

**KENTON COUNTY PLANNING COMMISSION**  
**REGULAR MEETING**  
Minutes

Mr. Paul Darpel, Chair, called the meeting to order at 6:15 PM on Thursday, June 6, 2013, and opened the proceedings with the Pledge of Allegiance and an invocation by Mr. Hult. 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.

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Member	Jurisdiction	J a n	F e b	M a r	A p r	M a y	J u n	J u l	A u g	S e p	O c t	N o v	D e c	
Diane Brown	Erlanger	X	X	X		X	X							
Barbara Carlin	Kenton Co	X	X	X	X	X	X							
Barry Coates	Covington	X	X	X	X	X	X							
James Cook	Kenton Co			X	X		X							
Paul Darpel, Chair	Edgewood	X	X	X	X	X	X							
Tom France, V.Chair	Ludlow	X	X	X	X	X	X							
Joe Gray	Covington		X	X	X	X	X							
David Hilgefurd	Villa Hills	X	X	X	X	X	X							
Lynne Hood	Crestview Hills	X		X	X	X	X							
Marc Hult	Covington	X	X	X	X	X	X							
Mark Hushebeck	Lakeside Park	*												
Joe Pannunzio	Elsmere	X	X		X	X								
Stan Porter	Taylor Mill	X	X		*	X								
Mark Rogge	Crescent Spgs	X	X	X	X	X	X							
Dan Ruh	Fort Wright	X	X		X									
Shad Sletto, Treasurer	Fort Mitchell	X	X	X	X		X							
Maura Snyder	Independence	X	X		X	X	X							
Joe Tewes	Bromley	X	X	X	X		X							
Carl Gerrein	Park Hills	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.

Also present were Matt Smith, Legal Counsel, and the following NKAPC staff: Mr. Martin Scribner, Director, Planning and Zoning Administration Department, Mr. Andy Videkovich, Senior Planner, and Ms. Sharmili Reddy, Planning Manager.

### **AGENDA**

Mr. Scribner stated that a request to table item 2110R had been received by the applicant. He noted it will be placed on next month's meeting agenda and stated the meeting will be held on Tuesday, July ~~9<sup>th</sup>~~, due to the holiday. Ms. Snyder then made the motion to approve the tabling for a period of up to 6 months. Mr. Hult seconded the motion. A roll call vote on the matter found Ms. Snyder, Mr. Hult, Ms. Brown, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Gray, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Rogge, Mr. Sletto, Ms. Snyder, Mr. Tewes and Mr. Darpel in favor. The motion to table carried unanimously. Mr. Darpel than asked for any objections to the remainder of the agenda. Ms. Snyder made the motion to accept. Mr. Hult seconded. The motion was approved by acclamation.

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

Mr. Darpel noted there were two sets of minutes to approve and they would start with the April minutes. Ms. Snyder made the motion to approve. Mr. France seconded the motion. Roll found Ms. Snyder, Mr. France, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Gray, Mr. Hilgefurd, Ms. Hood, Mr. Hult, Mr. Rogge, Mr. Sletto, Mr. Tewes and Mr. Darpel in favor. Ms. Brown abstained. The motion carried. A motion was then made to approve the minutes from May. Ms. Snyder made the motion to approve. Mr. Rogge seconded. A roll call vote on the motion found Ms. Snyder, Mr. Rogge, Ms. Brown, Ms. Carlin, Mr. Mr. Coates, Mr. Gray, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Hult and Mr. Darpel in favor. Mr. Cook, Mr. Sletto and Mr. Tewes abstained. The motion carried.

### **RECEIPTS AND EXPENDITURES:**

Mr. Darpel asked for any questions or comments. There being none, Ms. Snyder made the motion to approve. Ms. Brown seconded the motion. A roll call vote on the motion found Ms. Snyder, Ms. Brown, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Gray, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Hult, Mr. Rogge, Mr. Sletto, Mr. Tewes and Mr. Darpel 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.

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

No action required.

### **PUBLIC HEARINGS:**

2110R

**APPLICANT:** Kenton County Fiscal Court per Judge/Executive Steve Arlinghaus

**LOCATION:** an approximate 28-acre area located on the east side of KY 17 and on the north side of Taylor Mill Road, approximately 1,000 feet north and 1,200 feet east of the intersection of Taylor Mill Road with KY 17 in unincorporated Kenton County

**REQUEST:** a proposed map amendment to the Kenton County Zoning Ordinance changing the described area from R-1B (Single-Family Residential) to NSC (Neighborhood Shopping Center) Zone

This issue was tabled at the request of the applicant.

#### **2109R**

**APPLICANT:** City of Covington per Larry Klein, City Manager

**REQUEST:** a proposed text amendment to the Covington Zoning Ordinance adding cultural exhibits and libraries to the list of permitted uses within the IP (Industrial Park) Zone and the IL (Limited Industrial) Zone

Staff recommendations and Staff presentation by Mr. Martin Scribner.

#### **NKAPC STAFF RECOMMENDATIONS:**

Favorable recommendation of the proposed text amendment to the Covington Zoning Ordinance adding cultural exhibits and libraries to the list of permitted uses within the IP (Industrial Park) Zone and the IL (Limited Industrial) Zone.

Beth Johnson registered to speak in favor of the issue. She addressed the Commission and stated she was present for the City of Covington as staff if anyone had any questions. There being none, Mr. Hyde was then called to the podium as being registered in favor. He had nothing to add. Mr. Darpel then recessed the public hearing for discussion. There being none, the meeting was then reopened and closed. Mr. Hult made the motion to approve the text amendment based on staff's recommendations. Mr. Coates seconded the motion. A roll call vote on the matter found Mr. Hult, Mr. Coates, Ms. Brown, Ms. Carlin, Mr. Cook, Mr. Gray, Mr. France, Mr. Hilgefurd, Ms. Hood, Mr. Rogge, Mr. Sletto, Ms. Snyder, Mr. Tewes and Mr. Darpel in favor. The motion carried unanimously.

#### **2111R**

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

**REQUEST:** proposed text amendment to the Erlanger Zoning Ordinance: 1) adding multi-family residential dwellings as a permitted use within the BP-1 (a mixed use zone) Zone, with conditions; 2) allowing automatic changeable copy signs for institutional uses within all zones; and 3) requiring outdoor dining areas located within 340 feet of a residence to comply with operation standards within the NSC (Neighborhood Shopping Center) Zone, SC (Shopping Center) Zone, NC (Neighborhood Commercial) Zone, and NC-2 (Neighborhood Shopping Center-2) Zone.

Staff recommendations and Staff presentation by Mr. Andy Videkovich

#### **NKAPC STAFF RECOMMENDATIONS:**

Request #1: Favorable recommendation of proposed text amendments to the Erlanger Zoning Ordinance adding multi-family residential dwellings as a permitted use within the BP-1 (a mixed use zone) Zone, with conditions. Request #2: Favorable recommendation of the proposed

text amendment to the Erlanger Zoning Ordinance allowing automatic changeable copy signs for institutional uses within all zones. Request #3: Favorable recommendation of proposed text amendments to the Erlanger Zoning Ordinance requiring outdoor dining areas located within 340 feet of a residence to comply with operation standards within the NSC (Neighborhood Shopping Center) Zone, SC (Shopping Center) Zone, NC (Neighborhood Commercial) Zone, and NC-2 (Neighborhood Commercial-2) Zone.

Mr. ~~Steward~~ Stewart registered to speak in favor of the issue. He addressed the Commission and stated he was mainly present to answer any questions. Mr. France inquired about the reduction of the 60 feet. Mr. Stewart stated the reason for the reduction was that previously there wasn't enough research done and that residences were found to be within the 400 feet.

There being no others registered to speak, Mr. Darpel recessed the public hearing for discussion. There being none, the public hearing was then reopened and closed. Mr. Darpel asked for a motion on the issue. Mr. Hilgefurd made the motion to approve all aspects of the issue based on the testimony and Staff's recommendations. Mr. Sletto seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Sletto, Ms. Brown, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Gray, Mr. France, Ms. Hood, Mr. Hult, Mr. Rogge, Ms. Snyder, Mr. Tewes and Mr. Darpel in favor. The motion carried unanimously.

#### **2112R**

**APPLICANT:** Kenton County Planning Commission per Paul J. Darpel, Chair

**REQUEST:** review and recommendations of a proposed statement of goals and objectives for Kenton County's Direction 2030: Your Voice Your Choice comprehensive plan in accordance with KRS 100.187(1)

Staff recommendations and Staff presentation by Ms. Sharmili Reddy.

#### **NKAPC STAFF RECOMMENDATIONS:**

Staff forwards the action of the Direction 2030 Task Force to recommend approval of the statement of goals and objectives and forward it to the legislative bodies for consideration and action.

Mr. Darpel commented to all the commissioners that have participated in meetings and thanked them for their contribution, as well as Staff for their efforts, time and energy, to ~~the~~ Direction 2030. He stated they did an amazing job and it took a tremendous amount of work. Mr. Darpel then asked for any questions of staff. There being none, he then went on to the public hearing portion.

Cathy Donahue addressed the Commission in favor of the issue. She stated she is speaking as a citizen having attended several of the meetings. She stated they were well represented and informative. She stated she feels the document is very progressive and a step forward from just the business as usual. She stated she is in favor of it as written.

Michael ~~Den~~ Dinn reserved the opportunity to speak later on the issue.

Mr. Chris Moriconi addressed the Commission and stated essentially that the City of Ft. Mitchell accepts the document as written.

Emily Randall reserved the opportunity to speak later on the issue.

~~Mayor~~. Paul Meyer addressed the Commission and stated his biggest concern was under goal #3, objective "A". He stated he is pro economic development but he feels this goal has gone too far and it needs to be pulled back somewhat. He stated of all the issues he feels that is the most important issue. He suggested the following language of using the word "streamlined" vs. "remove" as a better suggestion for Objective A under Goals and Objectives. Mr. Darpel then stated the purpose of the town meetings was to discuss this and he doesn't feel the time for discussion is now when it involves changing the language when this has been something that has been discussed for months and months. Mr. Hult then clarified that ~~Mayor~~. Meyer's suggestion was to change the language to read streamlined to make item Objective "A" flow better. Mr. Darpel noted his hesitation with changing the language because it might lead to other changes.

Mr. David Kramer addressed the Commission and stated he shared the mayor's reservations with Goal 3 under regulation and also with private property. He stated when you look at the change that was made with regard to private property, he feels the document is out of bounds. He further stated if you look at the owner's private property section it seems that you can do whatever you want if you own property. He then noted he feels there should be more balance to this and also suggested the word "streamlined" as a better option. He stated that he would recommend that that language be added to the plan. Mr. Darpel then stated he feels the language written is a fairly balanced way to approach private property rights. Mr. Hult stated the problem he sees with it is there is no balance with the community rights. He stated he doesn't feel the language addresses that. Mr. Kramer then suggested that another type of language should be used in this instance. He further stated this language was not included when the two meetings were held for Crestview Hills and that this was recently added to the plan. Mr. Hult stated essentially this is the first public hearing where the opportunity to discuss this language has come up. Ms. Sharmili Reddy stated the language was added to the website on May 2<sup>nd</sup>. Mr. Darpel stated there were many, many meetings held and the issue of a balance was always discussed at these meetings when it came to private property. Mr. Rogge stated he had some reservations with this issue after meeting with his city council. He stated some people could interpret this to read that property rights trump zoning because there is nothing in this about zoning. Mr. Gray then stated he doesn't see it either and feels balance should be in there somewhere. Mr. Hilgefjord stated in his personal opinion, he feels number 1 should be removed altogether. He stated there is no way to avoid it. He stated every recommendation they make is a restriction on private property. Mr. Sletto stated he feels #1 allows them to do that because it allows both private and personal use of your property and also that you're not going to be imposed upon by your neighbor. Mr. Kramer then commented that he doesn't feel the court will interpret this the way Mr. Darpel has.

Mr. Logsdon then addressed the Commission and stated he is partially for but one reason he is here is because he feels like it's time for bit of cheerleading. He stated he knows what the commission is going through with this effort. He stated he has some of the exact same concerns that Mr. Kramer has with regard to private property. He noted it has caused some discussion already. He then noted one of his concerns is we tend to want to take out of all the descriptive language from the goals and objectives. He stated this is what the public picks up on. He stated the commission needs to know all these goals and objectives as well as their staff. He then noted this is one of the reasons it needs to be clear and concise and it is not because there is some confusion over it. He stated he knows many of the commissioners and knows that it is no one's intention to take away people's rights. He then stated there is no such thing as a right without a responsibility. He further stated you can't have one without the other. He stated his concern is

that language like this makes it harder to sell, and certainly harder to create a whole document after and he would wholeheartedly suggest it needs to be reconsidered. He stated he hates to send them back to do more work but this is an important opportunity and he encourages it be reviewed. He also suggested alternative language be used and stated he still wouldn't want it to be listed as number one in the plan.

| Mr. Darpel then read two letters received from ~~Mayor~~ Nienaber and Mr. Vergamini into the record to be marked as exhibits and made a part of the record on the goals and objectives issue.

Ms. Randall addressed the Commission in favor of the issue. She stated she had the pleasure of serving on the technical task force with OKI and stated this is really one of the most thorough processes she has ever been a part of. She stated she just wanted to commend staff for doing that and making such an honest effort to come together on many issues. She further suggested to keep in mind that the goals and objectives are kind of the starting point in the process and there will be an opportunity for other issues to be raised. She also stated this could be wordsmithed for another year but the point is to come together and really clarify what the goal overall goal is.

| ~~Mayors~~ Carran addressed the Commission as a neutral party and commended the staff and the other people involved because it was a huge effort. She then noted she has basically two concerns and the first is the #1 Guiding Principle and it has already been discussed. She stated Sharmili and other staff explained to her that both Ft. Wright and Fort Mitchell had concerns with this and wanted this in. She further noted she just wished Covington has more of an opportunity to discuss this issue. She then suggested adding another principle as a request as follows: Community Goal - The health, safety, and welfare of the general public shall be promoted and encouraged, along with balancing public and private rights." She then noted another concern is with Goal #3 and the creation of new jobs. ~~Mayors~~ Carran suggested new language as follows: Streamline the regulatory process to promote/encourage/enhance desirable job attraction creation and retention from what the current draft reads. She further noted this language is not doing away with, but streamlining the process to creating new jobs. With respect to the private property issue, she also suggested that some wordsmithing be done here as well as noted by the others who spoke. Mr. France stated this probably does need to be looked at because "remove" is not a good word here and streamlined sounds better. Mr. Smith also clarified that the individual cities will also have the opportunity when it comes before them to accept it as it is or with amendments, but the goal is to have it accepted as a whole. She further stated that it may sound like they are being very, very picky but when it comes down to it, this wording is very important.

Mr. Schmidt addressed the Commission and stated he had trouble with the first goal himself. He stated it could be modified to read "...from others using their own property..." He then referenced a page that was distributed for review and marked as an exhibit to the record. He stated the national artery of commerce that runs through our area occurs here in Kenton County and noted we then are at a very important convergence in the United States. He further noted this is the last safe spot on the United States and we need to prepare for when the rest of the world arrives here. He stated his final point is he doesn't see the mention of the word ecology (in the comprehensive plan). He stated we are nothing more than immunations (sic) of earth and if we don't understand and subscribe to an ecological view of our earth, we won't as a human colony, last long.

Mr. Hummeldorf addressed the Commission as a neutral party and stated this has been a long process of going back and forth. He stated as Ft. Wright and Fort Mitchell began to go through the document, the whole document was about the betterment of the community. He noted there was never any mention of owner's property rights. He stated this is the only spot in the whole document that talks about owner's rights but mainly of community. He noted a lot of work has gone into this and he thinks everyone has their own interpretation of it. He stated he is not against adding the word streamlined in relation to Goal #3. He then stated at the same time when you talk about regulations you talk about what it is going to achieve for the people. He stated there needs to be consistency also when it comes to removing items from the individual goals. Ms. Brown then stated there have been numerous individuals that have not been able to understand this issue and that it needs to be clarified. Ms. Brown questioned why it was so important to the two cities to have such specific language clarifying something the planning commission already does, and that is to treat private property owner's rights in high regard. She then asked if the intent was left the same but the language was clarified would he still be in favor of voting for it. Mr. Hummeldorf stated the rest of the document talks about community goals and objectives. Mr. Hult then asked if he would want it to govern individual's goals and objectives. Mr. Hummeldorf stated he did not. Mr. Hult then stated this is about the goals and objectives of a community. Mr. Darpel stated this is why they went through all the public hearings. He stated the primary concern of the people is they were in favor of the goals and objectives for the community but to not let the individuals get trampled in the process. Mr. Hult then suggested that #1 be rephrased so that more people can understand it. Mr. Hummeldorf stated the document is about community goals as long as you follow the guiding principles. He asked so why would you talk about an individual's property rights when the majority of the document is about community goals and objectives. Mr. Rogge asked what would happen if that statement regarding an individual's property rights was removed. Mr. Sletto gave an example of a property owner who wanted to expand his business in a certain district where zoning came into play where because of the zoning he was not allowed to do so, thus creating a burden. Mr. Hilgefjord argued that there is not one thing that the commission does that does not limit a property owner's right in some way. Mr. Hummeldorf further stated he just wanted to recognize the staff and those that put forth so much effort to accomplish this goal.

Mr. Beckam addressed the Commission and stated he is representing the city of Edgewood. He stated ~~he~~ the city council really had a problem with Goal #3, Objective A. He stated the suggestion is a fine compromise and he is in favor of that. With respect to the issue involving private property rights, he stated anyone that cares about their neighbors cares about their community. He further noted when you start doing things like this you're really opening the door to issues. He stated he is all for compromise and balance but he suggested not allowing this language to stand. Mr. Beckam also stated that he also did not understand the last sentence of the principle. He then stated it is very important to the city of Edgewood also.

Mr. Darpel recessed the public hearing for discussion. Ms. Snyder asked how it is that Ft. Wright and Fort Mitchell got together and had these meetings together on this and the other cities did not have the opportunity to do so. She further stated at all these 70 or so meetings the main thing was property rights from all the citizens and now that it's put in there the city officials are saying they don't want it in there. Ms. Snyder also stated she feels it is a slap in the face to all those people that wanted this and now they are saying to not put it in. Mr. Hult then also stated that he had people say at the meetings their concern with environmental issues and there isn't anything in this about that. ~~Mayor~~. Meyer stated in rebuttal that they received the goals and objectives on May 6<sup>th</sup> and the final document was much different than what was

presented to them last year. He stated they were instructed to attend this meeting to address it. Ms. Sharmili Reddy commented that they did their best to keep everybody informed but that also that there were a lot of changes made in the past six months. Mr. Darpel stated at some point you have to call it good and go from there with the discussion. Following the discussion on the matter, Mr. Darpel then recessed the public hearing for discussion. Mr. Rogge stated it seems the big issue is that private property owners feel they are going get to get trampled by community rights and the community feels they are going to be trampled by private property rights. Mr. Smith noted that in Boone County there are some goals and objectives that apply to Walton and some that apply to Boone County. He stated options could be provided as far as how you articulate the balance between private and community properties. He stated you could give the cities the option to go with A or B but fundamentally the goals and objectives haven't changed. Mr. Darpel then stated that one says remove and one says streamlined. Mr. France stated the underlying goal may not be too different but the language is. Mr. France stated he feels the language that Covington proposed is logical. Mr. Gray stated he feels the language concerning private property rights is unnecessary. He referenced ~~Mr. Mayor~~ Nienaber's letter and read the statement with regard to private property rights as being excellent and very understandable. Mr. Hult also stated he liked the language as well. Ms. Brown stated while she likes that language as well, she also is not in favor of rewriting the language on the fly. Mr. Gray agreed. Mr. Rogge also stated that to be fair, the guiding principles language was added in the last month. Mr. Darpel stated at this point he thinks they are in pretty good shape but needs some language clarification. Mr. Darpel also stated the citizens of Kenton County deserve an answer and that a lot of time and effort has gone into this. Mr. Sletto then stated he would be comfortable giving a vote tonight. Mr. Hilgefurd stated he also liked ~~Mayor~~ Nienaber's statement as well as Covington's recommendation for #3. It was then suggested that Staff could incorporate the proposed language and come back with the rewritten language as one possibility. Further discussion then led to suggesting the two primary changes brought up (the private property section and unnecessary and burdensome regulations) be reviewed and the language reworked and then continuing rather than tabling the hearing. Mr. Darpel stated this way there would not have to be another public hearing. Mr. Darpel stated he would like staff to go back to the cities for clarification on these two issues. Mr. Smith then stated if this is done he feels like we will be right back to where we started. Ms. Hood stated she is wondering if staff should simply rewrite it and present it to the commission and then vote on it. Mr. Darpel restated at some point you have to call it good. Mr. Darpel then reconvened and then closed the public hearing on the issue. He asked for a motion to table the hearing until the next meeting. Ms. Hood made the motion to table. Mr. Cook seconded the motion. A roll call vote on the motion found Ms. Hood, Mr. Cook, Ms. Brown, Ms. Carlin, Mr. Coates, Mr. Gray, Mr. France, Mr. Hilgefurd, Mr. Hult, Mr. Rogge, Ms. Snyder, Mr. Tewes and Mr. Darpel in favor. Mr. Sletto voted against. The motion carried.

### **Ongoing Business:**

### **Reports from Committees:**

*By-Laws* – Mr. France noted there was nothing to report. No meeting held.

*Direction 2030* (comprehensive plan) – Mr. Darpel stated they will be calling a meeting. Nothing new to report.

*Executive* – Nothing new to report.

*Subdivision Regulations* – Mr. Darpel stated they have had another round table meeting and there are going to be more.

*2020 Sourcebook (model zoning ordinance)* – Mr. Rogge had nothing to report.

*OKI* – Nothing to report.

*Report from Legal Counsel* – Nothing to report.

*Announcements from Staff* – Mr. Hiles stated the City of Crescent Springs claimed the funds for the subdivision bonds. Mr. Darpel stated they have received a request to call the surety from George Ripberger. Mr. Darpel then read the letter into the record and it was marked as an exhibit. Mr. Darpel then stated he needs a motion giving the authority to call the bond. Mr. Rogge made the motion to call the bond. Ms. Brown seconded the motion. A roll call vote on the matter found Mr. Rogge, Ms. Brown, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Gray, Mr. France, Mr. Hilgefjord, Ms. Hood, Mr. Hult, Mr. Sletto, Ms. Snyder, Mr. Tewes and Mr. Darpel in favor. The motion carried. Mr. Scribner then noted there will be a webinar on the 26<sup>th</sup> that is usually good. It will be held at 4:00 on the 26<sup>th</sup> and there is no reason to R.S.V.P. He also noted next month there will be a difference in the way the file numbers are listed. He explained this is due to new software and there will be subtle changes to the way the file numbers appear.

*General Correspondence:* None.

*New Business:* None.

*Public Comments:* None.

There being nothing further to come before the commission, a motion to adjourn was made by Mr. Rogge and seconded by Mr. Sletto. All in favor by acclamation. The meeting then adjourned at 9:59 p.m.

APPROVED:

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Chair \_\_\_\_\_

Date