel there is a place for a form district on the 3L highway. He stated to put more restrictions on people that are trying to sell their property in these economic times is being irresponsible. He then stated he feels the plan is still good but the market will have to run its course.

Mr. Ratterman addressed the Commission and stated he owns seven acres down by the UDF that has been in his family since 1889. He stated he has had 18 developers look at his property, some of them national, and they've all been run out by the Town Center Form District. He stated he went to the city to see if something could be changed. He then stated the form district definitely killed it for development. He stated the type of zone it is in is laughable right now and he would appreciate a change.

The public hearing recessed for discussion. Mr. Barnett stated he likes the idea of a form district but has always had a problem with this one because it is uniform. He stated it bothers him that we are going backward but it doesn't bother him enough. He stated he can see it in other areas like Independence before this area. The public hearing was then closed.

Mr. Hilgefurd made the motion to approve based on the testimony heard and the fact that it is not in compliance with the comprehensive plan. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Ryan, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Ms. Hood, Mr. Hult, Mr. Rogge, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wells and Mr. Whitacre in favor. The motion carried.

## **1963R**

**APPLICANT:** City of Erlanger, per Mark Stewart

**REQUEST:** Proposed text amendments to the Erlanger Zoning Ordinance: (1) modifying the definition of Multi-Family Dwelling by identifying that such a dwelling is for three or more families; (2) modifying the HC-2 Zone by adding a purpose statement, amending the list of permitted and accessory uses, amending the area and height regulations, and amending

the other development controls; and (3) allowing Planned Unit Developments to be located within the Business Park One (BP-1) Zone

Staff recommendations and Staff presentations by Mr. Mike Schwartz.

**NKAPC STAFF RECOMMENDATION:**

Recommendation A: To approve the proposed text amendment modifying the definition of Multi-Family Dwelling by identifying that such a dwelling is for three or more families.

Recommendation B: To disapprove the proposed text amendment modifying the HC-2 Zone by adding a purpose statement, amending the list of permitted and accessory uses, amending the area and height regulations, and amending the other development controls.

Recommendation C: To approve the proposed text amendment allowing Planned Unit Developments to be located within the Business Park One (BP-1) Zone, but only subject to compliance with the condition that the proposed amendment to Section 10.25, B. be eliminated.

**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 modifying the definition of Multi-Family Dwelling by identifying that such a dwelling is for three or more families (see Attachment A) 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 modifying the definition of Multi-Family Dwelling by identifying that such a dwelling is for three or more families (see Attachment A) is reasonable and appropriate. The current definition does not provide for the possibility of more than three (3) families to be housed within the same building. The proposed text amendment would clarify this error.

Recommendation B:

1. The proposed text amendment modifying the HC-2 Zone by adding a purpose statement, amending the list of permitted and accessory uses, amending the area and height regulations, and amending the other development controls (see Attachment B) is not appropriate. The permitted uses within the proposed HC-2 Zone are duplicative to those found within other zoning districts.
  - a. 27 out of the 39 permitted uses within the proposed HC-2 Zone are currently permitted within the NSC Zone.

- b. 29 out of the 39 permitted uses within the proposed HC-2 Zone are currently permitted within the SC Zone.
  - c. 26 out of the 39 permitted uses within the proposed HC-2 Zone are currently permitted within the NC Zone.
  - d. 25 out of the 39 permitted uses within the proposed HC-2 Zone are currently permitted within the NC-2 Zone
  - e. 10 out of the 39 permitted uses within the proposed HC-2 Zone are currently permitted in either the HC or HC-3 Zone.
2. The recommendation of disapproval is consistent with a previous recommendation made by the NKAPC. One of the permitted uses within the proposed HC-2 Zone is used car sales, subject to certain restrictions.

On June 12, 2008, the City of Erlanger, per Mark Stewart, submitted an application for NKAPC and KCPC review and recommendation on a proposed text amendment to the Erlanger Zoning Ordinance adding used automobile sales, with certain restrictions, to the list of permitted uses within the HC-3 Zone (Z-08-06-04/1928R). On June 27, 2008, the NKAPC recommended disapproval of the proposed text amendment.

3. While the proposed use of used car sales would be appropriate in the HC-2 Zone, the proposed restrictions will be administratively cumbersome and difficult to enforce. Additionally, the restrictions on the use of loudspeakers, automobiles displayed with open hoods, and promotional displays will not be enforced consistently within the zoning district. If approved, these restrictions will only apply to used car sales. New car sales, which would be permitted in the HC-2 Zone, would be allowed to have each of these items.

Recommendation C:

- 1. The proposed text amendment allowing Planned Unit Developments to be located within the Business Park One (BP-1) Zone (see Attachment C) 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 allowing Planned Unit Developments to be located within the Business Park One (BP-1) Zone (see Attachment C) is appropriate. The BP-1 Zone has been written as a mixed use zone providing for a synergy between manufacturing and service/retail uses. The inclusion of a residential component can strengthen this mixture of uses.
- 3. One of the proposals is to add Planned Unit Development to the list of permitted uses within the BP-1 Zone. The other proposal is to allow the Planned Unit Development (PUD) Overlay Zone to be superimposed onto the BP-1 Zone. The first proposal would pose a conflict between the responsibilities of the legislative branch of the city (city council) and the executive branch of the city (mayor). If Planned Unit Development is added as a permitted use, the final decision of approval/denial rests with the executive branch. However, the regulations and requirements of Section 10.11 state that the final

decision of approval/denial rests with the legislative branch (city council).

If the proposal allowing the Planned Unit Development (PUD) Overlay Zone to be superimposed onto the BP-1 Zone, the process would be a map amendment application, with a development plan submittal and a public hearing through the Kenton County Planning Commission. As such, the final decision of approval/denial would rest with the legislative branch (city council).

To eliminate this conflict, it is recommended that the proposed amendment to Section 10.25, B. be eliminated.

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

Mr. Mark McCavage addressed the Commission and stated he too was available to answer any questions.

The public hearing recessed for discussion. Public hearing closed. A motion was made by Mr. Darpel to approve number one based on Staff's recommendation. Mr. Barnett seconded the motion. A roll call vote on the matter found Mr. Darpel, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Hult, Mr. Marcum, Mr. Rogge, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Wells and Mr. Whitacre in favor. The motion carried unanimously.

\*Mr. Whitacre recused himself from any consideration and voting on issue 1964R due to a potential conflict of interest.

**1964R**

**APPLICANT:** DW Real Estate Holdings, LLC, per William H. Davin, and M.B. Land Company, per Michael T. Brandy, on behalf of RT Kentucky Restaurant Holdings, LLC

**LOCATION:** an approximate 1.7-acre area located at the northeast corner of the intersection of Orphanage Road with Valleyplaza Parkway in Fort Wright

**REQUEST:** Review of a proposed amended Stage I Development Plan for the described area, which is currently zoned HOC (C-PUD) (a highway oriented commercial zone with a commercial planned unit development overlay zone)

Staff recommendations and Staff presentations by Mr. Mike Schwartz.

**NKAPC STAFF RECOMMENDATION:**

To approve the proposed amended Stage I Development Plan, but only subject to compliance with the following conditions:

1. That all off-street parking spaces be a minimum of 9-1/2 feet wide by 18 feet deep.

2. That the proposed development meet the requirements of Section 9.25 (Flood Protection Development Regulations) of the Fort Wright Zoning Ordinance.
3. That the drive aisle between the site in question and the adjacent tire store meet the minimum requirements of Section 11.1, B. of the Fort Wright Zoning Ordinance.
4. That the Stage II Development Plan meet all the requirements of the adopted “Design Guidelines”.

**Comprehensive Plan Documentation:**

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

**Supporting Information/Bases For Recommendations:**

1. The proposed amended Stage I Development Plan is consistent with the *Comprehensive Plan Update 2006-2026* which identifies the site in question for Commercial – retail/Service uses. The proposed amended Stage I Development Plan identifies that the site will be used for retail and restaurant uses.
2. The proposed amended Stage I Development Plan meets the minimum requirements of Fort Wright Ordinance Number 9-02 and the Fort Wright Zoning Ordinance, except for the following:
  - a. Condition Number 11 of Ordinance Number 9-02 requires off-street parking spaces to be a minimum of 9-1/2 feet wide by 18 feet deep. The submitted amended Stage I Development Plan indicates off-street parking spaces to be 9-1/2 feet wide by 15-1/2 feet deep with a 2-1/2 foot overhang.
  - b. Section 9.25 of the Fort Wright Zoning Ordinance provides regulations for developing within a floodway and within a 100-year floodplain. Insufficient information has been submitted to determine compliance with these requirements.
  - c. Section 11.1, B. of the Fort Wright Zoning Ordinance provides for minimum drive aisle widths. For two-way traffic, the minimum drive aisle width is twenty-two (22) feet. For one-way traffic, the minimum drive aisle width is eleven (11) feet. The submitted amended Stage I Development Plan indicates a drive aisle width of fourteen (14) feet where the site in question adjoins the parking area of the adjacent tire store. Based on the existing conditions and the submitted development plan, it is unclear if this drive aisle is to function as a one-way or two-way movement.
3. The city has established and adopted “Design Guidelines” for the entire Wal-Mart area and the adjoining outlots. These “Design Guidelines” regulate building architecture, materials, and color, waste receptacle screening, exterior lighting design standards, and signage. Insufficient information has been submitted to determine compliance with these requirements.

Mr. Bill Davin addressed the Commission and stated they are in agreement with conditions 1, 2 and 4. He noted that Mr. Jay Bayer would address condition 3.

Mr. Jay Bayer addressed the Commission and stated if the area in question is going to be grass and not pavement then condition 3 is moot. He stated their intention is to have it remain as grass and would never be a drive aisle. He then stated they are asking for approval.

Mr. Hilgefurd asked if he could identify the restaurant. Mr. Davin stated since the lease is not final he could not but noted it is a highly recognizable Northern Kentucky restaurant.

The public hearing was then recessed for discussion. The public hearing was closed. Mr. Rogge made the motion to approve based on Staff's recommendations with conditions listed except for condition 3. Ms. Hood seconded the motion. A roll call vote on the matter found Mr. Rogge, Ms. Hood, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Mr. Hult, Mr. Marcum, Mr. Ryan, Ms. Snyder, Mr. Tewes and Mr. Wells in favor. The motion carried unanimously.

**W-706**

**LOCATION:** 3211 Turkeyfoot Road in Edgewood (an approximate nine acre area along the east side of Turkeyfoot Road approximately 500 feet south of Walker Lane and directly opposite Lyndale Road).

**REQUEST FOR ACTION:** to grant a waiver to Section 4.6 of the Kenton County Subdivision Regulations; granting the request would waive the requirement that a common driveway serving four lots be 16-feet wide to allow a portion of the common driveway to be 14-feet wide.

Staff recommendations and Staff presentations by Mr. Mike Schwartz.

**NKAPC STAFF RECOMMENDATION:**

To grant the requested waiver to Section 4.6 of the Kenton County Subdivision Regulations and allow the portion of the driveway between the lakes to be 14-feet wide subject to the following condition:

That the remaining portions of the driveway be provided at the widths shown on the submitted plan.

**Basis:**

Unusual topographical and exceptional physical conditions exist further defined as follows:

The proposed 14-foot wide section of driveway is located between two existing lakes. Topography is steep along either side of the existing driveway resulting in an approximate 1:1 slope on the north side of the driveway and an approximate 3:1 slope with mature trees on the south side of the driveway. Allowing this limited section of the driveway to be 14-feet wide will minimize required earthwork disturbance and tree removal.

In addition, allowing the portion of the driveway between the lakes to be 14-foot wide with the requirement that the 20-foot wide “waiting areas” on either side be provided will allow the small volume of vehicular traffic using the driveway to circulate effectively.

Mr. Darin Eyre addressed the Commission and stated he is the site engineer. He stated the existing drive is 10-12 feet but it will be widened and the area where it will be widened does not contain mature trees as on the other side. He then stated another reason for the waiver is due to the topography in widening the road.

Mr. Paul Studer of Studer Residential Design addressed the Commission and stated the importance of saving the trees and softening the entrance are very critical. He stated the important thing to note is they don't see this as a detriment to the property and it will keep it more as a lane feel to the property.

The public hearing recessed for discussion. The public hearing then closed. A motion was made by Mr. Barnett to grant the waiver based on unusual topographical conditions as stated by Staff. Mr. Ryan seconded the motion. A roll call vote on the issue found Mr. Barnett, Mr. Ryan, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Hult, Mr. Marcum, Mr. Rogge, Ms. Snyder, Mr. Tewes, Mr. Wells and Mr. Whitacre in favor. The motion carried unanimously.

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

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

*By-Laws* – It was noted the next meeting would be held next Thursday at noon.

*Executive*- No meeting held.

*Model Zoning Ordinance* – Nothing to report.

*Subdivision Regulations Review* – Nothing to report.

*Report from legal counsel* – Nothing to report.

*Announcements from Staff* – Nothing to report.

*Correspondence* – Nothing to report.

#### ***New Business:***

Mr. Ryan stated the next meeting on the small area study being performed for Park Hills would be held on May 14 at 6:00 p.m.

Mr. Wells noted that Donna Bresser has been with the NKAPC for 41 years. He then thanked her for her lifetime of service.

Mike noted there will be a continuing education opportunity to be held on Tuesday at 5:30 on the traffic impact and analysis on the 12<sup>th</sup> Street Corridor. He then asked for a head count for catering purposes.

**Public Comments:** None.

There being nothing further to come before the Commission, Ms. Hood made the motion to



adjourn. Mr. Tewes seconded the motion. The meeting then adjourned at 9:53 p.m.

APPROVED:

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Chair

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Date