

**KENT CITY PLANNING COMMISSION  
REGULAR BUSINESS MEETING  
SEPTEMBER 21, 2010  
COUNCIL CHAMBERS  
KENT CITY HALL  
325 S. DEPEYSTER STREET  
7:00 P.M.**

**AGENDA**

I. CALL TO ORDER

II. ROLL CALL

a) Excuse Absence

III. READING OF PREAMBLE

IV. ADMINISTRATION OF OATH TO NEW MEMBER

V. ADMINISTRTION OF OATH

VI. MINUTES July 20, 2010 - August 2, 2010 - August 17, 2010

VII. CORRESPONDENCE

VIII. OLD BUSINESS

IX. NEW BUSINESS

- A. PC10-017 YELENA KRUPNIK  
573 Walter Street (Heritage Knolls Apartments)  
Conditional Zoning Certificate and Site Plan Review

The applicant is seeking a Conditional Zoning Certificate and Site Plan approval for a home occupation to operate a child care business in her apartment. The subject property is zoned R-3: High Density Residential.

- 1) Public Hearing
- 2) Planning Commission Discussion/Action

- B. PC10-016 EDWARDS COMMUNITIES DEVELOPMENT CO.  
Rezoning Map Amendment

The applicant is seeking a recommendation to rezone an irregular shaped parcel with mostly frontage on South Lincoln Street and also frontage on East Summit Street and Morris Road from R-3: High Density Residential to U: University District.

- 1) Public Hearing
- 2) Planning Commission Discussion/Action

X. OTHER BUSINESS

XI. ADJOURNMENT





# CITY OF KENT, OHIO

## DEPARTMENT OF COMMUNITY DEVELOPMENT

**DATE:** September 15, 2010  
**TO:** Kent City Planning Commission  
**FROM:** Jennifer Barone, PE, Development Engineer  
**RE:** Staff Report for the September 21, 2010 Planning Commission Meeting

The following items appear on the agenda for the September 21, 2010 Planning Commission meeting:

### **NEW BUSINESS:**

**CASE NO:** PC10-017

**APPLICANT:** Yelena Krupnik – Home Occupation (Day Care)

**SITE LOCATION:** 573 Walter Street  
(Heritage Knolls Apartments)

**STATUS OF APPLICANT:** The Portage Municipal Housing Authority (PMHA) owns the property. The applicant resides on the property.

**REQUESTED ACTION:** Conditional Zoning Certificate and Site Plan Review & Approval

**ZONING:** R-3: High Density Residential

**TRAFFIC:** The site is accessed from Walter Street.

**SURROUNDING LAND USES:** The property is surrounded by various residential uses on all sides.

**APPLICABLE CODE SECTIONS:** Chapter 1113, 1119, 1146 and 1171 of the Kent Codified Ordinance



## ANALYSIS:

### **PROJECT DESCRIPTION**

The applicant is seeking approval of a home occupation to operate a child care business in her apartment. The living room will be used as the main care area for the children, and there is outdoor play area that will be enclosed with a removable barrier. According to the plan presented by the applicant, the area to be used is 164 square feet (12'x14' minus 18 SF foyer) whereas the entire square footage of the apartment is approx. 493 SF (17'x 29'). The plan indicates that the proposed area to be used is less than 25% of the floor area of the dwelling unit, which is the maximum allowed by code, and less than the 33 1/3% of the first floor.

The proposed hours of operation for this business would be in two shifts from 7:00 AM to 11:45 PM, Monday through Friday. No signage is proposed. The applicant will watch up to 3 children of varying ages from infant to 3 years in age. No state license is required for this business.

The applicant will be the only person working at the establishment. Her daughter, Sofya Krupnik, is her back up should there be an emergency.

The proposed use appears to meet the specific conditions set forth in Section 1171.01 (19) of the Zoning Code as presented.

### **TRAFFIC/PARKING**

Traffic generated by this business will have varying drop off times of the children and can use the existing parking area for this purpose. According to PMHA there are 2 spaces for every apartment and not all tenants have vehicles. Therefore, there will be plenty of spaces available for drop off & pickup.

### **UTILITIES**

No changes to the utilities are proposed.

### **STORMWATER**

No changes to the utilities are proposed.

### **SIGNAGE**

No signs are proposed.

### **LIGHTING/LANDSCAPING/DUMPSTER**

No changes are proposed.

### **ARCHITECTURAL ADVISORY BOARD**

This project was not reviewed by Architectural Advisory Board.

### **VARIANCES**

No variances are required.



**RECOMMENDATION:**

Staff is concerned about the size of the facility and the fact that there is only one means of egress. However, the applicant's request as submitted appears to meet the conditions set forth in the code.

Assuming that the Commission is satisfied that the proposed use is consistent with the general standards set forth for Conditional Uses in Chapter 1113 of the Zoning Code, the Planning Commission may approve, approve with conditions, or disapprove the application. Should Planning Commission wish to approve this project, the following language may be used:

I move that in Case PC10-017, the Planning Commission approve the Conditional Zoning Certificate and Site Plan to operate a child care facility as a home occupation subject to the following:

1. Compliance with the State of Ohio Child Day Care regulations.
2. Adherence to placing the removable barrier whenever the children are outside to play.
3. Limit the number of children to 3 at any one time.
4. Limit the area used for the home occupation to the living room.

**List of Enclosures for This Project:**

1. Applicant Cover Letter and site plan received dated August 4, 2010 and floor plan received August 10, 2010.
2. Letter dated September 13, 2010 from PMHA (owner) allowing this use.
3. Aerial Topo and Zoning Map.

**CASE NO:**

**PC10-016 SOUTH LINCOLN STREET  
REZONING**

**APPLICANT:**

Edwards Communities Development Company

**SITE LOCATION:**

An irregular shaped parcel which mostly fronts on South Lincoln Street and also has frontage on East Summit Street and Morris Road.

**STATUS OF APPLICANT:**

Douglas Partners LLC (Dan Siegel) owns the majority of the properties with 4 parcels owned by other individuals.

**REQUESTED ACTION:**

Rezoning request from R-3: High Density Residential to U: University

**ZONING:**

Currently R-3: High Density Residential



<u>TRAFFIC:</u>	The parcels are accessed from South Lincoln Street, East Summit Street & Morris Road.
<u>SURROUNDING LAND USES:</u>	The property is surrounded by residential uses (single family, rooming house and multi-family).
<u>APPLICABLE CODE SECTIONS:</u>	Chapters 1117 and 1147 of the Kent Codified Ordinance

ANALYSIS:

The applicant is requesting the rezoning of eight (8) separate parcels of land consisting of 10.061 acres of land. The requested rezoning proposes that the current R-3 Zoning classification of the properties in question be changed to the U: University zoning classification. According to the cover letter submitted by the applicant, the project they would like to build on the property involves the construction of 612 beds of upscale student housing. The applicant does not give an indication of how many actual units of housing will be built, but if there were 4 beds per unit, this would equate to 153 dwelling units. If there were only two bedrooms per unit, this would equate to 306 dwelling units. According to the applicant's calculations (Cover letter, first paragraph, Pg. 2) the current R-3 zoning would only permit a maximum of 80 dwelling units. With only two unrelated persons per dwelling unit as per the current code and zoning, the applicant could only build about 160 beds. As such, the proposed project is about 3.8 times larger than the maximum permitted by the current zoning.

Chapter 1117 of the Kent Zoning code spells out the process for zoning amendments. In Section 1117.03, there appear to be two criteria that the applicant needs to address in making such a request. Under subsection (e), the applicant is required to submit evidence that, "the proposed amendment would materialize in an equal or better Zoning Ordinance than that existing." Subsection (h) under 1117.03 indicates that there should be evidence, "that the existing Zoning Ordinance is unreasonable with respect to the particular property, and that it deprives the property owner of his/her lawful and reasonable use of the land." For the purposes of this Zoning Ordinance, a limitation upon the financial gain from the land in question shall not constitute unreasonable zoning. The Planning Commission and ultimately, City Council will need to review the applicant's submission and determine whether the applicant has addressed subsection's (e) and (h). In addition, the Commission and City Council should consider the enclosed recommendation from city staff when formulating their recommendation (Planning Commission) and decision (City Council).

Staff has reviewed the applicant's cover letter and is of the opinion that it lacks any substantive evidence or information that justifies the rezoning being requested based on the provisions of subsections (e) or (h) of Section 1117.03. The applicant attempts to make several points in support of the argument for rezoning in the cover letter submitted, however it is not clear which of those points are directed specifically at addressing subsections (e) or (h).



It is staff's opinion that subsection (e) is intended to set a parameter for the review of a zoning amendment that requires the Planning Commission and the City Council to make a determination that a zoning amendment creates a better zoning regimen for both the applicant and the community. Clearly, the proposed amendment would be productive for the applicant by allowing the applicant to construct a project at the size and density they desire.

However, the proposed change raises some questions from the City's side which are potentially problematic for the City and residents of the area. The developer should be required to address these questions before the City considers the merit of this rezoning request, and whether supportive arguments in relation to subsections (e) and (h) are reasonable.

In discussing this project with other city staff, several concerns were raised by the Division of Engineering with regard to traffic impact and the impact of the new, additional dwelling units on the sanitary sewer system. The water pressure in that area to serve the domestic supply is also in question. Copies of letters from the Engineering staff (enclosed with this report) indicate concerns about traffic impact and the capacity of the sanitary sewer system in the area.

Furthermore, the proposed request appears to be aimed at using a zoning district classification (the U: University District) as a mechanism to bypass the current zoning in place for the subject properties. The U District allows the developer of a property to construct housing without regard to density, number of dwelling units, open space or required parking. While the zoning code and purpose of the U District do not preclude it from being used for private purposes related to the University, the potential extension of the U District beyond its current delineation on properties not owned and controlled by the University needs to be carefully weighed and sparingly used. In situations where there is doubt or question as to the potential impact of the project on city services and utilities, these issues should be addressed prior to rezoning rather than once the rezoning has been given. It should also be noted that while a number of uses and operations in the City can be connected in some way to the university, especially residential uses, this connection alone would not justify rezoning large areas of the City into the U District.

With regard to Subsection (h), it would appear that many of the applicant's arguments attempt to address how the project that the applicant wants to build on the site is not financially feasible due to the existing R-3 Zoning (see end of paragraph at top of Pg 2 of applicant's cover letter). While the applicant has provided a visual rendering of what the buildings in the project might look like and samples of what they have built in other communities, no specific plans have been submitted for the Kent site as part of this application. Staff acknowledges that such plans are not required to be submitted as part of a rezoning application, however, the applicant's proposal would be better served by showing some preliminary plans of what would be built on the Kent site rather than showing what has been built elsewhere. The City has no way of knowing if the other facilities shown are comparable in site size or layout with the Kent site.



In 2005, the current owner of a large portion of the subject site, Dan Siegel, in conjunction with Douglas Partners LLC, submitted plans for the construction of 84 units of 1-3 bedroom town homes and garden apartments on a smaller portion of the site (8.508 acres).

This project required several zoning variances, including a variance regarding the overall density of the project, and was granted those variances along with the Planning Commission's approval of a Conditional Zoning Certificate. That project did provide the required amount of open space. While the project was never built for reasons not clear to the City, we can only presume that the time and effort put into the design by the developer and their architect showed that the project was viable and buildable under the R-3 Zoning. This would seem to refute the statement at the end of the first full paragraph on Page 2 of the applicant's cover letter indicating that building anything new under the current R-3 Zoning classification is impractical, if not impossible. In our opinion, the zoning is not unlawful or unreasonable and does not deprive the owner of a reasonable use of the land.

In the final part of the applicant's cover letter, the applicant gives an opinion on the state of student housing and changes that are occurring in the market and how the current zoning may be driving student housing to be built farther from the campus. The letter also states that the applicant's proposed project could potentially take stress off of some of the older neighborhoods with regard to illegal conversions and the further deterioration of the housing. Our experiences with the student housing market over the years do not support the applicant's perceptions of the market or how this project would impact that market.

It is staff's experience that there are two separate and somewhat independent elements of the student housing market. One of those elements consists of larger landlords and property owners who own multiple properties and whose goal it is to be longer term owners of such housing. Their clients are those students who look for a place to rent and their sole purpose is to find housing. While occasionally these landlords and corporate managers will attempt a single family house conversion, they are not the driving force behind the neighborhood conversions.

The second element of the market is the one-time investor, usually a parent, who is looking not only for housing for their student but is also looking at making the provision of housing for that student a positive investment opportunity. The theory here is that a house can be purchased, their child or children can live in it along with two to four other students and that the rent collected will make the monthly payments and expenses on the home. Once the use of the home is completed it can be sold, sometimes recouping part or all of the original investment, plus a profit. To them, this is preferable to paying rent or room and board on or off campus. Many of the problem enforcement properties from the standpoint of illegal conversions have come from this element of the rental market.

The applicant does raise one interesting point towards the end of the letter about how this project could begin the process of revitalizing other areas in the city, especially with regard to student housing. Staff would agree that the City may be reaching a point with



some of its older student housing stock where it needs to evaluate the best ways to deal with the issue in the future. This evaluation needs to be based on sound planning and community input and any zoning changes that are proposed should be consistent with that planning.

There are also several points separate from the cover letter that need to be addressed in the application submittal. The applicant indicates that he has assembled options to purchase the subject properties from their current owners and that said options provide the applicant the right to pursue the rezoning. Staff would request a copy of all said options so as to document this assertion by the applicant. Second, it appears that the property owned by Larry Neiman (see tax map included in application) would be completely enclosed and surrounded by the U District if the rezoning was approved. Mr. Neiman's property is not part of the proposed amendment and would remain R-3, as it is presently zoned. Having that parcel remain R-3 when everything around it is changed to U (if the amendment is approved) results in a "spot" zoning situation.

#### Recommendation

Staff cannot support the rezoning in principal insofar as it is substantially different from the current R-3 Zoning, and is not based upon any notion of planning or an attempt to address a master plan for the area in question. Furthermore, concerns about potential negative impacts on traffic in the area and the capacity of the sanitary sewer system have only initially been raised and should be addressed before a responsible recommendation or decision on the zoning amendment can be made. While it would be more appropriate for the City and the applicant to take some time to review the specific questions that have been raised and more generally determine whether a mutually beneficial master plan can be devised, the applicant is entitled to decisions within the time frame allotted by Chapter 1117. As such, unless the applicant chooses to withdraw or postpone their request, staff recommends that the proposed zoning amendment be sent to the City Council by the Planning Commission with a negative recommendation and that City Council reject the request in full.

The following verbiage for the motion may be used:

I move that in Case PC10-016, that the Planning Commission recommend to Kent City Council not to approve the zoning map amendment as proposed until such time that a master planning for the area can be addressed and adequate capacity in the City utilities has been demonstrated.

#### List of Enclosures for This Project:

1. *Applicant Cover Letter August 3, 2010.*
2. *Zoning Code Map*

cc: Gary Locke, Community Development Director  
Jim Bowling, City Engineer  
Eric Fink, Assistant Law Director  
Heather Phile, Development Planner  
Applicants  
PC Case Files