

**JOINT MEETING OF KENT CITY PLANNING COMMISSION,  
BOARD OF ZONING APPEALS, ENVIRONMENTAL COMMISSION  
AND KENT CITY COUNCIL**  
(immediately following Regular Dec. 16, 2008 meeting)

**DECEMBER 16, 2008  
SUMMARY REPORT**

**MEMBERS PRESENT:**     William Anderson  
   Sean Kaine  
   John Thomas

**STAFF PRESENT:**     Gary Locke, Community Development Director  
   Jennifer Barone, Development Engineer  
   Eric Fink, Asst. Law Director  
   Sheila Uzl, Transcriptionist

**COUNCIL MEMBERS PRESENT:**  
   Jack Amrhein – Ward 2  
   Heidi Shaffer – Ward 5  
   Robin Turner – Council-at-Large

**I.     Call to Order**

The meeting was called to order at 7:35 p.m.

**II.    Roll Call**

Mr. Turner (Council-at-Large), Ms. Shaffer (Ward 5). Mr. Amrhein (Ward 2), Mr. Thomas, Mr. Kane, and Mr. Anderson were present.  
[Note: Mr. Wise excused himself due to his work schedule]

**III.   New Business**

**A.     Comprehensive Zoning Code Review  
           Session III – Definitions**

Mr. Locke stated that the zoning code definitions are probably one of the most tedious pieces of this review. He said the staff has given two different things – the existing code definitions and the proposed definitions put together when the staff was working on the Unified Development Code (UDC). He said a lot of time went in to that document it.

**Joint Meeting Summary Report  
December 16, 2008  
Page -2-**

He said the UDC was never approved but it was a good basis. He said some of the definitions need to change and be more in line with the times. He said the definitions are the basis for the rest of the code. He gave the example of what a gas station was back in the 1960s when bays for repair were part of the gas station and offered very little food while gas stations today are a combined convenience store and gas station. He said the definition of a gas station today is the same it was in 1971. He said the zoning code does not define everything and those items that are not defined specifically are referred to the dictionary.

Alley was the first definition Mr. Locke discussed. He said there have been some allegations that the definition of alley is not as accurate or detailed as it should be. He said it does need some clarification so people will understand that an alley is a public street; albeit a minor one. It is a public right of way and publicly owned. It has been the practice over the years to take an alley and even a divided highway such as SR 261 and treat them as front yards in the zoning code. This might be changed in court because it was an issue raised in the Sheetz case. He said maybe it should be treated that anything adjacent to an alley should be treated as a front yard. He said the commissioners do not have to agree with that and they might have opinions on how an alley should be treated. He said the staff's interpretation of an alley in the Sheetz case was the same as in other situations.

Mr. Thomas asked why it had to be a front yard and why there could not be some flexibility to treat it as a side yard.

Mr. Locke replied traditionally something that was treated as a right of way alley was treated as a front yard. He said it was fine if the commissioners thought setbacks should be treated differently. He said a lot of the alleys, especially in the residential areas, are in the rear yard. He said side yard setbacks are smaller so they do not have the same separation of buffering affect.

Mr. Kaine said an alley is a front yard especially when there are extensive front yards. Front yards though should not be carte blanche. He said they can determine the setback requirements in each district. He said in a residential area, there has to be room for a car to get in and out of a garage and set back accordingly. He said it does not seem to be a real benefit to requiring excessive setbacks when there are large front yard setbacks because useable open space would be limited. He said he would like to setback defined by district.

Mr. Locke stated that there are different setbacks for different zoning districts for front, side or rear. In the downtown area, there are zero lot line setbacks regardless if it is front or side just because of the nature of the downtown.

**Joint Meeting Summary Report**  
**December 16, 2008**  
**Page -3-**

He said perhaps a setback should not be as great as what is required in a residential area. He said this would be more of a factor of uses that was trying to be buffered. He said the Sheetz location was in a commercial district that is right beside a residential district. He asked if the setback requirements would be looked at by district or separating uses.

Mr. Kaine stated the definitions could be reviewed when the districts are discussed. He asked if in some of the districts a 100' setback was required in some of the commercial districts.

Mr. Locke replied that for some of the conditional uses regardless of the district, there is a 100' setback.

Mr. Kaine stated that if that is required for the front of the property, it could be required for the alley as well. This could become problematic. He said it seems that an alley in different districts could serve different functions.

Mr. Locke said that an alley setback or a different setback for accessory buildings could be added. He said they could run through things but not make any decision tonight. This issue could always be revisited.

Mr. Kaine stated that the definitions could be dry and there will be discovery as each district is reviewed. He asked if the current definitions are compatible with the code. He said what is being presented tonight is an improvement. He would like to see them work with the definitions in context.

Mr. Locke replied that would be all right to revisit this issue.

Ms. Shaffer stated the boundaries between a commercial and residential area seems to be a sensitive area. She asked if there could be different setbacks in a commercial district versus a residential district.

Mr. Locke replied that is done now. He said the setbacks requirement is 100' in the front and 30' in the back in the CR District. He said if that is adjacent to a 60' right of way street, theoretically, the right of way width of the street can be a separation between the use of one property and the use across the street. He said with an alley, there is 20' that is picked up. That gives about 40'. It could be said that if there is a property located in the CR and if someone wants to build something on it and it is adjacent to a residential area, there could be a greater setback requirements. He said that would work well in some cases but not in others.

**Joint Meeting Summary Report  
December 16, 2008  
Page -4-**

Mr. Locke said a lot of the commercial areas in the City are located next to residential areas. Substantial setback requirements could limit or eliminate commercial development. He said extra setbacks could be put in place but care has to be used so that they are not too demanding and discourages uses from going into commercial areas.

Mr. Thomas asked if the University Inn that would be located on a street and an alley could be constructed as the current code exists today.

Mr. Locke replied he did not know how close it is to the alley. He said he would have to have more information.

Mr. Kaine asked if rear yard setbacks were lesser in general than front yard setbacks.

Mr. Locke replied it varies by district but many are the same.

Mr. Locke went on to the definition of rooming houses. He said the definition they have now is relatively decent in terms of what it does and what it defines. He said the definition states that there can be between 3 and 20 people. He suggested that 20 is too big of a number. He said there are a lot of the rooming houses that have 3, 4, 5, 6 and a few in the 10 – 12 range. He did not know of any that has 20. He asked if 3 was the right number because there is not much different between 3 and 4 or 5. He suggested that the high number might be reduced to 12 or 14. Other adjustments might need to be made as well. He said the way the definition is set up there are at least 3 unrelated people that share common areas such as a bathroom, kitchen and possibly other rooms. He said the definition refers more to the function or use of the property than it does the physical structure. A single family, two family or multi-family unit can be a rooming house so a rooming house can be any number of things and can take on many different shapes and forms. The point is that there is a sharing of facilities and that seems to be the most common rentals in the neighborhoods excluding apartment complexes. In terms of problems, rooming houses are what the staff hears most about and spend more time in terms of an enforcement standpoint. He suggested that this definition be revisited when boarding houses are discussed.

Mr. Kaine stated that in the definition that there is statement that meals may not be provided to outside guests. He asked why this was included.

**Joint Meeting Summary Report  
December 16, 2008  
Page -5-**

Mr. Locke replied there are three different definitions; a definition for a lodging house, one for a boarding house and one for a rooming house. He thought that one of those, possibly a boarding house, used to serve meals. The zone picked up on that but now this is more related to a bed and breakfast.

Mr. Anderson stated that boarding houses do not serve meals now.

Mr. Locke stated the people make their own and are not served meals.

Ms. Shaffer asked if something could be put in about the number of beds because that is a way to tell how many people are living there. She said adequate parking has to be provided for residents and guests.

Mr. Locke replied they are having difficulty in determining how many people live in a boarding house. They might consider the number of beds. He said when the discussion is held on boarding houses, they are going to be trying to find the zoning component that will be functional to regulating and working with the zoning code. In his opinion, there are two major issues regarding boarding/rooming houses. One is where they are allowed and the other is parking requirement. He said other items that are dealt with regarding rooming houses are insignificant and do not really have a bearing on the quality. He said the open space requirement is a joke because 30% open space cannot be provided because most of them are single family units. It might have an impact on the quality of life of the residents.

Ms. Shaffer stated she lived beside a rooming house that turned the open space into parking and that impacted her property because all the run off came into her yard and turned it into a swamp. There is no buffer between the parking lot and her yard. It does constitute issues and should be looked into. She said it would be all right with her if they looked into the regulatory structure.

Mr. Kaine stated he understood why there was a need for a lower number on what constitute a boarding house. He asked if the upper limit could be defined in the regulatory structure rather than the definition because what would happen if the number was higher.

Mr. Locke replied the closest thing he could find would be a dormitory.

Ms. Shaffer asked what the definition would be for two unrelated people in a unit.

**Joint Meeting Summary Report**

**December 16, 2008**

**Page -6-**

Mr. Locke replied two unrelated people in a unit would be considered an apartment. As soon as the number increases to more than two, it becomes a rooming house.

Mr. Fink stated that a court case in the past determined that converted houses cannot meet the stringent code because so many of them are converted single family units.

Mr. Turner asked what the definition of related was.

Mr. Locke replied the definition was related by blood, adoption or marriage. It could be a third cousin. It does not provide for foster care and this might be something that should be discussed. He said it can be difficult at times to prove if someone is related or not.

John Gargan, 1410 Loop Road – Kent, Ohio, stated that the constitution legality of two or more has been challenged.

Mr. Fink stated that he did not know if that had been challenged. He said the definition of what qualifies as related has been challenged as well as what qualifies as a family unit. He said there was a zoning contest in a case involving a sorority where they claimed that they were living together as sisters so should have the same family protections.

Mr. Locke stated that the definition of family was changed in 1976 in terms of two or more unrelated people. Prior to that, any group of people living together could call themselves a family whether they were related or not. He said they might want to look at that definition in terms of numbers.

Mr. Turner said his concern was these situations have not been confronted and enforced. He said there is an issue whether there is enforcement capability based on language and what definitions are. This issue needs to be clarified.

Mr. Locke stated that it has not been easy but even before the enforcement officer came on board the staff did pursue these things. He said they got pretty close to getting hammered with a house on East Main Street. The owners were Buckeye and Russell and the issue caused a change in the code. The zoning code is the only protection there is that keeps the neighborhoods somewhat intact. He said some way has to be found to regulate things.

Mr. Locke said they might want to change the definition of a convenience store to include food preparation and drive-thru operations.

**Joint Meeting Summary Report  
December 16, 2008  
Page -7-**

Mr. Locke said the convenience stores today usually generate a lot more traffic than their counterparts of the ma and pa stores in the past. He said he thought a convenience store should be separated from a gas station because it has different issues.

Mr. Anderson stated that a convenience is a store where you go in and purchase something. If food is prepared, it would be a restaurant.

Ms. Shaffer asked is a primary usage had to be stated.

Mr. Locke asked what the primary usage for the Sheetz project was.

Ms. Shaffer replied that even though they have a lot of pumps their primary profit would come through the convenience store.

Mr. Fink stated they spent a lot of time testifying that it is a convenience store with six gas pumps out front.

Mr. Kaine stated that a gas station may incorporate a convenience store with a gas station however a convenience store may not have gasoline for sale. He asked if there was any value to limiting a convenience store to 2500 square feet as stated in the definition.

Mr. Locke replied that one of the things that came up in the Sheetz case was the scale issue. He said there could be different ways to define scale which would be the size of the building, or the size of the entire site, or the amount of traffic that is generated. There is a number of ways to define scale. He said it was a good question because the size depends a lot on the site so the issue of limiting the size or controlling the scale should be discussed.

Mr. Kaine said that they might consider defining any place that sells gas as a gas station.

Mr. Turner said he had an issue was the car wash at some of the Sheetz sites because it needs a large area and escalates traffic. He said multi- purpose facilities from convenience store, to gas pumps to car washes need to be looked at.

Mr. Thomas stated he did not want to tamper with free enterprise with the multi-purpose facilities but was more inclined to have these in a commercial area not on what type of services or products are provided.

**Joint Meeting Summary Report**  
**December 16, 2008**  
**Page -8-**

Mr. Kaine asked if multiple uses were permitted on the same site as long as the requirements are met.

Mr. Locke replied yes.

Mr. Thomas stated he would rather have commerce exclusively be in a commercial district rather than slice and dice what kind of activity could be there. Then there is a question on how those types of activities are defined.

Mr. Locke stated that some of the developers have discussed with the staff combining certain land uses in residential areas to make those uses and services more accessible to more people. This is contrary to the current code because it separates land uses.

Ms. Shaffer asked if the notion of scale could be incorporated into the districts and be different in the various districts.

Mr. Locke stated defining scale is the difficulty.

Jeff Farmer, 503 Cuyahoga – Kent, Ohio – asked if other communities have a definition for scale.

Mr. Locke replied some have ratios of buildings to the lot but was not sure if traffic is looked at.

Mr. Farmer stated that it should look at the building in relation to the lot as well as considering the neighborhood.

Mr. Locke stated sometimes it is defined by the neighborhood. What is acceptable in one neighborhood might not be accepted in another. He said specifics have to be put in so it cannot be subjective.

Mr. Anderson asked if this session should continue because about 25 minutes had been spent on each page of the outline.

Mr. Locke said they could stop at any time and session three could continue at another meeting. He suggested adjourning the meeting at 9:00 p.m.

Mr. Anderson agreed to that.

**Joint Meeting Summary Report**  
**December 16, 2008**  
**Page -9-**

Mr. Locke stated there have been some occasions when there has been confusion what is a driveway or a private street. He said this comes up especially in larger developments. He suggested that this definition should be clarified.

Mr. Turner stated in older neighborhoods there are parking issues. He said some are defined as driveways that are in front and even though they appear to be on the public right of way, they have the same legal right as a person who has a driveway. He said he has seen that especially on the south end.

Mr. Locke stated he did not know if the City has given them the right and more of a factor was the right of way.

Mr. Thomas stated it might have been grandfathered in.

Mr. Locke stated the definition for dormitories was a little vague. He asked if a minimum and maximum factor should be included in the definition. He said there should be a discussion as to whether this use should be limited to the public sector such as university type of thing rather than a developer or individual building one.

Mr. Thomas said if Kent was ever was approached about building something like the Western Reserve Academy and that there would be a need for a dormitory.

Ms. Shaffer asked if any employer would need something like this.

Mr. Locke replied the City has not had something like this in recent years but in the past there was. Mr. Locke said those attending could offer comments or suggestions at the next meeting in two weeks.

Dwelling, Single Family Attached dwelling has nothing in its definition that distinguishes this use from a multifamily use. He suggested that something be put in about ownership because they are separately owned units. On the other side, the definition of a multifamily unit should be supplemented to indicate that all three units are held in the same ownership.

Mr. Kaine asked if this would cause a problem down the road.

Mr. Locke replied if they were deeded separately they would be single family but if they are not deeded or separate, they would be multi-family.

Ms. Shaffer asked if this had anything to do with a mother-in-law suite.

**Joint Meeting Summary Report**  
**December 16, 2008**  
**Page -10-**

Mr. Locke replied that was a whole other issue. He said a mother-in-law suite could be turned into a rental and possibly into a rooming house.

Mr. Amhrein asked if this was cluster homes.

Mr. Locke replied yes.

Mr. Locke stated that the definition of Family and Functional Family should be combined under the definition of family. He said this definition as well as the definition of boarding house is tied together because it designates what constitutes a family and what constitutes a relationship that was defined as a boarding house situation. He said this does need further discussion.

Mr. Locke went on to the definition of Gasoline Service Station. He said currently this use as it is defined does not have to sell gas. He said the staff believes that the sale of gasoline should be mandatory and it should be regulated.

He said that repairs should be omitted from the definition and there should be some provision to allow for a convenience store.

Mr. Locke went on to discuss Home Occupation and Limited Home Business and said the current definition covers any business conducted in the home. There is no provision to conduct business in an accessory building. Again this probably needs to be revisited after the issue itself is discussed. He said the visible version is home occupation that allows a portion of the building to be used as a business where people may come and go and not more than one person outside the home could be employed. A limited home business is more invisible because no outside clients come to the home and there is no outside employee. He said in recent years more people are working from their home. The question that is raised is whether the definition should be more flexible while still protecting the neighborhoods.

Mr. Amrhein asked if this would include a daycare also.

Mr. Locke replied the question would be if these are home occupations. Yes they would be home occupation if someone else helps. He said there have been complaints about them but they are hard to track. Currently if staff receives a complaint, the business is run through the system. A home occupation in a home generates traffic and noise. He said the county also regulates some of the issues raised.

**Joint Meeting Summary Report  
December 16, 2008  
Page -11-**

Mr. Gargan asked if people had to come in and out to be considered a home business.

Mr. Locke replied there are two versions. A Limited Home Business is someone just working out of their house. A Home Occupation has people coming to the house and there might be another person working there. He said both could advertise their business. He said Home Occupations are conditional uses in residential districts and do require approval from the Planning Commission.

Ms. Shaffer asked if signage was permitted.

Mr. Locke replied that a Home Occupation is permitted to have a small sign and they do need a permit to have one. A Limited Home Business is not allowed a sign.

It was decided to stop the discussion and continue at the next meeting.

Everyone thanked Bill Anderson for his years of service as a commissioner on the Planning Commission.

**VIII. ADJOURNMENT**

**MOTION: Mr. Kaine moved to adjourn. Ms. Shaffer seconded the motion. The motion carried 6 – 0.**

The meeting adjourned at 9:00 p.m.

