

**KENTON COUNTY PLANNING COMMISSION  
REGULAR MEETING**

**Minutes**

Mr. Darpel, Chairman, called the meeting to order on December 6, 2022, at 6:15 p.m. and opened the proceedings with the Pledge of Allegiance and invocation by Mr. Ryan. The meeting was held in the Planning and Development Services office located in Covington, Kentucky. Attendance of members is as follows (for this meeting as well as those during the year to date).

<b>Commission Member</b>	<b>Jurisdiction</b>	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Anthony Baker	Covington	X		X			X			X			
Margo Baumgardner	Crestview Hills		X	X	X	X	X				X	X	X
Todd Berling	Fort Wright		X	X	X	X	X		X	X	X	X	Xx
Jeff Bethell	Fort Mitchell		X	X		X	X	X		X	X	X	Xx
Gailen Bridges	Bromley	X	X	X	X	X	X	X	X	X	X	X	Xx
Paul Darpel, Chair	Edgewood	X	X	X	X		X		X	X	X	X	Xx
Brian Dunham	Kenton Cty	X	X	X		X	X		X		X		Xx
Tom France	Ludlow	X	X	X	X	X	X		X	*	X	X	Xx
Keith Logsdon	Lakeside Park		X	X	X	X	X	X	X	X	X	X	Xx
John Hennessey	Villa Hills	X	X	X	X	X	X	X	X	X	X	X	
Matthew Martin	Taylor Mill	X	X	X	X	X	X		X	X	X	X	X
Joe Pannunzio	Elsmere		X		X		X	X	X	X	X		
Dan McElheney	Erlanger			X		X		X	X		X	X	Xx
Sean Pharr	Covington		X	X	X	X	X		X	X		X	x
Phil Ryan, Treasurer	Park Hills	X	X	X	X	X	X	X	X	X	X	X	Xx
Kareem Simpson	Covington	X		X	X		X		X		X	X	X
Greg Sketch	Crescent Spgs	X		X	X		X	X			X	X	Xx
Maura Snyder	Independence	X	X*	X	X	X	X	X	*	X	X	X	X
Debbie Vaughn	Kenton Co	X	X*	X	X	X			X	X	X	X	Xx
Shannon Schawe	Ryland Hts.												Xx

Also present were Mr. Mathew Smith, Legal Counsel, and the following PDS staff: Mr. Andy Videkovich, Mr. Patrick Denbow and Mr. Cody Sheets.

“X” denotes attendance at the regular meeting and “x” denotes attendance at the special meeting for December “\*” denotes arrival after roll call was taken.

## **PUBLIC HEARINGS**

### **FILE: PC2210-0001**

**APPLICANT:** Kenton County Fiscal Court per Scott Gunning, County Administrator

**REQUEST:** Proposed text amendments to the Kenton County zoning ordinance related to Agri-Tourism uses: (1) Amending the definition of “Agri-Tourism”, and adding definitions for “Agricultural Building” and “Operating Farm”; and (2) Amendments to the Agri-tourism regulations within the A-1 and A-2 Agricultural Zones, including adding a purpose statement, requiring any structure to be an agricultural building, requiring an owner or designee to be on the premises during an event, specifying allowed agri-tourism activities, limiting the capacity of events, and adding time, odor, lighting, noise and dust regulations.

Staff presentation and Staff recommendations by Mr. Patrick Denbow

### **PDS STAFF RECOMMENDATION**

Favorable recommendation of the proposed text amendments to the Kenton County zoning ordinance related to Agri-Tourism uses: (1) Amending the definition of “Agri-Tourism”, and adding definitions for “Agricultural Building” and “Operating Farm”; and (2) Amendments to the Agri-tourism regulations within the A-1 and A-2 Agricultural Zones, including adding a purpose statement, requiring any structure to be an agricultural building, requiring an owner or designee to be on the premises during an event, specifying allowed agri-tourism activities, limiting the capacity of events, and adding time, odor, lighting, noise and dust regulations.

Ms. Susan Parker Leist addressed the Commission and stated she serves as Chair of the Agricultural Growth Committee. She stated in 2017 they identified short term rentals as an example of agritourism. She further stated this action falls under Direction 2030 regulation 3. Ms. Vaughn asked about the farm tour typically held and if an event such as that which typically draws over 500 people would fall under that designation. Ms. Parker Leist stated with the farm tours there is never typically more than 500 in attendance. Ms. Vaughn stated that is a concern and she didn’t know if it was an issue or not.

Ms. Jennifer Myka addressed the Commission and stated what she wanted to do was talk of the advantages to this. She stated one of the things she has started doing is short term rentals. She stated one thing she does is farm tours and this definitely a draw for people to get to take a farm tour. She stated she wanted to address the big farm tour and she’s never seen more than 500 in attendance at one time. She stated this is beneficial and she is not the only person to look to making farms more viable.

Ms. Kathy Donahue addressed the Commission and stated she is with the South Kenton County Citizens group. She thanked the Commission for the opportunity to speak on these issues. She stated this was under recommendation one task 3. She stated the 500 number is a capacity for at any one time. She stated some of that is because of the road situation. She stated in the case of farm tours that refers to flow. She stated they tried to do their homework and went online to see what other states as well as neighboring counties do with agritourism. She stated they feel it will provide a good framework and will give some parameters on what to look at for agritourism. She stated when they discussed this it gives neighboring people something to stand on if they want to complain about it. She stated if they do want to complain about it they have something to go by. Mr. Dunham asked if they needed to consider an adjustment for weekends in terms of noise. Ms. Donahue stated they went with the hearing health guidelines for the decibel levels and they felt like that was acceptable.

Mr. Denbow clarified that wineries are exempt from this and would not be considered an agritourism use.

Mr. Darpel recessed the hearing for discussion amongst the Commissioners. Mr. Bridges stated this is much more defined and much clearer since 2011 and they wanted to get ahead of the curve and make sure it’s much more utilized. He stated it’s not perfect but it is 10x better than what they had before. Mr. Darpel then reconvened and closed the public hearing.

He then asked for a motion on the matter. Mr. Bridges made the motion to approve for the reasons stated by Staff and for the Direction 2030 and all reasons stated by the speakers. Ms. Vaughn seconded the motion. A roll call vote on the motion found Mr. Bridges, Ms. Vaughn, Ms. Schawe, Mr. Berling, Mr. Bethell, Mr. Darpel, Mr. Dunham, Mr. Logsdon, Mr. McElheney, Mr. Pharr, Mr. Ryan, Mr. Sketch and Ms. Vaughn in favor. The motion carried.

**FILE: PC2211-0001**

**APPLICANT:** The City of Fairview per Harry Sprott, Mayor

**REQUEST:** Proposed text amendments to the Fairview Zoning Ordinance: (1) adding Art Studios as a permitted use within all zoning districts; and (2) adding a definition for Art Studio.

Staff presentation and Staff recommendations by Mr. Cody Sheets

**PDS STAFF RECOMMENDATION**

Favorable recommendation on the proposed text amendments to the Fairview Zoning Ordinance: (1) adding Art Studios as a permitted use within all zoning districts; and (2) adding a definition for Art Studio.

Mr. Harry Sprott had nothing to add.

Mr. Darpel recessed the public hearing or discussion. Mr. Dunham stated he struggled with it being in the residential zone and certainly there can be home based businesses. He stated this would permit someone to construct and operate a separate art studio at their home. He stated it doesn't feel like the best use of a zoning ordinance and feels it is a bit of a stretch for the agricultural zone. Mr. Darpel clarified it's an accessory use to a residence. Mr. Sketch stated there are no existing residents. There being no further discussion for Staff, Mr. Darpel closed the public hearing for discussion amongst the Commissioners. Mr. Logsdon asked for clarification on studios within the home. Mr. Sheets recited the clarification as to having studios within the home. Mr. Ryan asked if this request was in response to one person wanting to have an art studio or what it was for. Mr. Sprott stated he actually asked for the zone hearing himself. He stated they kind of got ahead of themselves and already had two readings on it. He noted they are back stepping and asking for approval to do what they are already doing. He stated they spoke with their attorney and this was the best way to go about it. There being nothing further, Mr. Darpel reconvened and closed the public hearing. He then asked for a motion on the matter. Ms. Vaughn made the motion to approve. Mr. Sketch seconded the motion. A roll call vote on the matter found Ms. Vaughn, Mr. Sketch, Mr. Berling, Mr. Bethell, Mr. Darpel, Mr. Dunham, Mr. France, Mr. Logsdon, Mr. McElheney, Mr. Pharr and Mr. Ryan and Ms. Schawe in favor. Mr. Bridges voted against. The motion carried.

**FILE: PC2211-0003**

**APPLICANT:** City of Crescent Springs per Mike Daly, City Administrator

**REQUEST:** Proposed text amendments to the City of Crescent Springs Zoning Ordinance: (1) adding private schools as a permitted use within the Professional Office Building (PO) Zone; and (2) allowing outdoor play areas for private schools within the Professional Office Building (PO) Zone.

**PDS STAFF RECOMMENDATION**

Favorable recommendation to the text amendments to the Crescent Springs Zoning Ordinance (1) adding private schools as a permitted use within the Professional Office Building (PO) Zone and (2) allowing outdoor play areas for private schools within the Professional Office Building (PO) Zone.

Staff presentation and Staff recommendations by Mr. Cody Sheets

Mr. Michael Daly addressed the Commission and gave some history on the request. He stated a recent property owner made improvements on the outside. He stated Crescent Ridge Academy is interested in moving part of their operations to this location. He stated they would like to lease out the entire building. He stated the other location would stay where it is. He commented that one thing that was mentioned by Staff is the zone they are speaking about is very limited and this particular property has been talked about for a number of years now. He noted this would be a very positive addition to Crescent Springs. He stated there seem to be no areas of concern from KYTC. He then noted he is available to answer any

questions. He further commented with regard to traffic flow they have looked at this and have received a projected number of cars and it looks like the morning would be about 65 cars and the half day would be about 10 vehicles.

Mr. John Huffman addressed the Commission in favor and noted he thinks it is a good re-use of the building. He noted since it is close to St. Joe's school it fits into the neighborhood.

Mr. Mike Baker addressed the Commission and stated he is the city attorney for the City of Crescent Springs. He thanked the Commission for hearing the issue and was available to answer any questions.

Ms. Lisa Welbrok Deseso addressed the Commission and thanked the Commission for the opportunity and stated she was available to answer any questions.

Mr. Ryan asked about any requirements for fencing around the playground area. Mr. Sheets stated it would be the usual requirement pertaining to that. Mr. Ryan then asked about the type of fencing in the PO zone. Mr. Sheets stated looking at the site it would be a real challenge to get an actual play area on the site, but that was discussed with the city. Mr. Denbow clarified within the commercial and industrial zone which would fall into this category the fencing allowed would be a max of 72 inches within the side yard and up to 48 inches tall for the front yard. Mr. Sheets stated it is mostly parking at this site so it would be difficult to put a play area. Mr. Daly then clarified the property is kind of unique because the density and the setback you have there is a green space area if looking from the Buttermilk Pike side. He stated obviously this is something they would like to have at the site so that is why they worded it as part of the text amendment. Mr. Darpel suggested looking into making it site specific. Mr. Darpel then recessed the public hearing for discussion. There being none, Mr. Darpel reconvened and closed the public hearing and asked for a motion on the matter. Mr. Sketch made the motion to approve based on Staff's report and the testimony heard. Mr. Bethell seconded the motion. A roll call vote on the matter found Mr. Sketch, Mr. Bethell, Mr. Berling, Mr. Bridges, Mr. Darpel, Mr. Dunham, Mr. Logsdon, Mr. France, Mr. McElheney, Mr. Pharr, Mr. Ryan, Ms. Schawe and Ms. Vaughn in favor. The motion carried.

#### **WAIVER W475-1**

**APPLICANT:** Grand Communities, LLC

**LOCATION:** 25 Highway Avenue, Ludlow, an area of approximately 63.25 acres located within the City Limits of Ludlow, approximately 725 feet West of Montrose Street and 100 feet East of Traverse Street. The subject parcel is located on the South side of Highway Avenue which is also known as KY Route 8.

**REQUEST:** To grant a waiver to the following section of the Kenton County Subdivision Regulations:

- Table 4.1-1, Infrastructure and Design Standards for Streets. Granting this waiver would allow Street "A" to be classified as a Sub-Collector rather than a Collector Street based on the number of residential units.

#### **PDS STAFF RECOMMENDATION**

To deny the requested waiver to Table 4.1-1, Infrastructure and Design Standards for Streets of the Kenton County Subdivision Regulations which details the roadway classification guidelines. Granting this waiver would allow Street "A" to be classified as a Sub-Collector rather than a Collector Street based on the number of residential units.

Staff presentation and Staff recommendations by Mr. Steve Lilly

Mr. Joe Kremer addressed the Commission and stated to clarify what they are asking for. He stated the thing they struggled with was transferring into red (as indicated on the plan). He stated the difference between the green and the blue is the pavement. He stated the red takes off right where the development takes off. He stated when he approached Staff everything is based on that tangent and that element. He stated they have no intention of having people come off the hill at 35 miles an hour. He stated more importantly it is the vertical curve and how fast you can curve up. He stated by the time he gets to the first street, it's at twelve feet. He stated he thinks what he'd like to do, because waiver one and four kind of go together. He distributed a handout of a clean version of the street profile. He further noted what is important to note, with a local or sub collector you start at the collector line then go 75 feet. He stated the collector is more challenging because how you've got to go to 120 feet. He stated Riversbreeze has some steep streets and stated the grade comes all the

way down to the transition line. He then reviewed the handout and described what the streets would look like. He stated if you look at the proposed design he has put percentage numbers. He noted you don't get to the full steepness of the curve until you reach 120 feet. He stated they want the posted speed to be 25 mph. He stated his single family street on top of the hill would lower 12 feet. He stated vertically the red section is going to be 12 feet lower than the collector. Mr. Sketch asked what the KYTC's feelings are on it. He stated they reviewed the blue line, the sub collector. He stated when they looked at this they looked at all these things that were conditioned upon the design speed. He stated the design speed comes down to 25 mph. He noted the K values were reduced from the 30's to the 15's as well. Mr. Kremer stated with regard to waiver 2 he stated Staff did a great job. He noted they are simply asking to make the right of way ten feet smaller. He stated the tradeoff is to still allow the city to maintain their street they are putting in a right of way. He then commented he was available to answer questions.

Ms. Amanda Webb addressed the Commission with regard to the density. She noted the city did approve the plan with the 634 and then limited the number of condos down to 300. She stated where they have landed is 217 condo living units and so ultimately that brings it down to 549 living units. She noted the plans are consistent with the 549 unit count they have arrived at. She then noted with regard to the sidewalk waiver in the condo section, they are proposing 24 units total. She noted there are 14 garage units and from a home building standpoint it would be their desire to have a sidewalk network on the west side of that street where the majority of the units are. She stated if anyone has any questions she would be happy to answer them. Mr. Sketch stated the amount of sidewalk that is actually going to be added is very minimal so it's just a matter of designating sidewalk through those pavements. Mr. Kremer stated it pushes them four more feet into the hillside. Mr. Ryan stated each of the pink squares on the presentation is a unit above the garage. She noted the other three garages would likely belong to the units across the street. Mr. France asked about the sidewalks and asked if you just park and walk across the street. Ms. Webb stated currently there are no crosswalks but at Stage II they would be open to that. Mr. Darpel marked the handout by Mr. Kremer as an exhibit to be made a part of the record on the issue. Mr. France stated they are really increasing the steepness up from route 8 to eliminate the ridge line. Mr. Kremer stated the 12 feet is really the difference between the sub collector and the collector. He stated the single family street starts at the green street, then it goes into the twelve feet, then it goes into the vertical curve. Mr. Kremer stated almost all the cuts are for the single family units. Mr. France stated this directly affects the first floor apartments. Mr. Kremer stated he has the ability to move it, but does not have the ability to move street B.

Mr. John Huffman addressed the Commission and stated he didn't know this was on the agenda tonight and he was present on another issue. He stated just listening to some of the comments he then wanted to comment. He stated a few have commented the developer knew it would be difficult to develop. Mr. Huffman stated not to embarrass Mr. Kremer, but he thinks it's a genius given what they had to work with. Mr. France stated they realize he has taken on a huge financial responsibility to develop this property but they still have to follow the guidelines and make sure it follows safety guidelines.

Mr. Scott Smith addressed the Commission in support of the City of Ludlow and stated they are obviously in support. He stated the city wants the road 25 M.P.H. and they want it to be safe. He stated when they take it down further than twelve feet it affects every one of those property owners. He stated the only thing separating them and the residents is trees, and if they take that down there is nothing protecting those residents and no privacy. He also commented about hill slippage. He stated they are going to grade but they do not want to take off twenty feet of a hill that they don't have to. He said that makes zero sense. He said it is a sensitive hill, so by that standard, they should be granted a lot of that just off of that issue. He further stated the more they take off, the closer they get to those existing houses. He stated what they are proposing is a slow grade, but if they cut it down, that person will have a brick wall on the side of their house. He commented by allowing the first waiver, they are allowing that house to have a slow grade. He stated they meet the criteria and the city is in support of it. Mr. Dunham asked what happens if they approve it today and the engineer says well what about this and did you think about this - what is going to be there to stop it. Mr. Smith stated he doesn't know what to say to that but commented they would rather not cut into the earth and would rather have the grade. He noted they have a separate committee who will work with the engineer. Mr. Darpel asked if there were accidents at Riversbreeze and Mr. Smith commented if he had to guess, there are 8-10 a year. He commented it is less than on other streets in the city. Mr. Darpel then stated well if there is one, then have they created a situation that is less safe. Ms. Vaughn asked if the site plan had 500 or less units, they wouldn't even need the waivers. Mr. Smith stated if you get rid of that one stipulation it would eliminate waiver one and four. Mr. Sketch stated if it was 499 or less, it would be a sub collector. Mr. Lilly then addressed the question and stated that was correct. Mr. Sketch stated in designing and engineering he doesn't have a

problem with this. Mr. Sketch stated the speed drives the regulations so if the speed is down, the safety is already built into it. Mr. Kremer stated if they can get away from the collector, then they can build the blue. Mr. Bridges commented about the removal of trees and asked if there is anything preventing the property owners from planting more trees. Mr. Smith commented they don't want to cut down large trees. He stated the more they don't do that, the better they are with erosion and that. Mr. France asked if waiver one was granted does it eliminate the need for waiver four. Mr. Kremer stated that was correct. He stated maybe the easiest way would be to reduce the number of apartments to 250 which would mitigate some of these concerns. Mr. Sketch stated he looked at this from a design standpoint and he doesn't see an issue with safety. Mr. Berling asked about the number of units. Ms. Webb stated they have reduced the number of units significantly from the design. Mr. Darpel stated if waiver one is approved, it gets the blue line. Then that would get you from the blue line to the red line. But if you don't get waiver one, you don't get there. Mr. Kremer stated everyone is concerned about safety is design speed, and if that falls away, everything else falls into place.

Mr. Dunham asked if the sidewalk entrance goes all the way up on that side on the apartment side as a condition. Ms. Vaughn read what the subdivision regulations state with regard to sidewalks on one side and stated she feels they have some responsibility to the residents to have the sidewalks. Mr. Darpel then recessed the public hearing for discussion amongst the Commissioners. Mr. Bridges stated they have rules and categories and they are not here to just let people do what they want. Mr. Darpel stated you have to decide whether you're comfortable with it being in the public's best interest, or whether it's a hardship or what. He stated he's not as worried about the detriment as he once was with the speed being reduced. Mr. France stated when he first looked at this, he was inclined to agree with Staff. He then commented and said part of it is taking into consideration what the public said at the public hearing. He noted speed is a pretty big mitigation for the increase in slope they are asking them to give. Mr. Sketch stated he's not so hung up on the number of units because if they go back to the sub collector, it puts the safety factor back in there. Mr. Dunham stated he would feel more comfortable from a safety standpoint if it was a lesser speed. Mr. Bethell stated something is going to be built there, they just need to build it to the best advantage to the community. Ms. Vaughn stated she still has concerns because with the lower speed limit they are tightening up the development. She noted speed is the one thing you can't control with this and just because it's a lower speed doesn't mean they won't go ten over. Following the discussion, Mr. Darpel then reconvened the public hearing. Mr. Kremer then clarified that what is approved is 634 units. He commented further they got it down to 549. He stated the developer is willing to commit to the 549. Mr. Darpel then clarified if they were to say the approval is based on there being 549, would the developer agree to that. Ms. Webb was in agreement.

Mr. Darpel then closed the public hearing and asked for a motion on the matter. Mr. France made the motion to approve the request for waiver number one based on the fact that unusual topographical conditions does exist, that it would create an unusual hardship, and that the requested waiver would create a safer condition than what is submitted, and based on the testimony heard, and also based on the fact that the developer has agreed to limit the number of units to 549 units. He further clarified that based on all these items it is also not in detriment to the public. Mr. Sketch seconded the motion. A roll call vote on the motion found Mr. France, Mr. Sketch, Mr. Berling, Mr. Bethell, Mr. Bridges, Mr. Darpel, Mr. Dunham, Mr. McElheney, Mr. Pharr, Mr. Ryan, Ms. Vaughn and Ms. Schawe in favor. Mr. Logsdon voted against. The motion carried. Mr. Darpel then asked for a motion on request for waiver number two to grant approval based on Staff's recommendation and the testimony heard, and that it is not detrimental to public safety and that topographical conditions do exist. Mr. Sketch seconded the motion. A roll call vote on the motion found Mr. France, Mr. Sketch, Mr. Berling, Mr. Bethell, Mr. Bridges, Mr. Darpel, Mr. Dunham, Mr. McElheney, Mr. Logsdon, Mr. Pharr, Mr. Ryan, Ms. Vaughn and Ms. Schawe in favor. The motion carried. Mr. Darpel asked for a motion on the request for waiver number three. Mr. France made the motion to grant the waiver based on the fact that it is not detrimental to the public interest and based on the testimony heard. Discussion was had as to the specifics on what portion of the sidewalks would be waived and where. Mr. Dunham asked if the motion clarified that it would include from street A to street B. Mr. Sketch seconded the motion. A roll call vote on the motion found Mr. France, Mr. Sketch, Mr. Berling, Mr. Bethell, Mr. Dunham, Mr. McElheney, Mr. Ryan and Ms. Schawe in favor. Ms. Vaughn, Mr. Bridges, Mr. Darpel, Mr. Logsdon and Mr. Pharr voted against. The motion carried with a vote of 8-5. Mr. Darpel then asked for a motion on the request for waiver number four. Mr. France made the motion to approve the waiver based on unusual topographical conditions exist and it is not detrimental to the public interest. Mr. Sketch seconded the motion. A roll call vote on the motion found Mr. France, Mr. Sketch, Mr. Berling, Mr. Bethell, Mr. McElheney, Mr. Pharr and Ms. Schawe in favor. Ms. Vaughn, Mr. Bridges, Mr. Darpel, Mr. Dunham and Mr. Logsdon voted against. Mr. Ryan abstained. The motion carried.

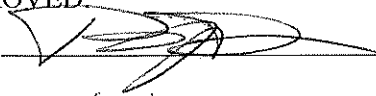
**General Correspondence - None.**

**New Business** – None.

**Public Comments** - None.

There being nothing further to come before the Commission, a motion to adjourn was made by Mr. Bridges and seconded by Mr. Berling. All in favor by acclamation. The meeting then adjourned at 10:24 p.m.

APPROVED:

Chair  \_\_\_\_\_

Date 1/5/23 \_\_\_\_\_

