

## Cold Spring Planning & Zoning August 8, 2007

The regular meeting of Cold Spring Planning and Zoning Commission was called to order by Chairman Steve Taylor. Pledge to the flag was recited. The roll call showed the following present – Steve Taylor, Roger Bay, Jim Drye, Joe Feinauer, Ken Sharp, Karen Stafford and Ken Warden. Also present were Mike Schwartz, Rita Seger and Brandon Voelker.

Chair Steve Taylor pointed out all exits from Council Chambers, per fire department requirements.

Chair Steve Taylor requested a revision to the agenda. Item 3 A. 1. is to be moved and consolidated with Item 6 D.

The minutes of the regular July 11<sup>th</sup> meeting were reviewed by all. Roger Bay made a motion for approve these minutes, with a correction of one word on page one as requested by Jim Drye. Jim Drye seconded the motion. All were in favor. Motion carried.

Steve Taylor signed an approval for final plat on Granite Spring, Building 18, and also an Identification Plat for a division of an approximate 23 acre parcel at the northeast corner of the AA Highway and Murnan Road. Ken Warden made a motion for approval and Ken Sharp seconded the motion. All were in favor. Motion carried.

Chairman Steve Taylor reopened a continuation on the discussion, postponed from the July 11<sup>th</sup> meeting, on the public hearing for a proposed Stage I Development Plan on an approximate 3.8 acre area located along the northeast side of Alexandria Pike, directly across from Buning Lane (Forbes). Steve Taylor verified that Ken Sharp, who was not present at the July 11<sup>th</sup> meeting, did review the entire video of the July meeting and is up to date on this issue.

Ken Warden asked if the city had any additional information on the strip of land owned by London Acres Homeowners Association. He questioned the possibility that the street may have been placed on top of the strip. If that were the case, then the strip would no longer exist and we would not have a problem. A survey of that area was produced by Cardinal Engineering, which did show that the strip is there.

Jim Drye said that this is an opportunity to line the intersections up. To have anything else go in that area we probably wouldn't be able to make this connection. Steve Taylor stated that the city and property owner would have to work this out, or that if Downing Street could be connected to Buning Lane, then the city could abandon the top part of road and give it back to the property owners.

Ken Warden suggested that we could make this a right in and right out turn. Roger Bay said that the right turns never seem to work. Karen Stafford stated that the right turn only does not seem to work at the library.

Ken Warden stated that there are some stakes in the ground in that area. Brandon Voelker stated that they may be for the traffic light that has been approved for US27/Buning Lane.

Jim Drye moved to approve the Stage I Development Plan for Forbes, on the recommendation of Staff with the following modifications to their conditions: that we do provide a waiver to the sidewalk in #4 and that we do not require the a connection to the small Erschell property from Forbes Lane. Motion died for lack of second.

Steve Taylor moved that the **application for the Stage I Development Plan for Forbes be disapproved on the following basis: that Section 9.11 E. 1. regarding a setback within the zone may be issued but is not required to be issued, that the minimum lot clearly stated within the SDA zone Article 10 Section G states that no building shall be erected underneath 1., having a minimum lot size of a half an acre and therefore the density of this development is too great as proposed by the SDA zone, that there is no access to the adjacent Erschell property, sidewalks are not provided on both sides of the street which, especially if joining to US 27 as a major intersection, would be required, and that there are too many exceptions required for this project to be consistent within the SDA zone.** Joe Feinauer seconded the motion. Roll call vote showed six yeses and one no – Jim Drye. Motion carried.

A public hearing was called to order for the proposed Stage II Development Plan on approximately twelve acres along the south side of Buning Lane across from Founders Court (Grand Communities). Mike Schwartz of NKAPC explained previous actions by this Board for Granite Spring. This is the last section and it is for the construction of a portion of Marble Way along with a four foot sidewalk along one side of the street, a construction of a portion of Boulder View with a four foot sidewalk along one side of the street, provision for 94 multi-family residential dwelling units within 11 buildings, 24 acres of open space, utilities, and landscaping as well as a tree survey indicating 3400 sq. ft. of basal area within the

undisturbed limits of the total project. Staff is recommending approval on the bases that the development plan is consistent with the approved Stage I plan and the preliminary plat meets the minimum requirements of the Cold Spring zoning ordinances. Technical review would be conducted once the applicant submits the appropriate paperwork for the subdivision improvement drawing specifications. The open space basal area meet or exceed all of those requirements.

Joe Feinauer stated that the 25 foot wide access easements do not allow for placing a second road there should we need to do so. Mike Schwartz stated that the alternate route is a moot point at this time. The conditions were that either there be a secondary means of access, or they come to some agreement with the City to pay them a certain amount of funds. The City has accepted money in lieu of building the access road.

Steve Taylor stated that this Board had asked for that emergency access at one point, however, since the money has been paid to the city he questioned if that eliminated the need for that emergency access. Brandon Voelker stated that there is grading to the Pike 27 property which will be tied in for a second access. Steve Taylor verified that this does give them a second means of emergency access and in theory the other access easement could be eliminated.

Joe Feinauer questioned why there is only a sidewalk on one side. Mike Schwartz replied that that was part of the Board's approval of the both the preliminary plan and the Stage I plan. A narrower street width was approved and they pushed the buildings closer to the roadway. Joe Feinauer said the closer the buildings, the more necessary sidewalks would be, especially on Marble Way where you have buildings on both sides. Mike Schwartz stated there is only a sidewalk on one side of all of the multi-family condos areas.

The applicant had no comments.

Roger Bay questioned who would become responsible for maintenance of the emergency access routes and trees along there. Mike Schwartz replied that if they are private, it is the HOA.

Jim Drye asked if parking would be allowed on one side of the street. Mike Schwartz replied that they have parking in the driveways and other parking spaces, not in the street.

Ken Warden made a **motion to approve the Stage II Development Plan for Grand Communities, based on staff recommendations.** Ken Sharp seconded the motion. Roll call vote showed six yeses and one abstain – Joe Feinauer. **Motion carried.**

A public hearing was called to order for a proposed Stage II Development Plan on an approximate 7.1 acre area located along the southeast side of Industrial Road, between Alexandria Pike and Orchard Terrace, approximately 500 ft. southwest of Orchard Terrace – CCL Label. Mike Schwartz stated that the applicant has been before the Cold Spring Board of Adjustment and was granted a variance to reduce the minimum front yard setback along Industrial Road from 75 ft. to 49.4 ft., as well as the minimum required side yard setback from 25 ft. to 20.9 ft. NKAPC Staff has recommended approval on the bases that it meets the minimum requirements of the Cold Spring zoning ordinance and is consistent with actions taken by the Board of Adjustment, and subject to one condition - that an easement be recorded on the property located at 1191 Industrial Road for the additional parking area prior to the issuance of any zoning/building permit.

Jim Drye verified with Mike Schwartz that they have a sufficient number of parking spaces required. Steve Taylor clarified that CCL Label owns the parcel that the easement will be on. Mike Schwartz stated that the purpose for the easement is in case they were to sell this parcel separately, there is a means of an owner not being able to come back and say they have to take that parking area out. When it is sold that easement will be part of that sale.

Joe Feinauer asked about the two properties having only one access. He wants to make sure this property won't need its own access. Mike Schwartz stated that there is an existing driveway easement so that is unnecessary.

The applicant Eric Shaeffer, of CCL Label stated that the existing building is about 40,000 sq. ft. They have already filed the easement and satisfied the one condition required for that parking area.

Ken Warden asked the purpose for the expansion. Mr. Shaeffer replied that this is one of the last plants that CCL owns that has not been renovated. This expansion will be mostly for office space that they need to match their other global facilities. Ken Warden appreciated the fact that they are staying in the city instead of pulling up roots.

Roger Bay made a **motion to approve the Stage II Development Plan for CCL Label, on the bases of Staff recommendation.** Joe Feinauer seconded the motion. Roll call vote showed all in favor. **Motion carried.**

A public hearing was called to order for a proposed map amendment to the Cold Spring zoning ordinance on area A: an approximate 6.4 acre area located at the northeast corner of the intersection of Pooles Creek Road with Aqua Drive, and Area B: an approximate 4.5 acre area located at the southwest corner of the intersection of Pooles Creek and Aqua Drive, for Mike Berberich on behalf of the Northern Kentucky Water District. The proposed map amendment is for Area A, currently zoned R-RE and NC, to change to HC. Area B, currently zoned as R-RE and NC, is proposed to be changed to all NC.

Mike Schwartz explained the review of NKAPC staff report. The submitted development plan within Area A is for the continued use of existing 9,812 sq. ft. building and construction of an approximate 3,000 sq. ft. addition to the existing building. There would also be construction of a new 9,750 sq. ft. building and use of existing off-street parking area with access via the existing Aqua Drive, with provision for an access easement to facilitate the proposed connector road between French Street and Pooles Creek Road. Within Area B, the development plan indicates the construction of three buildings having a total of 5,600 sq. ft, with provisions for 41 off-street parking spaces with access via Aqua Drive, and the provision for a Class 7 sign. Staff recommends approval of the proposed map amendment for Area A from R-RE and NC to HC; and Area B from R-RE to NC to all NC, but subject to compliance with the six conditions as listed in staff report.

Mike Schwartz stated that this is a map amendment application and the Stage I plan is a partner with that application and they cannot be separated. The submitted development plan is required as part of that application and this is a recommendation which goes back to city council, who has the final authority on these requests.

Ken Warden asked if this complete property is now one parcel, and if Aqua Drive is a public street. Mike Schwartz stated it is one parcel for zoning purposes but it could be two parcels, one that Mr. Berberich will own encompassing Areas A and B, and the other which will be retained by the Water District. Mike Schwartz stated that Aqua Drive is a public street. Brandon Voelker stated the Water District had contacted his office when they were ready to sell, and they found that when the city annexed the property they annexed the public right of way as well. It is a platted street.

In a slide presentation, Mike Schwartz pointed out the surrounding zones. Ken Warden verified that Area B is to be NC zone and confirmed that there was additional ground in that area that was also NC. Joe Feinauer questioned the sidewalk provisions and the distances shown. Mike Schwartz stated that because there is parking in front of each building, the sidewalk is identified as extra, just in case, for overflow. They are not requiring sidewalks connecting the three buildings out front. There would be very little movement from one building to the other. There is a fairly significant distance from the southern-most parking area, which is physically separated from the building that is intended to serve.

Ken Warden asked for clarification on the easement. Mike Schwartz stated that the applicant is providing land as an easement for a future construction for a connection from St. Michaels at French Street to this property and down to Pooles Creek Road, which is consistent with the intent of the Comprehensive Plan.

Megan Desola, Matt Bogen, and Bill Viox, with Viox and Viox Engineers representing the applicant were present. Ms. Desola gave a brief description and history, and showed photos of the site. Berberich Development will be developing three professional office spaces. On Parcel A, they plan on putting in a business that they already own and operate. They request zone change to HC for four companies, all in the personal transportation service industry: Crown Car & Coach, Crown Charter, Crown Sales & Leasing, and a possible leased office space for a retail core company which they currently subcontract for. All of the companies are owned and operated by Mike Berberich and his brother. Crown Car and Coach is a corporate based ground transportation company, operating a fleet of 13 vehicles and all fleet would be parked indoors in the proposed garage. Maintenance on these would also be performed indoors. Crown Charter currently operates a fleet of 11 coaches, and three to four would be parked indoors. Crown Sales & Leasing is a wholesale bus sales and leasing company, with just an administration office with no vehicles on site for this company. The fourth company is leased office space.

Matt Bogen of Viox & Viox, reviewed the Area A zone change application to HC. The current office which was used by the Water District will be maintained for Crown Car and Coach for their administrative offices. Two buildings are proposed on site, for expansion of office space and a garage for storage of limousines, vans, and SUV's for the company, and for storage and maintenance. The building was shown as 9,700 sq. ft. but they would like to go for the maximum of 12,000 sq. ft. The Area B request for zone change to NC will feature three smaller buildings for professional office space that would not require a large amount of parking or office space. The remaining land will be retained by the Water District for the water tower and their own vehicles, which will be accessed by an access easement in Parcel 1. There is a proposed access road from St. Michael Road to Aqua Drive, accessing French Street. The companies will share a work force of seven

professionals and two full time vehicle maintenance employees, a staff of twenty-two full time and eighteen part time drivers. The hours for the full time workforce will be approximately from 8:00 am to 6:00 pm. with some variation. All of the employees will access from Aqua Drive. All vehicles will be taken off site to pick up customers. All vehicles will be stored on Parcel 1, with maintenance indoors, and the Crown Sales & Leasing will not keep any vehicles on the lot.

Bill Viox, of Viox & Viox was present. He stated that they will commit to all conditions outlined in Staff report. He stated that Mr. Berberich indicated that he will put in a sidewalk between all of the buildings. The neighboring property owners are in favor of this project. It is important to make the garage large enough so they won't have a lot of vehicles sitting outside. They may re-stripe the lot in a different configuration.

Jack Bragg, Northern Kentucky Water District, gave a history of their ownership and use of this property.

Steve Taylor asked if the purpose of enlarging the building from 9,700 sq. ft to 12,000 sq. ft. was so that none of the vehicles will sit outside. Mr. Berberich replied that some will sit outside because the building cannot accommodate all of them. The coaches generally leave to take people around town and, depending on the nature of the schedule for that day, generally have the cars out most of the day. The motor coaches may be gone a week to ten days at a time, traveling all around the country and there may be only two or three vehicles sitting on site at any one time.

Ken Sharp asked if the traffic would go up to US 27 or down to the AA. Mr. Berberich stated that most of them would go up to US 27 which would be simplest since going down Pooles Creek Road would be a challenge. There will not be a lot of traffic going in and out.

Steve Taylor asked what percentage of the large coaches would be returning after ten o'clock at night. Mr. Berberich stated that between 60 to 70 percent come in during normal business hours, and 40 percent scattered over a period of time, depending on the circumstances. In some cases, they may come in at ten o'clock at night. Generally it would not be in the middle of the night because tour company groups generally want to be dropped off at their facility no later than 10 or 11 at night.

Steve Taylor asked why they are asking for the NC zone as opposed to PO zone for offices, which would be much more appropriate. Mike Berberich stated that they abut the NC whereas PO zone is in the back. Acreage is also an issue.

Ken Warden asked if they plan any future development on that lot. Mike Berberich stated that there is a steep hill on the side and they have no plans for future development. They are leaving Covington because that is a leased facility and they are out of space.

Mike Studer was present on behalf of the Studer property. He is in favor of the zone change and feels this use would be appropriate. At the time of the Bob Evans development they worked with Hill & Griffith to establish the intersection in front of St. Joes. Mr. Studer said that he had requested that Cold Spring not put through a connection to Pooles Creek Road during his parents' lifetime. As part of a compromise on the development, there is an easement on the back part of Hill & Griffith Industries and the street, to be connected at a later date. The Studers are committed to connecting this road. Mr. Berberich and Mr. Viox have come up with this design for the easement which works for the good of everyone. Before they put their parents' property up for sale, they want to have this set up for future development, and he urges this Board to show their support.

Steve Taylor asked if other zones would be more appropriate for this property. Mike Schwartz stated it could be PO Zone. SDA zone may be a little far fetched being away from Alexandria Pike. HC and NC are most appropriate choices. Mike Schwartz reviewed the zoning on the surrounding properties and how the current zoning came about. Steve Taylor asked if the entire A and B Parcel qualify for size as PO zoning. Mike Schwartz replied that if it was one zoning district, it would meet the requirements. Joe Feinauer stated that Area B could only qualify if Area A was included. A is large enough to stand on its own.

Steve Taylor stated that the HC zone is much more intense than a PO zone would allow. Ken Warden questioned if, by granting that zone change, we could remove some of the uses for an HC zone, which would allow for other uses that the adjoining property owners may not have thought about. Mike Schwartz discussed various wording that could be used to set conditions to deal with this issue.

Ken Warden asked about the location of the easement that comes down to Aqua Drive. Mike Schwartz replied that Mr. Viox shows in his grading plan that this construction can be built to meet a satisfactory grade. Steve Taylor asked how

much of the land is developable in Area A. Mike Schwartz stated that maybe two to two and one half acres in Area A may be developable, but any new construction would kick in a major change that would have to come back to this Board and City Council.

Jim Drye made **a motion to recommend to city council to approve this proposed Map Amendment based on Staff recommendations for Area A from RRE and NC to HC and for Area B from RRE to all NC subject to the six conditions in Staff report and with the additional condition that there be no onsite display of any vehicles, mobile homes, boats or trailers for sale, and to not allow the uses of, and including, eating and drinking places, hotels and motels.** Roger Bay seconded the motion. Karen Stafford verified that both parcels were encompassed in this motion. Roll call vote showed four yeses and three noes – Ken Sharp, Karen Stafford and Steve Taylor. **Motion carried.**

A public hearing was called to order for a proposed Stage II Development Plan on an approximate 11.0 acre area located along the east side of Alexandria Pike, approximately 600 ft. south of Ripple Creek Road for Oxford Development. This public hearing also combines the request for approval of the preliminary plat for this same development. The preliminary plat is for the lots and waiver of the sidewalk. The applicant has requested a waiver of Section 7.3 requiring sidewalks along both sides of the proposed street. The second issue is for the Stage II, which is for the layout of the street and its connection to Alexandria Pike. It is not for the buildings or lot. Mike Schwartz reviewed the past history of this parcel and considerations. When the south Souza property was annexed into the city it was done with a development agreement. This piece of property was part of and is consistent with that development agreement. Given the subdivision regulations and zoning ordinances, staff has reviewed this strictly on those two documents, without any legal interpretation of the development agreement and without bringing that legal side of it into the equation. Staff is recommending denial of the preliminary plat, denial of the sidewalk waiver, and denial of the Stage II development plan on the bases that it doesn't meet the subdivision regulations and it doesn't meet the regulations of the zoning ordinance. The proposed loop street does not meet the access control requirements of the subdivision regulations or the zoning ordinance. Both require of minimum of 600 ft. spacing for un-signalized access points along an arterial street. These access points are roughly 330 ft. south of existing curb cuts for Campbell County Auto Body and approximately 240 ft. apart between themselves. Staff feels that there is not enough evidence to grant the waiver of the sidewalks. This Board has to consider this development agreement and the legal ramifications.

Ken Warden asked if this was the drawing that was submitted at the development plan agreement. Mike Schwartz replied that it was one that was very close to being it, and it did show that looped configuration of street. Mike Schwartz stated that this Board has the final vote on all of these requests.

Applicant Marshall Slagell of Oxford Development was present. He stated that this is in conformance with the approved Stage I Development Plan by City Council. This north access would be directly across from the church access point and they will work towards the access point for the right turn lanes, there is a nice left turn storage lane all through the center, there is good sight distance on these access points on US 27, good access on both north and south, and they will submit this to the Highway Department to meet their conditions.

Steve Taylor verified that they do not have Kentucky approval for the curb cuts at this time. Marshall Slagell stated that it was submitted to them for discussion. Ken Warden asked if both access points were necessary or if they could live with one access point. Mr. Slagell stated that the reason why the waiver of the sidewalks was asked for because there is one lot in one area and five in the other. There is a need for a sidewalk on the perimeter, but feel there is not a need for a circumvential sidewalk on the one building, one use. That is why they are asking that waiver to be made. Marshall Slagell stated that they do need two curb cuts because there were a couple of facilities as part of that agreement, one for a drive through, maybe for a bank, and one for a drive through for a service station.

Brandon Voelker stated that the "horseshoe" road was an attached exhibit to the approved development agreement. That drawing is what was submitted to council and was reviewed by Mike Schwartz. The road is subject to an encroachment permit from the Commonwealth of Kentucky. Ken Warden asked if this Board could make a restriction to right in or right out. Brandon Voelker stated that we could not do so because of what is on the development agreement. Marshall Slagell stated that the agreement allows for full access.

Jim Drye asked if they intended to come back with many revisions to this plan as each lot is being developed. Marshall Slagell stated that they will come back with a Stage II detailed plan for the actual lots, which will probably be done a lot or two at a time as opposed to being all laid out at one.

Mike Schwartz stated that signage is part of the development drawing. There will be one ground sign identifying the overall name of the Cold Spring Plaza, and each individual lot within that development would be allowed to have a ground sign not to exceed 35 sq. feet. There will be six individual ground signs and one development ground sign.

Jim Drye questioned if there should be a sidewalk on US 27. Mike Schwartz replied that this is a requirement but Staff did not identify it because they recommend disapproval. He doesn't believe that was part of the waiver request. Steve Taylor stated that if you put a sidewalk on US 27 you would need an interior sidewalk inside the horseshoe. Both of the access streets would have to be crossed to access the sidewalks. Marshall Slagell stated that there will be crossings, just like any other intersection in the city. It seems to be redundant to put a sidewalk plus a loop to a building that has only one use.

Jim Drye verified with Mike Schwartz that the preliminary plat and the Stage II plan are one and the same drawing. Mike Schwartz stated the waiver for the sidewalk, which is part of the preliminary plat, is also at issue tonight.

Brandon Voelker explained that the back portion of the property could have been intense R-3 housing allowable by our zone. When the annexation elements came to light, certain concessions were made, one of which is that the R-3 property development is now gone. That property has been deeded to the City in exchange for the development agreement that called for the drive through and the "Hilton Head" style gas station. This was a way to stop that R-3. That area will remain green space, and there will never be access onto Ripple Creek.

Brandon Voelker stated that there is a retention area that was carved out. Joe Feinauer questioned where the water will go. Right now, it is a pond that does not drain. Mike Schwartz replied that that will be evaluated as part of the improvement drawings and specifications and subsequent Stage II development plans. When they come in for permits for each of the individual lots, they will have to ensure that they have a land disturbance permit from the Sanitation District to deal with storm water detention. Ken Warden questioned who would own the proposed retention area, and how the developer would access it. Brandon Voelker stated that it is up to the developer to decide if the property owner would maintain it or they would establish an association to take care of it. We could include a condition that the ownership and maintenance of the retention pond be satisfied in the event that the lots are sold.

Jim Drye questioned the requirements of the basal area because many of the trees have been removed. Mike Schwartz stated that, because these buildings are being developed individually, each parcel will have to have 15 sq. ft. of basal area per acre of their lot. This will be part of the individual Stage II development plans for the buildings.

Steve Taylor stated that KDOT has not yet approved this street and asked that if this Board does approve this plan, are we lending consent of this design. Mike Schwartz stated that this Board's consent does imply that we approve and allow the two curb cuts, but KDOT has final control.

Ken Warden asked if there were any bases for us to say no to this plan. Brandon Voelker stated that there was not a bases on the horseshoe road, but we could put on a condition that this was approved as a development plan in concept and KDOT would review if it was acceptable to their regulations. The only thing under control of this body tonight is the sidewalk issue.

Joe Feinauer questioned why this Board was not informed about this agreement with the City. This Board did not see the drawing at the joint Council and P & Z meeting, which was the first night this Board found out that it was owned by the same developer. Mr. Feinauer stated that there is no way that this "horseshoe" access road should be 250 yards apart when there is already a nightmare on US 27. Access roads should be 600 ft. apart by our planning and zoning ordinances. There should not be a "horseshoe" access road at all on this property. All of the other regulations should not be thrown out.

Ken Warden asked what would happen if this body made a motion to disapprove this. Brandon Voelker stated that if the developer seeks to enforce the development agreement, they will do so in a court of law. Ken Warden asked if this Board could go into executive session regarding this issue because we may go into a future lawsuit based on this decision. Brandon Voelker stated that you have a right to go into executive session only for current and pending litigation, and this is not pending.

Brandon Voelker stated that we have a development plan with the "horseshoe" design that was approved by Council, with Staff reviewing compliance with the approved plan. Once the approved plan is met, in the hierarchy of things Staff will look at the approved plan, and then the ordinance, subdivision regulations, signage, etc. Sidewalks are not in the plan, therefore it will be looked at under the ordinance. The only thing that can be deviated from the ordinance is something

that was voted on and approved in the development plan. This board has final authority and the relief that the developer could seek would be in a court of law.

Steve Taylor made a motion **to table this Preliminary Plat decision for sixty days and have a joint meeting with city council prior to ruling on it.** Karen Stafford seconded the motion. Roll call vote showed six yeses and one abstain – Joe Feinauer. **Motion carried.**

Steve Taylor made a **motion to table the Stage II Development Plan decision for sixty days and have a joint meeting with City Council prior to ruling on it.** Roger Bay seconded the motion. Roll call vote showed six yeses and one abstain – Joe Feinauer. **Motion carried.**

Chair Steve Taylor stated that the time was 10:00 pm and asked if this body wanted to continue. The Board agreed to go until 10:30 and make a decision at that time.

The final public hearing was called to order for a proposed text amendment to the Cold Spring zoning ordinances, deleting all current floodplain regulations and adding new floodplain regulations in keeping with US FEMA requirements. Steve Taylor verified with Mike Schwartz that this removes the action of the council and puts it back in the zoning ordinance where it should be. Mike Schwartz stated that it is consistent with recommendations of the Kentucky Department of Natural Resources, Division of Water so that the city can continue participation in the National Flood Insurance Program.

Jim Drye questioned why the text is referencing of a development permit in a number of places, and asked if this was not really the building permit. Mike Schwartz replied that the state uses this wording and they are not willing to budge on it. The state has seen the entire document and signed off on it. Jim Drye referred to page 15, where it states the designation of a local flood plain coordinator. It designates the deputy director for current planning with NKAPC. Jim Drye does not object to Mike Schwartz doing this, but he is concerned that titles change, promotions made, and if the position should be one appointed by the Mayor. Mike Schwartz stated this is not naming a person, but a position. This permitting is part of the One Shop Stop right now. Jim Drye stated that a future mayor / council may move away from the One Shop Stop and it would cause having to amend the text again. An easier way would be to say by appointment of mayor and council.

Brandon Voelker said that in the beginning, Chief Burk was appointed. The state goes through this ordinance with a fine tooth comb. If they don't sign off, they won't put you in the flood insurance program. Mike Schwartz stated that they did not want an entity, but a person's position named as coordinator and it is their strongest suggestion that it be part of the Flood Plain Ordinance. Steve Taylor asked that in the event that NKAPC does away with the title of Deputy Director, does that mean this would be re-submitted with another text amendment, which, when adopted, would have to be sent downstate. Mike Schwartz replied that it would, but the State will not allow us to simply designate NKAPC as representative.

Jim Drye stated that on the variance procedure, there are blanks for the name of the appeal board. Mike Schwartz stated that is to be inserted when City Council takes its action. This is nothing more than to identify that there is an option of council and its enactment of this regulations. They need to put a Board name in the application. There has to be a variance procedure. Staff did not want to circumvent the decision of the Board and Council by saying who the Board should be. Mike Schwartz stated that these regulations do not apply to anyone living outside the flood plain. Ken Warden asked where the flood plain lands are, and asked that Mike Schwartz provide this Board with the list of properties included in the flood plain.

Jim Drye made a **motion to recommend to council that they approve the text amendment with the condition that under the variance procedure, they insert the appeal board to be Board of Adjustment.** Ken Sharp seconded the motion. Roll call vote showed all were in favor. **Motion carried.**

Chair Steve Taylor stated that a letter was received from Ken Perry regarding the building along US 27 that is bridged by Downing Street and the Fire Department property. The drive aisles in front of that building came out to be 22 ft. instead of 24 ft. NKAPC is asking if we will consider this as a minor change, or a major change. Mike Schwartz stated that Staff has not been reviewing that building since it is a state building plan review. The width of the drive aisle in front of the building parallels Alexandria Pike. The Stage I and Stage II Plan review shows a 24 ft. wide drive aisle which meets the requirements of the zoning ordinance. Their zoning permit showed 22 ft. Apparently some topographic issues in the back portion of the property had them move the building two feet forward, thus reducing the drive aisle from 24 to 22 ft. They kept the same distance from Alexandria Pike to the parking area with the screening, they kept the 20 ft. deep x 10 ft. wide parking space, but the drive aisle was reduced from 24 to 22 feet wide. Staff felt it best to bring this issue before this Board to determine if it was a major or minor change. There is a regulation in the zoning ordinance, Section 11.1. b. 4. that says

where the width of the parking space is increased over nine ft. in width, the drive aisle can be reduced two ft. in width for every one ft. of increase in parking space width. This situation does meet the requirements of the zoning ordinance. If approved this would release the holds on four tenant finishes.

Ken Warden made a **motion that we consider this as a minor change**. Joe Feinauer seconded the motion. Roll call vote showed all were in favor. **Motion carried**. Jim Drye verified with Mr. Ken Perry that the sidewalk along Downing will get replaced all the way down to the back driveway.

In reference to four additional parking spaces on the Perry lot, Mike Schwartz stated that they had received a survey on the Perry property that shows that the parking is greater than five ft. off of the right-of-way. The four additional parking spaces that parallel Downing Street are technically not in the front yard. Mike Schwartz asked if this Board would consider the addition of those four parking spaces as a minor change. The applicant had planned on making application to add those four parking spaces at the next public hearing. If this Board finds that this is a minor change tonight, it will save the applicant from having to make the application and the Board from having to hear it. The drive aisle width on that side is 24 ft. It will be blacktopped. It is taking some of the grassy area but from Staff's perspective, they would recommend approval since it is allowed to be there, not in the front yard. Joe Feinauer made a **motion that the addition of the parking spaces is a minor change**. Ken Warden seconded the motion. Roll call vote showed all in favor. **Motion carried**.

Mike Schwartz presented proposed wording for sloped roofs, if this Board wants to submit this as a text amendment. This stems from a previous public hearing where a discussion was to add pitched roofs to the SDA zone. Mike Schwartz stated that for every twelve feet horizontally, you have to go so many feet upward. It is a three to twelve pitch - three feet up for every twelve feet of horizontal distance. That is considered a low slope and it is considered to be walkable and easy for roof installation and maintenance. The higher the first number is, the steeper the pitch of the roof. Jim Drye **moved that this Board act as applicant for this text amendment for public hearing**. Ken Warden seconded the motion. Roll call vote showed all in favor. **Motion carried**. This is the only item on the agenda for next month.

James Dailey representing Hiland Pancake House was present. He stated that Michels Construction put the final grade of blacktop down on Plaza Drive and apparently did not have it inspected. Scott Hiles of NKAPC and Brandon Voelker asked Mr. Dailey to submit a letter to this Board stating that Hiland Pancake House will guarantee that they will warranty it no less than ten years. Brandon Voelker stated that it is a private drive. Steve Taylor stated that this Board cannot identify where this portion of road was. Mike Schwartz thought it was public right of way from US27 to White Castle to entrance of Sherwin Williams. Mr. Dailey stated that the road will transfer to a homeowners association for maintenance when the remainder of the lots sells.

Steve Taylor stated that in the event that it is a private street, he would like wording that says either the developer and / or the tenants of those lots be responsible for that street forever, not ten years. Brandon Voelker stated that this Board doesn't want them to ask the city to take over the maintenance of the street, if it is privately owned. He suggested that we have Staff ascertain if this is a private street and ask that they revise the letter so that, in the future, they will not seek to ask the city to take it over as a private street. Steve Taylor wants the wording changed from ten years, to forever. If it is a public right of way we will accept the letter as is.

Jim Drye attended a seminar at NKU. The Lexington Fayette County had a presentation of what was done in the Fayette County inside their urban area, and also outside. They are doing things to keep the farmland, and purchase development rights to buy easements for the farmer to agree that they can never subdivide their property unless it is in forty acre lots, so that it remains open space. Jim Drye submitted this as two hours of continuing education. Roger Bay made a motion to approve, and Ken Sharp seconded the motion. All were in favor. Motion carried.

Steve Taylor made a motion to adjourn the meeting. Joe Feinauer seconded the motion. All were in favor. Motion carried.

Respectfully submitted,

Rita Seger, City Clerk

***NEXT MEETING --- SEPTEMBER 12<sup>th</sup>***